

12094

No. _____

Supreme Court of Illinois

Perry, et al.

vs.

People.

State of Illinois }
County of Cook } ss
City of Chicago }

Heas before the Honorable
Robert S Wilson Recorder of the City of Chicago
and Holding Judge of said Recorder Court of
said City at a term thereof began and held
at the Court House in said City on the first
Monday being the tenth day of June in the
year of our Lord One thousand Eight hundred
and fifty three and of the Independence of
the United States the Seventy Seventh

Present Honorable Robert S Wilson Judge
Cyrus P Bradley Sheriff
Daniel W Foy State Attorney
Attest Philip W Hoyne Clerk

The Sheriff returned into Court the venire issued
by order of the Common Council of the City of Chicago
executed by summoning the following named persons
viz. for the Grand Jury

John H Danham Henry P Hanson E R Lober
Michael Seeman John Bennett, J C Litchfield, F
t Pitney Abram Gale, Isaac Gage, J B Williams
W W Jackson, C L Shepherd J Lind, J C
Garland Henry Smith and H Reynolds
who on being called answered to their names as

follows: John H Dunham George H Hannon
Michael Terman, J C Littlefield J B Pitney Abram
Gale, David Gage J C Williams, W W
Jackson & L Shepard J L Garland Henry
Smith and H Reynolds whereupon for good cause
shown, the following named persons were excused
from further attendance at this term viz C H Latham
David Gage & J Lind And the Sheriff returned
the following persons named in the venire as exempt
from jury duty viz N Buchanan John Phelps
P F Wick M Nugent J W Morrison & S
Roberts and J Rob

Whereupon the Court ordered a
Special venire to issue to complete the Panel which
was returned executed by summoning the following
named persons: Orson Smith, Ara Reynolds
Asa Stone George H Bells Nicholas Berdell
J C Boyd Thomas H Tuttle & G Hale John
Parker and Michael Burns who on being called
answered to their names as follows viz Orson Smith
Ara Reynolds Asa Stone J H Bells N Berdell
J C Boyd Tho H Tuttle G Hale and Michael
Burns who together with John H Dunham
George H Hannon Michael Terman J C Littlefield
J B Pitney, Abram Gale, J C Williams W W
Jackson & L Shepard J L Garland Henry
Smith and H Reynolds, who were duly sworn

as a Grand Jury in and for the City of Chicago
and the Court having appointed J. C. Williams
Foreman of the said Grand Jury and they having
received the charge of the Court retired to consider
of their presentments

And afterwards to wit on the Tenth
day of June in the year last aforesaid being
one of the days of said term of Court the Grand
Jury came into Court and among others presented
the following indictment endorsed a true Bill to
wit. said indictment being in the words and figures
following to wit.

State of Illinois }
City of Chicago } ss.
Cook County } Of the June Term of the
Recorded Court of the City of Chicago in said State
and County in the year of our Lord one thousand
Eight hundred and Fifty three

The Grand Jurors chosen
selected and sworn in and for the City of Chicago
in the County of Cook and State of Illinois in the
name and by the authority of the People of the State
of Illinois upon their Oaths present that Dickson
Perry Clifford Mapes and Caroline Nelson
late of said City on the Nineteenth day of May in
the year of our Lord one thousand Eight hundred
and fifty three in the City of Chicago in the County

and State aforesaid. On and upon one Sybilster
Fairin in the peace of the said People then and there
being did then and there with a certain pistol of
the value of one dollar, loaded with powder and ball
and with certain knives which they the said Jackson
Perry Clifford Mapes and Caroline Nelson in their
hands then and there had and held, feloniously, unlawfully,
and of their malice aforethought make an
assault with intent then and there, the said Sybilster
Fairin feloniously, unlawfully, and with malice afore-
thought to kill and murder, Contrary to the Statute
and against the peace and dignity of the said People
of the State of Illinois

Samuel M^o Shoy

States attorney

which said indictment is endorsed as follows to wit
Recorder's Court of the City of Chicago June Term
1853. The People of the State of Illinois vs
Jackson Perry et al. Indictment for assault
with intent. A true Bill. John C. Williams
Foreman of the Grand Jury. Jurors Sybilster
Fairin James Geary James T. Howe James
Quinn Dr. Brainerd Dr. Hume K. Filed
June 11th A.D. 1853 P. Keatney Clk

And afterwards to wit, on the fourteenth day
of June in the year last aforesaid being onest day
of the said June Term, came the parties as
follows!

37 The People vs

Da. Kern Perry, Clifford
Mayer and Caroline
Wilson

against
with intent to kill

This day comes the said
People by Daniel M. Shry, State attorney and the said
defendants as well in their own proper person as by their
Counsel Patrick Ballingale Egan also comes and
they being furnished on their request with a copy of their
Indictment a list of the Jurors and Witnesses and
being duly arraigned and forthwith demanded of and
Concerning the Crime alleged against them in said ind-
ictment how they would acquit themselves for Plea
in their behalf, say they are not guilty in manner
and form as they are charged in said indictment
and of this they put themselves upon the Country and
the people do the like.

And upon being joined it is ordered
that a Jury come thereupon Come the Jurors of a
Jury of good and lawful men to wit

A. H. Clifton	Patrick Morgan	John Green
Wm F. Woodson	Patrick Coffey	Thos. Richardson
C. A. Kern	W. Adams	H. H. Hasted and
Daniel Day	Wm. McElroy	J. P. Sherman

who being duly elected tried and sworn well and
truly to try the issue joined between the parties according
to law and the evidence, and they having heard

the testimony of outreper arguments of Counsel and
instructions of the Court being in charge of an officer
of the Court to consider of their verdict and afterwards
Come into Court and say. We of the jury find the
Defendants Guilty in manner and form as they are
charged in the indictment and we fix the term
of Imprisonment of Jackson Perry at four years Clifford
Mapey at three years and Caroline Wilson at two
years in the State Penitentiary at Alton in the State
whereupon comes the the said defendants by their
Counsel; and moves the Court for a New Trial in
this Cause. Thereupon it is ordered by the Court
that the prisoners be remanded

And afterwards to wit on the sixteenth
day of June in the year last aforesaid being one of the days
of said Term of Court the following proceedings were
had in said Cause

37 The People vs }
Jackson Perry Clifford }
Mapey and Caroline }
Wilson }

Against
with intent

This day comes the said
People by Andrew Harris State's attorney Pro tem
and the said defendants by J. Ballingale
Esquire their Counsel also comes and the Court
after hearing part of the arguments on the motion
filed heretofore for a New Trial leaves orders that the
further hearing of this Cause be continued until to

tomorrow Morning at 8 o'clock

And afterward to sit
on the Seventeenth day of June of the year last
aforesaid, said day being one of the days of said
Term of Court the following proceedings were had

The People vs

37 Jackson Perry

Clifford Mapey and

Constantin Nelson

} against
with intent.

And now at this day
again came the said parties by their Counsel
and the Court having heard the arguments adduced
as well on the part of the People as on the part of the
defendants on the motion heretofore filed for a
new trial in this cause, order that the same be
denied to which ordering the said defendants
by their Counsel excepts and files her motion for
an arrest of the Judgment of the Court against the
said defendants and the Court having heard
the arguments of Counsel on the motion filed have
in arrest of Judgment order that the same be de-
nied to which decision of the Court on moving said
motion the said Defendants then and there by
their Counsel excepted

And neither the said
defendants nor their Counsel saying anything
further why Judgment should not now be

pronounced against them upon the said verdict of
Guilty heretofore returned herein It is ordered and adjudged
by the Court that the said Jackson Perry be taken
from the Bar of this Court to the Common Jail of
Cork County from whence he came and from thence by the
Sheriff of said County within fifteen days from the date
hereof to the Penitentiary of this State at Alton and
delivered to the Warden or Keeper of said Peniten-
tary And the said Warden or Keeper is hereby
required and commanded to take the Body of
the said Jackson Perry and confine him in
said Penitentiary in safe and secure custody for
and during the space of four years from and after
the date of his delivery seven days in each year of said
term in solitary confinement and the residue
of said term at hard labor

And it is further ordered and adjudged
by the Court that the said Clifford Mapey be
taken from the Bar of this Court to the Common
Jail of Cork County from whence he came and from
thence by the Sheriff of said County within fifteen days
from the date hereof to the Penitentiary of this State
at Alton and delivered to the Warden or Keeper of
said Penitentiary and the said Warden or Keeper
is hereby required and commanded to take the Body
of the said Clifford Mapey and confine him in
said Penitentiary in safe and secure custody for
and during the space of three years from and

after the date of her delivery Eight days in each
year of said term in solitary confinement - and
the residue of said term at hard labor.

And it is also further ordered and
adjudged by the Court that the said Caroline Wilson
be taken from the Bar of this Court to the Common
Jail of Cook County from whence she came and
from thence by the Sheriff of said County within
fifteen days from the date hereof to the Penitentiary
of this State at Joliet and delivered to the Warden
or Keeper of said Penitentiary and the said Warden
or Keeper is hereby required and commanded to take
the Body of the said Caroline Wilson and confine
her in said Penitentiary in safe and secure Custody
for and during the space of two years from and
after the date of her delivery as aforesaid five days
in each year ^{of said term} in solitary confinement and the residue
of said term at hard labor and that from and after
the expiration of the said several terms as set forth the
said several defendants be discharged, and it is
also further ordered and adjudged by the Court that
the said defendants pay the Costs of this prosecution.

And thereupon Comes the said defendants Counsel and
files the following Bill of Exception to wit

The People of the State of Illinois } against and
Jackson Perry, Clifford Massey and Caroline } intent to Kill
Wilson

Be it remembered that in the trial of this Cause the People
to sustain the charge in the Indictment called the following
Witnesses who solemnly testified Substantially as follows, viz:

Sylvester Warren; - "That his name is Sylvester Warren;
that on a day; and he thought a Wednesday somewhere about
the 19th or 20th of ~~March~~^{May} last in the forenoon he called at a
house in Franklin Street together with a man called Geary
and in that House was the defendant Wilson, an old woman
who kept the House her little boy and a girl called Sarah
Doran; that they remained there some time; that when
then the Defendants Perry and Mafey came in afterwards
and Geary went out and bought a Bottle of Whiskey
of which they all drank; that during the period they were
there Geary and Wilson had a Scuffle on the first day
not in anger; that Wilson said she could whip him; and
Geary, addressing himself to the defendant Wilson, said he
understood that she had a Fancy Man, that he was
one of those Straw hatred fellows, meaning one of the Defendants,
and by God he could hit any fancy man, that
words ensued between Geary and the defendant Wilson
and Chasmon the, the first day, Perry went out into the Kitchen
or Back Yard and loaded a Revolver; that he told
them not to do any such thing, or not to use any such
thing, that he would try and get Geary away; and Perry
said if he could, he would not use it; And the People
in the house sent for the Police, that the Police man came
but by that time all was quiet; He also stated he did
not recollect of going to the House in the evening of the

first day, he was intoxicated. He also testified
that on the next day the precise hour he did not know,
he, Geary, Dunn, and one Charles Brown, went again to
the same house and while they were there, and about half an
hour afterwards, the defendants Mapey and Perry came in
the house; that on the second day, Nelson was in bed
drunk or crazy, that Geary gave her medicine to sober
her which had that effect; that after she got up, she
had a scuffle with Geary on the bed, and Geary got hurt
so that he had a bloody face or nose; that after this
Perry and Mapey came in; and after they and Nelson
had some talk together, Perry, Mapey and Nelson
went into a room together, and soon came out, Perry
with a Pistol, Mapey with a Knife, and Nelson
with a Knife (these all were shown to Court and Jury)
the Knife Mapey had; had blade 6 to 8 inches in length
the Knife Nelson had; had blade 4 to 6 inches in length
both sharp and pointed; Geary run up to Caroline
Nelson and tried to take away the Knife; Perry came
from the back part of the room, up to Geary, and her, with a
revolver, and Perry stepped up to Geary, or Mapey, and
said God damn you I will shoot you, or something
to that effect; that Mapey struck at him with a chair, at
the front door, in the front part of the room, twice; and Mapey
ran away into the Street; and when he got up, he walked
away; and afterwards, and when he was ten or twelve steps
away, he was shot in the Shoulder; he did not know
who shot him; his back was towards the place from which

the Shot Curio; he then looked around and saw Perry run
around the corner to an alley, with Revolver and fire at Gary.
He also stated that he saw no threats neither that day
nor the preceding day, to Mapey, Perry, nor Wilson; that
he was doing nothing when Mapey struck him with the chair,
except going out of the House. He also testified that before
going to the House on the second day he had only drank one
glass of Brandy.

Dr W J Merrick B - testified that he was called to
see Garcia, that he was shot in the Shoulder and a small
Ball such as would fit the Pistol shown which he cut out from
the front part of the Shoulder and it fell on the floor the wound
proved not to be dangerous at all, but it was shot in such
a place as would be likely to produce bad or dangerous con-
sequences, depending upon the Course the Ball should take.
The Course of the Ball probably changed by hitting a bone;
The Prosecution then called James Linn, the name
entered on the Indictment; and a person appeared and
said her name was Hugh Linn; ~~that~~ His name was
not entered on the Indictment as a Witness; nor was
any notice given to either of the Defendants nor to their
Counsel, of the intention of the Prosecution to call such
a Witness, and being about to be sworn the Defendants
objected his being sworn and testifying, but the Court
overruled the objection and permitted the Witness to be
sworn & to testify (to which the Defendants excepted) and
testified substantially as follows:

That he knew the

defendants, saw them once in the House in Franklin
Street in the City, in which was the defendant Milson, on
the day of the shooting; Gary himself and Faneau came
there together, dont know whether it was before or after
dinner but about dinner time; he had not any dinner
that day; about half an hour after they were there
the defendants Mapes and Perry came in and after
some time, but before Mapes and Perry came in, Gary
and Maria had a scuffle or I think a fight; this
scuffle was on the bed; and Gary had blood on his
face; she was before the lying on the bed, and Gary
had been trying to sober her; and Mapes was sitting on
the edge of the bed; Gary went up to him and pushed
him over on the bed; - Faneau and Mapes had some
words, angry, or loud words; and Mapes pulled out
a knife, and Mapes took hold of a chair with both
hands, and Faneau took hold of a chair; they were near
the Street door; the woman Milson was quarrelling
with Gary at the back part of the room and had
a knife and Gary tried to get it away, and Perry
came up to Gary and Milson; and showed a Pistol,
and swore he would shoot Gary; upon which
Gary made for the door; Mapes and Faneau
had loud words; but what they were, he could not
hear for the noise with Milson and Gary; but he
saw Mapes strike Faneau with the Chair; and
Faneau went into the Street; after this, Perry

Came immediately up to the door, and fired the Pistol
He was sure it was Perry who fired.

On cross examination he stated that had not been in
the House in Franklin Street on any other day than
that on which the Shooting now enquired about took
place, that before going there he had drunk three or
four times of whiskey, and that each time he had
drunk Keary and Hansen drank with him: The
defendant Wilson and Keary had a quarrel, and Perry
interfered with his Pistol; Wilson was sitting down in the
back part of the room but Gary ran out; then Mapey
struck Hansen with the Chair once only that he saw; -
Wilson was drunk and Gary had been trying to make
her sober by pouring vinegar down her; then Wilson
and ^{Keary} ~~Perry~~ had a wrestle, she was pretty drunk, but was
getting sober by the time, Gary went one way and
Hansen went the other way along the side wall. Gary
pushed Mapey on the bed with both of his hands, that
he was at this House along with Hansen on the day before
the Shooting; and in the evening of the day before;
and also on next day, when the Shooting took place;
that on the forenoon of the first day, Wilson saw
Perry loading his Pistol in the Back yard, and
that was after some disturbance had taken place
in the house among them, and he asked Perry what
he was going to do with it; and he said he was going
to do nothing. - That on the day of the Shooting, which
was the second day, he with Wilson and Hansen went

there about one o'clock and said that he should
judge about three hours, half an hour after they
were there. Mapey and Perry came in. That some
time afterwards Mapey and Perry came in he had
been trying to make Caroline Wilson by giving vinegar
that she sobbed a little, and went out and came back
and he was lying in the bed and Wilson jumped on to
him and held him there and hurt his nose and
made it bleed, after she got up she said she could
whip Roxana Rees, that she was the Bully of
of Saint Louis! she could whip him &c; that she
had a fancy man that could whip him & that Intuep
said he would wait and take a look at her fancy
man; that after this Perry and Mapey came in;
one of said defendant said the rule of the House was
that they must treat, trade, or travel; there was
a slight scuffle between Intuep and Wilson and
then she laid in the bed, and Mapey sat in the bed
and afterwards all parties were back wards and forwards
in the rooms of the House and then Wilson, Mapey,
and Perry came out of the middle room, Wilson
had a Clasp Knife, Perry a Pistol and Mapey a
large Sheath Knife and Wilson used insulting language
to Intuep and Intuep went forward to try to take the
Knife from her when Perry stepped up with his Pistol
and said 'Bolt!' God damn you or I'll shoot
you, and I ran off - I ran out also; I
went one way and I ran another and immediately

afterwards I heard a shot;

James Donahue was called whose name was not entered on the indictment nor was any notice of the intention to call him as a witness given to the defendants until after the jurors had been empanelled and sworn and the defendants objected to his being sworn and testifying as a witness but the Court overruled the objection and the defendants excepted. He testified that he was a Policeman that he went from the Police Office to Franklin Street and arrested Wilson after the affair was over and found her with a dirt knife in her hands but it was not open, the knife found was here identified with a blade from four to six inches long.

James J. Stone testified that he as City Marshal took from Mapey at the Police Office a large dirt knife and stinging shot, also took from Perry a Six Shooter and Powder Flask and some bullets for the Pistol all identified in Court by Stone.

J. Rosenberger testified that he was at his window across the street in Franklin Street in the afternoon about 4 1/2 past four that he heard a shot and immediately afterwards he saw Mapey with a Pistol or revolver and Perry with a long knife / It was here conceded by prosecution and defense that the witness was mistaken in attributing the pistol to possession of Mapey as the witness was evidently mistaken and the defendant Wilson with a knife that he saw Laven fall down at the corner of the Street below the House, all he saw took place

in a minute

In the Defence. the following Witnesses were sworn
and testified C Augusto J. Larkin F Noble
J Mc Mary J Nelson S Rogers Wm Burns and
B Bailey and Thomas Laid who severally testified that
Perry and Mapey, that they had known them from 2
to 8 months in the city that Perry was a Carriage
maker, that Mapey was a Carpenter and joiner, that
some of them had kept them as Boarders and others
had worked with them in their Shopmates and their
general deportment was correct and kind

Sarah Dorman testified that she was present at
the House in Franklin Street she saw Gary jump
on the defendant Martinus Nelson while she was drunk
in her in the day of the shooting, and also saw her
make Nelson drink Brandy - That there was then
a scuffle between Gary and Nelson, and sometime
after that Mapey and Perry came into the House
that they had been there some time and loud talk
was going on but she did not hear Farnen say much
and she stepped up to go out of the front door, and
Gary stepped up and asked her if she was going
for the Constable and she told him it was none of
his business - he then slapped her in the face and
she went away and saw nothing of what ensued
afterwards, she lived there it was a Whore
House kept by Mrs Mosher

Mrs Mosher testified that she lived in the
House in Franklin Street and was present on the
day of the shooting. That she observed Francis whisker
come down to Gary and at one time heard him say
if you will whip the one I can whip the other (meaning
the defendants Murphy and Perry) and this was also
the evidence given in the case on all the facts.

And the defendant Court gave the following instructions
on the part of the People

1st If the Jury believe from the evidence that all the
defendants acted in concert then all are responsible
within the meaning of the law for the acts of each.

2^d If the Jury believe from the evidence that the defendant
Perry fired the Pistol either with malice premeditation or
a total disregard of human life, then the law is for the
People and all parties acting with him and with the
same motive are equally guilty as accessories
under our laws.

3^d In order to reduce the crime of Murder to Man-
slaughter neither words or gestures merely are sufficient
but the act must appear to have been done without
malice either express or implied and without any
mixture of deliberation whatever.

4th When the act is committed deliberately and is
likely to be attended with dangerous consequences the
malice requisite to murder will be presumed.

5th If several parties are engaged in doing the same
unlawful act all are amenable to the law for each others

acts

1st If the Jury believe from the evidence that
Hansen who was shot and Leary his associate was
shot at were running away rather than showing
a disposition to fight and if they believe there had
no dangerous weapons about them and that no
provocation was manifested and that the defendants
could have been in no personal danger of any kind
Malice must be presumed within the meaning of the law.

to the second and fourth of
which instructions the defendants excepted, and
the Jury returned into Court the following verdict

We the Jury find the defendants Jackson
Perry Clifford Mapey and Caroline Nelson guilty
in manner and form as charged in the indictment
and fix the term of imprisonment for Jackson Perry
four years Clifford Mapey three years and Caroline
Nelson two years

Thomas Richmond

Foreman

which after the Jury were discharged the Court ordered
(without consent of Jury) the Clerk of the Court to amend
so that it read thus

We of the Jury find
the defendants guilty in manner and form as they
are charged in the indictment; and we fix the term of
imprisonment of Jackson Perry at four years, Clifford
Mapey at three years and Caroline Nelson at two
years in the State Penitentiary at Alton in this State

the Court having at an early day of the term given
general orders to the Clerk to enter all verdicts in form
to which amendment of said verdict Defendants excepted
The Defendants then upon moved the Court for a
New Trial for the following reasons to Wit as on Jels
The People

Jackson Perry

Clifford Mapey

Caroline Wilson

Recorder Court

June 5 1855

The Defendants severally move the
Court for a New Trial

1st Because the Court after the
Petit Juror was sworn and had testified permitted
the People to call for the Prosecution Hugh Lavin who was
sworn and testified to material matter against the
Defendants, the said defendants nor any of them nor
their Counsel being notified of the intended calling of such
witness nor his name being endorsed in the list of Witnesses
endorsed on the Indictment asked for by and furnished
to said defendants

2^d some objection as to the Petit Juror
none except that notice was furnished to the Counsel
for the defendants after two jurors had been impaneled
and sworn to try the Cause

3^d The Court erred in giving the 2^d
4th instructions in the face of the People

4th Because the verdict against

Mapey was against the evidence and the law governing
the case.

5th Same Reason as to Nelson

1st Same Reason as to Perry

Ballingale for Dfts

and the Court overruled the motion and defendants
accepted

Thereupon the defendants move the Court in
arrest of Judgment for the following reasons, to-wit:

The People

vs

Sackson Perry, Clifford,
Mapey, and Caroline Nelson

Defendants

The Defendants severally move
the Court to arrest the Judgment upon the said verdict.

1st Because the verdict is substantially defective
and is as follows: ^{Sackson Perry Clifford Mapey and Caroline Nelson} We the Jury find the defendants
guilty in manner and form as is charged in the indictment
and fix the term of imprisonment of Sackson Perry for four
years, Clifford Mapey three years and Caroline Nelson
two years. Thomas Richmond, Foreman

2nd Because it does not fix the term of the
imprisonment of the defendants nor order of them in the
Penitentiary

3rd Because it does not designate whether
the term of imprisonment shall be in the County Jail
or in the Penitentiary

Because after the Jury had been discharged the Court ordered the Clerk to render the verdict to form which was done and defendants excepted

4th Because the Indictment is substantially defective

5th Because it does not allege the assault to have been made unlawfully

6th Because it does not allege that the intent charged was unlawfully &c

7th Because Lawrence Nelson was brought against her will and in violation of law without process into this Court from the Prisoners of this City when she was in confinement under a sentence unexpired at the time of arraignment trial and conviction, and illegally, subjected to the jurisdiction of this Court

8th Because this Court is unconstitutional

9th Because this Court had no jurisdiction of the persons of the defendants, nor of the offence charged in the Indictment,

Bellingale for dft

And the Court overruled the Motion and refused to send upon the defendants to which overruling papers entered defendants excepted and prayed the Court to send and sign the Writ which is drawn in open Court

R. S. Nelson

Recorder

~~P. D. B. 218~~ as to the matter of ~~Hogues~~ ~~appt~~ ~~the~~ ~~Respect~~
~~that must be determined by the Judge himself~~
AH

And the defendants at same time offered to place on file
and read to the Court in support of his claim in aid of Judgment
^{Copy of original Transcript duly certified}
the following ~~to wit~~; to wit:

State of Illinois

County of Cook } ss

City of Chicago }

The People of the State of Illinois to
the Marshall of the City of Chicago or any one of them greeting
Whereas in a certain Court lately before me the Undersigned
acting as a Justice of the Peace in said City Judgment has
been rendered by me in favor of said City of Chicago and
against Caroline Wilson for the sum of Ten Dollars debt
and the further sum of ten dollars and twelve 1/2 cents
Costs of prosecution, and it appearing in said Court that
said debt has accrued in consequence of the violation of
a By Law or ordinance of said City by the said de-
fendant to wit: for keeping a disorderly house and being
an inmate of said house in the City of Chicago of which
the said defendant is convicted

Therefore I hereby Command
all that of the Goods and Chattels of said defendant to
be found in your Precincts you cause to be made the said
debt and Costs to satisfy said Judgment and if the
said defendant have no goods or chattels found in townships
whereof the said debt and Costs can be made you are

further Commanded that you take the Body of said
defendant and him deliver to the Sheriff of Cook County, or
Keeper of the Prisoners or house of correction that to be
imprisoned in close custody for the term of twenty days
besides fines & costs, pursuant to the provisions of Sec 9 of
Chap 12 of the act to reduce the Law incorporating the
City of Chicago, and the several acts amending thereof
into one act, and to amend the same. Appended February
14 1857. And the said Sheriff or keeper shall also
hold said defendant subject to the provisions of Sec 19
of the Act Supplementary to an act to incorporate the City
of Chicago. Appended March 4 1857

And he or she make due service and return, as the Law
directs within twenty days from the date hereof
Given under my hand and seal this 21st day of
May A.D. 1853

C. W. Greay Mayor

Endorsed as follows. City of Chicago vs Caroline Melson
Execution doct 16th or doct 12th Int from date and
twenty days in Prisoners from date. No property being found
I have taken the Body of of the within named Caroline
Melson and have delivered her to the Keeper of the City Prisoners
this 21st day of May 1853. Return \$0.50 Thomas
Melron Const

I^d a copy of the original ^{conviction & sentence} ~~Return~~ ~~of~~ ~~Commitment~~
duly Certified as follows -

City of Chicago } Dept for Publicly
Caroline Melson } Keeping according to order

May 20 1853 Motion in Court. Complaint returned by
Plaintiff for violation of City ordinance by Defendant
being found: Sleeping disorderly House in said City after
having evidence judgment rendered for Plaintiff for
Penalty being debt \$10 and Costs of Suit

Mayor's Fees

Mayors Fees

Judgment May 20 1853

Dec 12

It is further ~~adjudged~~ adjudged that the said

Comp 25

Defendant be confined in the City Prison

20th 12

for the space of twenty days, besides pay-

Judgt 25

ment of debt and costs

E 25

Execution issued May 20 1853 to Court

order 25

Thereto. Execution returned Defendant detained

Mt.

Perry 50

to the Prisoners keeper May 20 1853

Sat Gas 50

State of Illinois
Cook County
City of Chicago } I Charles M Gray Mayor
of the City of Chicago and acting Justice of the
Peace do hereby certify the foregoing to be a true copy of the
Proceedings from my docket in the case wherein
the said City is Plaintiff and Caroline Nelson Defendants
Witness my hand and seal at said City the
17th day of Dec A D 1853

Charles M Gray *Edw*

3rd the aff of J A Hynes Clk of the Court that
no receipt or hat or had issued from the Court
in bring the defendant from her imprisonment

in Bonds into the Court. and the Court on objⁿ by
People would not permit either of them to be filed or used
to which decision the best excepted

And the Court rendered the Motion and passed
Sentence upon the defendants to which crumley and
passing sentence dependence excepts and prays
the Court to sign the Rule which is done in
open Court

R. J. Wilson Esq
Recorder

State of Illinois }
County of Cook } ss
City of Chicago } I Philip A. Hogue
Clerk of the Recorder Court of the City of Chicago
in the County and State aforesaid do hereby
certify that the above and foregoing is a true
and correct copy of the Records proceedings
and Bill of Exceptions of the above cause

Witness my hand and the Seal of
said Court this 30th day of June A.D. 1833

Jackson Perry, Clifford Hapley,
Caroline Wilson Peffer in error

Philip A. Hogue
Clerk

The People of the State
of Illinois Defendants in Error

Jackson Perry, Clifford Hapley
& Caroline Wilson

Indict^d for an assault
with intent to
commit murder

Leland Co

I enclose you a copy of Depts instructions
to be filed with the Record in the Case of the People vs
Jackson Perry et al by order of the Judge of Records Court
which were omitted in the Bill filed with you by Dfts Counsel
Respectfully O A Payne CR

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Error to the Recorder's Court of
the City of Chicago

And now come the said Plaintiffs in error
by P Ballenger their counsel and say that
in the record, and proceedings aforesaid
and in the rendition of the judgment a-
foresaid there is manifest error ^{to their prejudice} in this
to wit that the said ~~Recorder's~~ ^{Recorder's} Court ren-
dered judgment and sentence against
the said Plaintiffs in error when by the
Law of the said said Recorder's Court should
have rendered judgment for the said Plain-
tiffs in error; And for further affirmance
of error, said Plaintiffs in error affirm that
down the following: to wit:

First The Act of the Legislature of the State of
Illinois, creating the said Recorder's Court,
is in violation of the Constitution of said
State:

Second The said Recorder's Court had no jurisdic-
tion of the said Indictment, nor of its subject
matter; nor of the persons of either of the
Plaintiffs in error;

Third The said Recorder's Court had no jurisdiction
of the person of the Peff in error Caroline
Wilson.

Fourth The Court erred in giving the second
Instruction on the part of the People

- Fifth The Court erred in giving the fourth in-
struction asked on the part of the People
- Sixth The Court erred in permitting the witness
Hugh Quinn to be sworn as a witness and to
testify and in admitting the testimony to the jury
- Seventh The Court erred in permitting the witness
James Donohue to be sworn as a witness
and to testify and in admitting the evidence to the jury
- Eighth Because the Indictment does not charge "with
"intent then and there the said Sylvester Tamm
"feloniously, unlawfully and with malice afore-
"thought to kill and murder".
- Ninth The verdict as originally rendered by the jury was
substantially defective -
- Tenth The Court erred in amending the verdict without the assent of
the jury before they were discharged.
Ballengue for Peff. in error
- Eleventh The Court erred in overruling the motion in arrest
of judgment - *Ballengue for Peff. in error*
- 12th It does not appear that the said defendants or
either of them were personally present in Court at
the time of arguing and overruling the several mo-
tions for a new trial and in arrest of judgment nor
at the time of pronouncing judgment upon the said
verdict. And thus the Defendants are made to verify
therefore for their error appearing in the said Record
of the judgment of certain the said defendants pray
that the said judgment may be removed set aside
and for ought extenuated and that they may be
restored to all things they may have lost by reason
thereof.
T. Ballengue for Defts.

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State of Illinois }
County of Cook } ss. Recorder Court and Term 1853
City of Chicago }

The People of the State of Illinois } against
vs } with intent
Jack Kim Perry Clifford Mapey } to Murder
and Caroline Wilson }

The following Instructions submitted to the Jury by the Court on the part of the defence, were omitted by mistake in making up the Bill of Exceptions in the above entitled Cause. . . as follows to wit;

" Instructions for Defendants

1st Before the Jury could be justified in finding the defendants guilty of an assault with intent to commit murder they must be satisfied from the evidence that the Defendants had a common intent to commit the crime charged and if they should believe from the evidence, that any two or one had not such common intent, they ought to find such one or two, not having such intent, Not Guilty.

2^d. If the Jury shall entertain from the evidence a reasonable doubt, as to whether there was a common intent by any of the Defendants to commit the act charged in the indictment, the Jury must give the benefit of such doubt to the Defendants to whom such doubt applies, and acquit them.

3^d That if the Jury shall believe from the evidence

tho the defendant Caroline Nelson at the time she appeared with the knife and talked to Gary had no knowledge of the intended subsequent shooting by Perry but it was a mere personal matter between her and Gary then they ought to find her not guilty

4th If the Jury shall believe from the Evidence that the the striking by Mapey of Farrow, with the Chain was caused by an assault made upon him immediately previous by Farrow and was done under such threat and that he had no knowledge of the intended firing of the Pistol by Perry, until it was fired, then they ought to acquit Mapey of such act of Perry's

5th If the Jury shall, from the evidence put in a reasonable doubt as to whether if Farrow had been killed by the firing of the Pistol by Perry it would have amounted to Murder in Perry then the Jury are bound to give the benefit of such doubt to Perry and acquit him, at least, of the Charge in the Indictment

If the Jury should even believe from the evidence that Mapey was engaged in a fight with Farrow and when so engaged Perry an acquaintance of Mapey's took part in such quarrel suddenly and fired the Pistol at Farrow, then upon such firing under such circumstances Farrow had been killed then Perry's offence would be manslaughter only, and not Murder and the Jury ought not to find Perry guilty and the indictment

That in the absence of Express malice being proved, the Prosecution of this case on Indictment for Murder upon proving the killing such Proof of Killing raises only a presumption of, or implies Malice, but the presumption, or implication ~~may~~ may be rebutted by proof of all the facts and Circumstances stated in evidence, and if in the present case had death ensued this presumption has been rebutted, or if the Jury have any reasonable doubt they ought to acquit Perry under this Indictment.

That the bare carrying of deadly or offensive weapons ~~against~~ by the Defendants cannot under the laws of Illinois militate against them on the trial of this Indictment and that it is no violation of Law merely to be found with, or to carry such Weapons.

In order to make the Defendants Maffey & Caroline Nelson guilty as aiders or abettors in the act of Perry it must clearly appear to the Jury that the acts respectively done by Nelson & Maffey were acts necessarily aiding and assisting Perry to fire the Pistol and if the Jury believe from the evidence that they were disconnected and not firing to the shooting they ought to acquit Nelson and Maffey.

If the Jury shall in consideration of all the Circumstances under which Perry fired the Pistol Arrive to the Conclusion that the malice aforethought required in Murder is wanting, or if they shall entertain from the evidence a reasonable doubt of the existence of such Malice aforethought then they ought to acquit Perry of the Charge as laid in the Indictment.

State of Illinois } Philip A. Hogue Clerk of the Record
County of Cook } Court of the City of Chicago in the County
City of Chicago. } and State aforesaid do hereby Certify
that the foregoing is a true and correct copy of the Instructions
submitted by the Court to the Jury in the ~~defendant~~ of the defendant
in the Case of the People of the State of Illinois vs Jackson
Perry, Clifford Mapey and Charles Wilson, and which were
submitted by mistake in the Rule of Exceptions a copy of which
^{Rule of Exceptions} was furnished to the Counsel for the defense, and being
part of the Record in said Case

Witness my hand and the Seal of the said
Court at Chicago the 27th day of June 1853

Philip A. Hogue Clerk

Jackson Perry et al

People of the State of
Illinois

Defendants Instructions

Part of Record

Filed June 28. 1853.
L. Wilson CTR.