

13970

No. _____

Supreme Court of Illinois

^A ^N
Mon~~ongha~~X

vs.

People

STATE OF ILLINOIS,

SUPREME COURT.

Third Grand Division.

No. 10.

PEOPLE'S CAUSES.

Manning

People

Manningham

People

13070

Marazion March 27/18

J. Island Esq.

Dear Sir

Yours of
the 26th inst. is at hand & Contents
noted & in reply I would say that
enclosed please find £12. as
you mention for the copy which
please forward to me when com-
pleted I want it to work from
abstract from &c

Yours truly
M. S. Smith

STATE OF ILLINOIS,
SUPREME COURT,

ss. The People of the State of Illinois,

To the Clerk of the Circuit Court for the County of Lake - Greeting:

Because, In the record and proceedings, as also in the rendition of the judgment of a plea which was in the Circuit Court of Lake County, before the Judge thereof, between The People of the State of Illinois

plaintiffs and William Monaghan, in person &c.

defendant - , it is said manifest error hath intervened, to the injury of the aforesaid William Monaghan

as we are informed by his complaint and we being willing that error should be corrected, if any there be, in due form and manner, and that justice be done to the parties aforesaid, command you that if judgment thereof be given, you distinctly and openly, without delay, send to our Justices of the Supreme Court the record and proceedings of the plaint aforesaid, with all things touching the same, under your seal, so that we may have the same before our Justices aforesaid at Ottawa, in the County of La Salle, on the first Tuesday after the third Monday in April next, that the record and proceedings, being inspected, we may cause to be done therein, to correct the error, what of right ought to be done according to law!

Witness, The Hon. John D. Caton, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this 28th day of February in the Year of Our Lord one thousand eight hundred and ~~fifty~~ sixty.

L. Deland
Clerk of the Supreme Court.

William Cloughan
The People's
Writ of Error

Filed Feby. 28. 1860
L. Leland

This writ of error is
made a supersedeas
and as such should
be obeyed by all con-
cerned. L. Leland Clerk
by J. B. R. R. R. R. R.



United States of America
State of Illinois, Lake County

Pleas before the Honorable George Manierre
Judge of the seventh judicial Circuit of
the State of Illinois.

At a Circuit Court for the County of Lake
in said Circuit began and held at Waukegan
in said County on the seventh day of
February in the year of our Lord one thousand
eight hundred and fifty nine, and of the
independence of the United States the eighty
third.

Present the Honorable George Manierre Judge
aforesaid and John S. Wagon Sheriff of
Lake County.

Attest A. B. Fols Clerk

Court opened by proclamation

Be it remembered that on the seventh day of February
One thousand eight hundred and fifty nine, said day being
one of the days of the February term of the Circuit Court
in and for said County of Lake, the following among
other proceedings were had and entered of record in said
Court, to wit:

The Sheriff of Lake County returns into Court the
Venue facias for Grand Jurors to serve during the present
term of this Court issued by order of the board of Supervisors

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of said County of Lake and bearing date the fourth
day of December AD 1858 executed by summoning
the following named persons as such jurors to wit:
James Brown, James Wickham, Lyman Sprague, Alfred
Payne, W R Fairman, E H Mason, A B Patridge
John M White, J Bango, John Herrick, W B Benjamin
Lincoln Tupper, John R Nichols, Philetus Beverly, John
Hearns junr, Charles H Beckwith, John Pratt, Hobbes
Jont, Edward Murray, Hiram Dudley, Thomas Reid
E J W Eddy Thomas B Webb, who upon being called
severally gave their attendance, with the exception of the
said Lyman Sprague, Alfred Payne, W R Fairman and
E J W Eddy, who herein fail and make default, and
who upon good cause shown are excused their attendance
and said default, and the said Philetus Beverly for good
cause shown is excused his further attendance as such
juror. And thereupon the Sheriff by order of the Court
summons five tales Grand jurors from the bystanders
to serve during the present term of this Court to wit:
Charles H Bartlett, George Wood, Charles Brockway
James M May and Hiram Puttick, who severally gave
their attendance, and thereupon the Court appointed J
Bango foreman of the Grand Jury, who together with
the other Grand jurors in attendance having been duly
sworn, and having heard the charge of the Court
retire to consider of indictments and presentments.

And afterwards to wit on the same seventh day of
February in the year aforesaid, the following proceedings

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were had and entered of record in said Court to wit:

It appearing to the Court that Carlos Haven States attorney is not in attendance on this Court. It is ordered that Isaac S. Clarke Esquire an Attorney and Counsellor of this Court be and he is hereby appointed States attorney pro tempore.

And afterwards to wit: on the tenth day of February in the year aforesaid, the same being one of the days of the said February term of Court in the year aforesaid the following proceedings were had and entered of record in said Court to wit:

The Grand Jury come and present the following bill, among other bills, as a true bill to wit:

The People of the State of Illinois
vs
Thomas Monaghan Thomas Monaghan Jr
William Monaghan, James Monaghan

Indictment
for Larceny

Which said Indictment is in the words and figures following to wit:

State of Illinois }
Lake County } ss. Of the February Term of
Lake County Circuit Court in the year of
our Lord 1859

The Grand Jurors chosen, selected and sworn in and for the County of Lake in the name and by the authority of the people of the State of Illinois on their oaths present, that Thomas Monaghan, Thomas Monaghan Jr. William Monaghan and James Monaghan late of said County at said County on the Eleventh day of December in the year of our Lord 1858 five Sheep each of the value of three Dollars, five Sheep's pelts, each of the value of three Dollars, One hundred and fifty pounds of mutton of the value of ten Dollars, of the personal goods, chattels & property of one Clark Gale then and there being found, then and there feloniously did steal, take and carry away contrary to the statute in such case made and provided and against the peace and dignity of the same people of the State of Illinois

And the Grand Jurors aforesaid in the name and by the authority aforesaid upon their oaths aforesaid do further present that Thomas Monaghan, Thomas Monaghan Jr. William Monaghan and James Monaghan late of said County at said County on the Eleventh day of December 1858 five sheep each of the value of three Dollars, five Sheep's pelts each of the value of three Dollars One hundred and fifty pounds of mutton

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of the value of ten dollars of the personal goods
chattels and property of One Walden Easton
then and there being found, then and there
feloniously did steal take and carry away
contrary to the statute in such case made
and provided and against the peace and
dignity of the same people of the State of
Illinois

And the Grand Jurors aforesaid in the
name and by the authority aforesaid upon
their oaths aforesaid do further present,
that Thomas Monaghan, Thomas Mona-
ghan Jr, William Monaghan and
James Monaghan late of said County at-
said County on the Eleventh day of Decem-
ber in the year of our Lord 1858 five
Sheep each of the value of three Dollars
five Sheep's pelts each of the value of three
Dollars. One hundred and fifty pounds of
mutton of the value of ten dollars of the
personal goods chattels and property of
One Allen Lamphear then and there be-
ing found, then and there feloniously did
steal take and carry away contrary to
the Statute in such case made and provided
and against the peace and dignity of the same
people of the State of Illinois

Isaac L Clarke States Atty Pro Tem

And that on the back of said Indictment
 are endorsed the words and figures following to-wit:
 "29" "Cir Ct of Lake Co" "The People vs Thomas
 Monaghan, Thomas Monaghan Jr, William
 Monaghan, James Monaghan" "Indict-
 ment for Larceny" "Bail in \$600 Geo Mani-
 erne Judge" "A true Bill, Justus Bangs
 Foreman of the Grand Jury"
 "Witnesses, Arthur Martin, Owen Callahan,
 Monroe Cook, Walden Easton, Allen
 Lamphear, Clark Gale, — Colier"
 "Filed February 10th 1839"
 "A. B. Coates Clerk"
 "By A. Lebotis Deputy"

And afterwards to-wit; on the eleventh day of February
 in the year aforesaid said day being one of the days of
 the said February term of said Court for the year aforesaid
 the following proceedings were had and entered of record in
 said Court to-wit:

29 The People of the State of Illinois vs Indictment for Larceny
 Thomas Monaghan, Thomas
 Monaghan Jr, William Monaghan
 and James Monaghan

Now come said People by Clarke State
 attorney pro tempore, and on his motion it is ordered that a

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capias issue herein, and it is further ordered that the said defendants be let to bail in the sum of six hundred dollars each

And agreeably to said order of court the Clerk of said Court issued the People's writ of capias, which capias is in the words and figures following to wit:

State of Illinois
Latah County  p

The People of the State of Illinois, to the Sheriff of said County. Greeting. We command you that you take the bodies of Thomas Monaghan, Thomas Monaghan Jr. William Monaghan and James Monaghan if they shall be found in your County, and them safely ^{keep} so that they be and appear before the Circuit Court of said County, now in session at the Court house in Wanigan in said County forthwith, to answer unto the People of the State of Illinois in an Indictment for Larceny and have you then and there this writ with an indorsement thereon, of the manner in which you shall have executed the same.

Witness Augustus B. Cotes Clerk of said Court and the seal thereof, at Wanigan in said County this 11th day of February A.D. 1889

A. B. Cotes Clerk
pr A. S. Cotes Deputy

Seal of
Court

And on the back of said Capias, the following is endorsed in the words and figures thereon to wit;

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29. People v Monaghan et al. Executed this warrant
by arresting Thomas Monaghan and Thomas Monaghan
Jr on the 11th day of February AD 1859 and by
delivering them to the jailer of Lake County

Fees service \$2.00 committing ^{them to jail}, 70 \$2.70. William
Monaghan & James Monaghan not found

John G Ragan Sheriff
Ruf S S Taylor Deputy

Dated February 11th 1859

A D Cotes Clerk

Dr A S Cotes deputy

United States of America
State of Illinois Lake County 

Pleas before the Honorable George Manierre
Judge of the seventh judicial Circuit of the
State of Illinois

At a Circuit court for the County of Lake
in said Circuit began and held at Van Buren
in said County on the sixth day of June
in the year of our Lord one thousand eight
hundred and fifty nine, and of the independence
of the United States the eighty third

Present the Honorable George Manierre Judge
aforesaid, and John G Ragan Sheriff of
Lake County

Attest A D Cotes Clerk.

Court opened by proclamation

And afterwards to wit; on the same sixth day of June in the year aforesaid, the following proceedings were had and entered of record in said Court to wit:

It appearing to the Court that Charles Haven States Attorney is not in attendance on this Court. It is ordered that Isaac S. Clarke Esquire an attorney and Counsellor of this Court be and he is hereby appointed States attorney pro tempore

And afterwards to wit on the eighteenth day of June in the year aforesaid, the same being one of the days of the said June term of said Court for the year aforesaid, the following proceedings were had and entered of record in said Court to wit;

12 The People of the State of Illinois
vs
Thomas Monaghan, Thomas
Monaghan Jr. William Monaghan
and James Monaghan

Indictment for
Larceny

Now comes said People by Clark States attorney pro tempore and the said defendants Thomas Monaghan Thomas Monaghan Jr. and James Monaghan in their own proper persons as well as by each their Counsel also come, and the jury formally empaneled herein come, and deliver the following verdict, We the jury find the defendants not guilty, whereupon it is ordered that the said defendants be discharged

12 7 10
and that they go hence without day.

And it is further ordered that this cause be continued as to the said defendant William Monaghan and that an alias Capias issue against the said defendant

And agreeably to said order of Court the Clerk of said Court issued the Process Alias writ of Capias, which Capias is in the words and figures following to-wit

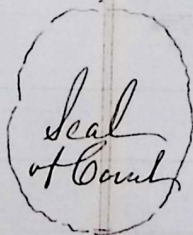
State of Illinois
Lake County

The People of the State of Illinois
To the Sheriff ^{Clerk of said County} of said County. Greeting, We command you as ^{before} we have ^{before} commanded you, that you take the body of William Monaghan if he shall be found in your County and him safely keep so that he be and appear before the Circuit Court of said County on the first day of the next term thereof to be holden at the Court house in Van Buren in said County on the fourth Monday of September next, to answer unto the People of the State of Illinois in an Indictment for Larceny. And have you then and there this writ with an endorsement thereon, of the day and in which you shall have executed the same.

Witness Augustus B. Cates Clerk of said Court
and the Seal thereof at Van Buren in said
County this twentieth day of June A.D. 1859

A. B. Cates Clerk

By A. S. Cates Deputy



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And on the back of said Capias, the following is
endorsed in the words and figures thereon to wit-

September term 1859. The People vs Wm Monaghan
et al. Capias. The Sheriff will hold the within named
defendant to bail in the sum of six hundred dollars (\$600),
A D Cotes Clerk for A L Cotes, deputy. Executed the
within writ by arresting the body of the within named
William Monaghan the 1st day of July A D 1859 and
afterwards on the same day releasing the said Wm Mon-
aghan from my custody, he having entered into bond in
the penal sum of twelve hundred dollars with James
Monaghan as surety, the said bond being conditioned
according to the Statute in such cases made and provided
There service. 50 taking bond. 50, 20 miles 100 return
10 \$2. 10
Filed July 18th 1859

John G Ragan Sheriff
A D Cotes Clerk
for A L Cotes deputy

United States of America
State of Illinois Lake County

 P
Pleas before the Honorable George Manierre
Judge of the seventh Judicial Circuit of the
State of Illinois

At a Circuit Court for the County of Lake
in said Circuit began and held at Wanigan
in said County on the twenty seventh day of
September in the year of our Lord one thousand
eight hundred and fifty nine, and of the

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Independence of the United States the eighth fourth
Present the Honorable George Manvere
Judge aforesaid, Charles Haven State Attorney
and John B. Ragan Sheriff of Lake County
Attent A B. Cates Clerk

And People of the State of Illinois
Court opened by proclamation

And afterwards to wit on the twenty ninth day of
September in the year aforesaid, said day being one of the
days of the said September term of said Court for the year
aforesaid, the following proceedings were had and entered
of record to wit—

9. The People of the State of Illinois
vs
Thomas Monaghan, Thomas
Monaghan Jr William Monaghan
and James Monaghan. Indictment for
Larceny

Now come said People by Haven State
Attorney, and the said defendant William Monaghan in his
own proper person as well as by Search his counsel also comes
and thereupon on motion of said defendant, founded upon Affidavit
filed for a continuance herein, and the Court being fully ad-
vised in the premises. It is ordered that this cause be and
the same is hereby continued, at the costs of the said de-
fendant and that the said People have and recover of the
said defendant William Monaghan their costs and charges

of this term expended and that they have execution
therefor

And said affidavit, which was filed in said
Court on the 29th day of September, and upon which
the foregoing continuance was granted is in the
words and figures following to wit—

The Circuit Court for the County of Lake
The People of the State of Illinois
vs
William Monaghan
State of Illinois
County of Lake
Indictment for
Larceny

William Monaghan of said County
being duly sworn doth depose and say that he is
the defendant in the above entitled cause, and that he
cannot safely proceed to a trial of said cause at
this present term of Court for the want of the testimony
of James Collins and Alexander Bliss who are material
witnesses for the defendant on the trial of said cause
and without whose testimony deponent cannot safely
proceed to a trial of said cause at this present term
of Court. And this deponent further says that he
expects to be able to prove by the witness James
Collins that he said Collins was sleeping and did
sleep with deponent on the night of the 11th of
December A D 1858 and that said witness and
deponent both occupied the same bed from about nine

O'clock of the same night that it is charged in the indictment that the Larceny was committed until about seven O'clock the following morning & that deponent did not during said night leave the bed in which said Collins & deponent were so sleeping & that deponent could not during said night have committed said Larceny and did not commit the same. & deponent knows of no other witness by whom he can prove the same facts. That said witness Collins left the County of Latah for Pikes Peak last spring and has not yet returned. That said witness has recently written to John Monahan brother of this deponent that he said witness was about starting to return to this County and verily believes that he will return to this County in time to attend this Court as a witness in said cause at the coming term of this Court. That deponent expects to be able to prove by said witness Bliss that he labored with deponent almost daily about the time that deponent is charged with committing the Larceny & knows that deponent labored daily about that time & had not an opportunity to commit the offence charged. The witness Bliss is now absent in the State of Wisconsin but expected to return to this County this fall & will in all probability be in this County so as to attend the next term of this Court. deponent further says that this application is not made for the purpose of delay, but that he may have a fair and impartial trial & that justice may be done.

William Monahan
 Subscribed and sworn to before me this 29th September
 1859. A. L. Bates deputy clerk

~~after the same are expended and that they have no more to do with the same~~

United States of America
State of Illinois Lake County 

Pleas before the Honorable George Manierre
Judge of the seventh judicial Circuit of
the State of Illinois

At a Circuit Court for the County of Lake
in said Circuit began and held at Hanegan
in said County on the sixth day of February
in the year of our Lord one thousand eight
hundred and sixty and of the independence
of the United States the eighty fourth
Present the Honorable George Manierre
Judge aforesaid and John B. Ragan
Sheriff of Lake County

Attest A. B. Cotes Clerk

Court opened by proclamation

And afterwards to wit on the same sixth
day of February in the year aforesaid the following
proceedings were had and entered of record to wit;

It appearing to the Court that Carlos Hussen States
attorney is not in attendance on this Court. It is ordered
that Floyd Meloy Esquire an Attorney and Counsellor of this
Court be and he is hereby appointed States attorney pro
tempore.

And afterwards to wit on the ninth day of February
in the year aforesaid, the same being one of the days of
the said February term of said Court for the year aforesaid
the following proceedings were had, and entered of record
in said Court to wit;

3 The People of the State of Illinois
vs Indictment
Thomas Monaghan, Thomas Monaghan for Perjury
vs William Monaghan and James
Monaghan

Now come said People by Kelley
State Attorney pro tempore and the said defendant
William Monaghan in his own proper person, as well
as by Seab, his Counsel also comes, and issue being
joined it is ordered that a jury come to try the same
and thereupon come a jury to wit, Phelan Devine
Henry Tuttle J M Townsend, James Burt William
Cramp Caleb Cadwell J H Johnson Eben Ware
B J Shepard N J Weiler Roswell ^{McLean} ~~Cox~~ and Philip
Brand, who being duly empanelled and sworn to
try said issues and a true verdict give according to
the law and the evidence, and ~~the hour of adjournment~~
~~being appointed having arrived~~ ^{and having heard a portion of the evidence under the}
^{present having arrived} by agreement of parties it
is ordered, that the said jury may separate and
meet the Court at half past eight o'clock tomorrow
morning.

And afterwards, to wit on the tenth day of February in the year aforesaid, the same being one of the days of the said February term of said Court for the year aforesaid, the following proceedings were had and entered of record in said Court to wit

The People of the State of Illinois

vs

3 Thomas Monaghan, Thomas Monaghan Jr. William Monaghan and James Monaghan

Indictment for Larceny

Now come said People by ^{William Monaghan} ~~William Monaghan~~ Attorney pro tempore, and the said defendant, in his own proper person, as well as by each his Counsel also comes, and the jury formerly impaneled hereon also come and the said jury having heard the remainder of the evidence arguments of counsel and instructions of the Court, retire in charge of a sworn officer to consider of their verdict and afterwards the said jury come into Court and deliver the following verdict. We the jury find the defendant guilty in manner and form as charged in the indictment and the value of the property stolen to be eight dollars and fix the term of his imprisonment in the Penitentiary at the period of one year. whereupon the said defendant enters his motion for a new trial hereto, and afterwards it is ^{ordered} ~~ordered~~ be and he is hereby remanded to the common jail of Lake County

And afterwards to wit on the eleventh day of February in the year aforesaid, the same being one of the days of the said February term of said Court for the year aforesaid, the following proceedings were had and entered of record to wit:

3 The People of the State of Illinois
vs Indictment for
Larceny.
Thomas Monaghan, Thomas
Monaghan Jr. William Monaghan
and James Monaghan

Now come said People by Kelley
State attorney pro tempore and the said defendant
William Monaghan by Scarb his Counsel also comes
and after arguments of Counsel the Court being fully
advised ~~with~~ as to the motion for a new trial
heretofore entered herein overrules the same, to which
decision of the Court the said defendant excepts. and
thereupon the said defendant enters his motion for leave
to introduce evidence touching the age of ~~the~~ said defendant
at the time of the commission of the offence charged in
the indictment herein which is granted, to the introduc-
tion of which evidence the people by the prosecuting
attorney objected

And afterwards, to wit, on the eighteenth day of February in the year aforesaid, the same being one of the days of the said February term of said Court for

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The year aforesaid the following proceedings were had
in said court
and entered of record to wit

3 The People of the State of Illinois
vs Indictment
Thomas Monaghan, Thomas for Larceny
Monaghan Jr. William Monaghan
and James Monaghan

Now come said People by Kelley
States Attorney pro tempore and the said defendant
William Monaghan in his own proper person as well
as by Seals his Counsel also comes, and the Court
having heard the evidence as well on the part of
the said defendant as on the part of the said
People, touching the age of the said defendant,
and it appearing from such evidence that the said
defendant was at the time of the commission
of the offence charged in the indictment herein, under
the age of eighteen years, and that at the time
of the conviction of the said defendant he was over
the age of eighteen years

Thereupon said defendant by his Counsel
aforesaid moves the Court to sentence the said defendant
to the Common Jail of Lake County instead of
to the Penitentiary in accordance with the finding
of the Jury heretofore empaneled herein, to which
the said People by their States Attorney pro tempore
aforesaid object, assigning ^{as} ~~for~~ grounds for such
objection. First that the Court has no power under

the Statute to review the verdict of the jury - and Second. because the defendant was over eighteen years of age at the time of his conviction, and after hearing the arguments of counsel, the Court being fully advised as to the said motion of the said defendant overrules the same, to which decision of the Court the said defendant excepts.

And it is further ordered that the said defendant have thirty days from this date in which to file his bill of exceptions herein.

And afterwards on the same eighteenth day of February in the year aforesaid the following proceedings were had ^{in said case} and entered of record in said Court to wit

3 The People of the State of Illinois
v
Thomas Monaghan, Thomas
Monaghan Jr. William Monaghan
and James Monaghan

Indictment for
Larceny

Now come said People by the State Attorney pro tempore and the said defendant William Monaghan in his own proper person as well as by Seals his Counsel also comes, and the said defendant saying nothing further why judgment of the Court should not now be pronounced against him.

It is therefore ordered and adjudged by the Court

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that the said defendant William Monaghan be taken from the bar of this Court to the common jail of LaSalle County, and that he be there kept in safe and secure custody by the Sheriff or Jailor of said County and that the Sheriff of said County within fifteen days from the date hereof remove the said defendant William Monaghan from the said jail and convey him without unnecessary delay to the Penitentiary of the State of Illinois at the City of Joliet in the County of Will in said State, and that he there deliver the body of the said William Monaghan to the Warden Keeper or other proper Officer having the charge or custody of the said Penitentiary, and that the said Warden Keeper or other Officer having the custody or charge of the said Penitentiary is hereby ordered to receive the body of the said defendant William Monaghan from the said Sheriff and him safely keep within the precincts of the said Penitentiary according to law for the full term of one year, five days of which time in solitary confinement and the residue of said time at hard labor and that he be thereafter discharged.

And it is further ordered and adjudged by the Court that the said defendant pay the costs of this prosecution and that execution issue therefor.

I have Examined and compared the foregoing
Transcript of Record, and find the same
Correct - Feb'y 23^d 1860

F. Kelley States Atty
Pro Tem

And that afterwards to wit; on the twenty third day of February A D 1860 a bill of exceptions was filed in the office of the Clerk of said Court, which said bill of exceptions is in the words and figures following to wit

The Circuit Court for the County of
Lake Of the February Term
A D 1860

The People of the State
of Illinois

vs.

William Monoughan
Indicted with Thomas
Monoughan Thomas
Monoughan & James
Monoughan

Indictment for
Larceny

Be it remembered
that on the ninth day of February A D
1860 the same being one of the days of
the February term of the Circuit Court
in & for the County of Lake & State of
Illinois the above entitled cause was
brought on for trial in said court be-
fore a jury and that upon such trial
the following proceedings were had that
is to say The People called as witness
in ^{and testified in said cause} said cause, before said jury First,
Arthur Martin who testified as follows:
I reside in Wauconda Lake County

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Illinois & am acquainted with the defend-
ant William Monoughan on the 11th
day of December 1858 I had two sheep
taken from my yard they belonged to
Clark Gale I took them of him I did
not know when the sheep were taken
but heard the Dogs make a noise in
the night I got up & looked out but
could not see any one In the morn-
ing I called the boys to get up & go & see to
the cattle they went out but soon came
in and said that the sheep were out
of the pen & two of them miping I went
out & could not find the two sheep but
I found in front of the bars leading
to the yard a bloody place of fresh
blood and there was a sleigh track
through it I then followed the track
along to the yard of Thomas Mon-
oughans I did not go in, I then went
to Farksville & saw Clark Gale & told him
that two of the sheep had been taken
and that I had followed a slead track
to Thomas Monoughans Gale took his
horse & bugg and he and I went to Mon-
oughans In following the slead track
we found ^{that} it had turned off from
the Main road & taken a buy path for
a short distance & then came back into

the main track. At one place along in the by Way where the sleigh had been driven (the road) we found a large spot of blood & it had been covered up by kicking snow over it the track around the spot was a large one and of a boot or shoe when Gale & I got to Thomas Monoughans we found a sleigh near the door of the house with some wood on it a short distance from the load we saw a box & two or three boards the boards appeared to be the bottom boards of the sleigh and were considerable bloody - upon lifting up the box we saw traces of blood when it had touched the snow it was fresh blood I also saw a ^{small} pile of straw near to these boards & this box that had the appearance of having been thrown off the sleigh it was bloody - Gale went around the sleighs & stacks & Callahan went to look also Thomas Monoughan told them that they could search his premises as much as they pleased that he knew of nothing wrong about them after Clark Gale had looked around the sleighs & stack he went down to the creek & soon called Callahan down there - I soon went down & saw upon the

ice some mutton which Gale said he had found in a bag in the creek it was put back into the bag & taken by me up to Gale's buggy Monaghan said the bag was not his Gale & Callaghan & Cook went down the creek and after a little came back to where I was near the house They had with them two sheep pelts Gale said one of them was his

Cross examination of this witness I live close to the house of James Monaghan the Father of William Monaghan our houses are so near together that we can speak to each other from our doors I have lived there some seventeen years When I went down to Thomas Monaghans in the morning ^{first} I did not go in I saw Flynn told him that I had tracked a sled to the yard I then went to see Gale When Gale & I were coming from Forksville towards Thomas Monaghans we met Owen Callahan on horseback & he went with us to Monaghans we got there about noon soon after we got there Rowe Cook came & his little brother I saw William Monaghan at Thomas Monaghans when I went there at noon with Gale

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did not hear him say anything he was standing near us looking at the slead

Reexamin of Martin by People The sheep were worth \$2 per head was take in Lake county I think that one of the pelts belonged to Gale I think so from its mark it was marked C G as near as I could tell

Clark Gale testified as follows

On the night of the 11th December 1858 about one o'clock I heard a noise like a team I got up & look out of the door & saw a gray team Thomas Monoughans team coming round near the north west corner of the Washington Hotel in Forks ville. I do not know whether the team had come from towards Mc Henry; & drove up to near that corner before turning or whether it came from towards Waukegan there was three (3) men in the slead & as I looked out they whipped up & came along past near where I was & went towards Martins on the Mc Henry & Chicago road The next forenoon Martin came to my house & said that two of my sheep were gone & that he had tracked a slead to Thomas Monoughans

I hitched my horse before my buggy & Martin got in & we went down to his house it was thawing & the snow was soft I saw a large spot of blood at Martins bars & followed a sled track & saw another spot of blood between Martins & Thomas Monoughans & saw several traces of blood along the road. We met Callahan on the road & he went with us to Thomas Monoughans. I went into the house & asked Thomas Monoughan if he had any objection to my searching his premises he said he had not. I then searched around the sleds & straw stack but could not find anything. I then looked at the sled & saw that it was bloody under the beams & along the rive joints & some parts of it looked as though it had been washed off there was some old wet wood upon it.

Whilst I was looking at the sled William Monoughan came out of the house & took an axe & rolled one of the sticks ^{of wood} off from the sled & commenced to chop it up. I then looked for the box & bottom boards of the sled & saw them close by & upon turning the box up saw traces of fresh blood on the snow where the edge of the box had touched the snow. I also

saw spots of blood upon the boards & saw a small pile of straw near by which was bloody. I went down to a creek four or six rods off & saw several holes cut through the ice. in one of them I saw something which I first thought was a stone but upon closer examination I found it to be a bag with mutton in it I took it out & tempted the mutton on the ice & called Callahan down to see it, he came down & several others also came down & looked at it Thomas McEnoughan was there & said it was not his, William McEnoughan was there I put the mutton into the bag again & Martin took it & carried it up to near the house where my buggy was & Callahan & Cook & his brother then followed some tracks from the hole in the ice where the mutton was found to a log some distance down the creek where we found two sheep pelts, some one of the party saw the pelts some time before we got to them & spoke of it, they were partly behind the log, but laid so that we could see a part of them before we got up to the log. One of the tracks was a large one, and one a small one & looked as though it had been made by a fine foot, we took the pelts & brought them up to the house

where Martin was, One of them was mine, it was
 married G. G. & I think the other one was mine also.
 After I came up to the house with the fells I took
 William Monaghan out some four rods upon the ice
 by himself & told him that I thought that he had stolen
 my sheep & told him that I wanted him to pay
 me for them, he said Ketching came before hanging.
 The next day I went there again & saw two more
 fells which was found in St Johns field adjoining
 Thomas Monaghans, they were taken to Wauconda
 on Monday, when I went there, I first went around
 the straw stacks & sheads and found two tracks,
 leading from them towards the creek, we followed
 them & they lead to the place where the last fells
 were found, one was a large & one a small track
 I did not see William Monaghan there on Mon-
 day the last time I saw the fells was in the Justice's
 office at Wauconda, William Monaghan had
 made it his home at Thomas Monaghans for
 several months before.

Cross examination of this witness.

The Washington
 Hotel fronts to the west & the Waukegan road
 comes in along the north side of it & the Chicago
 road along the south end & both roads meet together
 several rods to the west of it, the space is open
 from the hotel to where the roads meet. The door
 in which I was standing when I saw the team &

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man is in the south end of the building & about 8 feet from the south west corner, I saw them distinctly, it was starlight & saw the box of the sled & that it was shorter than the sled, I saw the beams & how they were made & saw the men in the sled but do not know who they were. They drove within two or three rods of me & went down the Chicago road it was Thomas Monoughans team. There are several gray teams near Thomas Monoughans, but none that looks like his. When I went to Monoughans on Monday I saw the two tracks from the sleds or near the house which lead to the pelts in St Johns field very plain, it had froze the night before & they were made after it had froze. When I took William out & talked with him Martin was present & Thomas Monoughan & Thomas & George & perhaps others. James Monoughan the father of William lives about a mile from Thomas Monoughans, where we found the mutton & pelts. I only know that William made his home at Thomas Monoughans from having seen him there on two or three occasions. I know the pelt to be mine from the mark on it. It was marked with Tar. I saw defendant at McHenry pillage on the 11th December 1858 with his cozen, they had a team there.

Owen Callahan testified as follows.

On the morning of the 12th December 1858 I went out to look for sheep

which I had lost & on my way I met John Monoughan a brother of the defendant & he told me that Martin had lost two sheep & that he had traced a sled to Thomas Monoughans. I went to Mr Rooney & then came out upon the Fortsville road, where I met Gale & Martin & I turned round & went with them to Thomas Monoughans, Gale went to look around the stack & sheds & I went out to another stack a short distance away & looked but could find nothing. I came back & as I got back Gale called to me to go down to the creek where he was. I went and he showed me some mutton that was laying on the ice, it was fresh mutton recently killed, several persons came to see it & it was put into the bag again, and I & Gale & Rooney went down the creek, after going a short distance I saw laying a little over a log some sheep's pelts we went to the log and found two pelts & carried them to Thomas Monoughans house. I do not know where I was on the night that the sheep was killed. I had lost 60 sheep myself & was looking for them on the morning of the 12th Dec when I met Monoughan.

Examination of this Witness,

I have a span of gray horses, nearly of the same size as those of Monoughans, I will not swear where I was on the night that the sheep was taken. I live

about 40 rods from Thomas Monoughans, have lived there for 18. or 19 years. I am not on good terms with Monoughan. I have had two fights with his wife, or rather his wife has with me. I did not say that I would give \$5. if some one would kill a sheep & put it on Monoughans farm.

Walden Easton testified as follows.
I lost one sheep on the night of the 11th December 1858, found its pelt on St Johns land near Thomas Monoughans, on the morning following it was taken to Wancoussa by the Constable Hubbard. I saw it there at the Justices office afterwards. It was worth \$2. I have seen William Monoughan at Thomas Monoughans frequently & supposed that he made it his home there.

Cross examination of this Witness.
I only know my sheep pelt from some bars in the wool & from the general appearance of the pelt & from the fact that the sheep had a clump tail. All that I know about William making his home at his uncles is that I have seen him there. Thomas Monoughan is his uncle & has a boy about his age, size & one older. I live about one mile North West from Thomas Monoughans

Allen Sampson testified as follows.
I lost one sheep it was marked. I lost it between Saturday, Friday & Sunday morning of Dec 11th & 12th

1858, I saw the belt of the same sheep at Justice Bangs office in Wancorda. I knew it from the fact that the mark had been pulled out & I found part of the mark near my house in the road, several days after, by pulling the wool apart you could see that the mark had been pulled out & it looked as though the wool had been pressed back. The sheep was worth \$3.

Cross examination of this witness,

I live about three quarters of a mile west from Thomas Monoughans on the road leading past Eastons, I had been sick all of the fall & had not been out until the day I saw the belt at Wancorda,

Rose Cook testified as follows,

I went down to Thomas Monoughans with my brother on the Sunday mentioned a little after noon & found several prisons there, I went down to the ice and saw the mutton & from that I & Gale & Callahan & my brother followed two tracks down the creek some of us being on one side and some on the other, we had not gone far before some one said they saw the skins & we went to a log a few rods a head & found two belts & took them up to Monoughans house & Gale took them off with him, on the Saturday before I saw William Monoughan & Thomas Monoughan jr his cozen at Mc Henry village with a jumper & an old horse

hitched to it, on my way home that evening I again saw William driving a yoke of oxen hitched to a sled, one of Thomas Monoughans small boy was with him, They were on the road leading from Thomas Monoughans towards Wauconda & going towards Wauconda in a direction opposite to Williams father, this was just before night, Bennett was with me & he stopped & asked William for a chew of tobacco.

Cross examination of the witness,
I saw William at Sage Tavern in McHenry, It was a little while before or about sundown that I saw him with the oxen,

Clare Gale was recalled by the People & testified as follows, I last saw the fells at the office of Justice Bangs at Wauconda I carried the two there that I had & Hubbard took the others there,

Justice Bangs testified as follows,

I am Justice of the Peace and reside at Wauconda. I remember the fells spoke of I last saw them in my barn they were carried there after the hearing before me & since that time the rats have nearly destroyed them so that I could not bring them here at this time.

The People next offered in evidence a Warrant & return of which the following is a copy,

~~The People have closed their testimony.
 Defendant called John Flynn who testified as
 follows, I live just across the road from Thomas~~

State of Illinois } ss The People of the State of Illinois
 Lake County } to all Sheriffs, coroners and con-
 stables within said State greeting, Whereas complaint
 under oath has been this day entered before the un-
 dersigned a Justice of the Peace within within &
 for said County by Charles Gale that on or on the
 night of the eleventh or on the morning of the
 twelfth of December 1858 was feloniously taken
 away from the premises of Arthur Martin of said
 County two sheep to the value of five dollars belong-
 ing to the said complainant in said State, and
 that said complainant has just & reasonable
 grounds to suspect that Thomas Monaghan, Thomas
 Monaghan Jr, James Monaghan, William
 Monaghan & Charles Wright are guilty of said
 Larceny, You are therefore hereby commanded forth-
 with to arrest the said Thomas Monaghan, Thomas
 Monaghan Jr, James Monaghan, William Mon-
 aghan, & Charles Wright, and bring them forthwith
 before me (or in my absence before some other
 Justice of the peace in said County to answer to the
 People of the State of Illinois on said charge, and
 abide such ~~the~~ further order as may be made

concerning the said complaint, and hereby make
due service & return as the law directs,

Given under my hand & seal at my office in
Wauconda this ~~thirtieth~~^{thirteenth} day of December 1858,

Justus Bangs
Justice of the Peace *Real*

Upon the back of said Warrant is the following en-
closure, "executed by arresting the within named
Thomas Monoughan, James Monoughan, Thomas
Monoughan Jr. Charles Wright, William Monoughan
not found, and bring them into court this 13th day of
December 1858, before Justus Bangs Justice of the Peace,
N. Hubbard
Leontville,

The People have closed their testimony.

Defendant called John Flynn who testified as
follows, I live just across the road from Thomas
Monoughans, he is my brother in law. On the Sun-
day morning spoken of Martin came to my house
& said he had lost two sheep & that he had fol-
lowed a certain track to Thomas Monoughans
but that he dare not go in, I told him I would
go with him, so I went over to the yard & into
the stable where I found James Monoughan
cleaning his horses, I told him what Martin
had said, he said tell Martin to come in

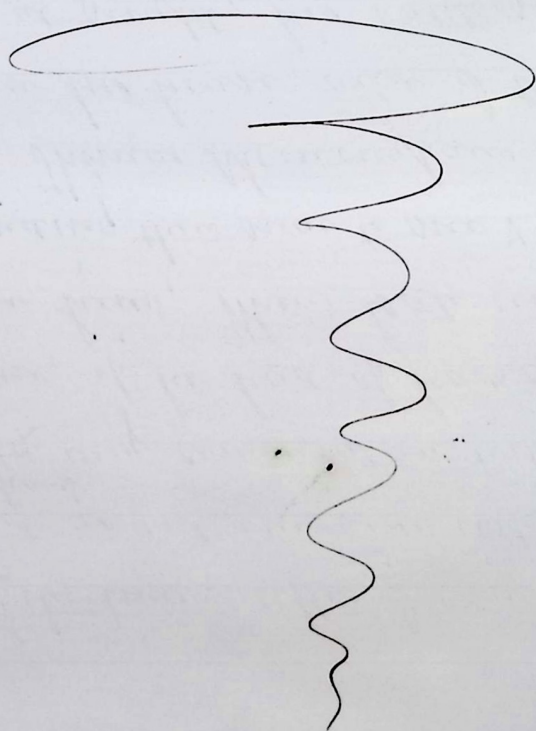
& search, there is nothing about here that I know
 of, when I went out Martin was gone, about
 nine or ten o'clock of that day I first saw the
 defendant, he was creeping from his Father's
 towards Thomas Monoughan & went into his
 Muck, about noon or a little after, Black Gale
 & Martin & Callahan came along & went into
 Monoughan's yard, I went over, I soon after Ross
 Cook & his brother came, Gale called Thomas
 Monoughan out & asked him for permission to
 search & he told him to do so, that he knew of
 nothing about, I told Monoughan to be careful
 what he said as they seemed to be after him, he
 said there was nothing wrong let them search,
 They then looked at sleds, & went around the stack
 & sheds & down to the creek & Gale hollowed for
 some one to come down, Callahan went down
 & I soon went down too, I saw the meat which
 Gale said he had taken out of the creek, it
 was put back into the bag & Martin fetched
 it up & put it into Gale's buggy, soon after
 Gale & Callahan & Cook came up to the house
 with two sheep skins, Gale said they were his,
 it was disputed by several & he was asked to
 show a mark but he could not, and he finally
 concluded to take the skins home & compare
 them with the living sheep so as to tell if they
 were his, William Monoughan was standing near

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to me all ^{of} the time, after I came up from the creek & did not go out one side with Gale nor did Gale ~~hold~~ ^{have} any conversation with him at that time that I saw, if he had of had I think I would have seen him, When Gale went away William was standing then near to me & went into the house with me, Thomas Monoughan sheads are a little way from his house, and I think are not kept fastened at night, his cattle run about the house & go from the house & sheads to the creek where the Mutton was found to drink, & it was at that time all trailed up around with the cattle, Monoughan had at that time 7 or 8 horses 20 or 30 sheep & a number of horned cattle, The gray horses belonged to his son James, & were seldom drove but by him, they were skittish and had run wild much, James Monoughan the father of William lives about one mile north east from Thomas Monoughan, Eastern lives about one mile north west & Sampson about $\frac{3}{4}$ of a mile west from Thomas Monoughan, William has made it his home at his Uncle a good part of the time since last July, he was sometimes at home & sometimes working for the neighbors, his Uncle had boys about William's size & age, There is a good many gray horses in the neighborhood, some four or five shans,

Examination of this Witness.

I cannot tell exactly how far it is from my door to that of Thomas Monoughans. It is 40 paces, I have paced it, it is 20 rods. I could not tell the difference between Callahan's gray team & that of Monoughans in the night; I told Monoughan to be careful when they came to search, I told James Monoughan in the morning what Martin had said, he was clearing his horses, they did not look as though they had been out the night before, ~~but~~ ^{were} not very dirty, no more than they would naturally be in the stable. I saw William coming from towards his Father some where from 8 to 10 o'clock on Sunday morning, Gale did not take him out away from the rest of us to talk with him as I saw, I do not think he did. William was near to me all of the time, I saw blood on the sled & saw William looking



at it with the rest of them. The land of Thomas Monoughan & that of Williams Father joins

Eliza Monoughan testified as follows
I am the Mother of William Monoughan the defendant. I remember the night that it is said the sheep were stolen William came home just at dusk and after he had eat his supper he pulled off his boots & went up stairs to bed. His Father & Brother was not at home. They had gone to Mr Henry. he eat his supper & went to bed before they came home. He got up in the morning & after he eat his breakfast he went down to his Uncles Thomas Monoughans. On the fourth of July last William got a little dissatisfied with his Father because his Father did not give him as much pocket money as he did his elder brother so he went away & staid a good part of the time to his Uncles. He used to come home every week & sometimes twice a week & used frequently to stay all night & sometimes two nights but did not work at home he worked around for different ones in the neighborhood. He was home but a few days before this Saturday night to get

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some pieces of board to make a jumper for
him & his cozen to drive the old horse be-
fore Martin lives close to our house &
his sheep pen was but a short distance
from our door

Cross examination of this witness
William came home ^{just} at dusk he had
on a hat and a Kentucky jain coat
he slept up stairs in the room with two
of his younger brothers & James Collins
who is now gone to Pikes Peak & a crazy man
a brother of my husband and his two sisters
slept up stairs in a room adjoining he
could not get down very well without com-
ing down the way he went up the house
is two story I & my husband slept below
in a room opening into the kitchen he
went over to his Uncles about 8 or 9 O'clock
on Sunday morning

The defence here rested the case

The People called Patrick McCabe who
testified as follows. I live but a little
way from James Monoughans Eliza
Monoughan was into my house some
time after the sheep was said to have been

stolen & said in speaking of the trouble that one had in raising a family of children that if it was necessary she would not think it any harm to swear a lie to protect them

Cross examination of this witness
I am not on good terms with McEnoughans family One of the boys & I had a little brush & I had a law suit with one of them
I cannot say exactly all what Mrs McEnoughan did say my daughter had got into trouble & we were talking about our children Mrs McEnoughan is a woman that talks a good deal I told her that I did not want my children to go with her children there was a good deal of talk I could not give anywhere near what was said

Levi Marble testified as follows
I have known Mrs McEnoughan for some 20 years but do not live near to her I could not say anything about her reputation I have not hear of it

Alvina Truesdell testified as follows
I have been acquainted with Mrs McEnough

an for several years but could not say as to her character for truth & veracity latterly

The foregoing being all ^{of} the evidence ^{introduced} on either side upon the trial of said cause the same was submitted to the jury upon the instructions of the court in connection therewith which were as follows

The People asked for & the court gave to the jury on their behalf the following instructions to wit "If the jury believe from the evidence beyond a reasonable doubt that the defendant either alone or in company with others committed the offence as charged in the indictment then they should find the defendant guilty and fix the term of his imprisonment in the penitentiary if the jury also find that the property stolen was of the value of five dollars or more."

The defendant asked & the court gave to the jury the following instructions to wit

"Before the jury would be authorized to convict the defendant they must be satisfied from the evidence beyond a reason -

able doubt of his guilt"

"The defendant is entitled to all reasonable doubts as to his guilt, and if the jury have a reasonable doubt from the evidence of the guilt of the defendant then they ought to acquit him"

The jury returned into court with with the following verdict

"We the jury find the defendant guilty & the value of the property stolen to be eight dollars & We the jury fix the term of imprisonment at one year in the penitentiary"

And thereupon the defendant entered his motion for a new trial in said cause which said motion the court overruled to which said defendant then & there excepted

Defendant Introduced the following testimony before the judge after the overruling of the motion for a new trial - subject to objection

Eliza McConoughan testified as follows
I am the Mother of defendant he was

18 years of age on the 29th day of December 1858 he was born on the 29th December 1840

Cross examination of this witness
I remember the time he was born my husband's Mother & Sister was there he was baptised in the following summer & iller Murray stood for him he was a baby when my little Girl Helen was drowned

James Monaghan testified as follows
I am the Father of defendant he as near as I can recollect was born on or about the 29th December 1840

Cross examination of this witness
I have no particular means of telling I have not got it set down but he was a baby when Helen was drowned

Arthur Martin testified as follows
I have been in the country some seventeen years & William was a little child just beginning to run round when I come in

Roony testified as follows
I was in the County when William was
borned he was born in December after
land sale I have a girl which was
borned in the November following the
the time that William was borned

Samuel Roony testified as follows
The last witness is my wife defendant
was borned in the fall after the land
sale in Range 9 & that was in 1840
The People called David H. Sherman who testified that the land
sale in Range nine was in 1840

Defendant here asked the court not
to sentence him to the Penitentiary but
to sentence him to the County jail
The people objected thereto which
objection was sustained by the court
to which defendant excepted

In witness whereof the Judge of
said court has hereto set his hand and
seal this 21st day of February 1860

George Canienne Seal
Judge of 7th Judicial
Circuit Ills

J. Kelley States Atty Pro Tem
W. S. Sears

Atty for Deft

On the back of which said bill are indorsed the words
& figures to wit
Filed February 23rd 1860
A. B. C. clerk
10. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100. 101. 102. 103. 104. 105. 106. 107. 108. 109. 110. 111. 112. 113. 114. 115. 116. 117. 118. 119. 120. 121. 122. 123. 124. 125. 126. 127. 128. 129. 130. 131. 132. 133. 134. 135. 136. 137. 138. 139. 140. 141. 142. 143. 144. 145. 146. 147. 148. 149. 150. 151. 152. 153. 154. 155. 156. 157. 158. 159. 160. 161. 162. 163. 164. 165. 166. 167. 168. 169. 170. 171. 172. 173. 174. 175. 176. 177. 178. 179. 180. 181. 182. 183. 184. 185. 186. 187. 188. 189. 190. 191. 192. 193. 194. 195. 196. 197. 198. 199. 200. 201. 202. 203. 204. 205. 206. 207. 208. 209. 210. 211. 212. 213. 214. 215. 216. 217. 218. 219. 220. 221. 222. 223. 224. 225. 226. 227. 228. 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9 The People of the State of Illinois
 vs.
 Thomas Monaghan, Thomas
 Monaghan Jr. William Mon-
 aghan and James Monaghan

Indictment
 for Larceny

State of Illinois }
 Lake County } es.

I Augustus B. Cotes
 Clerk of the Circuit
 Court in and for the County of Lake in
 the State of Illinois do hereby certify the
 the within and foregoing to be a true
 transcript from the records and files of
 my office of all the proceedings had in
 said court in the above entitled cause
 so far as the same relate to the said
 defendant William Monaghan and of
 the indictment, together with the endorse-
 ments thereon, and of an affidavit for
 continuance, and of the bill of exceptions
 and also of two writs of *capias* together
 with the returns of the officer thereon endors-
 ed which are on file in the said cause.
 In testimony whereof I have hereunto set my hand
 and affixed the seal of said court - at Wauke-
 gan in said county this 23^d day of
 February A.D. 1860.



A. B. Cotes, Clerk



and affixed the seal of said court - at Hawke-
gam in said county this 23^d day of
February A.D. 1860.

A. B. Coates Clerk

By A. LeCotes Deputy

State of Illinois Is

Set the writ
of error in this case be made
a supersedeas, to stay the execution
of the sentence.

Given at Chambers at
Perthville Feb'y 25th 1860.

P. H. Waller
Jus. sup. ct.

The People of the
State of Illinois
vs

William McConaghan
et al.

The Supreme Court of the State of
Illinois

The People of the
State of Illinois

vs

William Monaghan
indicted with Thomas
Monaghan Thomas
Monaghan & Anne
James Monaghan

Indictment
for larceny

The defendant assign the following
errors upon the within record &
in relation to the proceedings upon
the trial of said cause in the
Court below

The Court erred in not granting
the defendant a new trial in
said cause

The conviction of the defendant is against
the evidence in the case

The finding of the jury in said cause
is against the law & the evidence govern-
ing the case

The Court erred in refusing to
send the defendant to the Common
jail of Lake County the defendant
being less than 18 years of age at the
time of the commission of the
offense

The Court erred in sentencing the
defendant to the Penitentiary said
defendant being under 18 years
of age at the time of the commis-
sion of the offense

W. S. Sears
Atty. Genl.

William Clonagham

The People of the State of Illinois.

Receivd & Execd

Filed Feb'y. 18. 1860.
S. Ireland Clk.