

Jefferson County Circuit Court
Case Files - Criminal

Box 27 Folder 60

March 1871

State

vs.

McMahan, John

Assault with intent to kill

Stabbed Charles A. Berholzer
with a knife; depositions

AFFIDAVIT.

(ON WHICH TO ISSUE A STATE WARRANT.)

WHITTLESEY'S FORM, No. 385.

STATE OF MISSOURI,

COUNTY OF Jefferson } 88.

Before me, A. M. Lytle, a Justice of the Peace within
and for the County of Jefferson aforesaid, personally came Charles
Barnholz — — —, who, being duly sworn according to law, deposeth
and says, that on or about the 2^d day of March A. D. 1876,
in the County of Jefferson, and State of Missouri,* me

John M. Mahan did in a violent and
angry manner and with the intent
to kill him the said Charles Barnholz
assault him, and did with a knife
or other sharp edged instrument ^{or deadly weapon} in his
the said John M. Mahan's hand, he the
said Mahan did cut, stab & wound
him the said Charles Barnholz inflicting a dangerous
and dangerous wound in his neck, thereby
during his assault & did strip and expelling his life
and further this deponent saith not.

Sworn to and subscribed before me, this the

3 day of March A. D.1876.

A. M. Lytle
Justice of the Peace.

Charles
his
Charles Barnholz
mark

*Describe the offense charged to have been committed, as nearly as possible, and state who is guilty of the fact charged, or who accessory to it,—as the case may be.



AFFIDAVIT.

Charles B. Burchard
vs.
Complainant.

John M. Mearns

Charged with

*Moral and violent &
fraud*

Made before

J. M. B. B.
J. P.

On the *3^d* day of *March*
A. D. 187*7*.

STATE WARRANT.--(J. P.)

STATE OF MISSOURI,

County of }
Jefferson

88.

The State of Missouri to the Sheriff or any Constable of said County—GREETING:

WHEREAS, complaint has been made before me, one of the Justices of the Peace in and for the County aforesaid, upon the oath of

that

*John M. Wickham**Charles B. Whitson*

, late of the County aforesaid, did, on or

about the

2 day of*March*, A. D. 187*1*, at the County of*Jefferson*

aforesaid did in a cruel and angry manner and with the intent to take him, the said *Charles B. Whitson*, and did beat a bruise or other mark & beat with his hand the said *John M. Wickham* did cut with a razor the said *Charles B. Whitson* a deep and dangerous wound in his neck thereby doing him great bodily injury and endangering his life—

These are therefore to command you to take the said

John M. Wickham

if he be found in your County, and him safely keep, so that you have his body forthwith before me, or some other Justice of the Peace, to answer said complaint, and be further dealt with according to law.

Given under my hand this

3^d

day of

March, A. D. 187*1*.*J. M. Whitson*

Justice of the Peace.

STATE WARRANT.

STATE OF MISSOURI.

VS.

John McNamee

CHARGED WITH

Assault with intent to Kill

ON INFORMATION OF

Charles B. Scholger

BEFORE ME

A. M. Lyles

J. P.

Received the within Warrant on the

day of _____, 187 .

Constable.

RETURN.

I hereby certify that I executed the within Writ, in the County of

on the 3 day of March 1876, by

*Lefferson
Crispin* Sheriff of the County of
John McNamee and
James B. Hardy Jurors in Court
Commenced

FEE \$1.75-

E. S. Foster

889 main St. St. Louis

SUBPOENA FOR WITNESS.

The State of Missouri,

To *Marshall Harris***You are Hereby Commanded**

to be and appear personally before me,

*J. M.**John*, one of the Justices of the Peace within and for the Township
of *Waller*, in the County of *Jefferson*, on the *3^d*day of *March* A. D. 18*71*, at the hour of ten o'clock in the forenoon of thatday, at my office in the Township and County aforesaid, to testify on the ~~trial~~ ^{examination} of a cause wherein*John Mc Mahan* Defendant,
and *the State of Mo.* Plaintiff,in behalf of the *State**vs.*

And hereof fail not at your peril.

And the person or

officer serving this Writ is commanded to have the same at the time and place aforesaid, certifying thereon his return.

WITNESS my signature, this

3^d day of*March* 18*71*.*J. M. Lytle*
Justice of the Peace.

RETURN.

I hereby certify that I served the within Writ in the County of

3^d day of March 1871, by reading

the same in the presence and
bearing of the within named
Benjamin James -

Fee, 25^c.

E. J. Stodley

Marshall Simon of Stodley -
Not

SUBPENA FOR WITNESS.

State of Missouri Pl^{ff}.

vs.

John McMahon Deft.

BEFORE

A. M. Lyle J. P.

WITNESSES:

Benjamin James.

(51)

SUBPOENA FOR WITNESS.

The State of Missouri,

To the Honorable Court, ST. L. U.
James, ST. L. Hayman, & John Rodman
You are Hereby Commanded to be and appear personally before me, *A. M.*

John
Waller, one of the Justices of the Peace within and for the Township
of *Waller*, in the County of *Jefferson*, on the *3d*
day of *March* A. D. 1871, at the hour of ten o'clock in the forenoon of that

day, at my office in the Township and County aforesaid, to testify on the trial of a cause wherein
John M. Mahan Defendant,
and *The State of Missouri* is Plaintiff,
in behalf of the *Att -* And hereof fail not at your peril. And the person or

officer serving this Writ is commanded to have the same at the time and place aforesaid, certifying
thereon his return.

Witness my signature, this *3d* day of *March* 1871.

A. M. Weller
Justice of the Peace.

RETURN.

I hereby certify that I served the within Writ in the County of

3^d

day of

March

1871, by

Reading

Admon with the process of the writ of
the within process of the writ of
Admon. of the writ of the writ of
Admon. of the writ of the writ of

Fee \$1.00

C. S. Foster

Notary Public of the State of New York

SUBPOENA FOR WITNESS.

State of Wisconsin Plff.
vs.
John McMahon Deft.

BEFORE

A. M. Lyle J. P.

WITNESSES:

Adolph Picaut
L. V. Young
P. J. Rayson
John Raugust

RECOGNIZANCE

FOR APPEARANCE OF WITNESS BEFORE CIRCUIT COURT.

[WHITTLESEY'S FORM, No. 379.]

STATE OF MISSOURI,

County of

Jefferson

ss.

BE IT REMEMBERED, That on the

third

day of

*March*A. D. 187*1*, personally came before me,

a Justice of the Peace within and for the

County of

Jefferson

aforesaid,

Charles A. Burkholz
Adolphe Picaut
Lewis V. Young, *Le. F. Foster*,

and acknowledged

themselves

to owe the State of Missouri, that is to

say, the said

Charles A. Burkholz

the sum

of

One Hundred

Dollars; the said

Adolphe Picaut

the sum of

One Hundred

Dollars; the said

Lewis V. Young

the sum of

One Hundred

Dollars; and the said

Le. F. Foster & Peter J. Kayser each in

the sum of

One Hundred

Dollars, to be levied

of their respective goods and chattels, lands and tenements:

UPON CONDITION, That if the above bounden

Charles Burkholz
Adolphe Picaut, *Lewis V. Young*, *Le. F. Foster* &
Peter J. Kayser—

shall personally appear before the Circuit Court for the County aforesaid, then and there to

testify as

witness in the cause of the State of Missouri, upon the complaint

of

The State of Missouri

, against

John Mc Mahan

, for an assault

and battery

and shall not

thence depart without leave, then this recognizance to be void; otherwise to remain in full force.

Taken and certified the day and year aforesaid.

A. M. Lybe
 Justice of the Peace.

Charles A. Burkholz
Lewis V. Young
Adolphe Picaut
Le. F. Foster
Peter J. Kayser

SEAL

SEAL

SEAL

SEAL

No. 2

RECOGNIZANCE

For Appearance of Witnesses.

GIVEN BY

Charles A. Burkholder
Lewis V. Young, Adolphus Bryant,
C. F. Foster, & Peter
J. Kayser

STATE OF MISSOURI,

VS.

John McMichael

TO APPEAR BEFORE

Jefferson County Circuit Court,
March Term, 1871

A. M. Tyler
Justice of the Peace.

Filed March 7 1871

W. S. Boyce
Clerk

The State of Missouri } On charge of
 vs. Off } Assault with intent to kill.
 John M. Mahan }
 def- Before A. M. Tyler
 Justice of the Peace
 Valle Township, Jeff. Co. Mo.
 Mch. 3. 1871

Statement of Costs & Fees-

Justice's Fees-

For writing & taking affidavit-	.35	
" Issuing warrant-	.35	
" Administering six oaths 6c	.30	
" Writing Testimony- 25 folios, 15c	3.75	
" Certificates - 15c	.90	
" Docketing case -	.10	
" Indexing "	.10	\$5.85

Fees of C. F. Foster Marshall of Town
 of De Soto Mo, acting as Constable.

For serving warrant-	.75	
" Subpoening 5 witnesses 25c	1.25	
" Guarding Prison-		
Boarding &c - - -	3.00	5.00

Fees of R. Washburn, Constable
 of Valle Township, Jeff. Co. Mo.

For taking Prisoner to jail at Hillsboro, - 8 miles from De Soto-	\$1.00	
Mileage - 16. m. 10c per m.	1.60	
For taking charge of Pris. 1 day & for use of horse in taking him to jail -	1.25	
Mileage - 16. m. 10c per m.	1.60	\$5.45
And carried over -		\$16.30

Archiborn - - \$16.30
 Custodial fees continued -
 1 Guard one day - \$1.25
 Mileage for guard in
 Taking Pris. to Hilleboro jail - 1.60 2.85

Attorneys Fees -

Charles A. Bercholz 1 day - .50
 Dr. Lewis V. Young 1 day - .50
 Adolph Pecant 1 " - .50
 C. F. Foster 1 " - .50
 Dr. P. J. Kayser 1 " - .50
 Winfield Jarvis 1 " - .50 \$3.00
 Total amount - \$22.15

I certify that the foregoing is
 true and correct transcript
 from my docket of the fees
 costs accruing in the
 arrest and examination
 of John McMahon charged
 with assault with the intent
 to kill on Charles A. Bercholz.
 And that annexed hereto
 are all the original papers
 in the case.

A. M. Tyler
 Justice of the Peace

State of Missouri-
vs.
John M Mahan { Assault with intent
to kill -

Examination taken on this 3^d day
of March A.D. 1871, before me, J. M.
Tyler, a Justice of the peace of
Jefferson County, Missouri, on
the complaint on oath of
Charles Bamholzer ^{against John M Mahan} on a charge
of assault with intent to kill -

Charles Bamholzer, of lawful age,
being sworn on his oath says, du-
ring the last three months I have
resided in Jefferson County Mis-
sour near De Soto. I came to De Soto
yesterday morning about 9 o'clock
in order to take the train to St Louis
and have remained to the present
time. I was in the parlor
near the brick building about
dark. I was cut by the side
of a house. It was a little
light in the morning and don't
exactly know cut me. Did not
have any dispute with anyone
- Don't recollect that he seems
spoke to me at all. It was night-

and I could not see what was cut with. It was keen, and it was done so quickly I could not see it. I would know the person who did it if I should see him. (The prisoner standing up with others in the presence of the witness) witness says it was him - the prisoner.

No other person was present when the cutting was done.

I did not know why the man cut me. After I was cut I ran up to the jailer's. It was the only place I could seek for help. I was not acquainted with anybody in the barroom. After I was cut I ran away and did not see anything of the man. The blood ran like a stream. This cutting took place yesterday evening just about dark. It was light enough for me to see the man.

I had seen the prisoner or the man who cut me, in the barroom before I was cut.

I don't recollect whether I

cut me with the man who cut
me or not? I am certain
that the man shouting be-
fore me (the prisoner) is the man
who cut me. This cutting
took place in DeSoto, Jefferson
County, Mo.

Charles A. ^{his} Benholzer
Mortimer

Subscribed & sworn to before me
this 3^d day of March 1871.

A. M. Tyler

Justice of the Peace

Dr L. V. Young, of lawful age, being
sworn on his oath says: I am
a practicing physician, residing
in DeSoto, Mo. I was called
upon last evening to attend
Charles A. Benholzer at the
jailers store in DeSoto.

I was called there between
seven & eight o'clock. I found
the patient lying in the front
room. Lying on his face
with his arms under him.

I immediately felt of his
pulse and found him pulseless.

He turned the man over on
his side, and discovered
a gash in his throat extend-
ing nearly from one angle
of the jaw to the other. The
right-jugular vein was
cut ~~about~~ ^{about} ~~about~~ half an
inch ~~down~~ ^{down} with
a knife or some cutting
instrument. The hemorrhage
was so profuse that he had to
ligate the jugular vein.

He would have died in
the position he was in from
bleeding had he not had
assistance. I consider
the wound a severe and
dangerous one.

Lewis V. Young M.D.

Subscribed & sworn to before me
this 3^d day of March 1871

A. M. Lytle
Justice of the Peace

21 11

Dr. P. J. Kayser of lawful age
on his oath states, I am a
practising physician in the
town of De Soto, Mo. I was
called upon last evening
about half past seven to attend
a man at the jailer's in
De Soto. I found the man
lying on the floor on his
back with a pool of blood
around him. I found him
with his throat cut across
from the angle of his jaw
to the other. The right jugular
vein was nearly cut into.
The wound was evidently
made with a sharp cutting
instrument. Had he not
had experience at once
he certainly would have
died right there & then.

I consider the wound
a very severe & dangerous
one now.

Peter J. Kayser

Subscribed & sworn to before me
this 3^d day of March 1871

Albert M. Lyler
Justice of the Peace

Adolph Beant a lawful agent
on his oath says, I am a
jeweller by trade & reside in
De Soto, Mo. I am acquainted
with Charles A. Benkelgen.

I first saw him in De Soto,
yesterday about half past ten
in the morning. The next
time I saw him, he came
to my house about half past
seven, and when he came
into the door he had both hands
at his throat and said he
was cut. He then sat down
in a chair with his hands
to his throat. When I ran
out for Ranquet, and when
I came back with him I
found Benkelgen on his
knees on the floor. Another
man drove to the drug store
for the doctor. When I came
from the drug store I found
him stretched out on the
floor. I don't know any-
thing about the cutting.

After the doctor came I saw
that he Benkelgen was cut.

I swear the wound -

Adolphe Picaut

Subscribed & sworn to before me
this 3^d day of March 1871 -

A. M. Lybe
Justice of the Peace

C. L. Foster, of lawful age, being
sworn on his oath says: I am
marshal of the town of De Sol.
Mr Ranganb came before last
evening and said there
was a man at the jewellers
store with his throat cut.

I came on up to the jewellers
and found a man lying
on the floor - partly on his
side & face, & bleeding very
freely. I thought he was
dead, & when looking at
him I found him alive.
He was bleeding from a
cut in the throat. Afterwards
we requested & went to Mr.
McGuinn, and woke up Patsy
Rangan, and he told us that

Drunkolger ~~and~~ had treated
a him or two and Rung
had treated a him or two
in Melguir Solvons that evening.
After they drank they all
went out; He said McMaham
was there.

Rungut then
said we will go and see
McMaham, and see if he
knows anything about it.
We went to McMaham's, found
him asleep. He asked what
was there. I told him, He
then got up, put on his clothes.
After he put on his pants.
He went back to the head
of his bed, put his hands
about his pillow, then he
came back & put on his shoes
& socks, and came along
with me to show something.

He went in & stood by
the side of the bed with parvis,
John Rungut, & Henry Lurray.

Lurray asked the wounded
man asked if he - pointing
at parvis - was the man.

The wounded man said, no.

Then Stold took Mc'Mahan
to step up and let him look
at him. He did so - stepped
up close to the bed & leaned over
a little, and the wounded
man looked at him and
said "Kriias Ni'Mahan was
the man that cut him."

Stold then let him look at him
again, and he said. He
said a second time, "it was
the man, and he took him
out after sight."

Then I went with Mc'Mahan
to the depot. After we had
been there a little while I
took Ranguti's lantern and
went to Mc'Mahan's house.
and got a knife from under
the pillow that he lying on.

The knife here presented is
the knife I found under
the pillow. Afterwards Mc'Mahan
told me he had lost his knife
in putting on his clothes, and
said "hadn't you better go
back and get it?" He showed in
the pillow's show that he had no

Crop & Knife -
C. I. Foster

Subscribed a sworn to before
me this 3^d day of March 1871 -

A. M. Lyle
Justice of the Peace

Winfield Jarvis, of lawful age, being
sworn says, my name is
Winfield Jarvis, and reside
near De Soto, Mo.

I was at Mrs. McGinnis last
evening - in town of De Soto.

I was there about seven o'clock. There was nobody
with me - I was there
alone, and went home
alone. When I left there
no one ^{was} there excepting the
bar keeper and two other
men. Did not know the
two other men. I saw John
McMahon there - He did not
go home when I did.

I do not live where he
does. I saw John McMahon

been last evening. He went
home before I did.

I saw the man that was
cut then. He was not
there when I left. I saw
John McManahan & the
man that was cut together
there last evening. They
took a drink together.

They both went away
together, but when they
want I can't tell you.

No one else was out
with them that I know of.

Amifill & ^{his} ~~partner~~ ^{partner}

Subscribed & sworn to before
me this 3^d day of March 1871.

A. M. Lybe
Justice of the Peace.

51

John Mc Mahan, the prisoner
being examined states.

I went home about half
seven o'clock last evening.
I went to bed, Chas Foster
came here about half past
nine, and I came down
with him with him. He
asked me about the man
going out, and I told him
I didn't know anything
about it. He asked me if
I saw any man down
here. He asked me if I was
in the bar room with him.
I told him, yes. He asked
me if I drank with him.
I told him yes, I drank
two or three drinks. When
they were there the man was
standing on the porch.

John Mc Mahan

I certify the above to be the statement
made by the said John Mc Mahan
on his examination taken by me
on this 3^d day of March 1871.

A. M. Lykes
Justice of the Peace

State of Missouri -
County of Jefferson } S.S.

J. A. M. Tyler,
a justice of the peace within
and for said County, do certify
that the foregoing is a true
and complete record of the
proceedings had before me
in the case of the State of
Missouri vs. John McMahon
on a charge of Assault with
a knife or other deadly weapon
on the body of Charles A.
Burholzer, and the exam-
ination of the witnesses and
of the prisoner, and all the
papers before me relating
to the same, are attached
hereto, and are herewith
subscribed.

Given under my hand
this 3^d day of March 1871.

J. A. M. Tyler
Justice of the Peace

2859

State

vs

John McMahon

Evidence

Filed Mar 6 1871

W. S. Bayard

Sentenced Nov 6th 78

State of Missouri In Jefferson Circuit
County of Jefferson Jf. Court March 1871 Term.

We Grand Jurors of the State of Missouri, within
and for the body of the County of Jefferson, now here
in court, duly empanelled sworn and
charged upon their oath present - That John
McElbahan late of the County of Jefferson, on the
2nd day of March in the year of our Lord one
thousand eight hundred and seventy-one at the
County of Jefferson in the State of Missouri, with
force and arms, in and upon one Charles A.
Beuholzer in the peace of the State then and
there being, feloniously, wilfully, on purpose, and
of his malice aforethought, did make an assault
and that he the said John McElbahan with a
certain Knife of the length of eight inches and of
the breadth of one inch which he the said John
McElbahan then and there in his right hand had
and held, then and there feloniously, wilfully, on
purpose, and of his malice aforethought did
cut and thrust the said Charles A. Beuholzer,
then and there giving to him the said Charles A.
Beuholzer in and upon the neck of him the
said Charles A. Beuholzer with the Knife afo-
said one wound of the length of six inches and
of the depth of two inches, with the intent then
and there him the said Charles A. Beuholzer
then and there wilfully, feloniously, on purpose and
of his malice aforethought to kill, against

the peace and dignity of the state.

And the Grand Jurors aforesaid, upon their oath aforesaid, do further present that John McMahon late of Jefferson County in the 2nd day of March in the year of our Lord 1871, at Jefferson County, Missouri, with force and arms, in and upon one Charles A. Benholzer in the peace of the State, then and there being, feloniously did make an assault, and that he the said John McMahon with a certain Knife of the length of eight inches and of the breadth of one inches which he the said John McMahon in his right hand then and then had and held, the said John McMahon in and upon the neck of him the said Charles A. Benholzer then and there feloniously wilfully and by his act and procurement did strike, cut and thrust, giving to him the said Charles A. Benholzer then and there, with the Knife aforesaid, in and upon the neck of him the said Charles A. Benholzer one wound of the length of six inches and of the depth of two inches; and so the Jurors aforesaid, upon their oath aforesaid do say that the said Charles A. Benholzer then and there in manner and form aforesaid, was wounded, disfigured, and did receive great bodily harm by the felonious act of him the said John McMahon against the peace and dignity of the State.

Geo. D. Reynolds,
Clerk of the Court.

3

State

as { Spaulst to
Neil.

John W. Moahan.

— " —

Charles A. Beuchotter

H. W. Young.

Abraham Decaut

C. H. Foster

Wendell Jarvis.

John Paulson.

A true bill.

D. A. Spallens
Clerkman.

Filed Mar 23^d 1871

W S 18 04 00 00

By cdko Morris Depts

The State of Missouri,
COUNTY OF JEFFERSON.

To

Geo. L. Hanna

You are Herby Commanded, That setting aside all manner of excuse and delay, you appear before our Circuit Court, for the County aforesaid, on the *24th*

, at Hillsboro, then and there to testify and the truth to say in a certain matter of controversy, now pending in our said Court, wherein

The State of Missouri, vs
Plaintiff, and *Geo. L. Hanna* is

Defendant, on the part of *The State*; and herein you are in no wise to fail.

W. S. Boyce
Witness, **ELIAS F. HONEY**, Clerk of our said Court, with the seal thereof

hereto affixed, at office, this *23rd* day of

March A. D. 1871

W. S. Boyce Clerk.

SUBPOENA

RETURNABLE TO
JEFFERSON CIRCUIT COURT.

March

Term, 1871

State)
vs
Jno M. Mahan)

Jno State)

Jno L. Thomas)

Juror

John Williams

Sheriff Sec 50

The State of Missouri,
COUNTY OF JEFFERSON.

To

J. A. A. A.

You are Herely Commanded, That setting aside all manner of excuse and delay, you appear before our Circuit Court, for the County aforesaid, on the *2nd*

, at Hillsboro, then and there to testify and the

truth to say in a certain matter of controversy, now pending in our said Court, wherein

The State of Missouri vs
Plaintiff, and *Geo. W. Graham*

Defendant, on the part of *State*; and herein you are in no wise to fail.

W. D. A. A.
Witness, ELIAS F. HONEY, Clerk of our said Court, with the seal thereof hereto affixed, at office, this *23rd* day of

May A. D. 1871

W. D. A. A. Clerk.

SUBPOENA

RETURNABLE TO
JEFFERSON CIRCUIT COURT.

Term, 18

State
vs
McMahon

John. Williams
Sheriff Sec 50

The State of Missouri,
COUNTY OF JEFFERSON.

To *Winfred Jarvis & Helen Bergen*

You are Herely Commanded, That setting aside all manner of excuse and delay, you appear before our Circuit Court, for the County aforesaid, on the *Thursday*, at Hillsboro, then and there to testify and the truth to say in a certain matter of controversy, now pending in our said Court, wherein *the State of Missouri is* Plaintiff, and *Jno McMahon*

Defendant, on the part of *Edl*; and herein you are in no wise to fail.

Wm. Borer

~~Witness~~, ELIAS F. HONEY, Clerk of our said Court, with the seal thereof hereto affixed, at office, this *23* day of *March* A. D. 1871

Wm. Borer Clerk.

SUBPOENA

RETURNABLE TO
JEFFERSON CIRCUIT COURT.

March Term, 1871

State
vs
Jno McMahon

M Jarvis
& Palsey Bergan

John. Williams

Sheriff Fee 1.00

Refused

The Court instructs the
Jury that - if they find from
the evidence that the witness
Burnhauser ^{has} sworn
differently on the Trial of
this Cause from the Testimony
given by him before the
Justice of the Peace ~~or~~
~~that~~ ~~from~~ ~~his~~ ~~examination~~
~~read before the~~
~~Justice~~ read in evidence,
then the Jury are at liberty
to take that fact into
consideration in weighing
his evidence given on this
trial

Refused

The Court instructs the Jury
that all the Testimony
given before them touching
the fact of the witness Burnhauser
having money in his pocket
Book on the evening he was
cut is excluded from the
consideration of the Jury

The Court instructs the jury if they
have a reasonable doubt of
the guilt of the defendant they
will ~~acquit~~, should give him
the benefit of the doubt and acquit.
but the doubt should be a reasonable
doubt and not a mere possibility
of defendants innocence.

The Court instructs the Jury
that if they believe from the
evidence that the witness Charles
^{Perkings} made an assault on
the Defendant and that the
Defendant in repelling such
assault cut him with a
knife with the view & for
the purpose of repelling
the assault - using no more
force than was necessary
the verdict should be for
the Defendant

The Court instructs The Jury
that although they may believe
from the evidence that the
Defendant took the mare
mentioned in the indictment
yet unless the Jury further
believe from the evidence
that he intended to convert
the same to his own use
the verdict should be for
the Defendant.

The Court instructs the
Jury that the State having
introduced Evidence of the declar-
ations of the Defendant as
proven by the Evidence of the
Witness Jarvis such
declarations of Defendant
as proven by said witness
are proper Evidence in
the Cause to which the Jury
may give such credit as
they think it entitled

~~The Court~~

1/ If the Jury believe from the evidence in the case that the defendant John Mc Mahan at Jefferson County Missouri within three years previous to March 23^d 1871, feloniously, willfully, on purpose and of his malice aforethought made an assault on Charles A Benholzer with a Knife as charged in the indictment, with the intent to kill said Benholzer, then the jury will find him guilty and assess his punishment at imprisonment in the penitentiary for a term not less than two nor more than five years, or in the County jail not less than six months, or by both a fine not less than one hundred dollars, and imprisonment in the County jail not less than three months, or by a fine not less than one hundred dollars

Refrain

2. The very many expect that
part of the administration of
the business which is in his
own power, and give credit
to that which is against
their

Refused

The Court instructed the jury that unless they find from the evidence that the Defendant sent the witness Charles Ben-holger with a knife or other deadly weapon and that the act was done with the intent to kill, Brown, Macion, or the witness him and under such circumstances as not to be justifiable under the Law of self defence the verdict should be for the Defendant.

State
of
Maine

Filed Mar 23^d 1871
and B. & C.

Whe the Survey find the
Defendant's guilt and are
his punishment there appears
in Prison in the Prison
they
3 Every Prisoner

State } In the Circuit Court,
 vs John McMahon } March Term, Mar 25 1871.

An Indictment for an assault with
 intent to kill, tried by a jury found
 guilty and sentenced to two years imprisonment
 in the Penitentiary

Free Bill

Sam Tyler Justice.

aff ^d 35	warrant 35	Six oaths 30	\$ 1.00	
Writing evidence 25 folios	15 ^c		3.75	
5 certificates	15 ^c		90	
Docket 10	Indexing 10		20	\$ 5.85

C L Foster Marshal Constable.

warrant 7	5 Subpoenas 1.25	\$ 2.00	
Guarding Prisoner boarding &c,		3.00	\$ 5.00
Rudolph Washburn Constable			
For taking Prisoner to jail		\$ 1.00	
10 miles @ 10 ^c per mile		1.00	
For taking charge of pris 1 day & for use of } horse in taking him to jail }		1.25	
Milage 10 miles 10 ^c per mile		1.00	
1 Guard 1 day		1.25	
Milage for Guard in taking pris. to jail		1.00	\$ 8.30
Charles A Bunkofer 1 day 50 ^c		50 ^c	
Lewis Young 1 day 50 ^c Adolph Pecant 1 day 50 ^c		1.00	
C L Foster 1 day 50 ^c P J Kayum 1 day 50 ^c		1.00	
Winfield Jarvis 1 day		50 ^c	\$ 3.00
Amt Carried forward			\$ 22.15

Amount bro't forward // 22, 15⁻
 W S Boyce Clerk,
 Indict ⁵⁰ Int plea ¹⁵ order apptg counsel for Deft, ¹⁵ 80⁻
 Nolle Pross 2nd Count Indict ⁵⁰ 50
 Smearing and ent jury ⁵⁰ Taking & ent verdict ²⁵ 18 files ⁹⁰ 1 65
 Judgment ⁵⁰ 2 Spas for State ⁵⁰ 1 Spa for Deft, ²⁵ 1. 25⁻
 Fee Bill & cert of Judge & Cir atty 75⁻
 Copy Fee Bill after allowance 780 words of fig @ 10⁻ per 100, ⁷⁸ // 5, 73

John Williams Sheriff
 Summoning & Calling Jury at trial \$ 1.00
 " 2 mit for State ^{1.00} 2 mit for Deft ^{1.00} 2.00
 Trial of case 1.00
 Calling 10 witnesses .50 // 4, 50

Witnesses March 2 1871
 Er Amor 1 day \$ 1.00
 Charles A Bunkholzer 4 days 14 miles \$ 5, 12 6, 12
~~28, 50~~
 Geo D Reynolds Cir atty 10.00
 Total // 48, 50

We the undersigned Judge and Circuit Attorney
 of the 15th Judicial Circuit of the State of
 Missouri hereby certify that we have
 strictly examined the foregoing Bill of
 costs during the sitting of the Circuit Court

at the March Term AD 1871 and find
the same amounting to Forty eight dollars
and fifty cents to be correct and the
State of Michigan is liable for the payment
thereof We further certify that the
Defendant was tried by a jury, found
guilty, and sentenced to two years
imprisonment in the penitentiary, that
the offence charged was assault with
intent to kill and punishable solely
by imprisonment in the penitentiary,
and that services were rendered for which
charges are made, and that compensation
is given by law, for services for which
charges are made, we further certify
that the defendant is insolvent, and that
no costs charged in the foregoing Bill
(except fees for Board) were incurred on the part of
said Defendant.

J. H. Vail Judge
Geo. D. Reynolds, Circuit Attorney

Copies

State
vs
John M Mahon

State