

Jefferson County Circuit Court
Case File - Criminal

Box

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11

November 1866

State

vs

Bulker, Martin

Perjury

Change of Venue from Franklin
County; defendant swore he was
qualified to vote, but had been a
"Southern sympathizer"

State of Missouri } ss:
County of Franklin } It is remembered that at a regular
term of the Franklin Circuit Court, begun and held
at the Court house in Union. in and for the County
and State aforesaid, on the first Monday of April
A.D. 1866. There were present Hon James W. Owens
Judge of the Ninth judicial circuit of Missouri;
Julius Wilhelmi Sheriff Amos W. Maupin Clerk
and David Murphy Circuit Attorney.

The Grand Jurors empanelled, sworn and
charged ~~to~~ inquire within and for the body of
the County of Franklin for said term, on the 24th
day of said month and year return into open court
among other proceedings with a certain indictment
which said indictment is in the words and fig-
ures following, to wit:

State of Missouri } In the Franklin Circuit Court
County of Franklin } April Term A.D. 1866.

The Grand Jurors of the State of Missouri
now here in court, duly empanelled sworn and
charged to inquire within and for the body of the
County of Franklin, upon their oath present that
Martin Bunker, late of the County of Franklin afore-
said, on the sixth day of June Eighteen hundred
and sixty five, with force and arms at and in
the County of Franklin aforesaid at an Election
precinct, in said County - at a State election
then and there held under and in pursuance

of the Constitution, ordinance and laws of the State of Missouri, at said election. Louis Wehman, Benjamin Dean and Ferdinand Haugew. was then and there Judges of said election, duly appointed and qualified as such, and at the said election held then and there as aforesaid by the judges of said election aforesaid, voluntarily and of his own free will and accord appeared the said Martin Brinker and offered to vote and was to be sworn as required by law in such case made and provided, before his said vote could be taken by the judges aforesaid, the said Martin Brinker was then and there duly sworn, and did take his corporal oath, before the said judges of said election held as aforesaid, and acting as such the said judges of election being then and there duly authorized and empowered to administer said oath to ~~the~~ said Martin Brinker in that behalf and the said Martin Brinker being then and there sworn by and before the said judges of election did wilfully corruptly, knowingly, feloniously and falsely depose and swear in substance and effect, following, that is to say "I (meaning him the said Martin Brinker) am well acquainted with the terms of the third section of the second Article of the Constitution of the State of Missouri, adopted in the year eighteen hundred and sixty five, and have carefully considered the same; that I (meaning him the said Martin Brinker) have never, directly or indirectly, done any of the acts in said section specified; the acts aforesaid being material to the said Martin

Braker's right to vote at said election Whereas in truth and in fact the said Martin Braker did in the year eighteen hundred and sixty two in the county of Franklin aforesaid do some of the acts in said section specified, that is to say did witharein to avoid enrollment in the militia of the State of Missouri, and to escape the performance of duty therein, did authorize himself to be enrolled, by and before an officer (duly qualified to enroll the Militia) of the State, as a Southern Sympathizer; the enrolling as aforesaid being material act to disqualify him to vote, and so the jurors aforesaid upon their oath aforesaid, do say that the said Martin Braker, at the election aforesaid on the sixth day of June eighteen hundred and sixty five, at the county and precinct aforesaid, before the judges of election aforesaid, falsely, corruptly, wilfully, and wickedly, in manner and form as aforesaid did commit wilful and corrupt perjury Contrary to the form of the Constitution and ordinance in such case made and provided and against the peace and dignity of the State of Missouri.

~~And the Jurors aforesaid upon their oaths aforesaid do further present that Martin Braker late as aforesaid, on the sixth day of June eighteen hundred and sixty five, at and in the county of Franklin aforesaid, do say that the said Martin Braker, at the election aforesaid, on the sixth day of June eighteen hundred and sixty five, at the County and precinct aforesaid before the judges~~

~~of election aforesaid, falsely, corruptly, wilfully and wickedly in manner and form as aforesaid did commit wilful and corrupt perjury,~~

~~Contrary to the form of the Constitution and ordinance in such case made and provided and against the peace and dignity of the State of Missouri~~

And the jurors aforesaid upon their oaths aforesaid do further present that Martin Becker late as aforesaid, on the sixth day of June Eighteen hundred and sixty five, at and in the county of Franklin aforesaid, at the town of Washington, at the town house of said town of Washington, said town being then and there an election precinct, and the town house aforesaid the place of holding elections for said precinct duly established, according to law, at a State election then and there held, for the purpose of ascertaining the sense of the people in regard to the adoption or rejection of the Constitution, said election being a State election, and Louis Wehman, Benjamin Dean and Ferdinand Haugen was then and there judges of said election duly appointed and qualified as such, and the said election held then and there, at the election precinct aforesaid, by the judges of election aforesaid for the purposes aforesaid, voluntarily and of his own free will and accord appeared the said Martin Becker, and offered to vote and be sworn as required by law, to enable him to vote at the election aforesaid and for the purpose aforesaid, the said Martin Becker was then and there duly sworn, and did take

his corporeal oath before the said judges of election at the election held as aforesaid, said judges of election being then and duly authorized and empowered to administer such oath to the said Martin Brucker in that behalf, and the said Martin Brucker being then and there sworn by and before the said judges of election, did wilfully corruptly knowingly and falsely depose and swear in substance and effect following, that is to say, "I (meaning ^{him} the said Martin Brucker) am well acquainted with the terms of the third section of the second Article of the Constitution of the State of Missouri, adopted in the year eighteen hundred and sixty five, and have carefully considered the same; that I (meaning him the said Martin Brucker) have never, directly or indirectly done any of the acts in said section specified, that is to say I (meaning him the said Martin Brucker) has ever with the view to avoid enrollment in the militia of this State, or to escape the performance of duty therein or for any purpose enrolled himself or authorized himself to be enrolled by or before an officer as a southern sympathizer the said acts specified in said section being material, to qualify the said Martin Brucker then and there to vote at said elections

Whereas in truth and in fact the said Martin Brucker did sometime in the year Eighteen hundred and sixty two, in the county of Franklin aforesaid, do some of the acts in the said second section specified, that is to say, did with the

view to avoid enrollment in the militia of the State of Missouri, and to escape the performance of duty therein, did authorize himself to be enrolled, by and before an officer, (duly appointed and qualified to enroll the militia of this State within and for Franklin County aforesaid,) as a southern sympathizer.

And so the jurors aforesaid upon their oath aforesaid, do say that the said Martin Bruker at the election precinct aforesaid on the sixth day of June Eighteen hundred and sixty five at the county aforesaid, before the judges of election aforesaid, falsely, corruptly, wilfully, and wickedly in manner and form as aforesaid did commit wilful and corrupt perjury contrary to the form of the Constitution and ordinance in such case made and provided and against the peace and dignity of the State of Missouri

David Murphy
Circuit Atty

And upon said indictment are the following indictments in the words and figures following, to wit:
To 6 In the Franklin circuit court April Term 1866. State of Missouri vs Martin Bruker.

A true Bill, Amos P Foster Foreman, Witnesses Louis Wehman Benj B Dean, Wmry Gast.

A2 Gale. Filed April 24th 1866. Amos W. Murphy Clerk

And on the day month and year last aforesaid at the said circuit court, the following appears of record, to wit:

State	}	Indictment for perjury
vs		A true bill
Martin Bruker		

And afterwards to wit: on the 26th day of said month and year, at the said circuit court the following appears of record, to wit:

State	}	Indictment for perjury
vs		Martin Bruker as principal

Martin Bruker and John F. Schwegmann as security acknowledge themselves indebted to the State of Missouri, in the sum of Two thousand dollars to be levied of their respective goods and chattels, lands and tenements. Yet upon condition that if the said Martin Bruker shall be and personally appear on the first day of the next term of this court, to be begun and held at the Court house in Union, on the third Monday of September next, there to answer the State of Missouri upon an indictment for perjury, and shall not depart the said court without leave, then this recognizance to be void, otherwise to remain in full force and effect

And afterwards to wit: at the October term of said Circuit court A.D. 1866, and on the second day of

said month and year the following appears of record to wit:
State

vs } Indictment for Perjury
Martin Brocker } Application for change of venue filed

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

State of Missouri
County of Franklin ss:

In the Franklin Circuit Court Oct
Term 1866

State of Missouri Plff }
vs } Charge of Perjury
Martin Brocker Deft }

Petition for a change of venue to Hon James W. Owens. judge of the Ninth judicial Circuit.

Defendant Martin Brocker asks the court to grant him a change of Venue, in the above entitled cause for the following reasons - that he has good reasons to believe and does believe that the Judge of the Ninth judicial circuit court is so prejudiced against him that he cannot have a fair trial.

Sworn to and subscribed

before me this 2nd day of } Martin Brocker
Oct 1866. } Thomas Crow

Notary Public

Endorsed Filed Oct 2nd 1866

A. W. Maupin Clerk

And the day month and year last aforesaid, at
the said circuit court the following appears of record, to wit:

State

vs } Indictment for Perjury
Martin Bruker } Martin Bruker as principal and
Louis Horn and Masters Campbell as securities acknowl-
edge themselves indebted to the State of Missouri in
the sum of Five hundred dollars to be levied of their
respective goods and chattels lands and tenements;
Yet upon condition that the said Martin Bruker be
and personally appear on the first day of the next term of
the circuit court of Jefferson County, to be begun and
held at the court house, in Hillsboro on the sixth Mon-
day after the fourth Monday of March next, there to an-
swer the State of Missouri on an indictment for per-
jury, and shall not depart the said court without
leave, then this recognizance to be void, otherwise to remain
in full force and effect

State of Missouri

vs } Indictment for Perjury
Martin Bruker } Now at this day comes the said
defendant, by his attorney, ^{and} files herein his affidavit for
a change of venue in this cause to some other judicial
circuit in this State, for the reason that he has good
reason to believe and does believe that the judge of the
Stark judicial circuit court is so prejudiced against
him that he cannot have a fair trial, which affi-

being seen and examined by the court. It is ordered that the venue in this cause be changed to the county of Jefferson, and that the clerk of this court make out and send certified to the circuit court of the said county of Jefferson, a full and perfect transcript of the record and proceedings had in said cause, together with all the original papers filed in said cause and not forming a part of the record.

State

vs

} Indictment for Perjury

Martin Brunker } Wmry A Gast and Daniel L Gale,

Ben B Hean and Louis Wehrman acknowledged themselves indebted to the State of Missouri in the sum of One hundred dollars each, to be levied of their respective goods and chattels, lands and tenements.

Yet upon condition that if they shall be and personally appear on the first day of the next term of the circuit court of Jefferson County, to be begun and held at the court house, in Hillsboro, on the sixth Monday after the fourth Monday of March next there to testify on the part of the State in ^{the} case of the State of Missouri against Martin Brunker, on an indictment for perjury, and shall not depart the said court without leave, then this recognizance to be void, otherwise to remain in full force and effect.

The following fees have accrued in said cause in this Court.

Amos W. Maupin Clerk

April Term 1866	Filing and Entering Indictment	75	
	" Entering recognizance of Prisoner	50	
Oct Term 1866	" Entering and filing motion for change of venue	20	
	" Entering recognizance of prisoner	50	
	" Entering order of change of venue	35	
	" Entering recognizance of all Witnesses	50	
	" Issuing 4 Subpoenas 25¢ each	1 00	
	" Certificates to aff on 2 Wits 15¢ each	30	
	" Docketing 5¢ each docket	10	4.20

Julius Wilhelm Shuff

	To summoning 4 Wits 50¢ each	2 00	
	" Calling parties	30	
	" " 4 Witnesses 5¢ each	20	2.50

Witnesses before circuit Court

Henry A. Gast	1 day 20 miles	2 60	
Louis Wehman	2 " 20 "	3 80	6.30

State of Missouri } ss:

County of Franklin } I Amos W. Maupin Clerk of the circuit court within and for said County and State. do hereby certify that, the above and foregoing is a full, true and perfect transcript of the proceedings had in the cause aforesaid: and of the original papers on file in said cause, as fully the same appear of record and on file in my office. And I further certify the foregoing to be the fees in the above cause.

In Testimony Whereof. I have hereunto set my hand and seal of said circuit court, at office in Union this 2nd day of November A.D. 1866

Amos W. Maupin Clerk
By J. C. Skinner A. C.



State of Missouri

vs

Martha Jenkins

2363

Indictment for perjury
Alleging of perjury
Jenkins from Frank-
lin to Jefferson
County Missouri

Filed Nov 14 - 1866,
Samuel A. Ripley
clerk

State
vs
Martin Bruber, } Indictment for Perjury.

Now at this day comes the Defendant
and demurs to the ~~Indictment~~ in the
above entitled Cause for the following reasons,

1. Because said Indictment ~~did~~ not charge
the act of Perjury to have been done feloniously.
2. Because the second section of the 3rd Article
of the Constitution under which this indictment is
drawn is an ~~ex post facto~~ law and against the
Constitution of the U. S.
3. It was no crime in 1862 to enroll before an
officer as a Southern sympathizer, with
by any common or statute law.

John L. Hudson
Atty for Defendant.

State

in

Martin Prater

Denumer —

July 23rd 1841

Wm. Moore

Justified