

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.**OCTOBER TERM, 1897.****No. 531.**

HENRY WILLIAMS, PLAINTIFF IN ERROR,**VS.****THE STATE OF MISSISSIPPI**

IN ERROR TO THE SUPREME COURT OF THE STATE OF MISSISSIPPI.

FILED DECEMBER 14, 1897.**(1897.)**

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1897.

No. 531.

HENRY WILLIAMS, PLAINTIFF IN ERROR,

VS.

THE STATE OF MISSISSIPPI.

IN ERROR TO THE SUPREME COURT OF THE STATE OF MISSISSIPPI.

INDEX.

	Original.	Print.
Caption.....	1	1
Transcript from circuit court of Washington County	1	1
• Indictment	1	1
Arraignment and plea.....	2	1
Special bill of exceptions	3	2
Motion to quash	3	2
Affidavit of Henry Williams.....	10	7
John H. Dixon.....	11	7
C. J. Jones.....	12	8
Order overruling order to quash.....	12	8
Petition for removal	13	9
Order overruling petition for removal	22	14
Judge's certificate to special bill of exceptions.....	22	14
General bill of exceptions.....	22	14
Evidence for the State	22	14
Testimony of Theophilus Brown.....	22	14
Dr. A. Bruce	25	17
Tom Jones	26	18
Dr. A. Bruce (recalled).....	28	19
Ella Hicks.....	29	20
Gus Miles	30	21
Addie Brown.....	34	24
Stella Holmes.....	36	25
I. M. Muckle.....	37	26
Evidence for defendant.....	41	29
Testimony of Lou Gay Coleman	41	29
Louis Walker	42	30
Henry Williams.....	43	30

Transcript from circuit court of Washington County—Continued.	Original Print.	
General bill of exceptions—Continued.		
Stenographer's certificate	49	35
Exception to testimony of Addie Brown	49	35
Exception to argument of district attorney	49	35
Instructions given at request of the State	50	35
Instructions asked by defendant	50	35
Judgment and sentence	51	36
Motion for new trial	52	37
Order overruling motion for new trial	53	37
Judge's certificate to general bill of exceptions	53	37
Prayer for appeal	54	38
Affidavit of poverty	54	38
Clerk's certificate	54	38
Minute entry of submission	55	39
Opinion in case of Dixon v. Mississippi	56	39
Opinion in case of Williams v. Mississippi	64	44
Judgment	64	44
Petition for writ of error	65	45
Order allowing writ of error	69	45
Bond	70	47
Writ of error	71	48
Citation	73	49
Clerk's certificate	74	49

1 Supreme court of Mississippi. October term, A. D. 1896.

Pleas and proceedings had and done at a regular term of the supreme court of Mississippi, begun and held in the court room, in the capitol, in the city of Jackson, on the second Monday, the 12th day, of October, in the year of our Lord one thousand eight hundred and ninety-six.

Present: The Honorable Tim E. Cooper, chief justice, and the Honorable Thomas H. Woods and the Honorable Albert H. Whitfield, associate justices; also E. W. Brown, clerk of said court, in person and by C. C. Campbell, his deputy; Thomas J. Wharton, marshal, and Thomas Grant, porter.

Proclamation having been duly made, the court proceeded to the dispatch of business.

Among other causes heard and determined was the following:

On the 8th day of October, 1896, there was filed in said court a record, in words and figures as follows, to wit:

Minutes circuit court Washington County, Miss., June term, 1896.

MONDAY MORNING, June 15th, 1896.

Be it remembered that a regular term of the circuit court for the transaction of criminal business in and for the county of Washington and State of Mississippi was begun and held at the court-house of said county, in the city of Greenville, on the 15th day of June, 1896, the day fixed by law for the holding of said court. There were present the Honorable R. W. Williamson, judge of the fourth judicial district of the State of Mississippi, presiding; B. G. Humphries, district attorney of said district; J. B. Hebron, sheriff of said county, and W. K. Gildart, clerk *fo* said court.

Indictment.

STATE OF MISSISSIPPI, *Washington County:*

2. In the circuit court in and for said county, at the May term thereof, in the year of our Lord 1896.

The grand jurors of the State of Mississippi, taken from the body of the good and lawful men of the county of Washington, duly elected, empaneled, sworn, and charged at the term aforesaid to inquire in and for the body of the county aforesaid, in the name and by the authority of the State of Mississippi, upon their oaths present: That Henry Williams, late of the county aforesaid, on the 25th day of May, in the year of our Lord 1896, in the county aforesaid, unlawfully, wilfully, feloniously, and of his malice aforethought did then and there kill and murder one Eliza Brown, a human being, against the peace and dignity of the State of the State of Mississippi.

B. G. HUMPHRIES,
District Attorney.

MAY TERM, 1896.

THE STATE OF MISSISSIPPI }
 vs. } Murder.
 HENRY WILLIAMS. }

Witnesses: Ella Hicks, Gus Miles, I. M. Muckle, Thomas Brown,
 Tom Jones, Dr. A. Bruce, Theopelas Brown, Addie Brown.

A true bill.

J. A. V. FELTUS,
 Foreman Grand Jury.

Filed and capias issued this 2nd day of June, A. D. 1896.

Wm. K. GILDART,
 Clerk Circuit Court.

STATE OF MISSISSIPPI }
 vs. } No. 4481.
 HENRY WILLIAMS. }

This day came the district attorney, who prosecutes on behalf of the State, and the defendant, Henry Williams, in his own proper person, who, being solemnly arraigned and charged on the indictment herein with murder, plead not guilty. Special venire and copy of indictment waived by the defendant, Henry Williams.

3 In the circuit court of said county. June term, 1896.

THE STATE OF MISSISSIPPI, *Washington County*:

STATE OF MISSISSIPPI }
 vs. } No. 4481.
 HENRY WILLIAMS. }

Be it remembered that in the circuit court of said county, at said term, the above-styled cause came on to be heard, in the presence of the defendant certain proceedings were had to which exceptions were then and there taken by the defendant, as shown by special bill of exceptions herein filed and made a part of the record, to wit:

THE STATE }
 vs. } No. 4481. Murder.
 HENRY WILLIAMS. }

This cause coming on to be heard, on the first day of the said criminal term, being the 15th day of June, 1896, before plea entered the defendant filed a motion to quash the indictment, duly verified by the affidavit and oath of the defendant, and separate affidavits of John H. Dixon, Henry Williams, and C. J. Jones in support of said motion to quash.

Motion to quash.

Now comes the defendant in this cause, Henry Williams by name, and moves the circuit court of Washington County, Mississippi, to quash the indictment herein filed and upon which it is proposed to try him for the

alleged offense of murder: (1) Because the laws by which the grand jury was selected, organized, summoned, and charged, which presented the said indictment, are unconstitutional and repugnant to the spirit and letter of the Constitution of the United States of America, 14 amendment thereof, in this, that the constitution of the State of Mississippi prescribes specially in section two hundred and forty-one just what qualifications are required of citizens of the State to become qualified electors, and in that same section of the said State constitution, adopted by the constitutional convention in 1890, it is provided that the election of officers shall be produced by those offering to vote, satisfactory evidence that they have paid such taxes as are required by the terms of said section, and in section two hundred and forty-two of said State constitution the legislature is empowered to provide such regulations as it deemed proper for the enforcement of the terms of the said constitution as relates to said sections, and in the exercise of which authority the State legislature of 1892 enacted section thirty-six hundred and forty-three, providing that the election commissioners of the county shall, at a certain time there named, appoint three persons, for each election district, to be managers of the election; and said legislature by virtue of the authority conferred as aforesaid by said State constitution, enacted section 3644 of the code of 1892, making the election managers aforesaid judges of the qualifications of electors, "and to examine on oath any person duly registered and offering to vote touching his qualification as an elector." And thus the registration roll is not *prima facie* evidence of an elector's right to vote, but the list of those persons having been passed upon by the various district election managers of the county to compose the registration books of voters, as named and mentioned in section 2358 of said code of 1892, and that there was no registration books of voters prepared for the guidance of said officers of said county at the time said grand jury was drawn. That there is no statute of the State providing for the procurement of any registration books of voters of said county, and considering the terms of the State constitution, section 241, prescribing the requirement of persons to be electors, and section 242 thereof, prescribing the constitutional oath, the defendant charges that that part of section 241 of the State constitution which provides that satisfactory evidence must be produced to the election officers of the county, and that part of section 242 of the constitution which requires the applicant for registration in said county to subscribe under oath to answer all questions propounded to him concerning his antecedents, so far as relate to his right to vote, and the granting to the legislature such authority as to authorize the enactment of the manner of appointment of election managers, as aforesaid, without prescribing any qualifications for such managers except that they shall be three persons, in section 3643, of code 1892. And the granting to the legislature such authority as is exercised and prescribed in section 3644 of statute, making the managers of elections at the various election districts the judges of the qualifications of electors, and empowering such managers to examine such persons as apply to vote touching their qualifications as such elector, is but a scheme on part of the framers of that constitution to abridge the suffrage of the colored electors in the State of Miss., on account of the previous condition of servitude, by granting a discre-

4

5

tion to the said officers, as mentioned in the several sections of the constitution of the State and the statute of the State adopted under the said constitution, the use of which discretion can be, and has been, used by said officers in the said Washington County to the end here complained of, to wit, the abridgement of the elective franchise of the colored voters of Washington County; that such citizens are denied the right to be selected as jurors to serve in the circuit court of the county, and that this denial to them of the right to equal protection and benefit of the laws of the State of Miss., on account of their color and race, resulting from the exercise of the discretion partial to the white citizens in accordance with, and the purpose and intent of, the framers of the present constitution of the said State, which constitutional convention by which the said State constitution was enacted consisted of 134 members, and that all were white men, acting, voting, and enacted said constitution, except one delegate, a negro, and that the said constitution proposing the abridgement of the suffrage of one hundred and ninety thousand colored voters of the State; by thus leaving to the discretion of certain officers, as to the right of such one hundred and ninety thousand colored voters, said discretion provided in the said constitution as here complained of was prescribed by that convention with that intent to so disfranchise said colored voters, because the qualifications prescribed by the laws prior to the adoption of said constitution and which voters of the State being qualified to vote in ratification or rejection of said new constitution had it been submitted to the qualified voters of the State for ratification, were that "all male inhabitants of this State, except idiots and insane persons and Indians not taxed, citizens of the United States or naturalized, twenty-one years old and upwards, who have resided in the State six months and the county one month next preceding the day of election at which said inhabitant offers to vote, and who are duly registered, according to the requirements of section three of this article, and who are not disqualified by reason of any crime, are declared to be qualified electors," and that by those electors qualified under the requirements of the constitution and laws of the State, at the time of the enactment of the present constitution, there were one hundred and ninety thousand colored and sixty-nine thousand white persons, and though the said constitution was enacted with the purpose and intent to abridge the suffrage of a majority of the electors of the State, as aforesaid, and said constitutional convention was composed, with exception of one delegate, entirely of white men representing the views and sentiment of a minority of the qualified electors of the State, the makers of that constitution arbitrarily refused to submit the present organic law to the voters of the State for their approval, but declared it adopted, and ordered therein an election to be held immediately thereunder for all district and county officers throughout the State, which election for said *for said* district and county officers, and members of the State legislature were ordered to be held under registration and election ordinance of the said constitution, which election was held in November, 1891, and the legislature assembled in 1892 which enacted the statutes herein complained of, and the enforcement of the provisions aforesaid of the said State constitution and statute resulted in discrimination against the race of defendant, being that of negro, and by virtue of the exercise of such discretion provided for in the

constitution and statute aforesaid, regardless of their having complied with the other terms of the laws, which discretion is to be exercised by certain officers therein named, was purposely provided in the organic law by the framers with the specific intent to discriminate against the colored citizens of the State aforesaid, who other than the use of said discretion with the intent aforesaid, and purpose aforesaid, satisfies the requirements of the new constitution and laws, and defendant's race would

7 have been represented impartially on the grand jury which presented this indictment but that the exercise of the discretion provided for in the constitution and the statutes enacted thereunder in enforcement thereof the accused is deprived of that equal protection of the laws of the State, because of the discrimination against the members of his race, on account of the fact that he and the members of his race are ex-slaves, and the descendants of ex-slaves, which is a state of servitude previously existing in this State, and because of their having once been slaves in this State, and the descendants of parents who were formerly slaves in this State, is the condition which caused the late constitutional convention members to provide in that constitution a certain discretion aforementioned, and the condition of the defendant, and the balance of the one hundred and ninety thousand negroes aforesaid, which induced the said members of the said convention to delegate the legislature of the State the power to enact certain laws to enforce the sections of the organic law aforesaid, and the previous condition of servitude of the defendant, and the negro race, which caused the legislature to comply with the terms of said constitution by enacting section 3643 and section 3644 of the code of 1892, and it is the enforcement of all these laws for the reasons and purposes aforesaid that the defendant has been by this proceeding deprived of the immunity prescribed in the letter and spirit of the Federal Constitution, 14th amendment thereof, and the enforcement of the State constitution and statute aforesaid, and the discretion purposely provided therein, to be exercised by certain officers therein mentioned, abridges the rights of defendant, and the rights of one hundred and ninety thousand negroes of the State, citizens of the United States, to vote, and such abridgment results from the exercise of the discretion provided for in the State constitution as aforementioned, which discretion was provided for by the members of the constitutional convention aforesaid, and which constitution was by that convention

8 adopted, and the power so granted the State legislature, with the intent on part those representing the State in the capacities aforesaid, to abridge the right of defendant to vote, and the intent to abridge the right of 190,000 colored citizens of the State, because of the fact the defendant and the members of his race are ex-slaves, and their descendants, and that the condition of our previous servitude is the account on which the framers of the late constitution and statute aforementioned, in the name of, and by the authority of, the State of Mississippi, abridge the right to vote to defendant and his race, all being citizens of the United States.

Because the State of Mississippi, by its laws, has abridged the right to suffrage of one hundred and ninety thousand citizens, and has not had reduced its representation in Congress, accordingly therefor, the laws of the State under which this indictment is returned having been enacted by the

legislature of the State, which legislature was elected since, and by, and under the enforcement of the constitution and laws of the said State, which constitution and laws aforesaid, abridge the right to vote of citizens of the United States to the number aforesaid, in the manner aforesaid, and for the purposes aforesaid, said law under which this indictment is returned is null and void, and the indictment should have been returned by a grand jury organized under the constitution of 1869, and statute of 1880. The defendant further charges that the provision of the State constitution in section 244, which requires that persons applying to vote, or to register, shall understand the constitution of the State, or any section thereof, when read to them, or give a reasonable interpretation thereof, coupled with the discretion provided for as afore complained of, to be used by the election managers in sec. 241, of the constitution, and the registrar of the county, as provided for in section 242, of the constitution, and considering the further fact, that the said State constitution, section 244 thereof, nor any other section or part thereof, designate to whose satisfaction the applicant for registration, or election, is to read the constitution, or to whose understanding the reasonable interpretation thereof must be given by such applicant, and considering the further fact, that the constitution makers provided in that same section, 244, that a new registration shall be made before the next ensuing election after January 1st, 1891, which election was held in the State in pursuance of said sections of said constitution, and resulted in the election of a legislature composed of representatives of the minority of the voters of the State assembled in Jan., 1892, and the result of said election was brought about by the enforcement of the said provisions of said constitution, and this by a pretext of law did enforce the scheme, to abridge the rights of suffrage of a majority of the citizens, and otherwise qualified electors of the State, to the number aforesaid; the said persons so disfranchised by virtue of the laws of the State aforesaid are citizens of the State, and the United States, and that the said laws were so framed and enacted as complained of, for the specific purpose of depriving the majority of the citizens and electors of the State, of the full, free, and impartial enjoyment of the rights of the elective franchise, because of their previous condition of servitude, which condition of servitude is that of slavery formerly enforced in this State upon the defendant and his ancestors, being negroes, and the others who have been discriminated against as aforesaid being negroes, and ex slaves, their descendants, and the laws of the State by which the indictment herein was presented, and the grand jury which presented the said indictment, and the legislature of the State which enacted said laws, all are violative of the defendant's rights under the Federal Constitution, and therefore void of force and effect, and that the penalty upon conviction of this crime, murder, will under the law be death, and that thereby further proceedings under this indictment by this court, will be depriving the accused of his liberty and life without due process of law.

Further, the defendant is a citizen of the United States, and for the many reasons herein named asks that the indictment be quashed, and he be recognized to appear at the next term of this court.

HENRY WILLIAMS.

CORNELIUS J. JONES,

Atty. for Dft.

HENRY WILLIAMS VS. THE STATE OF MISSISSIPPI.

10 STATE OF MISSISSIPPI, *Washington County*:

This day personally appeared before me the undersigned acknowledging officer W. K. Gildart, Henry Williams, who, being duly sworn, deposes and says that the facts set forth in the foregoing motion are true to the best of his knowledge, of the language of the constitution and the statute of the State mentioned in said motion, and upon information and belief as to the other facts, and that the affiant verily believes the information to be reliable and true.

HENRY X WILLIAMS.
his mark

Sworn to and subscribed before me this the 15th day of June, 1896.

W. K. GILDART, *Clerk.*

Affidavits.

THE STATE OF MISSISSIPPI, *Washington County*:

THE STATE
vs.
HENRY WILLIAMS. } No. 4481. Murder.

This day personally appeared before me the undersigned, an acknowledging officer in and for said county, Henry Williams, who, being first duly sworn, deposes and says: That he has heard the motion to quash the indictment herein read, and that he thoroughly understands the same, and that the facts therein stated are true, to the best of his knowledge and belief. As to the existence of the several sections of the State constitution, and the several sections of the State statute, mentioned in said motion to quash, further affiant states: That the facts stated in said motion, touching the manner and method peculiar of the said election, by which the delegates to said constitutional convention were elected, and the purposes for which said convention was called, and the purpose for which said objectionable provisions were enacted, and the fact that the

11 said discretion complained of as aforesaid has abridged the suffrage of the number mentioned therein, for the purpose named therein; all such material allegations are true, to the best of affiant's knowledge and belief, and the fact of the race and color of the prisoner in this cause, and that race and color of the voters of the State whose elective franchise is abridged as alleged therein, and the fact that they who are discriminated against, as aforesaid, are citizens of the United States, and that prior to the adoption of the said constitution and the said statute, the said State was represented in Congress by seven Representatives in the lower House, and two Senators, and that since the adoption of the said objectionable laws there has been no reduction of said representation in Congress. All allegations herein as stated in said motion aforesaid, are true to the best of affiant's knowledge and belief.

HENRY X WILLIAMS.
his mark

Sworn to and subscribed before me this the 15th day of June, 1896.

WM. K. GILDART,
Circuit Clerk.

Filed this 15th day of June, 1896.

W. K. GILDART, *Clerk.*

STATE OF MISSISSIPPI, *Washington County:*

THE STATE
vs.
HENRY WILLIAMS. } No. 4481. Murder.

This day came before me the undersigned, an acknowledging officer in and for said county, John H. Dixon, who, being duly sworn, deposes and says that he had heard the motion to quash the indictment filed in the Henry Williams case, and thoroughly understands the same, and that he has also heard the affidavit sworn to by said Henry Williams, carefully read to him, and thoroughly understands the same. And in the same manner the facts are sworn to in the said affidavit, and the same facts alleged therein upon information and belief, are hereby adopted as in all things, the sworn allegations of affiant, and the facts alleged therein, as upon knowledge and belief, are made hereby the allegations of affiant upon his knowledge and belief.

12

his
JOHN H. DIXON,
mark

Sworn to and subscribed before me this the 15th day of June, 1896.

W. K. GILDART, *Circuit Clerk.*

Filed this 15th day of June, 1896.

W. K. GILDART, *Clerk.*

THE STATE OF MISSISSIPPI, *Washington County:*

This day personally appeared before me the undersigned, acknowledging officer in and for said county, C. J. Jones, who, being duly sworn, deposes and says that he has read carefully the affidavit filed in the John Dixon case sworn to by him (said C. J. Jones), and that he, said affiant, thoroughly understands the same, and adopts the said allegations therein as his deposition in this case upon hearing this motion to quash the indictment herein, and that said allegations are in all things correct and true as therein alleged.

C. J. JONES.

Sworn to and subscribed before me this the 15th day of June, A. D. 1896.

W. K. GILDART, *Clerk.*

Filed this 15th day of June, 1896.

W. K. GILDART, *Clerk.*

The court, after hearing the motion read and the introduction of the several affidavits filed in support of said motion, ordered the same overruled, to which ruling the defendant then and there excepted.

Order overruling motion to quash.

STATE OF MISSISSIPPI }
 vs. } No. 4481.
 HENRY WILLIAMS. }

13 This cause coming on to be heard and the defendant being in court, upon motion to quash the indictment and affidavits in support of the same, and the court, after considering the same, doth order that said motion be overruled, and the defendant then and there excepted.

Whereupon the defendant filed his petition for a removal of the trial of said indictment into the United States circuit court for the western division of the southern district of Mississippi.

*Motion for removal.*THE STATE OF MISSISSIPPI, *Washington County.**To the circuit court of Washington County in said State:*

This petition respectfully shows unto this honorable court that Henry Williams, a negro and citizen of the United States, prays the transfer of the trial of the indictment filed herein against him, alleging the crime of murder, from the circuit court of this county, a State court, to the United States circuit court for the western division of the southern district of Mississippi, and the following reasons assigned, to wit: Because the laws by which the grand jury was selected, listed, summoned, and charged which presented the said indictment herein, charging him with the crime of murder, are repugnant to and violative of the terms, in letter and spirit, of the Federal Constitution, in this, that the constitution of the State of Mississippi prescribes specially in section 241 just what qualifications are required of citizens of the State to become electors, and in that same section of the said State constitution, adopted in 1890, it is provided that the election managers shall be produced satisfactory evidence that they, such applicants, have paid such taxes as required by the terms of said section, and in section 242 of said constitution the legislature is empowered to provide such registrations as it deemed proper for the enforcement of the terms of said sections, and in the exercise of which authority the State legislature in 1892, enacted

14 section 3643, providing that the election commissioners of the county shall at a certain time there named appoint three persons for each election district to be managers of the election, and said legislature, by virtue of the authority conferred as aforesaid by said State constitution, enacted section 3644 of the code of 1892, making the election managers aforesaid judges of the qualifications of electors, and to examine on oath any person duly registered and offering to vote touching his qualifications as an elector; and thus the registration roll is not prima facie evidence of an elector's right to vote; but the list of persons having been passed upon by the various district election managers of the county should compose the registration books of voters, as mentioned in section 2358 of said code of 1892; and further, that no registration books of voters were prepared for the accommodation of the board of supervisors

of the said county at the time and meeting thereof when the list of names were drawn by it with which the jury box of the county was charged at the time said grand jury which presented this indictment was, by the circuit clerk, in the presence of the chancery clerk and sheriff of the county, drawn; that the names so deposited in said jury box were drawn by said board, not from the registration books of voters, because there is no law of the State providing for the procurement of any registration books of voters of said county; and considering the terms of the State constitution, section 241, prescribing the requirement of persons to be electors, and section 242 thereof, prescribing the constitutional oath, the defendant charges that that part of section 241 of said State constitution which provides that satisfactory evidence must be produced to the election managers of the county, and that part of section 242 of said constitution which requires the applicant for registration in said county to subscribe to the oath to answer all questions propounded to him concerning his antecedents, so far as relate to his right to vote, and the granting to the legislature such authority as to authorize the enactment of the manner of appointment of election managers as aforesaid, without prescribing any qualifications for such managers, except that they must be "three persons,"

15 as provided in section 3643, and the granting to the legislature such authority as expressed in section 3644 of the statute aforesaid, making the managers of election at the various election districts the judges of the qualifications of electors, and empowering such managers to examine such persons as apply to them for the exercise of suffrage, touching their qualification as such electors, is but a scheme on the part of the framers of that constitution to abridge the suffrage of the colored electors in this State, on account of their previous condition of servitude, by granting a discretion to the said officers mentioned in said several sections of the constitution and statute of the State, adopted under the said constitution, the use of which discretion can be and has been and is being used by certain officers in this county and State, to the end designed and intended by the maker of said law at the time of the enactment thereof, and as here complained of, to wit, the abridgement of the elective franchise of the colored voters of the State and county aforesaid, thereby denying to the colored citizens of the county and State aforesaid the opportunity of being impartially listed and selected to serve as jurors in the circuit and other courts of the State and county, and this denial to them of the equal protection of the laws of the State of Mississippi is on account of their race and color, and as aforesaid, and the said discretion is not used with equal rigor against the white applicants for voting and registration by the officers of the law, who by said law are given such discretion and discrimination, thus resulting from the exercise of the said discretion in accordance with and the purpose and intent of the framers of the present constitution, which purpose and intent is emphasized by the fact that the election at which the delegates were elected to the constitutional convention which enacted said constitution was not a fair election in said county, and throughout the State, and was not conducted consistent with the policy and laws then in force at the time of said election; thereby the minority of the voters of the State, by the practices aforesaid, manipulated the election affairs and management so as to

16 deprive the majority of the then qualified electors of their elective franchise, by fraud and intimidation, for the purpose of securing a majority of white men as delegates to said convention. And the said election of delegates resulted in favor of the minority (being the white voters of the State). And the said constitutional convention was composed of white men only, with the exception of one delegate—being a negro—and though the constitutional convention was composed of one hundred and thirty-four delegates, said election therefor, which was held July, 1890, being managed and conducted as aforesaid, notwithstanding the fact that there were 69,000 whites, and 190,000 qualified negroes in the State, eligible to vote, only one of the latter race was permitted to serve in said convention proposing the abridgment of the suffrage of 190,000 colored voters of the State, and exempting the 69,000 whites by thus leaving to the discretion of certain officers therein named, or indicated, as to the right of such 190,000 colored voters said discretion provided in the said constitution as herein complained of, was prescribed by that convention, with the intent to so disfranchise said colored voters, because, be it known that the qualifications prescribed for voters of the State prior to the adoption of said constitution and under which the voters of the State being qualified thereunder to have voted on the ratification or rejection of said constitution had it been submitted to the popular suffrage of the State, which qualifications under the prior laws were, "All male inhabitants of this State, except idiots and insane persons and Indians not taxed, citizens of the United States, or naturalized, twenty-one years old and upwards, who have resided in the State six months, and in the county one month next preceding the day of election at which said inhabitant offers to vote, and who are duly registered according to law, and who are not disqualified by reason of any crime are declared to be qualified electors (Sec. 2, Art. 7, of constitution of Mississippi, adopted 1869). And that of the number qualified under said law at the time of the enactment of the present

17 constitution and laws, there were one hundred and ninety thousand colored citizens and sixty-nine thousand whites, and though the said new constitution adopted in 1890 was enacted with the purpose and intent to abridge the suffrage of the majority of the electors of the State, and said constitutional convention was composed (with one exception) entirely of white men, representing the views and sentiments of the minority of the qualified electors of the State. The members of that constitutional convention arbitrarily refused, and for the purpose and intent aforesaid failed to submit the present organic law to the voters of the State for their approval, but declared it adopted, and ordered therein an election to be held immediately thereunder for all district and county officers throughout the State, which election for said officers, including members of the legislature, was ordered to be held under an ordinance of that convention, which election was held in Nov., 1891, and the legislature of 1892 adopted the statute herein complained of, and the enforcement of the provisions aforesaid of the said State constitution and statute resulted in discrimination against the race of the defendant—being that of negro—and by virtue of the exercise of such discretion as provided for in the constitution and statute aforesaid, which

discretion is to be exercised by certain officers therein named, was purposely provided in the organic law by the framers with the specific intent to discriminate against the colored citizens of the State, who, other than the use of said discretionary power by said officers with the intent aforesaid, said colored citizens would satisfy the other requirements even of the new constitution of 1890 and statute enacted thereunder.

The accused is, by force of the laws and acts of the officers in the enforcement thereof, deprived of that equal protection of the laws of the State to which he is entitled under the 14 amendment to the Federal Constitution because of the discrimination against him and the members of his race as aforesaid on account of the fact he and the members of his

18 race are ex-slaves and the descendants of ex-slaves, which is a state of servitude previously existed in this State, and because of their having been slaves in this State formerly, and the descend-

ants of such former slaves under the subjugation of the white race, and the color black, is the condition which caused the framers of the late State constitution to provide in that instrument a certain discretion aforementioned, and the condition of defendant and the balance of the one hundred and ninety thousand negroes aforesaid in said State, which caused said members of the said constitutional convention to delegate to the legislature of the State the power to enact certain laws to enforce the sections of the organic law aforesaid, is the previous condition of servitude of the defendant and the male citizenship of his race which caused the legislature of 1892 to enact section 3643, and section 3644, of the code of 1892, in strict enforcement of the scheme purposed by the framers of the constitution aforesaid, and the enforcement of all these laws for the reasons and purposes aforesaid, that the defendant has been by this proceeding deprived of the immunity prescribed in the letter and spirit of the Federal Constitution, 14th amendment thereof. And the enforce-

ment of the State constitution and statutes aforesaid, and the exercise in the manner, and to the end and purpose and intent aforesaid, the certain discretion purposely provided in the State constitution to be exercised by certain officers therein mentioned, abridge the rights of elective franchise of defendant and the rights of one hundred and ninety thousand negroes, citizens of the United States, and such results from the enforcement of the State law, which law was enacted by the constitutional convention aforesaid, which constitution was by that convention adopted, and the power so granted the State legislature on the part of those representing the State in the capacities aforesaid, to abridge the right of defendant to vote, and the intent to abridge the right to vote of the one hundred and ninety thousand colored citizens of the State, because of the fact that the defendant and the members of his race are negroes and ex-slaves and the descendants of ex-slaves, and that condition of previous servitude is

19 the account on which the framers of the late constitution being entirely representatives of the white race as aforesaid, assuming to act, and did act, in the name of the people of the State of Mississippi, where in fact that body only represented the minority of the citizenship of the State as aforesaid, yet that constitution enacted, as it is here complained of, and the statutes thereunder enacted as here complained of abridge the rights and privileges and immunities of the defendant and the number of his race in said State aforesaid—they being citi-

zens of the United States—and the enforcement of the State laws aforesaid, is repugnant to defendant's rights under the Federal Constitution. Further the defendant says: That the State of Mississippi, by its laws, has abridged the right to suffrage of one hundred and ninety thousand of its citizens as aforesaid, and has not had its representation in Congress reduced accordingly, therefore the laws of the State, under which this indictment is presented having been enacted by the legislature of the State which legislature was elected since, by, and under the enforcement of the said constitution which is complained of, in the manner aforesaid, and for the purposes aforesaid, and said laws authorizing the election of the legislature of 1892, the acts and laws of said legislature and the indictment herein having been returned by and under the laws of the said legislature, all are null and void of legal effect upon the rights of the defendant, for the reason the enforcement of any and all such laws, which laws were enacted by the legislature which was elected as aforesaid, is violative of the letter and spirit of the Federal Constitution. The defendant further charges that the provisions of the constitution aforesaid, section 244 thereof, which requires that persons applying for the exercise of the elective franchise in the State shall understand the constitution of the State, or any section thereof, when read to them, or give a reasonable interpretation thereof; this section of said constitution, coupled with the discretion purposely provided for therein as aforesaid, and herein complained of, to be exercised by the election managers in section 241, and the registrar being vested with such discretion as complained of in section 242 of said constitution, and considering the further fact that the said State constitution, section 244 thereof, nor any other section thereof, nor the statute of the State designates by any positive provision to whose satisfaction the applicants for the exercise of the right of suffrage shall read the said constitution, or any section thereof, or to whom a reasonable interpretation thereof must be given by such applicants, and considering further the fact that the constitution provided that a new registration should be made before the next ensuing election therein provided to be held after January first, 1891, which election was held in pursuance of said sections of the constitution November, 1891, and resulted in the election of a legislature composed of the representatives of the minority of the voters of the State, and the result of said election was brought about by the enforcement of the said provisions of the said constitution as complained of, and thus by a scheme to abridge the suffrage of a majority of the citizens and voters of the State by the preconceived manner in which the said discretion should be exercised by those thus vested with it, in accordance with the purpose of the framers and enactors of said constitution at the time of its adoption, the enforcement of said laws in said manner and for said purposes did result in the abridgement of the rights of suffrage of a majority of the voters of the State to the number aforesaid, all being citizens of the United States; and said laws were so framed as aforesaid, and adopted as aforesaid, for the specific purpose of thus depriving the said majority of electors of the State of the full, free, and impartial enjoyment of the rights of elective franchise, because of the previous condition of servitude, which condition of servitude is that of slavery, formerly existing and enforced as aforesaid in this State, upon

the defendant and his ancestors, being negroes, and the others who have been thus discriminated against as aforesaid are members of the defendant's race and color, black, and the laws by the State of which the indictment herein was presented, and the grand jury which presented the said indictment, and by which the petit jury, which is summoned and here returned, and by which defendant is sought to be tried, and the selection of a special venire, if claimed, and the legislature of the State which enacted the said laws, being under the constitution as complained of, and relator can not enforce his right to full legal trial in said State courts, all which laws, singly and collectively, are violative of the defendant's rights under the Federal Constitution, and therefore void of force and effect; therefore the defendant prays that the trial of the said indictment be removed from the circuit court of Washington County, Miss., the court of original jurisdiction in the State, to the United States circuit court for the western division of the southern district of Mississippi, as the law directs.

his
HENRY X WILLIAMS.
mark.

CORNELIUS J. JONES,
Atty. for Dft.

STATE OF MISSISSIPPI, *Washington County:*

This day personally appeared before the undersigned, an acknowledging officer of the State and county aforesaid, Henry Williams, who, being duly sworn, says that the facts set out in the foregoing petition are true, to the best of his knowledge, as to the terms and purposes of the law, and belief on information as to the other matters, which information is verily believed to be true as stated.

his
HENRY X WILLIAMS.
mark.

Sworn to and subscribed before me this the 15 day of June, 1896.
W. K. GILDART, *Clerk.*

Filed this the 15th day of June, A. D. 1896.
W. K. GILDART, *Clerk.*

22 *Order overruling motion for removal.*

STATE OF MISSISSIPPI }
vs. } No. 4481.
HENRY WILLIAMS. }

This cause coming on to be heard, and the defendant being in court, upon petition for the removal of the trial of said indictment from the State court to the United States circuit court for the western division of the southern district of Mississippi, and the court being so advised, doth order that said application be denied. And the defendant then and there excepted, and tenders this his special bill of exceptions, to be made a

part of the record in this cause, and the same is so ordered by the court.

Signed this the 19th day of June, 1896.

R. W. WILLIAMSON,
Judge of the Fourth Judicial District of Mississippi.

Filed June 19th, 1896.

W. K. GILDART, *Clerk.*
By J. A. SHALL, *D. C.*

General bill of exceptions.

Thereupon, on the 16th day of June aforesaid, the said cause came on to be tried, the defendant having entered plea at a former day of said term, whereupon the following testimony was introduced on behalf of the State:

THEOPHILUS BROWN, witness for the State, being sworn, testified as follows (colored):

Q. Do you know Henry Williams?

A. Yes, sir; there he is there.

Q. Did you know Eliza Brown?

A. Yes, sir; she was my sister.

Q. Where is she now?

A. She is dead.

Q. How do you know she is dead?

A. Because I found her; I found her down there in a house lying on the floor covered up by some dirty clothes.

Q. When?

A. It has been a good while; I do not know what day it was; it is down that street yonder.

23 Q. In this town of Greenville, in Washington County, State of Mississippi?

A. Yes, sir.

Q. How did you happen to find her there?

A. I went in there to hunt for a pair of my pants.

Q. What did you find?

A. I went there and was looking around in the rags for my pants I had been wearing and I looked there and uncovered her head, and that is all I knows about it.

Q. She was dead, was she?

A. Yes, sir.

Q. Well, when you got there was the house locked?

A. The front door was locked.

(Objection by defendant; overruled; exception by defendant.)

Q. How many rooms was there in that house?

A. Three.

Q. Which room was she in?

A. She was in the little outside room.

Q. Who lived in that house with her?

A. Me and my father.

Q. Did anybody live with her in that house?

A. Yes, sir; me and my father stayed there, and Henry Williams.

Q. He stayed there too, did he?

A. Yes, sir.

Q. When was the last time you saw your sister before you found her dead?

A. I had not seen her before until that Christmas morning, and she was coming down here to my brother's house.

Q. How long was that before you found her dead?

A. That had been a good while; I could not exactly tell how long it had been.

Q. Two or three days?

A. Yes, sir; just about.

Q. Were you staying in the house then, the same house?

A. Yes, sir.

Q. The last time you saw her was two or three days before you found her dead?

A. Yes, sir.

Q. Where was that?

A. Where I found her dead?

Q. No; the last time you saw her before that.

A. The last time I saw her was here at my brother's.

Q. Where was that you saw her?

A. I saw her up here at home.

Q. Up at her house?

A. Yes, sir.

Q. Did you go over there, or what?

24 A. No, sir; I stayed there and he fixed my breakfast for me.

Q. Who did?

A. Henry Williams, and I got up and went on up town, and in coming back there, when she came back from down to my brother's house, and I was out there on the street playing with the boys, had just come back there from town, and I came back there and she was telling my father about—

Q. Never mind what she told your father. Did you see her; that was about Christmas time?

A. Yes, sir.

Q. Well, after you saw her that time, now can you say you did not see her any more for two or three days, and when you did see her she was dead?

A. Yes, sir.

Q. Now, during that time, from the last time you saw her until you found her dead, were you staying in that house every night?

A. Yes, sir.

Q. You went there and stayed in the house every night, did you?

A. Yes, sir.

Q. Who else stayed in there every night?

A. Didn't nobody stay in there after this but my father and me.

Q. You say when you went there the house was locked, just now?

A. Yes, sir.

Q. How did you get in the house?

A. I went in the back door, but this was in the night when I came, about 7 o'clock.

Q. Did you stay there any in the daytime?

A. No, sir.

Q. When was the last time you saw Henry Williams before you found your sister dead?

A. I never seen him any more until that morning after he left here.

Q. What morning after he left here?

A. That Christmas morning. It was Christmas morning or Christmas evening, one, I disremember now.

Q. Did you ever see your sister after Henry left until you found her dead?

A. Yes, sir; she came back there.

Q. After Henry left.

A. Yes, sir.

Q. You never saw Henry any more until when?

A. I never saw him any more until they brought him in the court-house.

25 Q. Did you ever see Henry after you found your sister dead? Did you ever see him after that?

A. No, sir.

Q. You had not seen your sister for a long time—it had been since you had seen your sister when you found her dead?

A. I could not exactly tell how many days.

Q. About two or three days, or week, or month, or how long?

A. It had not been more than a week, if it had been that long.

Q. Well, now, can you remember the exact day the last time you saw your sister? Was it Christmas Day?

A. I could not exactly tell; I don't remember.

(Objection; overruled; exception by defendant.)

Dr. A. BRUCE, witness for the State, being sworn, testified as follows (white):

Q. Do you know Eliza Brown, or did you know her in her lifetime?

A. No, sir; I did not.

Q. Did you see her after she was dead?

A. Yes, sir.

Q. What is your profession?

A. I am a physician.

Q. Did you make an examination of her body?

A. Yes, sir; before the coroner's jury.

Q. State what the condition of the body was when you found it, when you examined it.

A. When I first arrived she was in the room; I do not remember the street, but the first block this side of the De Sota oil mill; and there is a long house facing north, and then in here is a little side room, 8 by 10, or something like that; there is a window in here, and there is the front room and there is the kitchen [indicating]. The body was lying in this corner on the flat of her back; this is the front room on the north, and this is the door leading from the kitchen; this side room was a small room on the southeast corner, and this is the door entering from the kitchen, and there is also a door in the south from the kitchen, and then

there was a door in the north end of the side room on the south-east corner. When I arrived there the body was lying with its head to the east, where you see this mark, in that small room on the southeast corner, covered up partially with rags. The face had been uncovered, and she was lying flat of her back, with her hands in this position, as well as I can remember [hands lying across the abdomen]; then they removed the body to the front, to the east of the front room fronting north, and in front of the small room on the southeast corner, and they held the inquest, and I made an examination of the body, as thoroughly as I could, and found enough to form my opinion; and the best of my opinion is that the woman died from strangulation—was choked to death. The imprint of the fingers were very plain on her throat; on the right-hand side was the mark or scratch about as large as would be made with the thumb nail, a man that would catch them in this position with the right hand, and there was two or three finger-nail scratches, which it was my opinion was on the left side of the neck. This is all I found on the body. There was no bruises on the head, and I examined her thoroughly.

TOM JONES, witness for the State, testified as follows (colored):

Q. Do you know Henry Williams?

A. Yes, sir.

Q. Did you know Eliza Brown, that he is charged with having killed?

A. Yes, sir.

Q. Did you see her after she was dead?

A. Yes, sir; I summoned the coronor's jury and held the inquest.

Q. Did you go there to the house and make an examination?

A. Yes, sir; after I was notified to summon a jury to hold the inquest, and after I summoned the jury, then I proceeded to the house.

Q. State what you saw there and what you found.

A. Well, when I got to the house I found her in a little room, the front door being locked. The door that led into the little room was open, and I pushed back some old clothes, &c., and there I found her dead.

Q. Did you make any further investigation?

A. Yes, sir; we searched the house, myself and the jury, and so on, and we found the bed turned up, and then we found some of Henry's clothes there and a pair of pants; we looked in the pocket of them and found some tobacco, and found a key that fitted the front door.

Q. Was the front door locked?

A. Yes, sir; it was locked and there was no key to it, and the old man was there and could not get in.

Q. You found the key to the front door on Henry's pants pocket?

A. Yes, sir.

Q. What sort of pants were they?

A. They were dark pants, but I forgot whether jeans or some other stuff; but they were dark.

Q. Was there anything peculiar about the pants?

A. Yes, sir; they had feathers on them, I suppose, from the bottom up to the knees. Where she was lying there were a great many feathers.

Mr. Anderson taken the key out of the pants pocket and gave it to me, and I had the key ever since.

Q. When was that, Tom?

A. It was some time in December, just after Christmas Day, I forget what day of the month it was. I think it was on a Saturday when I found her and held an inquest; I think it was on the 26th or 27th.

Q. When had you seen Henry Williams before that—at any time?

A. It had been several days before I saw him—along about Christmas eve I think I saw him up town. I am satisfied I saw him up town Christmas eve.

Q. Where did Henry live?

A. I do not know. I seen him here in town. I did not know even where he was staying.

Q. You say the last time you saw him was several days before this inquest?

A. No, sir.

Q. When was the next time you saw him?

A. I never saw him until he was brought from Shaws Station here and put in jail.

Q. That is all you know about it?

A. Yes, sir; I know I looked for him after the coronor's inquest was through, and there was a warrant issued, and I hunted for him and could not find him.

28 Cross-examination:

Q. When you saw the body, was that before or after Dr. Bruce had been called and had examined the body under the direction of the coroner's inquest?

A. I saw it before Dr. Bruce examined it. I summoned Dr. Bruce myself.

Q. Were any other persons with you at the time?

A. Yes, sir; there was a good number of people there. I could not tell when I got there; the door was closed; there was nobody in there where the dead body was. Myself and the jury and Mr. Smith and several others proceeded in to make an examination of it.

Q. The back door was open when you got there?

A. Yes, sir.

Q. When you got there, there was a number of persons there, but none in the house when you got there?

A. No, sir.

Q. They may have been in there and out before you got there, and you might not have known it?

A. Certainly.

Q. After you examined the body, did any one else enter the house after that, up until the time of the coroner's inquest was held, to your knowledge?

A. No, sir; nobody did not but the coroner's inquest, that is all; we examined it and found embrasures here where she was choked, and the stocking on this leg and garters had been pulled off and pulled down over the shot on this left leg.

HUMPHRIES. You say the stocking had been pulled down?

A. Yes, sir.

Dr. BRUCE recalled.

HUMPHRIES. You stated just now you examined this body; can you state how long that body had been dead when you made the examination?

A. Well, it may have been thirty-six hours and it may have been little longer; it was cool weather and of course it would to tell; of course bodies don't decompose in cold weather like they do in warm weather. It may have been longer, as much as forty-eight hours, but I could not say positively.

29 ELIZABETH HICKS, sworn as a witness for the State, testified as follows (colored):

Q. Do you know Henry Williams?

A. Yes, sir.

Q. Is that him there?

A. Yes, sir.

Q. Did you know Eliza Brown, the woman he is charged with having killed?

A. Yes, sir; Elizabeth Brown.

Q. When was the last time you saw Elizabeth?

A. I saw her Christmas day, and saw her the Thursday after Christmas. Henry were also over there to mama's, next door.

Q. Where does your mama live?

A. Over here back of the jail.

Q. Henry was over there with her when?

A. A Thursday.

Q. What day was Christmas, do you remember?

A. On Wednesday.

Q. And the day after Christmas he and Eliza were at your mother's house?

A. Yes, sir; we both lived together.

Q. What time of day was it?

A. As near as I can remember it was about 12 or 1 o'clock.

Q. What were they doing there?

A. She was standing on the gallery when I seen her and he was in the house.

Q. Did they stay there?

A. They left there together, and the last time I seen them they were going over there and got as far as the railroad; that is the last I seen of her. I was talking to her as she came out of the gate, and I stood there until they got as far as the railroad, and went on in the house; and they came on this way.

Q. That was on Thursday; now, when was the next time you saw Eliza?

A. I did not see her any more until Saturday morning, when she was found dead. I went up there and she was in a little room, wrapped up in some old rags and blankets, and it looked like she had something in her mouth white.

Q. When was the last—when was the next time you saw Henry Williams, after they left there together that day?

A. I did not see Henry no more until I seen him in jail over there.

30 Q. Where had Henry lived up to Christmas, and where was he living then?

A. He was living with Lizzie at that house, because Eliza washed his clothes.

Q. You understand me, was Greenville his home?

A. Ever since I have been knowing him he has been living here.

Q. How long has that been?

A. About three years, I reckon, when we had the trial up here before. It was the first time I ever seen him to know that was him.

Q. You say they found the body there Saturday; was Henry there then?

A. I never seen him.

Q. When was the next time you saw him?

A. I did not see him any more until I seen him in jail.

Q. How long afterwards?

A. I do not know, sir; I never kept no dates.

Q. About how long, a week or a month?

A. Between a week or two weeks, I disremember; I did not take any notice of it, because it did not interest me whether they were at home or not.

GUS MILES, witness for the State, being sworn, testified as follows (colored):

Q. Do you know Henry Williams?

A. Yes, sir.

Q. Did you know Eliza Brown?

A. Yes, sir; I knowed her.

Q. Do you remember the time they found Eliza dead over there in the house?

A. Yes, sir.

Q. Had you seen her before that time?

A. Yes, sir.

Q. When was the last time before that time that you saw her?

A. Thursday, I think.

Q. What time Thursday?

A. Thursday afternoon.

Q. Whereabouts did you see her?

A. At the saloon.

Q. Which saloon?

A. Mr. Wray's.

Q. Where is that?

A. At the depot.

Q. Who was with her, Gus, if any one, when you saw her?

A. Henry Williams.

31 Q. Which way did they go from there?

A. Went over towards him.

Q. What do you mean by towards him?

A. Down to their house, down the railroad.

Q. Down to the house where this woman was found dead?

A. Yes, sir; he stopped over there a little while and talked to me about 5 or 10 minutes.

Q. What did he say? He stopped there a while and talked to you.

COURT. What day was it?

A. Thursday.

HUMPHRIES. What was it?

A. He told me that he had a question to ask me, and I told him all right. He said he thought I was a friend of his, and he wanted to ask me about it, and I told him all right; he says somebody told him that she had taken a man.

COURT. Let the jury retire.

(The jury retired.)

Q. What did he say to you, now?

A. He said that she had taken a man home, and told him to ask me about it, if I sold a half pint of whiakey to carry there to him. He said he works hard and gives that woman his money and she was lying around there with another man, the God dam bitch; he was going to fix her and leave her.

(Objected by defendant as irrelevant; overruled; exception by def.)

Q. What was it he said, now?

A. He told me that he works hard and made his money and gave it to that woman, and she was lying around with men; that he would kill the God dam bitch and leave town for it; that is what he told me.

Q. What else did he say to you, if anything, in that conversation when he came up there; what was the first thing that he said when he came?

A. He told me he wanted to ask me a question; that he taken me to be a friend of his, and I told him when he first asked me, "I am busy right now, but I will be through in a few minutes," and when I got through I said "all right Henry," and he says, "Did you sell Eliza a half pint of whiskey?" I said "No." He said, "Somebody told me you sold her a half pint of whiskey and she took a man and carried
32 him over to Mary Page's." I told him "No; I did not see it, and I did not sell him no whiskey."

Cross-examination:

Q. What is your occupation?

A. I am over there at the saloon with Mr. Wray.

Q. How long have you known Henry Williams?

A. Four or five years.

Q. How long did you know Eliza Brown before her death?

A. About a couple of years.

Q. Did you know any relation existing between Eliza and Henry; did you know if any such thing between Eliza and Henry, as man and woman sleeping together, or anything of that sort?

A. That is what he told me.

Q. You do not know anything more than what he told you?

A. No, sir.

Q. Had you any conversation before that time, before that day, of a familiar nature?

A. No, sir.

Q. Had you and him associated together in any way?

A. Yes, sir; when he was out in the country we did, but not here in town.

Q. What place in the country?

A. Out on the Wilezinski place.

Q. Did you see this Brown woman after she was dead?

A. I did.

Q. How long was it from the time you saw her alive until you saw her dead?

A. I saw her alive on Thursday and seen her dead on Saturday.

Q. Do you know how long she had been dead when you saw her?

A. No, sir; I do not know. I know she was not dead on Thursday.

Q. What time was it Saturday when you saw the dead body?

A. I suppose about eleven o'clock.

Q. Were there any other persons at the time?

A. There were over fifty there.

Q. Did you examine the body?

A. I did not. Mr. Harry Smith examined it.

33 Q. Where was the body when you saw it?

A. Lying in the room wrapped up in a lot of rags.

Q. Did you see her face?

A. After we pulled the rag off.

Q. Who pulled the rag off?

A. Mr. Harry Smith did.

Q. What sort of rags were they?

A. Old dirty clothes; just up like a lot of old dirty clothes piled up in a corner.

Q. Were they wearing clothes or bed clothes?

A. Wearing clothes.

Q. You say that you had seen this woman and Henry at the saloon?

A. Yes, sir.

Q. How long afterwards you saw him and the woman together was it that you and he had the conversation?

A. We had the conversation the same evening.

Q. About how long afterwards, from the time that you saw them together, to the time of the conversation?

A. When they walked up there he told her to stand there a few minutes until he came in and saw me, and she was standing out in the corner waiting for him, and he talked to me, and she said, "Come on, Henry, let's go;" and he says, "I am not ready yet."

Q. What did Henry tell you about the whiskey?

A. He asked me if I sold her a half pint of whiskey?

Q. What time did he ask you if you sold it to him; what time did he infer that you sold him the whiskey?

A. It was on Tuesday that he was speaking about the whiskey.

Q. Did he tell you then that it was Tuesday that he was speaking about?

A. Yes, sir; he said it was day before yesterday; he did not have to call it when he said day before yesterday, because I knowed it.

Q. The woman was standing a short distance off?

A. Yes, sir.

Q. What seemed to have been his relation with her; were they friendly as usual?

A. He seemed to talk like he was very mad that day.

- Q. Did he talk that way to you or seemed to act that way towards her?
 A. Talked that way to me. I don't know what he said to her.
- 34 Q. You say when they left they went down towards their house?
 A. I did not go with them.
 Q. You say they went towards their house?
 A. Certainly they did.
 Q. Did they walk together or did he go along if quarreling?
 A. He was in front and she behind. She came up and said, "Henry, let's go," and he said, "You go ahead; I am coming."
 Q. That is all you know about Henry in connection with the killing?
 A. Yes, sir; that is all.
 Q. You do not know who killed her?
 A. No, sir.
 Q. When did you next see Henry?
 A. When Mr. _____ him in on the night train.
 Q. Where were you at the time?
 A. I was at the saloon and went to the train to see him. I heard they were coming with him.
 Q. Who told you?
 A. A woman came here and told it that they were coming with him, and he came anyhow on the train.
 Q. What time of day Saturday was it when you went down there?
 A. About eleven o'clock. We did not have any watch to see the time, but I suppose it was that.
 Q. You know the time of day without a watch?
 A. No, sir; I do not. I have to look at a watch, but I supposed it was about 11 o'clock.
 Q. And a good number of persons were there when you got there?
 A. Yes, sir.
 Q. Who else was with you at the time this man had the conversation with you at the saloon?
 A. He had a private conversation with me.
 Q. Nobody but you and him together?
 A. No, sir.

ADDIE BROWN, sworn as a witness for the State, and testified as follows (colored):

- Q. Do you know Henry Williams?
 A. Yes, sir.
- 35 Q. Did you know this woman, Eliza Brown, that he is charged with having killed?
 A. Yes, sir; she was my sister-in-law and my husband's sister.
 Q. Did you see her after she was dead?
 A. Yes, sir.
 Q. What day of the week was that, do you remember, that you saw her?
 A. On Saturday when I seen her after she was dead.
 Q. When was the last time that you had seen her before that?
 A. It was on Thursday.
 Q. Where was she then?

A. At my house, right over yonder.

Q. Behind the jail?

A. Yes, sir. She came over there, and Henry, both.

Q. Henry was there, too?

A. Yes, sir. He came back in the kitchen where I was cooking and spoke to me; and I was cooking and I was expecting father from Hollandale, and I was cooking dinner and he came in there and said—

(Objection. Overruled. Exception by defendant.)

He came in the kitchen where I was and he said, "I heard Tom had a fuss up at the depot this morning" (talking about my husband). I said, "No, he did not have no fuss at the depot." Then he showed me a pistol he held in his coat pocket that way; said, "I borrowed a pistol this morning." I said, "Don't show it to me; I am afraid of pistols in that way;" and he did not say any more and went out. She started home, and I asked her where she was going so quick.

(The court ruled out this entire conversation.)

Q. Did she go home?

A. She left my house to go home.

Q. Did she go by herself when she left?

A. Henry left with her.

Q. When was the last time you saw her—which way did they go?

A. When I saw her leaving there she came on up the street to go home.

Q. The last you saw her alive, when she came on up the street, Henry was with her?

A. Yes; Henry and another young man; I do not know who he was.

Q. Did they go to your house together?

A. Yes, sir; they came there together.

Q. And went away together?

A. Yes, sir. She had told me about her and Henry's fuss.

36 Q. We just want to know about him now. This man was not present when she told you that—when she told you anything?

A. No, sir; not all the time.

Q. What she told you was when she was not there?

A. Yes, sir; he was not there all the time.

Q. Did you have any conversation with her in Henry's presence at all?

A. That morning he left my house? Yes, sir; I was talking with her, first on' thing and then another, no certain things, and I asked her what time she was coming back; she told me that evening.

(Objection as incompetent. Sustained. Ruled out.)

Q. Did she come back that evening?

A. No, sir; she did not come back that evening.

Q. Did she ever come back?

A. No, sir; she never come back.

Q. The next you saw her, you say, was Saturday?

A. Yes, sir.

Q. Did you notice how Henry was dressed that day?

A. No, sir; not in particular; I did not take any notice in men's clothes much, anyhow; never de.

Q. You do not remember what kind of pants he had on?

A. Had on black-looking pants.

Q. Would you know the pants if you were to see them?

A. I do not know in particular, but just they were black pants.

STELLA HOLMES, witness for the State, being sworn, testified as follows (colored):

Q. Do you know Henry Williams, this defendant?

A. Yes, sir.

Q. Did you know Eliza Brown in her lifetime?

A. Yes, sir.

Q. When was the last time you saw Eliza Brown?

A. I saw Mrs. about 12 or half past twelve o'clock on Thursday after Christmas.

Q. Where was she when you saw her?

A. She was on the front gallery.

Q. At her house?

A. At her own house.

Q. Who was there with her, if anyone?

A. Henry Williams was there.

37 Q. When was the last time you saw her after that?

A. I do not remember seeing her any more after that.

Q. Did you see her after she was dead?

A. Yes, sir.

Q. The next time you saw her after that was—

A. Saturday morning after they found her dead.

Q. Was Henry there then?

A. No, sir.

Q. When was the next time you saw Henry Williams, after you saw them sitting on the gallery that day?

A. I saw them both together that day and never saw neither one after that.

Q. That is where they lived; Eliza Brown and Henry Williams lived there in that house, didn't they?

A. Yes, sir.

I. M. MUCKLE, witness for the State, sworn, testified as follows (colored):

Q. Your name is I. M. Muckle?

A. Yes, sir.

Q. Did you know Eliza Brown?

A. No, sir.

Q. Do you remember the time she is said to have been killed?

A. About the time—along about Christmas.

Q. You remember that occasion of the inquest they held over her?

A. I was not at the inquest, but heard of it.

Q. Had you seen Henry Williams before that time?

A. I only saw him one day in the Christmas week up in town.

Q. When was the next time you saw him after that?

A. The next time I saw him was at Shaw's station; about two miles from the station, west of Shaw's.

Q. How long after this inquest?

A. I think it was on the 9th day of Jan.

Q. Did you see him at Shaw's?

A. He was not at the station, but at a house called Howerd Coleman's house, on Dr. Mason's plantation.

Q. What were you doing up there?

A. I went up there looking for him.

Q. Where was he when you first saw him?

38 A. He was up in the loft, looked to me about four of five plank wide, about as wide as the desk, and the joints broke, lying up with his stomach in the loft.

Q. Tell the jury about it.

A. I went up there and got there on the 8th of Jan., and I went out in the country a piece with some people that knowed Howard Coleman's people, and asked if they had seen anything of him; they told me they had saw him on Tuesday, I think it was, about a week from the day I was up there; I won't say a week, but they said I saw him last Tuesday is what they told me, and I asked them where they saw him.

Q. Never mind what they told you.

A. Well, I went there to Dr. Mason's store that night, and asked him about—

Q. Tell what you did.

A. I went down there to Howard Coleman's house after we found out where Howard Coleman lived.

Q. You say Howard Coleman is kin to this man?

A. He is said to be some of his relation some way or another, said to be kin to him one way or the other, and I goes down there, me and Mr. Peacock, and he went around on the back side of the house, and I went up in front of the door and told them to tell Henry Williams to come out there.

COURT. Was Henry in that house?

A. Yes, sir.

Q. Go along and tell it.

A. They said Henry was not there. I said, "Tell Henry to come out of there," and they said "He ain't here and has not been here." I said, "Open that door," and they failed to open the door, and I advanced up on the steps and Lou Gay Coleman came and poked his head out of the door, and he came out and pulled the door too behind him. I said, "Open the door." He said, "You can go in and open it," and I heard a mighty rustling in the house, and I went to the door and got the door wide open and went in and commenced looking for him, and looked under the bed, turned up the mat'rass and looked under that and some barrèls they had there, and Mr. Peacock examined the other room, and he said, "That son of a bitch has gone," so I came

39 on in the room where he had been looking, and coming up the side of the house I saw a plank move and I jumped down on the floor and said, "Come down from there, Henry," and he says, "All right, sir." When he came down I threw my pistol down on him, and told him to throw his hands up, and he said, "That is all right; you have got me, gentlemen;" and we tied him and brought him out from the house apiece and read the affidavit to him, and I asked him if he knew anything about the death of this woman and he says, "No; yes;

I know something about it, but I did not kill her." He says, "Another fellow killed her," and I said, "Who was it?" He said, "I can't tell you who it was right now." I said, "Were both of you in the house and you do not know who this fellow was?" He said "No." I said, "Didn't you try to keep him from killing this woman?" and he said "No." I said, "What is the reason you did not go up town and get an officer and capture the fellow?" He said, "I did not want to have anything to do with it; I had been in a case of that kind before." I said, "How came you to leave?" and he said, "I went off until they got the thing sorter settled." Well, we went on back to town, and we had been across a long bridge about a hundred feet long, and we met Mr. Mason's agent, and Mr. Peacock stopped there and talked with him and me, and Henry walked on up towards the station. I said to him, I said, "Henry, why don't you tell me the truth about this thing?" I said, "The truth will do you more good than that." I said, "What you told me back yonder ain't worth anything; there ain't a man in the State of Mississippi will believe that." He said, "I will tell you the truth about it, Muckle, but I don't want to tell you before that white man." I said, "He is back yonder now; now tell me." He said, "We fell out; our falling out was about fifteen dollars." He said, "We had fifteen dollars that we had made at Refuge picking cotton, and I asked her for some money to go to town to a ball, and she gave me fifty cents, and when I came back that night," he says, "there was a man run out of the house at the back door," and he run around to see who it was, and he says "he saw the fellow, but he could not make out who he was going through the pickets, and," he said, "he came back in the house and said, 'Eliza, what kind of God damn stuff is this you are giving me?' She says, 'I will give you any kind of God dam' stuff I choose to give you, and, furthermore, I laid off to kill you, and I am going to do it,'" and, he says, "she picked up the pistol and started at him with it and he knocked her down, and she raised the second time and started to him and he knocked her down again and put his foot on the pistol and got up on her and choked the very stuffing out of her," is what he told me.

Cross-examination:

Q. How long were you at Shaw's before the train came for you to come down on?

A. I suppose it was between 9 & 10 o'clock when I captured him, and I think the train came down that afternoon at 3 o'clock, as near as my remembrance serves me.

Q. Did you keep him at the depot during that time?

A. Well, no; I went over to a boarding house and gave him his breakfast, and we sat out on a walk that crossed a ditch.

Q. Did you have any conversation with anyone concerning Henry Williams' case while you were there other than the officer that assisted you in arresting him? Did you have any conversation with anybody touching the case?

A. I do not remember having any conversation except with one fellow up there—that is, a friend of Henry's.

Q. Who is he?

A. I think his name was Lewis.

Q. Did you have any conversation with Gay Coleman concerning this matter?

A. No, sir.

Q. Have you made an application for a reward for capturing Henry?

A. Well, I do not know. You mean before I went up there? I suppose I have; yes, sir.

BODDIE. You hope to get it, too; don't you, Ike?

JONES. Is it not a fact you told Lou Gay Coleman, at Shaw's station, that your object in pursuing Henry was to recover this reward, and that whether he said he committed this offense or not that you intended to charge him with it in the court?

A. No, sir.

(State rests.)

The following testimony was introduced for the defendant:

LOU GAY COLEMAN, sworn as a witness for the defendant, testified as follows (colored):

Q. Do you remember when Henry Williams was arrested at Shaw's station?

A. Yes, sir.

Q. Where was he arrested; what house?

A. He was arrested at my father's.

Q. Were you present when he was arrested?

A. Yes, sir.

Q. Who arrested him?

A. Ike Muckle.

Q. After Ike arrested Henry, did you remain in his or Henry's company until the train came?

A. Yes, sir.

Q. Did Henry have any conversation with Ike concerning the commission of this offense by him?

A. No, sir.

Q. Did Muckle tell you, or make any statement to you, at Shaw's with regard to his purpose in this arrest?

A. Ike Muckle asked Henry did he do it, and Henry told him no, and he said, "Well, you had just as well say you did, because I am going down and say that you told me you did it, because I have got to have my money."

Q. Where was he at the time he made this statement?

A. He was in the depot.

Q. At Shaw's station?

A. Yes, sir; and I was sitting side of him.

Cross-examination:

Q. What kin are you to this man?

A. I ain't anything at all.

Q. He was at your house when they got him?

A. At my father's.

Q. Is that where you live?

A. Yes, sir.

Q. You were not harboring him?

A. No, sir.

Q. You were not trying to keep the officer from catching him?

A. No, sir.

Q. What was Henry doing up in the second story—was that his apartment?

42 A. I don't know, sir.

Q. Did you know these folks were after Henry for killing this woman?

A. After Henry?

Q. Yes, sir.

A. I do not know, sir.

Q. You never had heard anything about that, then?

A. No, sir.

Q. As soon as Henry saw someone inquiring for him he got up in the loft and got up on the plank?

A. I reckon he did; it was not in that room.

Q. You came over to the door and let Muckle in?

A. Ike asked me was he in there, and I told him to come in and see.

Q. First said you did not know; first said he was not?

A. I told him to come in and see; I did not tell him he was not in there or was, but to come in and see.

Q. You knew that he was up in the loft?

A. No, sir; I was in the other room.

Q. But you all were not trying to shield or harbor Henry from the officers of the law?

A. No, sir.

LOUIS WALKER, witness for the defendant, being sworn, testified as follows (colored):

Q. Do you remember the night Henry Williams was brought down from Shaw's station under arrest by Ike Muckle at Leland?

A. I do not remember the night, I remember the evening.

Q. You remember the occurrence?

A. Yes, sir.

Q. Did you see Ike Muckle at Leland that evening, when he got off the train?

A. I never saw him get off the train; I saw him about an hour after the train left.

Q. What part of town did you see him in?

A. He was sitting there at the Leland Mercantile Co.'s store.

Q. Did you hear him, or at least did you have any conversation with anybody concerning the confession of Henry Williams, made to him that day at Shaw's station and what he said?

43 A. He was sitting there with another fellow; him and another fellow was sitting there on a bench and I was sitting on the sidewalk fixing my shoe. I was not there when they first started to talk.

Q. Who was the other fellow?

A. I do not know; I suppose he must have been a constable because he said he was looking for him.

Q. State to the jury what Muckle said to the party.

A. Muckle said that he was going to say Henry told him that he did this to get his money, because if he did not convict him he would not get it.

Cross-examination:

Q. Where do you live?

A. Leland.

Q. Where do you live now?

A. Johnson's farm.

Q. What are you doing out there?

A. Putting up time.

Q. What are you putting up time for?

A. For assault and battery.

Q. As a matter of fact ain't you out there for petit larceny?

A. One charge.

Q. Sent out there for larceny?

A. No, sir.

Q. That is what petit larceny means; one charge is petit larceny and that you were sent out there for?

A. The second charge is.

Q. The first one was for assault and battery and the second for stealing, and you are on the farm for that sentence, ain't you?

A. Yes, sir.

JONES. You have not been convicted of perjury, have you?

COURT. That ain't competent.

HUMPHRIES. He has not been convicted of it; no.

HENRY WILLIAMS, sworn and testified in his own behalf as follows (colored):

Q. You are charged with having murdered one Eliza Brown; state to the _____ if you had any conversation with Ike Muckle at Shaw station concerning this case.

A. I never had no conversation with Ike Muckle at all only what he told me; he tried to fix me and make me say I killed this woman
44 and I would not tell him anything about it, and he tried to make me drunk whilst they had me under arrest, and after he could not get me drunk he said you might as well tell me that you killed this woman because I am going in court and testify that you did tell me so.

Q. Who was present at the time that he made that statement?

A. At the time he told me that there was Lou Gay Coleman sitting in the depot.

Q. You and Lou Gay Coleman were present at the time?

A. Yes, sir; and Lou Gay Coleman heard the conversation.

Q. When you got to Leland did you have any conversation then?

A. He had me in the lockup then.

Q. You heard the testimony of Gus Miles, that you made a threat against the life of this woman on the Thursday following Christmas; did you have such conversation with Gus Miles?

A. No, sir.

Q. Did you have any conversation touching this woman at all with Gus Miles?

A. No, sir; I did not.

Cross-examination:

Q. Did you kill this woman?

A. I did not say I killed her at all; I do not know whether I killed her or not; I tried to do it.

Q. But you do not know whether you killed her or not?

A. No, sir; they say so, but I don't know anything about it.

Q. Did you choke her that day?

A. No, sir.

Q. When was the last time you saw her?

A. I seen her Thursday morning.

Q. Were you with her at Brown's house?

A. Yes, sir; we goes there, me and her; we did not go there together; she went ahead of me, and another fellow named Henry Moerlin and me went there; when I got there she was there; they sent for us to come there.

Q. Did you leave there with her?

A. All three of us left the house together.

Q. Where did you go?

A. I went towards the depot and stopped.

45 Q. Did you go on to her house that day?

A. I went that evening because I had to go away.

Q. Was she there then?

A. Her and some one else; I do not know who it was.

Q. Some stranger?

A. Yes, sir.

Q. Was he a bad-looking fellow?

A. I do not know whether he was bad looking or not; I did not see his face because he was running when I seen him.

Q. You went there and saw a man who was running?

A. I saw a man running out the back door.

Q. You never told Ike Muckle that, did you?

A. No, sir.

Q. But as a matter of fact you did go there and when you got there there was a man running out of the back door?

A. Yes, sir.

Q. What did you do then?

A. I goes in; the front door was locked. When I got there I said open the door, and she never opened the door at all, and I heard somebody going out of the back door, and I goes on around the house and aimed to go in the house, and I got around to the back door and this fellow run out of the gate. I turned around and looked and said to myself, I wonder who is that; I walks on and seen him with his hat in his hand going up the lane.

Q. What sort of fellow was he?

A. A dark-skinned fellow. I went in the house and spoke to this woman. I said: "Eliza, what is the matter, what is this fuss about?" and she did not say anything to me at all no more, that ran back and grabbed a pistol and said: "You God dam' son of a bitch, I told you days and days before I was going to kill you." I said: "What for?" I had not been payin' no attention to her. She says: "I have told you if ever you run on me with a man I am going to kill you, and to-day you run on me." She says: "Prepare yourself to die, because when I go to kill you I I am going to kill myself, so that the law won't have no hold

on me," and she made at me with a pistol, and I struck her with my hand on the side of the neck.

46 Q. And she walked on towards you with the pistol in her hand?

A. And I backed back and she kept coming and she was close to me, and when she kept coming to me I did not think she was going to shoot and I was not going to give her no chance; I did not think she was going to shoot, and so she kept the pistol on me, and I seen her aim and commence to move the trigger, and I grabbed the pistol and struck her again and knocked her down and snatched the pistol out of her hand and struck her side of the neck.

Q. Which side of the neck did you hit her on?

A. I do not know which side—left or right.

Q. Did she fall then?

A. Yes, sir.

Q. What did you do then?

A. I did not do nothing; threwed the pistol on the bed and walked out of the house.

Q. Did you leave her on the floor?

A. Yes, sir.

Q. Did you cover her up?

A. No, sir.

Q. Did you tell anybody anything about it?

A. No, sir.

Q. What did you do; go away?

A. I got on the train and went to Greenwood, where I was aiming to go.

Q. How long did you stay in Greenwood?

A. I stayed there that night I got there and came on back next morning, and came back to Leland, and left Leland and went to Shaws.

Q. When Ike Muckle came up for you, did you expect he was coming for you for killing this woman?

A. No, sir; I did not suspect anything about it at all.

Q. You did not know you had killed her?

A. No, sir.

Q. You had no idea when you left her she was dead?

A. No, sir; I was after saving myself, because I seen by her looks and seen the hammer move looked like she was going to shoot anyhow; she was holding it trembling and kept coming on me, and I seen the hammer move, and I grabbed the pistol and struck her.

Q. But you did not think you had killed her?

A. No, sir.

47. Q. When this man came for you up there at Shaws, you did not think he was coming after you for killing this woman?

A. I did not know what he was coming after me for. I did not think he was coming after me at all.

Q. What did you get on the planks for?

A. I was not up there.

Q. You were not up there on the plank?

A. I was not up on the plank.

Q. What were you on?

A. When he came in the house, I was on the board.

Q. What made you go up on the board if you did not think he was after you?

A. Because I was up there eating pecans. One of the girls had some pecans hid up there and I went there to get them.

Q. When this man went and asked for Henry Williams, knocked at the door, and when Lou Gay Coleman was there, they first told him you were not there, didn't they?

A. I do not know.

Q. Didn't you hear that?

A. No, sir.

Q. Well, when Muckle went in there, you still laid up on the boards eating pecans? You stayed up there eating pecans until he climbed up on the wall and hollered at you to get down?

A. He did not holler at me; he said, "Henry, come down; I want you." I said "What?" He says, "Come on down; I want you."

Q. But you never did tell Muckle that when you went to your house the man run out behind and away from you?

A. I never told Ike Muckles anything at all. He said to me, "I will make up some kind of a tale on you," and I said, "Well, I can't help it."

Q. You did not tell him that you went there and this woman pulled a pistol out and swore she was going to kill you?

A. I did not tell him anything, I tell you.

Q. And when the woman came on you with the pistol that you knocked her down?

A. I never told him anything.

Q. And that you got on her and choked the stuffing out of her?

A. I did not tell him anything at all.

Q. As a matter of fact, when you knudeked the woman down, 48 didn't you get on her and choke her?

A. No, sir; I threwed the pistol down on the bed.

Q. Did you take your pants off?

A. No, sir; I took the pants off I had on—this pair here; these are the pants I taken off; the same pants I had on.

Q. Did you take them off and put on another pair?

A. Pulled off my pants and put on another pair; no, sir.

Q. Didn't you have on a dark pair of pants and take them off and put on another pair and then leave?

A. No, sir.

Q. You left the pistol lying on the floor?

A. On the bed.

Q. What room did you have this difficulty in?

A. In the same where we were at.

Q. What room was that?

A. Back room.

Q. Shed room?

A. It is the back room; it is not a shed room.

Q. How many rooms to the house?

A. I do not know; I suppose it was three.

Q. You stayed there pretty well all the time?

A. Yes, sir.

Q. Was this little room the room you had the difficulty in?

A. In 'his room here.

Q. But when you left her you left her lying on the floor?

A. Yes, sir.

Q. In this back room?

A. Yes, sir.

Q. You did not take her in the next room and cover her up with anything?

A. I never put my hands on her after I knocked her down.

Q. Did you take the pistol away from her?

A. After I struck her she turned the pistol aloose and I took the pistol and struck her again with the pistol and took it and throwed it down on the bed.

Q. You hit her in the neck every time you hit her?

A. Yes, sir.

Q. With your fist you hit her in the neck and with that pistol you hit her in the neck?

A. Yes, sir.

49 Q. Do you know whether you cut her in the neck?

A. I never paid any attention to it at all.

This is all the evidence in the case.

I, W. J. Buck, official stenographer of the fourth circuit court, dist. of Miss., hereby certify the foregoing pages to contain a true copy of the evidence taken on the trial of the case of State of Miss. vs. Henry Williams, No. , charged with murder, and tried at the June, 1896, term of the circuit court of Washington County.

Signed July 3rd, 1896.

W. J. BUCK.

In the testimony of State witness, Addie Brown, the defendant objected to her statement as to what was said about a pistol. The court excluded all the conversation about the pistol, but allowed the statement that witness saw defendant have pistol to go to the jury, and the defendant excepted, after all the evidence was in, the State having rested.

The district attorney argued to the jury the fact that the defendant showed State witness Addie Brown a pistol and put it back in his pocket, as objected to by defendant, and the fact that the deceased in all probability carried her money usually in her stocking leg, and that the defendant murdered her and stripped the stocking down over the foot to get the money she had. The argument about the pistol having been ruled out in the evidence after it had gone to the jury, the defendant asked that the district attorney's argument in that respect be ordered to the jury by the court, not to be considered in determining their verdict. The court declined to instruct the jury, and the defendant then and there excepted.

Asked the court to instruct the jury not to consider the argument of the district attorney that the defendant knew the deceased had money in her stocking, and that he killed her and stripped her stocking down over the foot of the deceased, as testified by State witness, Tom. Jones. The court denied the motion to exclude, and the defendant then and there excepted.

50 The court gave the following instructions for the State, to which the defendant excepted: "The court instructs the jury, that if they believe from the evidence beyond a reasonable doubt that the defendant

deliberately killed the deceased, when he was in no danger, real or apparent, of receiving at the hands of deceased some great bodily harm, they must find him guilty as charged."

2nd instructions: The court instructs the jury that if they find the defendant guilty as charged the court will sentence him to be hanged; but if they believe from the evidence beyond a reasonable doubt that defendant is guilty as charged they may find him guilty as charged and fix his punishment at imprisonment in the penitentiary for life. But the court further instructs the jury that if they believe from the evidence beyond a reasonable doubt that the defendant is guilty as charged, but disagree as to the punishment, then they must return a verdict of guilty as charged.

Given June 16th, 1896.

W. K. GILDART, *Clerk.*

The court was asked the following instructions for the defendant: The court instructs the jury that if they believe from the evidence that the deceased was at the time of the difficulty making an overt demonstration toward the accused with a deadly weapon, and that had reason to apprehend the commission of some bodily harm from the hands of the deceased, and that he acted in the light of such fear and struck the deceased and killed her, you are not warranted in finding him guilty of murder, but must acquit. The court modified this instruction by striking out the word "apprehend" and inserted the words "Believe from the acts of deceased," and the court struck out the words "in the light of such fear," as last written in said instruction, and inserted the following: "On such belief," to which action of the court the defendant then and there excepted.

1st instruction for defendant: The court instructs the jury that if you believe from the evidence that defendant killed deceased in heat of passion in a sudden encounter and not of malice aforethought, you will find guilty of manslaughter.

Given June 16th, 1896.

W. K. GILDART, *Clerk.*

On the 19th day of June, said term, the jury having found the defendant guilty as charged, whereupon following judgment was rendered by the court:

Judgment.

STATE OF MISSISSIPPI }
vs. } No. 4481.
 HENRY WILLIAMS. }

This day came the district attorney who prosecutes on behalf of the State and the defendant, Henry Williams, in his own proper person, and it appearing to the court that the defendant, Henry Williams, had been solemnly arraigned and charged on the indictment herein of a charge of murder and plead not guilty on a former day of this term of this court, thereupon came a jury of good and lawful men, to wit: S. R. Guise and eleven others who, being duly empanelled and sworn to well and truly try the issue joined herein between the State of Mississippi and the said

defendant Henry Williams of a charge of murder and a true verdict give according to the law and evidence, who, after hearing the evidence and receiving the instructions of the court, retired in charge of L. E. Clarke and Grafton Baker, bailiffs, specially sworn by the court to attend to them to consider of their verdict, and having considered of the same returned into open court in charge of their said bailiffs and in the presence of the defendant, Henry Williams, rendered the following verdict, to wit: We, the jury, find the defendant guilty as charged, and the said Henry Williams being brought to the bar of the court was asked if he had anything to say why the sentence of the law should not be passed upon him, answering said he had naught to say, whereupon the court ordered that

the said Henry Williams be taken to the county jail and confined therein and there safely kept by the sheriff of Washington

County until Thursday, the 30th day of July, 1896, when the said sheriff of said county shall, between the hours of 9 a. m. and 5 p. m., hang the said Henry Williams by the neck until he is dead; said execution shall take place within the walls of said jail or within the inclosed yard of said jail, unless the board of supervisors of Washington County shall order that said execution shall be at some other place designated by them. It is further ordered that the clerk of this court furnish the said sheriff a certified copy of this order and that he also issue the proper writ of execution.

The accused moved for a new trial.

STATE
vs.
HENRY WILLIAMS. } 4481.

Now comes the defendant in this cause, and moves the court that the verdict of the jury in this cause be set aside and he be awarded a new trial.

(1) Because the verdict is contrary to the law and the evidence.

(2) Because under the law the question of overt demonstration by the deceased and apprehension of danger therefrom on the part of the accused was never disproven or put in issue by the State, and under the instruction from the court on that point the jury was not warranted in bringing the defendant in guilty as charged.

(3) The court erred in overruling the defendant's objection to the testimony of Addie Brown and permitting the district attorney to argue the fact concerning a pistol defendant showed her, and erred in refusing to instruct the jury not to consider such fact.

(4) The court erred in refusing to instruct the jury to not consider argument of district attorney that deceased carried her money in her stocking, and that the defendant killed her and stripped the stocking down over the deceased' foot and took the money therefrom, when there was no such evidence in the case.

53 (5) The court erred in refusing to instruct the jury to not consider the confession testified to by witness I. M. Muckle, because the State failed to show that the said confession by the accused was free and voluntarily, and granting first instructions for the State.

(6) The court erred in overruling the motion to quash the indictment, and also erred in denying the petition for removal of the trial into the United States circuit court.

C. J. JONES,

Attorney for Henry Williams, Defendant.

Filed June 19th, 1896.

W. K. GILDART, *Clerk.*

The court, after hearing the same, overruled said motion, and the defendant then and there excepted.

STATE OF MISSISSIPPI }
vs. } No. 4481.
 HENRY WILLIAMS, }

This cause coming on to be heard, and the defendant being in open court on a motion for a new trial, and the court being sufficiently advised, it is ordered by the court that the same be, and is hereby, overruled, to which action of the court the defendant then and there excepted, and he be allowed sixty days to file his bill of exceptions; therefore defendant tenders this his bill of exceptions, and that the same be made a part of the record of said cause, and that the same be signed and sealed accordingly as the law directs, which is so ordered.

Signed this the 19th day of June, A. D. 1896.

R. W. WILLIAMSON,

Presiding Judge of the Fourth Judicial District of Mississippi.

Filed Sept. 8th, 1896.

W. K. GILDART, *Clerk.*

54 *To the circuit clerk of Washington County, Miss.*

Whereas, on the 16th day of June, 1896, Henry Williams was tried in the circuit court of said county for murder, and convicted, and sentenced to be hanged on July 30th, 1896, said Henry Williams feels aggrieved thereby, and prays an appeal to the supreme court of said State according to law.

HENRY WILLIAMS.

C. J. JONES, *Attorney.*

STATE OF MISSISSIPPI, *Washington County:*

I, Henry Williams, do this day solemnly swear, that I am a citizen of the State of Mississippi, and that by reason of my poverty I am not able to pay or secure the costs of the court, in consequence of the appeal which I am about to take, from the judgment of the circuit of said county rendered against me in case No. 4481, to the supreme court of the State of Miss., and I verily believe I have a just cause of action in taking said appeal.

HENRY x WILLIAMS,
mark.

Sworn to and subscribed before me the 19th day of June, 1896.

W. K. GILDART, *Clerk.*

By J. A. SHALL, *D. C.*

Filed June 19th, 1896.

W. K. GILDART, *Clerk.*

By J. A. SHALL, *D. C.*

STATE OF MISSISSIPPI, *Washington County*:

I, Wm. K. Gildart, clerk of the circuit court of Washington County, State of Mississippi, do hereby certify that the foregoing 51 pages contain a true and perfect copy of the record and proceedings had at the January term, 1896, in the case of State of Mississippi vs. Henry Williams, as the same appears of record in my office.

Given under my hand and official seal this the 30th day of Sept., 1896.

[SEAL.]

WM. K. GILDART, *Circuit Clerk.*

55 The foregoing transcript endorsed, "Filed October 8th, 1896. E. W. Brown, clerk, by C. C. Campbell, D. C."

Proceedings in Supreme Court.

And on the 26th day of October, 1896, the following order was made, to wit:

HENRY WILLIAMS
v.
STATE OF MISSISSIPPI. } 8506.

Submitted on brief by Mr. C. J. Jones for the appellant, with leave to the attorney-general to file brief during the week.

And on the 9th day of November, 1896, the following opinions were filed, to wit:

56 8504. John Henry Dixon v. State of Mississippi.

Cooper, C. J., delivered the opinion of the court.

The appellant has been indicted, convicted, and sentenced to imprisonment for life for murder of one Nancy Minor. In the court below the defendant made a motion to quash the indictment, and when the motion was overruled he moved for a transfer of the cause from the State to the Federal court. This motion was also denied. The action of the court in refusing to quash the indictment and in denying the petition for a transfer of the cause constitute the principal errors assigned. The motion and the petition set out, in effect, the same fact; and affidavits of several persons were filed that the matters therein stated were, as affiants believed, true. The purpose of the motion seems to have been primarily to assail the validity of all the laws passed since the adoption of our recent constitution, and of that constitution itself, on the ground that said constitution and laws are obnoxious to the fourteenth amendment to the Constitution of the United States. The motion is too long to be inserted in this opinion. It states some facts, many inferences and deductions, and an argument to show that the conditions resulting from the adoption of the constitution are incompatible with the rights guaranteed to the colored race by the fourteenth amendment. Compressed with reasonable limits, the substance of the motion is that the constitutional convention was composed of 134 members, of which 133 were whites and one only a negro; that the purpose and object of said constitution was to disqualify, by reason

of their color, race, and previous condition of servitude 190,000 negro voters; that the constitution was not submitted to the vote of the people, and that the representation of the State in Congress has not been reduced, as it should have been upon the disqualification of so great a number of voters; that sections 241, 242, and 244 of the constitution of this State are in conflict with the fourteenth amendment of the Constitution of the United States, because they vest in administrative officers the power to discriminate against citizens by reason of their color; and that the purpose of so investing such officers with such power was intended by the framers of the State constitution to the end that it should be used to discriminate against the negroes of the State. We will recur to the contents of the motion hereafter, for the purpose of considering such averments as seem more nearly related to the subject under investigation, viz, the competency and legality of the grand jury by which the indictment against appellant was returned. At this point in the investigation it is sufficient to say that we have no power to investigate or decide upon the private, individual purposes of those who framed the constitution, the political or social complexion of the body of the convention, and have no concern with the representation of the State in Congress. We can deal only with the perfected work—the written constitution adopted and put in operation by the convention. We have heretofore decided that it was competent for the convention to put the constitution in operation without submitting for ratification by the vote of the people. *Sproule v. Fredricks*, 69 Miss., 898.

We find nothing in the constitutional provisions challenged by the appellant which discriminate against any citizen by reason of his race, color, or previous condition of servitude. Section 241 declares who are qualified electors, section 242 makes it the duty of the legislature to provide for the registration of persons entitled to vote, and section 244 declares that "on and after the first day of January, A. D. 1892, every elector shall, in addition to the foregoing qualification, be able to read any section of the constitution of this State, or he shall be able to understand the same when read to him or give a reasonable interpretation thereof. A new registration shall be made before the next ensuing election after January the first, A. D. 1892." All these provisions, if fairly and impartially administered, apply with equal force to the individual white and negro citizen. It may be, and unquestionably is, true that, so administered, their operation will be to exclude from the exercise of the elective franchise a greater proportionate number of colored than of white persons. But this is not because one is white and the other is colored, but, because of superior advantages and circumstances possessed by the one race over the other, a greater number of the more fortunate race is found to possess the qualifications which the framers of the constitution deemed essential for the exercise of elective franchise.

We have searched the record in vain to discover any averment that the officers of the State charged with the duty of selecting jurors in any manner exercised the power devolved upon them to the prejudice of the appellant by excluding from the jury list members of the race to which he belongs. The motion contains much irrelevant matter, set up with great prolixity, and in involved and obscure language. But repeated and

careful examination conducts us to the conclusion that much of its seeming obscurity vanishes when we read the motion in the light of the opinion entertained by counsel as to how the supposed discrimination has been made. He did not intend to charge by the motion that the officers by whom the grand jury was selected violated the law, but that they were, by the law under which they acted, required to select jurors from certain lists furnished to them by the officers charged with the duty of holding elections in the State, and that these election officers in making such lists discriminated against the race of appellant. In this view the motion was properly denied for the reason that jurors are not selected from or with reference to, any lists furnished by such election officers. No such list is required to be made for use in selecting jurors, nor does the motion distinctly charge that any such was returned to the officers charged with the duty of selecting jurors, and by them used. The motion is based on the assumption that such list was essential to the selection of the grand jury and without it no jury could be drawn, and that the list was made by discriminating against the negro race.

59 Our laws in reference to elections and in reference to the selection of grand and petit juries are totally distinct. To be an elector, or to serve upon a jury, one must be registered as a voter. But the acts and doings of those charged with holding elections can exercise no influence upon those by whom the juries are selected. One may be denied the right to vote by the election officers, and yet be permitted to sit upon juries, grand or petit; one may be ineligible to sit upon a jury, and yet qualified and permitted to vote. By section 241 of the constitution it is provided that "every male inhabitant of this State, except idiots, insane persons, and Indians not taxed, who is a citizen of the United States, twenty-one years old and upwards, who has resided in this State two years and one year in the election district, or in the incorporated city or town in which he offers to vote, and who is duly registered as provided in this article, and who has never been convicted of bribery, burglary, theft, arson, obtaining money or goods under false pretenses, perjury, embezzlement, or bigamy, and who has paid on or before the first day of February of the year in which he shall offer to vote all taxes which may have been legally demanded of him, and which he has had an opportunity of paying according to law, for two preceding years, and who shall produce to the officer holding the election satisfactory evidence that he has paid said taxes, is declared to be a qualified elector; but any minister of the gospel, in charge of an organized church, shall be entitled to vote after six months' residence in the election district, if otherwise qualified." Section 264 declares who shall be qualified as jurors. It is as follows: "No person shall be a grand or petit juror unless a qualified elector and able to read and write; but the want of any such qualification in any juror shall not vitiate any indictment or verdict. The legislature shall provide by law for procuring a list of persons so qualified, and the drawing therefrom of grand and petit jurors for each term of the circuit court." It is not necessary that one desiring to register shall have paid his taxes as prescribed by section 241.

60 That has to do with voting, and not registration. *Bew v. State*, 71 Miss., 1. One who has registered, and has in fact paid his taxes, although he has not offered to vote, and therefore has not produced to the

officers holding an election satisfactory evidence of such payment, and who can read the constitution (*Mabry v. State*, 71 Miss., 716) and write, is qualified, under the constitution, to sit as a juror. It is true that section 241, in declaring who are electors, seemingly imposes, as an essential qualification, that the elector not only shall have paid his taxes, but also shall have produced satisfactory evidence thereof to the officers holding an election. But the section must have a reasonable and sensible construction. Registration and payment in fact of the taxes as prescribed are the substantial things required to qualify one as an elector. Proof of the fact that taxes have been paid, to the satisfaction of the election officers, is also required when the elector comes to vote; but when he is presented as a juror such payment is proved before the court, and not by the fact that he has been permitted to vote. If in truth he has paid his taxes, and possesses the other requisite qualification, the fact that he has never offered to vote, and therefore has never "produced to the officers holding an election satisfactory evidence that he has paid said taxes," or if, offering to vote, has failed to satisfy the officers that he has paid taxes, does not render him ineligible as a juror.

Section 2358 of the code prescribes how the jury lists shall be made. It provides that "the board of supervisors at the first meeting in each year, or at a subsequent meeting if not done at the first, shall select and make a list of persons to serve as jurors in the circuit court for the next two terms to be held more than thirty days afterwards, and as a guide in making the list they shall use the registration books of voters, and it shall select and list of names of qualified persons of good intelligence, sound judgment, and fair character, and shall take them, as nearly as it conveniently can, from the several election districts, in proportion to the number of qualified persons
61 in each, excluding all who have served on the regular panel within two years, if there be not a deficiency of jurors." It is from the list thus made that grand and petit juries are drawn. The sections of the code under which appellant claims that he was discriminated against have relation, not to the selection of juries, but to the subject of registration and voting, and his contention is not that persons entitled to register were denied registration by the registrar, but that the managers of the elections are by law made judges of the qualifications of the electors offering to vote, and have denied to persons qualified to vote the right so to do. Conceding this to be true, we fail to perceive in what manner the appellant has been injured. The managers are required to supervise the election, and are authorized to examine on oath any person duly registered and offering to vote touching this qualification as an elector. They are judges of the qualifications of such persons, and may deny the right to vote to one not entitled, though he be registered; but they have no power to strike the name of such persons from the books, nor to put any additional names thereon. The registration book of the county does not go into the possession of the managers of the election, but are furnished with poll books, which contain the names of the registered voters in the district, copied from, or made contemporaneously with, the registration book. As votes are cast, one of the clerks of the election takes down on a list the names of the voters, while the other enters a check upon the poll book opposite the name of such per-

son, and at the close of the election the votes are counted and result declared. And the statute provides that "the statement of the result of the election district shall be certified and signed by the managers and clerks, and the poll books, tally lists, list of voters, ballot boxes and ballots shall be delivered as required to the commissioners of the election." Code § 3670. This is the only list known to us that the law requires to be made by the officers. It does not show, or purport to show, who are qualified electors, but only who have voted; and it has no relation except to matters connected with the election, and performs no function in reference to the selection of jurors. The boards of supervisors, by which bodies jury lists are made, never see these lists. They are returned and dealt with by the election commissioners—a wholly different body. And so, if it be true that the managers of the elections have discriminated against colored voters and unlawfully denied them the right to vote, it does not appear how the appellant has been deprived of any advantage or protection afforded to him either by the constitution or laws of this State or by the Constitution of the United States.

There is no suggestion in the motion that the jury commissioners were guilty of any fraud or discrimination in selecting the jurors. If in truth there was no registration book in the county to guide them in their selection of the jurors their action in making the jury list was irregular, and, upon objection made before the grand jury was impaneled, the panel would have been quashed. *Purvis v. State* (Miss.), 14 South., 268. But our statute provides that "before swearing any grand juror as such he shall be examined by the court, on oath, touching his qualification, and after the grand jurors shall have been sworn and impaneled no objection shall be raised, by plea or otherwise, to the grand jury, but the impaneling of the grand jury shall be conclusive evidence of its competency and qualification, but any party interested may challenge or except to the array for fraud." *Head v. State*, 44 Miss., 731; *Durrah v. State*, 44 Miss., 789. In *Neal v. Delaware*, 103 U. S., 370, *Gibson v. State*, 162 U. S., 565, the Supreme Court of the United States has thoroughly discussed the subject of the right of a negro to the impartial protection of the law, and has clearly expressed the circumstances under which, and the means by which, that right is to be vindicated. If, by the constitution and laws of the State, negroes are, by reason of their race, color, or previous condition of servitude, excluded from juries, or in such other manner discriminated against as that fair and impartial trial can not be had in the State courts, then a negro proceeded against in the courts of the State may have his cause removed to the courts of the United States for trial. If there is no discrimination by the law, but the complaint is that by the act of the officers of the State, charged with the administration of fair and impartial laws, discrimination has been made against the race, the defendant may not have a removal of his cause, but must make his defense in the State courts and appeal from the final judgment of the supreme court of the State to the Supreme Court of the United States. In *Gibson v. State of Mississippi*, supra, the Supreme Court of the United States declared that neither the constitution nor laws of this State prescribed any rule for, or mode of, procedure in the trial of criminal cases which is not equally applicable to

all citizens of the United States and to all persons within the jurisdiction of the State, without regard to race, color, or previous conditions of servitude. We can discover nothing in the record which shows that the appellant, either by the laws of this State or by their administration, has been denied the right of a fair and impartial trial. The motion to quash the indictment and for removal of the case were properly overruled. We have dealt with the case upon the assumption that the facts set out in the motion are true. No objection was made in the court below because the proof was made by affidavits instead of by witnesses, and it is common practice in our courts, in the absence of objection, to hear affidavits on motions.

The error assigned touching the action of the court in admitting evidence of the state of feeling of the appellant towards the woman Lavinia, at whom the shot was fired that killed Nancy Minor, is not maintainable. The defendant himself, on cross-examination of the witness Eliza Minor, drew out this evidence. But aside from this, the evidence was entirely competent as tending to show *quo animo* the fatal shot was fired. The judgment is affirmed.

64

Opinion.

HENRY WILLIAMS }
v.
 THE STATE OF MISS. }

Whitfield, J.

This cause is construed by the opinion this day delivered by Chief Justice Cooper of *John Dixon v. State*.

We find no error, and the judgment is affirmed.

And on Monday, the 9th day of November, 1896, the following final judgment was rendered, to wit:

HENRY WILLIAMS }
v.
 STATE OF MISSISSIPPI. } 8506.

This cause having been submitted on a former day of this term on the record herein from the circuit of Washington County, and this court having sufficiently examined and considered the same, and being of opinion that there is no error therein, doth order and adjudge that the judgment of said circuit court rendered in this cause at the June term thereof, A. D. 1896, be, and the same is, hereby affirmed. It is further considered, and so ordered and adjudged by this court, that the appellant, the said Henry Williams, for such his crime of murder, be kept in close confinement in the jail of said county until Thursday, the 10th day of December, 1896, on which day, between the hours of 11 o'clock a. m. and 4 o'clock p. m., he, the said Henry Williams, shall be, by the sheriff of said county, within the inclosure of said jail or at such other place of execution as the board of supervisors may designate according to law, hanged by the neck until he be dead.

65 In the supreme court of Mississippi.—Application for a writ of error.

To the Honorable Thomas H. Woods, Chief Justice of the Supreme Court:

This petition respectfully shows unto this honorable court that at the June term, 1896, of the criminal court of the county of Washington, State of Mississippi, relator Henry Williams was in open court arraigned upon a charge of murder, and that said accused then and there filed and tendered a motion to quash the said indictment. The accused alleged as grounds therefor that the bill of indictment was not returned by a regular grand jury, according to the law, because said grand jury was not lawfully selected, summoned, sworn, and charged according to the law. Relator charged that the said jury was selected by and under the enforcement of the present constitution of the State and the operation of the several sections of the present statute of the State regulating the registration and qualifications of electors, to wit, sec. 241, 242, 244 of the constitution of said State and sections 3643, 3644 of the statutes, and which several sections of the respective laws were enacted for the express purpose of effecting a denial to the negroes of the State the right of elective franchise because of their race, color, and previous conditions of servitude, and that the condition of the previous servitude is that of slavery formerly existing in this State, to which the accused and members of his race were formerly subjected; both as such ex-slaves and to the effect the desired end, the framers of the present constitution provided in § 242 of that instrument that the register of the several counties of the State should be vested with certain discretionary power as to the qualification of persons applying for the registration, which registration is essential to the one right to vote or serve on jury. That convention which enacted the constitution then and there at said session delegated certain power to the legislature of the State in further regulation of the subject of registration; 66 but in order to make certain its intent aforesaid provided that the election for members of the legislature next after the enactment of said constitution should be by an ordinance of that body, and said convention knowing its members did, that the discretion left to the certain officers mentioned therein was for the purpose of effecting the disfranchisement of a majority of the male negro citizenship of the State, the said convention refused to submit that the instrument to the popular vote of the State, knowing as a fact that the calling said convention was not submitted to the popular vote of the State; but said convention arbitrarily declared the said constitution adopted and ordered an election for members of the legislature to perfect the plan. Thus the election held in Nov., 1891, at which 190,000 negro citizens of the State and of the United States fully qualified to have voted at such election, other than the arbitrary exercise of the discretionary power intentionally provided as aforesaid, were denied the right to register prior to the election or vote at said election, yet the legislature of 1892, which enacted the several code sections referred to herein, were by that constitutional provision elected. The accused further stated in his said motion that by virtue of the exercise of the discretion so provided as aforesaid by the register of Washington County the negro race in said county is totally excluded from

jury service, and that the jury which returned the indictment was composed entirely of white men, to the entire exclusion of members of relator's race, on account of their color, race, and previous condition of servitude as aforesaid, and the purposes otherwise named. The accused further stated that by virtue of the enforcement of the present laws of said State at the election for members of the legislature in 1891 aforesaid 190,000 negroes were denied the right of elective franchise who had hitherto enjoyed such privileges in said State under the provisions of the constitution of 1869 and code of 1880, and that this denial was the

67 result of the conduct of the administrative officers of the State by virtue of the power given said officers under the organic and statute laws of the State, which power was purposely provided in said laws for the disfranchisement of the negro voters of the State who were otherwise qualified, and that the laws aforesaid and enforcement aforesaid are all on account aforesaid and purpose aforesaid. Relator stated that the representation of Mississippi in Congress before the adoption of said laws was seven Representatives and two Senators, and though the present laws, at the time of this presentment of the indictment, were made and enforced at the election aforesaid, which resulted as aforesaid, the representation of said State in Congress has not been reduced according to the terms of the Federal Constitution, and therefore were not enforceable at the time of said indictment was returned or the time of which the grand jury was selected and organized.

This motion was sworn to and supported by separate affidavits upon the acknowledge and belief of the affiants.

The court then and there overruled the motion, and relator excepted at the time. After the arraignment the accused filed and tendered to the consideration of the court of the United States; the accused alleged substantially the same grounds therefor as he alleged in the motion to quash the indictment, which are herein averred; and the accused further alleged in the petition for removal that, by virtue of the enforcement of the present constitution and statute of the State, he was denied the right of a fair and impartial trial, and that he could not secure such trial in said State court.

The court denied this petition, and the defendant then and there excepted. After the trial and conviction, the accused made a motion for a new trial, and brought the notice of the trial court the error in denying the motion to quash the indictment and the denial of the petition for removal. The court overruled the application, and the accused then and there excepted. In due course of time the case was regularly certified to the supreme court of Mississippi, being the highest

68 court of appeals in said State, and the error in the ruling of the trial court in denying the motion to quash the indictment and the denial of the petition for the removal of the cause were assigned as error to said supreme court. Relator states that the case has been by the supreme court adjudged upon its merits, and the final judgment by the court was rendered affirming the judgment of the trial court, on the 9th day of Nov., 1896, and the 10th day of Dec., 1896, the governor of said State respited the accused for a number of days; now the accused feels aggrieved by the judgment of the supreme court affirming the judgment of the trial court, and doth therefore pray that he be granted the writ

of error in this cause to the Supreme Court of the United States to operate as superseded, and in duty bound doth ever pray,

HENRY WILLIAMS,
Relator.
CONELIOUS J. JONES,
Attorney for Relator.

THE STATE OF MISSISSIPPI, *Washington County:*

This day personally appeared before me the undersigned acknowledging officer in and for said county, C. J. Jones, who, being duly sworn, deposes and says, that the facts set out in the foregoing petition are true and correct as stated:

C. J. JONES.

Sworn to and subscribed this the 12 day of Dec., 1896.

[SEAL.]

HARRY SMITH,
J. P. and ex off. Not. Public.

69 Supreme court consultation room, State of Mississippi.

It is ordered that a writ of error in the within-named case be allowed from the judgement of the supreme court of Mississippi to the Supreme Court of the United States, and that the same operate as a supersidios, but without bail.

In witness whereof, hereto affix my signature this December 13, 1896.

THOMAS H. WOODS,
Chief Justice of Mississippi.

Filed Dec. 13, 1896.

E. W. BROWN, *Clerk.*
By C. C. CAMPBELL, *D. C.*

70 Know all men by these presents, that we, Henry Williams, principal, and C. J. Jones and H. E. Jones, sureties, are held and firmly bound unto the State of Mississippi in the penal sum of one hundred dollars, well and truly to be paid upon the following conditions: Whereas said Henry Williams has prayed an appeal by writ of error to the Supreme Court of the United States from a judgment and sentence rendered by the supreme court of Mississippi on the 9 day of Nov., 1896, and said appeal has been regularly allowed by the said State court. Now, then, this obligation is such, that should said Henry Williams prosecute his said writ of error with success before the said United States Supreme Court, this bond is void and for nothing held, but should said Henry Williams fail to prosecute said writ with successful effect, then this obligation is of full force and virtue for all costs awarded the State of Mississippi by the Supreme Court of the United States.

Witness our signatures this the 18 day of Dec., 1896.

HENRY WILLIAMS.
his
H. E. x JONES.
mark.
C. J. JONES.

STATE OF MISSISSIPPI, *Washington County:*

This day personally appeared before the undersigned, an acknowledging officer for said county, H. E. Jones and C. J. Jones, who, being first duly sworn, deposes and say that H. E. Jones is worth the penalty of the foregoing bond, in visible reality, subject to execution.

C. J. JONES.

Sworn to and subscribed this the 18 day Dec., 1896.

HARRY SMITH, *J. P.*

Approved:

Chief Justice.

Filed Dec, 13, 1896.

E. W. BROWN, *Clerk.*

By C. C. CAMPBELL, *D. C.*

71

United States of America.

The President of the United States to the honorable the judges of the supreme court of the State of Mississippi, greeting:

Because in the record process and proceedings had and final judgment and sentence rendered by you in your said court, on the 9th day of November, 1896, in a cause lately pending therein (being the highest court of law in said State in which a decision could be had in said suit), wherein Henry Williams was appellant on appeal from the judgment and sentence of the circuit court of Washington County in said State, in said suit, in which said suit is involved a construction of the Constitution and the laws of the United States, and wherein by the said judgment and sentence of said circuit court of Washington County, as well as the judgment and sentence of your said supreme court, the rights of said Henry Williams, as a citizen of the United States, as guaranteed by the Federal Constitution, have been abridged and denied, as is alleged in the application of said Henry Williams, whereby manifest error hath happened to the great damage of said Henry Williams.

And the said Henry Williams having prayed for and obtained a writ of error from said judgment and sentence of said supreme court of Mississippi in said cause—which was granted by Hon. Thomas J. Woods, chief justice of said court, to operate as supersedeas without bail—and said Henry Williams having given bond for costs, we being willing that error, if any hath been, should be duly corrected and full and speedy justice done to the party aforesaid in this behalf, do command you, if the judgment and sentence therein hath been rendered, that then, under your seal, distinctly and openly, you send the records and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the second Monday of October next, in the said Supreme Court to be then and there held, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to laws and custom of the United States

72

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, the 16th day of January, in the year of our Lord 1897.

[SEAL.]

L. B. MOSELEY,
Clerk of the Circuit Court United States
for the Southern District of Mississippi.

Filed Jan'y 18, 1897.

E. W. BROWN, Clerk.
By C. C. CAMPBELL, D. C.

73 *The President of the United States to the State of Mississippi and to Hon. W. N. Nash, the Attorney-General of the State of Mississippi:*

You are hereby cited and admonished to be and appear at a term of the Supreme Court of the United States, to be holden at Washington on the second Monday of October next, pursuant to a writ of error filed and lodged in the office of the clerk of the supreme court of Mississippi, wherein Henry Williams is plaintiff in error and you are defendant in error, to show cause, if any there be, why the judgment and sentence rendered against the plaintiff in error, in said writ of error mentioned, should not be corrected and speedy justice be done to the party in that behalf.

Witness the Honorable Thomas H. Wood, chief justice of the State of Mississippi, January 18th, A. D. 1897.

THOMAS H. WOODS,
Chief Justice of the Sup. Ct. of Miss.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this January 18th, 1897.

[SEAL.]

L. B. MOSELEY,
Clerk U. S. Circuit Court, So. Dist., Miss.

Filed this January 18th, 1897.

[SEAL.]

E. W. BROWN,
Clerk.
By C. C. CAMPBELL,
Deputy Clerk.

I hereby acknowledge service of this writ and waive further execution this January 18, 1897.

WILEY N. NASH,
Attorney-General for Mississippi.

Filed Jan'y 18, 1897.

E. W. BROWN, Clerk.

74

State of Mississippi, supreme court.

I, E. W. Brown, clerk of the supreme court of Mississippi, hereby certify that the above and foregoing is a true copy of the final record.

being the proceedings and judgment in the case of No. 8506, Henry Williams v. State of Mississippi (including the opinion in the case of Dixon v. The State, to which opinion in said Williams case refers), and the proceedings for appeal to the Supreme Court of the United States, being copies of the application for writ of error and order granting same, the original writ of error, original bond, and original citation, as the same appear of record and on file in said office. Said case of Henry Williams v. State of Mississippi being lately determined by said supreme court on appeal from the circuit court of Washington County.

Witness my hand and seal of said supreme court at office at Jackson this 3rd day of September, 1897.

[SEAL.]

E. W. BROWN, *Clerk.*

By C. C. CAMPBELL, *D. C.*

Fees for above transcript, \$39.50, which is still due and unpaid.

E. W. BROWN, *Clerk.*

By C. C. CAMPBELL, *D. C.*

(Indorsement on cover:) Case No. 16744. Mississippi supreme court. Term No., 531. Henry Williams, plaintiff in error, vs. The State of Mississippi. Filed December 10th, 1897. Office Supreme Court of U. S. Received Sept. 8, 1897.