

Warrant for the execution
Joseph J. Gager

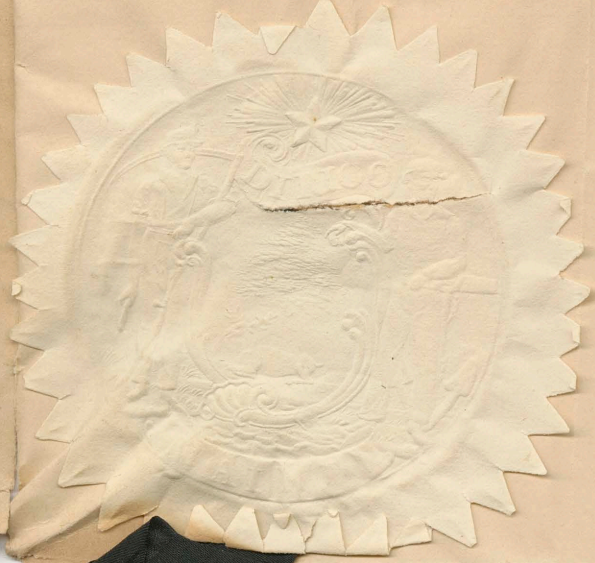
1835

Returned July 3. 1835

State of Maine.

To George W. Stanley, Esquire, Sheriff of our
County of Kennebec.

Greeting.



Whereas, before our Supreme Judicial Court, begun
and holden at Augusta, within and for our said
County of Kennebec on the first Tuesday of October
in the year of our Lord one thousand eight hundred
and thirty four, Joseph J. Sager, of Gardiner in
our said County of Kennebec, Sadder, was convicted
of the crime of Wilful Murder; and thereupon
by our said Court, was adjudged and sentenced to
suffer the pains and penalty of Death, by being hanged by the
neck until he shall be Dead; as to us doth fully appear by the
exemplification of the record of our said Court hereunto annexed.

We, therefore, command you that on Friday the
second day of January next, between the hours of eleven of
the clock in the forenoon, and two of the clock in the afternoon
of the same day, at some suitable place therefor in the
town of Augusta, within our said County of Kennebec, you cause
execution of the sentence of our said Court, upon him the
said Joseph J. Sager, in all respects to be done and performed:
for which this shall be your sufficient Warrant. Hereof
fail not at your peril; and make return of this Writ, with
your doings thereon into our Secretary of State's Office, within
twenty days after you shall have executed the same.

Witness Robert P. Dunlap, Esquire our Governor,
with the advice and consent of our Council,
and our Seal hereunto affixed, at Augusta
aforesaid, this twelfth day of December in
the year of our Lord one thousand eight
hundred and thirty four, and in the fifty
ninth year of the Independence of the United
States of America.

By the Governor with the
advice and consent of the Council }

W. S. Greene Secretary of State

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Kennebec Co. January 2. 1835. In pursuance of this Warrant, at a suitable place in the town of Augusta, on this second day of January 1835. between the hours of eleven of the clock in the forenoon, and two of the clock in the afternoon, I caused the within named Joseph J. Packer, to be hanged by the neck until he was dead, in execution of the sentence, of the Supreme Judicial Court of this State —

Geo. W. Stanley ³ Sheriff of Kennebec.

Seal

State of Maine.

Kennebec Co.

Supreme Judicial Court October Term, A.D. 1834.

State of Maine vs. Joseph J. Leger for the murder of Phoebe Leger.

The Jurors for the State aforesaid upon their oath present that Joseph J. Leger of Gardiner in the County aforesaid: Gadder of his malice aforethought contriving and intending one Phoebe Leger with poison feloniously to kill and murder, on the fifth day of October now current with force and arms at Gardiner aforesaid in the County aforesaid a large quantity of white arsenic being a deadly poison with a certain quantity of wine, feloniously wilfully and of his malice aforethought, did mix and mingle; he the said Joseph J. Leger then and there well knowing the said white arsenic to be a deadly poison, and that the said Joseph J. Leger afterwards on the said fifth day of October at Gardiner aforesaid in the County aforesaid the poison aforesaid so as aforesaid mixed and mingled with the wine aforesaid feloniously, wilfully, and of his malice aforethought did present and give to her the said Phoebe Leger, to take drink and swallow down; and that the said Phoebe Leger not knowing that the poison ^{applied} in the wine aforesaid to have been mixed and mingled as aforesaid, afterwards to wit on the same fifth day of October aforesaid at Gardiner in the County aforesaid the poison aforesaid so as aforesaid mixed and mingled, by the persuasion and procurement of the said Joseph J. Leger did take drink and swallow down; and thereupon the said Phoebe Leger by the poison aforesaid so mixed and mingled as aforesaid by the said Joseph J. Leger and so taken drunk and swallowed down as aforesaid became then and there sick and distempred in her body, and the said Phoebe Leger, of the poison aforesaid, and of the sickness and distemper occasioned thereby, afterwards on the said fifth day of October at Gardiner aforesaid in the County aforesaid died. And so the Jurors aforesaid upon their oath aforesaid do say that the said Joseph J. Leger her the said Phoebe Leger in manner and form and by the means aforesaid then and there, feloniously, wilfully, and of his malice aforethought did kill and murder; against the peace of said State and contrary to the form of the statute in such case made and provided

And the Jurors aforesaid upon their oath aforesaid do further present, that

the

the said Joseph J. Gager, feloniously, willfully and of his malice
aforethought contriving and intending on Phebe Gager with poison
feloniously willfully and of his malice aforethought to kill and
murder on the fifth day of October now current at Gardiner
aforesaid in the County aforesaid feloniously willfully and of his
malice aforethought a large quantity to wit, four drachms of
a deadly poison called white arsenic did put mix and mingle
into a certain quantity of Wine which the said Phebe Gager then
intended and was about to drink (the said Joseph J. Gager
then and there well knowing that the said Phebe Gager intended
and was then and there about to drink the said wine and the
said Joseph J. Gager then and there well knowing, that the said
white arsenic so as aforesaid by him put mixed and mingled into
and with the said wine to be a deadly poison) and that the said
Phebe Gager afterwards to wit on the said fifth day of October
current at Gardiner aforesaid in the County aforesaid did take
drink and swallow down a great quantity to wit half a pint
of the said wine with which the said white arsenic was so
mixed and mingled by the said Joseph J. Gager as aforesaid;
she the said Phebe Gager at the time of her so drinking and
swallowing down the same not knowing that there was
white arsenic or any other poisonous or hurtful ingredient mixed
and mingled with the said wine, by means whereof she the said
Phebe Gager then and there became sick and disordered in her
body, and the said Phebe Gager, of the poison aforesaid so by her
taken drunk and swallowed down as aforesaid, and of the sickness
occasioned thereby thereafterward on the said fifth day of October
in the year aforesaid at Gardiner aforesaid in the County aforesaid
died. And so the Jurors aforesaid upon their oath aforesaid do
say that the said Joseph J. Gager in manner and form and by
the means aforesaid her the said Phebe Gager feloniously willfully
and of his malice aforethought did kill and murder against the
peace of said state and contrary to the form of the Statute in such
case made and provided.

And the said Jurors aforesaid upon their oath aforesaid do further present
that the said Joseph J. Gager of his malice aforethought contriving and
intending Phebe Gager of Gardiner aforesaid in the County aforesaid,
wife of him the said Joseph J. Gager with poison feloniously to kill

and

and murder on the fifth day of October now current at seven of the clock in the forenoon of said day with force and arms at Gardiner aforesaid in the County aforesaid a large quantity of white arsenic being a deadly poison with a certain quantity of wine feloniously, willfully and of his malice aforethought did mix and mingle the said Joseph J. Leger then and there well knowing the said white arsenic to be a deadly poison; and that the said Joseph J. Leger afterwards to wit at eight of the clock in the forenoon of the said fifth day of October at Gardiner aforesaid the poison aforesaid so as aforesaid mixed and mingled with the wine aforesaid feloniously willfully and of his malice aforethought did present and give to her the said Phoebe Leger to take drink and swallow down; and the said Phoebe Leger not knowing that the poison aforesaid in the wine aforesaid to have been mixed and mingled as aforesaid afterwards to wit at nine of the clock in the forenoon of said fifth day of October at Gardiner aforesaid the said poison so as aforesaid mixed and mingled by the persuasion and procurement of the said Joseph J. Leger did take drink and swallow down; and thereupon the said Phoebe Leger by the poison aforesaid so mixed and mingled as aforesaid by the said Joseph J. Leger and so taken drunk and swallowed down as aforesaid became then and there sick and distempered in her body, and the said Phoebe Leger of the poison aforesaid and of the sickness and distemper occasioned thereby, from the said hour of nine of the clock in the forenoon of said fifth day of October current until the hour of three of the clock in the afternoon of the same fifth day of October aforesaid at Gardiner aforesaid did languish and languishing did live; on which said hour of three of the clock in the afternoon of said fifth day of October in the year aforesaid she the said Phoebe Leger at Gardiner aforesaid in the County aforesaid of the poison aforesaid and of the sickness and distemper occasioned thereby as aforesaid died. And so the Jurors aforesaid upon their oath aforesaid do say that the said Joseph J. Leger her the said Phoebe Leger in manner and form and by the means aforesaid then and there feloniously willfully and of his malice aforethought did kill and murder against the peace of said State and contrary to the form of the Statute in such case made and provided. And now in this Term before the Hon.

Nathan

Nathan Weston chief Justice and the Hon. Albion W. Paris associate Justice of the Supreme Judicial Court, here comes the said Joseph J. Gage, under the custody of the Sheriff of the said County and being set to the Bar here in his proper person and forthwith being demanded concerning the premises in the Indictment above specified and charged upon him, how he will acquit himself thereof; he says that thereof he is not Guilty and thereof for trial puts himself on GOD and the County. George W. Bachelard and Frederick Allen having been assigned by the Court as Counsel for the prisoner - a Jury is immediately impaneled viz: Oliver Bean who is appointed by the Court Foreman, and Fellows, viz, Frederick Aborn, Arson Banton, Levi Greely, Isaac Lapham, Jacob Maine, Benjamin T. Melvin, Sanford Fuller William Perkins, Alonzo Wood, John Woodcock and Cyrus Guild, who being sworn to speak the truth of and concerning the premises on their oath say that the said Joseph J. Gage is Guilty. and now after the rendition of the verdict aforesaid and before pronouncing final judgment thereon, Frederick Allen one of the Counsel for said Joseph J. Gage moves for a new trial for the following reasons viz: First - Because the said Joseph being charged with the crime of Murder, the truth of the charge therein contained was proved mainly by the testimony of a single Witness, one Ann Rafter - that since the said Indictment was committed to the Jury new and material evidence has been discovered which they knew not of previous to said commitment to said Jury - that said Joseph can now prove by the testimony of Zelpha Stuart all the facts stated in a paper signed by her, and which said Counsel ask leave to file in this Court as a part of their motion - that said Ann Rafter in giving her testimony wholly suppressed or omitted by design or mistake all the facts stated in said paper detailed by said Ann to said Zelpha. Secondly - because said facts suppressed or omitted would have materially changed the character and effect of the testimony of said Ann as given by her upon the stand. Thirdly - because since ~~some~~ Verdict, if it stands is followed by sentence of death - and it is of the highest importance that the Jury should have had the evidence of said Ann as detailed by her to said Zelpha Stuart - they therefore pray this Court that said verdict may be set aside and a new trial granted.

by his Attys Allen & Sprague.

The following is the certificate referred to in the aforesaid motions to wit: "I Zephra Stuart certify that I went to Joseph J. Gager's on Sunday the fifth October instant, ^{about} 3 o'clock, after hearing of the death of Mrs Gager. I assisted in laying her out about an hour after I arrived, I went into the chamber the deceased lay and found said Joseph and his mother. The latter told Joseph that she was glad he was at home. Joseph replied, he was sorry; his mother enquired why? Joseph replied, because she said I have given her something that I ought not to. Some other conversation followed, and Joseph declared he would have her opened and would have all four of the Doctors in Gardiner present, for she had been sick all summer. Then said Ann says I have poisoned her. I told him it could not be so, and that I would go and see Ann. I went directly into the kitchen and enquired of Ann, meaning Ann Rafter - and she made to me the following statement as near as I can recollect: That she got and got breakfast that morning and called Mrs. Gager and I verily believe that said Ann told me that she had boiled some eggs for breakfast and asked Mrs. Gager if she would have one, that Mrs. Gager declined - that her husband then observed to her, take one raw then in wine, and I will get one, and that Mrs. Gager consented - and that said Gager then went and got one and gave it to her in wine - I further will add that I never heard nor had any suspicion of her being poisoned until said Joseph named it as above to me - (Signed) Zephra Stuart.

All which being read, seen, and fully understood by the Court said motion is overruled. Whereupon Thos^r Allen one of the Counsel for the said Joseph J. Gager moves an arrest of judgment for the following reasons, viz: First - because it is not averred in any count in said Indictment that the said deceased was in the peace of God, at the time when the supposed cause of death was laid. Second because the said verdict is general and the offence is not alleged to be with force and arms which are essential and are wholly omitted in the second Count of said Indictment.

All which being seen and understood by the Court the same is by them overruled. It is therefore considered by the Court here, that the said Joseph J. Gager be returned to the place from whence he; that he be thence carried to the place of Execution;

and

and that he be there hanged by the neck until he is dead.

A true copy of Record

Attest J. A. Chandler, Clerk.

A true copy of the original on file

Attest

R. S. Greene

Secretary of State.

Warrant for the execution of
Joseph J. Gager.

Received January 3. 1835.