

No. 11889

Supreme Court of Illinois

Maynard, et al.

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vs.

Dennis.

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71641  7

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Wm. Shaw et al.  
vs  
Ezekiel Dennis

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1849

1889

United States of America }  
State of Illinois }  
Winnebago County } Pleas began and

held on the Thirtieth  
day of October in  
the year of our  
Lord one thousand eight hundred and  
forty eight at the Court House in Rockford  
in said County, the same being a Special  
Term of the Circuit Court of said County,  
called by an Order filed in the Office of the  
Clerk of said Court on the Eighteenth day of  
September AD 1848, and made by the Hon  
Jesse B. Thomas one of the Associate Justices  
of the Supreme Court of the State of Illinois  
and presiding Judge of the Seventh  
Judicial Circuit on the Thirtieth day of  
September AD 1848, and in pursuance of notice  
thereof given according to law.

Present the Hon Jesse B Thomas. Judge

A R Maynard Sheriff

William A Boardman. State Attorney

Attal  
Charles St. Spafford Clerk

Ezraiel Dennis

vs

Trustee

Warren R. Maynard

Ephraim Wynn

Bela Shaw

Be it remembered that  
heretofore to wit on the 15<sup>th</sup> day of April AD 1848  
Ezraiel Dennis Plaintiff in the above entitled

Case by Francis Bernap his Attorney filed  
in the Office of the Clerk of said Circuit Court  
his Certain Process for a writ of Summons in  
the above entitled Case. which said Process  
is in the words and figures following To wit

" In the Wmmebuys Circuit Court

Wmmebuys  
County

Commaned the Coroner of the  
County of Wmmebuys to summon Abram R.  
Mayer and Beta Shaw and Ephraim Wyman  
to appear on the first day of the next term  
to answer to Gabriel Dennis in a plea of  
Trespas. His damage of Five hundred  
dollars.

Francis Bernap. Atty for Plffs.

And afterwards To wit on the 29<sup>th</sup> day of  
April A.D. 1848 the said Plaintiff by Francis  
Bernap his Attorney filed his Certain Declara-  
tion in said Circuit Clerk's Office, which  
said Declaration is in the above entitled Case, which  
said Declaration is in the words and  
figures following To wit

In the Wmmbury Circuit Court  
Of May Term in the year of our  
Lord one thousand eight hundred  
and forty eight

Wmmbury  
County

Arise R. Maynard Bela Shaw  
and Ephraim Wymore were summoned by the  
Coroner of the County of Wmmbury according to  
the form of the statute in such case made and  
provided, to answer unto Ezzel Dennis in  
plea of trespass. And thereupon the said Ezzel  
Dennis by Francis Pomeroy his Attorney, com-  
plains that the said Arise R. Maynard,  
Bela Shaw and Ephraim Wymore Defendants  
as aforesaid, on the first day of April in the  
year of our Lord one thousand eight hundred  
and forty eight, with force and arms, at a cer-  
-tain place within the County of Wmmbury  
aforesaid, seized, took, and led, and drove away  
diverse cattle, goods and chattels of the said  
Plaintiff, to wit one horse and one gelding of  
great value, to wit of the value of Two hundred  
and fifty dollars, then and there found and being,  
and converted and disposed of the same to  
their own use; and other wrongs and injuries,  
to the said plaintiff then and there did, to the  
great damage of the said plaintiff and against  
the peace of the said People.

And also that the said Defendants  
afterwards to wit on the fifteenth day of April  
in the year last aforesaid, with force and arms  
did at Rockford in the County of Wmmbury

aforsaid seized, took, led, and drove away  
certain other Cattle, goods and chattels of the said  
Plaintiff of the like number description and  
value as the Cattle, goods and chattels in the  
said first Count mentioned, then and there  
found and being and converted and  
disposed of the same to their own use; and  
other wrongs and injuries to the said Plaintiff  
then and there did to the great damage of  
the said Plaintiff, and against the peace of  
the People aforsaid. Wherefore the said Plaintiff  
saith that he is injured and hath sustained  
damage to the amount of five hundred  
dollars, and therefore he brings suit &c.

Francis Pennap  
Atty for Plff

And afterwards went on the 24<sup>th</sup> day of May AD 1848  
at the Army Court of said Court the Honourable  
Majors one of the above named Defendants  
by Marsh and Wright his attorneys filed with  
with the said Court Clerk his certain  
Plea in the above entitled Cause, which said  
Plea are in the words and figures following  
To wit

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Win Civ Court

Norman R Maynard  
impleaded with Bela  
Shaw and Ephraim Wymen

vs  
Ezekiel Dennis

} Of the May Term 1848

And the said Defendants  
Norman R Maynard impleaded with the said  
Bela Shaw and Ephraim Wymen by Marsh  
and Wright his Attorney comes and defends  
the force and injury when &c, and says that  
he is not guilty of the said supposed trespasses  
above said to his charge, or any part thereof in  
manner and form as the said Ezekiel Dennis  
with above thereof complained against him.  
And of this he the said Defendant puts himself  
upon the Court &c

Marsh & Wright  
for Plaintiff

Win Civ Court  
Norman R Maynard  
impleaded with Bela  
Shaw and Ephraim Wymen

vs  
Ezekiel Dennis

} May Term 1848

And the Defendant  
Norman R Maynard impleaded with the above  
named Bela Shaw and Ephraim Wymen by  
Marsh and Wright his attorneys comes and

depends the force and injury when he said  
says, that the Plaintiff his action aforesaid  
ought not to survive or maintain because he says  
that before the committing by the defendants of the  
several and supposed trespasses in the Plaintiffs  
Declaration mentioned to wit on the 25<sup>th</sup> day of  
February A.D. 1847 by an act of the Legislature a certain bridge  
of said town of Rockford called the Rockford Bridge, then being a  
public high way of said town and the public there and  
thereby liable to keep the same in repair by an act of the Legislature  
of the State of Illinois then sitting at Springfield  
in said State in relation to said bridge and  
for the purpose of maintaining the same, and  
then and there duly passed and approved  
entitled "an act to provide for the maintenance of  
Rockford Bridge" it was among other things by  
said Legislature enacted to the effect following  
to wit "Section 1<sup>st</sup> Be it enacted by the People  
of the State of Illinois represented in the General  
Assembly, That a special tax is hereby authorized  
to be levied upon the taxable property in Rockford  
Precinct in the County of Winnebago, for the purpose  
of repairing and maintaining a Bridge across  
Rock River at Rockford and defray the debt  
incurred in its erection and repair, said tax  
not to exceed fifty Cents on one hundred  
dollars of taxable property, and expended in  
manner hereinafter provided.  
Section 2<sup>d</sup> Newton Crawford Bela Shaw and  
Ephraim Wymann and Daniel McKimney are  
hereby appointed "Bridge Commissioners of the  
Rockford Bridge", and said Commissioners  
and their successors are hereby appointed

a body corporate and politic by such name and style, and are hereby vested with power to declare the amount of the tax to be levied on the taxable property of Rockford Precinct aforesaid, not exceeding fifty Cents on one hundred dollars as aforesaid, and said Commissioners shall make out and deliver to the Collector of the County of Winnebago a list of all persons liable to taxation under this act, said list together with the amount of and valuation of taxable property to be taken from the last assessment of taxable property in said County, and said Commissioners shall deliver to the Collector a warrant to collect said tax and shall take from such Collector a good and sufficient bond for the faithful collection and payment over of said tax to the proper authority, and said Commissioners are hereby authorized to appoint a Treasurer to take charge of the funds collected, and are also empowered to apply the proceeds of such tax to the maintenance of and repair of the Rockford Bridge and to defray the amount of the indebtedness incurred in erecting and repairing such Bridge. Provided that all accounts in relation to such Bridge shall be settled and be stated before any appropriation or appropriation be allowed by said Commissioners to defray past indebtedness; and provided further that said Commissioners shall have full power and authority to determine what amount shall be allowed from such tax to defray



past expenses; and the Defendant in fact says, that after the passage of said Act, to wit on the 29<sup>th</sup> day of March of the year aforesaid the said Bela Shuro Ephraim Wymann Newton Croford and Daniel M Kimney entered upon the discharge of the duties conferred upon them by the said Act as commissioners as aforesaid and took the oaths required by Statute as therein required, and in pursuance of said Act the said Commissioners named in said Act afterwards to wit, on the 30<sup>th</sup> day of March in the year aforesaid, declared the amount of tax to be levied under said Act on the amount of taxable property in said precinct, a large amount of money there being necessary to repair said Bridge to wit, the sum of one thousand dollars and then and there declared such amount to be fifty Cents on every one hundred dollars of such taxable property, and thereafter to wit on the 30<sup>th</sup> day of April of the year aforesaid, in pursuance of said Act, made out and delivered to the said Henry R. Maynard then and now Sheriff and Collector of said County a list of all persons liable to taxation under said Act together with the valuation of the personal property, and real estate of such persons respectively and the amount of their respective taxes to be paid by said persons respectively (which list of persons and property was taken from the then last assessment of taxable property in said County) in which said list the Plaintiff who was then and there

an inhabitant of said precinct and an owner of property in said precinct subject to said tax was charged with a tax upon real and personal property owned by him valued at One thousand six hundred and Eighty five Dollars, amounting in the whole to the sum of Eight dollars forty two Cents and five Mills, and thereafter to wit on the 29<sup>th</sup> day of November in the year aforesaid in pursuance of said Statute the said Bridge Commissioners still being such Bridge Commissioners made and delivered to the said Sheriff their warrant to collect the same thereby commanding him to make of the several persons charged in the aforesaid list the sums set against their respective names and to make return of the same to the Treasurer of said Board on the first Monday of March 1848, and the said Defendant in fact for the says, that in pursuance of the authority contained in said warrant, the said Defendant as Sheriff and Collector as aforesaid having demanded of the Plaintiff the said tax, so assessed against him according to law, and the Plaintiff having refused to pay the same, and the said goods and chattels in said declaration mentioned being in the possession of the Plaintiff within the aforesaid Rockford Precinct, subject to be levied upon and distrained for the amount of said tax the said Defendant for the

purpose of making out of said Goods and Chattels the amount of said tax so assessed against the Plaintiff, levied upon and distrained the same, as well as might for the cause aforesaid done in Rockford Precinct aforesaid which levying upon distraining appraisal of said Goods and Chattels are the several supposed trespasses in plaintiffs declaration mentioned, and this he is ready to deny, wherefore he prays judgment if the Plaintiff his action aforesaid ought to have or maintain

And for a further plea in this behalf the said Defendant impleaded as aforesaid says actions because he says that by an Act of the Legislature of the State of Illinois Entitled "An Act to provide for maintenance of Rockford Bridge approved February 25<sup>th</sup> 1847" the Defendants Bela Shaw and Ephraim Byrum together with Newton Crawford and Daniel McWhimery were appointed Commissioners of the Rockford Bridge in the County of Winnebago, the said Bridge being a public high way in the Town of Rockford and the inhabitants of Rockford Precinct then being liable to keep said bridge in repair and they and their successors were by said Act constituted a body Corporate and politic under the name and style of the "Bridge Commissioners of Rockford Bridge" and in and by said Act (for the purpose of repairing said bridge, and for paying certain

debts incurred in erecting the same) were authorized to levy and declare a special tax to be levied upon the taxable property of said Rockford precinct in said County not exceeding fifty cents on one hundred dollars of such taxable property. And also by said act the said Commissioners were authorized to make and deliver to the collector of said County of Winnebago a list of all persons liable to taxation under the said act together with the amount and valuation of taxable property in said precinct. said list together with the amount and valuation of said property to be taken from the last assessment of taxable property of said County. and also their warrant to the collector to collect said tax. and the said Defendant in fact says that afterwards he went on the 29<sup>th</sup> day of March 1847. the said Bridge Commissioners above named by said act appointed, entered upon the discharge of the duties and authority granted and conferred by said act, and on the 30<sup>th</sup> day of March in the year aforesaid having before that time taken the oath required by the Statute declared the amount of tax to be levied under said act to be fifty cents on every one hundred dollars of taxable property in said precinct, a large sum of money being then necessary to repair said Bridge he with the sum of one thousand dollars, and afterwards went on the 30<sup>th</sup> day of April in the year aforesaid made out and delivered to the said Defendant

the said William P. Maynard then and  
now Collector and Sheriff of said County  
a list of all persons liable to taxation under said  
act together with the valuation of the personal  
property and Real estate of such persons  
respectively and the amount of their respective  
taxes to be paid by such persons respectively  
(which list of persons and property was taken  
from the last assessment of taxable property  
in said County) in which said list the  
plaintiff was then and there an inhabitant  
of said precinct and an owner of Property in  
said precinct subject to said tax was charged  
with a tax upon Real and personal property  
owned by him and valued at one thousand  
six hundred and eighty five dollars) amounting  
in the whole to the sum of eight dollars and  
forty two cents and five Mills, and thereafter  
to wit on the 27<sup>th</sup> day of November in the year  
aforesaid in pursuance of said act. the said  
Bridge Commissioners by three of their number  
to wit Bela Swan Ephraim Wymann and Newton  
Crawford then being such Bridge Commissioners  
as aforesaid, made out and delivered to the  
said Sheriff, the said Defendant being then  
Collector as aforesaid, their Warrant thereby  
Commanding him to make of the goods and  
several persons charged in the aforesaid list  
the sums set against their respective names,  
and to make return of the same to Ephraim  
Wymann Treasurer of said Board on the first  
Monday of March 1848. And the said Defendant

in fact further says that in pursuance of  
the authority contained in said Warrant  
the said Defendant as Sheriff and  
Collector as aforesaid having demanded  
of the Plaintiff the payment of the said tax  
so assessed against him as aforesaid  
according to Law and the Plaintiff having  
refused to pay the same, and the said goods  
and Chattels in said Declaration mentioned  
being in the possession of the Plaintiff within  
the aforesaid Rockford Precinct subject to  
be levied upon and detained for the  
amount of said tax the said Defendant  
for the purpose of making out of said goods  
and chattels the amount of said tax so  
assessed against the Plaintiff levied upon  
and detained the same as well he might  
for the cause aforesaid Doit at Rockford  
Precinct aforesaid which levying upon  
and detaining of said goods and chattels  
and the several supposed trespasses in  
Plaintiff's Declaration mentioned, and  
this he is ready to verify, wherefore he  
prays judgment if the Plaintiff his action  
aforesaid ought to have and maintain "

Crouch & Wright

Sheriff's Attorneys

And on the same day to wit the 24<sup>th</sup> day of  
May A.D. 1848 at the City of New York of record of  
said Court. the Peter Shaw and Ephraim  
Myers Defendants in the above entitled Cause  
by Marsh and Wright their Attorneys filed  
with the Clerk of said Court their certain  
Plea in said Cause, which said Plea  
are in the words and figures following  
to wit,

Win. Cir. Court

Bela Shum and Ephraim  
Bynum impleaded with  
Hiram R. Maynard  
ads  
Ezekiel Dennis

} Of the Term of May, 1848

and the said defendants  
Bela Shum and Ephraim Bynum impleaded  
with the said Hiram R. Maynard by March  
and Wright their Attorneys, Com and  
defend the force and injury when &c  
and say that they are not guilty of the  
said supposed trespasses above laid to  
their charge, or any part thereof in manner  
and form as the said Ezekiel Dennis  
swath above thereof complained against  
them, and of this they the said Defendants  
put themselves upon the Country &c

March & Wright  
for Defendants

Winnibago Circuit  
Bela Shum and Ephraim  
Bynum impleaded with  
Hiram R. Maynard  
ads  
Ezekiel Dennis

} May Term 1848

and the said  
defendants Bela Shum and Ephraim Bynum  
impleaded with the said Hiram R. Maynard  
by March and Wright their Attorneys Comy  
and defend the force and injury when &c



and say that the Plaintiff in his action aforesaid ought not to have or maintain against them because they say that before the committing by the defendants of the several supposed trespasses in Plaintiffs declaration mentioned to wit on the 25<sup>th</sup> day of February 1847. by an act of the Legislature of the State of Illinois then sitting at Springfield in said State, and then and there duly passed and approved in relation to a certain bridge called the Rockford bridge, then a public high way of said Town and the Public being then liable to keep the same in repair and entitled "an Act to provide for the maintenance of Rockford Bridge" it was among other things by said Legislature granted to the effect following:

Section 1<sup>st</sup> Be it enacted by the People of the State of Illinois represented in General Assembly that a Special tax is hereby authorized to be levied upon the taxable property in Rockford Precinct in the County of Winnebago for the purpose of repairing and maintaining a Bridge across Rock River at Rockford and defray the debt incurred in its erection and repair. said tax not to exceed fifty Cents on one hundred dollars of taxable property and expended in the manner herein after provided.

Section 2. Broton Crawford Bela Shaw Ephraim Wyman and Daniel McKim are hereby appointed "Bridge Commissioners of the Rockford Bridge", and said Commissioners

and their successors are hereby appointed a  
Body Corporate and politic, by such name and  
style, and are hereby vested with power to  
declare the amount of tax to be levied on the  
taxable property of Rockford Precinct aforesaid  
not exceeding fifty cents on one hundred dollars  
as aforesaid. And said Commissioners shall  
make out and deliver to the Collector of the  
County of Amherst a list of all persons  
liable to taxation under this act. Said list  
together with the amount and valuation, of  
taxable property to be taken from the last assess-  
ment of taxable property in said County. And  
said Commissioners shall deliver to the Collector  
a Warrant to collect said tax, and shall  
take from such Collector a good and sufficient  
bond for the faithful collection and payment  
over of said tax to the proper Authority. And  
said Commissioners are hereby authorized to  
appoint a Treasurer to take charge of the funds  
collected, and are also empowered to apply  
the proceeds of such tax to the maintenance and  
repair of the Rockford Bridge, and to defray  
the amount of indebtedness incurred in erecting  
and repairing such Bridge; Provided that  
all accounts in relation to such bridge shall  
be settled and stated before any appropriation  
be allowed by said Commissioners to defray  
said indebtedness; And Provided further that  
said Commissioners shall have full power and  
authority to determine what amount shall  
be allowed from such tax to defray said

expenses" and the Defendants in fact say that after the passage of said act. to wit on the 29<sup>th</sup> day of March in the year aforesaid the said Bela Shum Ephraim Wynn together with the said Nathan Crawford and Daniel McHenry entered upon the discharge of the duties conferred upon them by the said act as commissioners as aforesaid, and then and there took the oath as required by said Statute and in pursuance of said act the said Commissioners including the said Bela Shum and Ephraim Wynn, to wit on the 30<sup>th</sup> day of March aforesaid. declared the amount of tax to be levied under said act on the amount of taxable property in said precinct at fifty cents on every one hundred dollars, a large amount of money being then necessary property to repair said bridge, to wit the sum of one thousand dollars and thereafter to wit on the 30<sup>th</sup> day of April in the year aforesaid in pursuance of said act made out and delivered to said Horace A. Maynard then and now Sheriff and Collector of said County a list of all persons liable to taxation under said act together with the valuations of the personal property and real estate of such persons respectively. (which list of persons and property was taken from the then last assessment of taxable property in said County) in which said list the Plaintiff who was then and there an inhabitant of said precinct and an owner of property in said precinct subject to said tax, was charged

with a tax (upon Real and personal property owned by him valued at One thousand six hundred and Eighty five Dollars) amounting in the whole to the sum of Eight Dollars forty two Cents and five Mills, and thereafter to wit, On the 29<sup>th</sup> day of November in the year aforesaid in pursuance of said act, the said Bridge Commissioners still being such Bridge Commissioners made and delivered to the said Sheriff and Collector this Warrant to Collect said tax thereby Commanding him to make of the several persons charged in the aforesaid list the sums set against them respective names and to make return of the same to the Treasurer of said Board on the first Monday of March 1848, and the said Defendants in fact & further say that after the delivery of the said Warrant to the said Simon P. Maynard to wit at the time mentioned in said Declaration, and by virtue thereof, and in pursuance of the aforesaid act the said Simon P. Maynard still being Sheriff and Collector as aforesaid for the purpose of collecting said tax levied upon and detained the said goods and Chattels in Plaintiff's Declaration mentioned as well he might for the cause aforesaid to wit at Rockford aforesaid which levying upon and detaining by the said Maynard of the said goods and Chattels, are the several supposed trespasses in Plaintiff's Declaration mentioned, and there is ready to verify wherefore he prays judgment of the Plaintiff

his active personal right to have or main-  
-tain.

And the said Defendants pleaded  
as aforesaid for a further plea in this behalf  
the Defendants say, Actio non because they  
say that by an act of the Legislature of the  
State of Illinois in relation to a public Bridge  
in the Town of Rockford then and there being a  
public high way in said Town, and the inhab-  
-itants of said Town and its neighborhood being  
liable to keep the same in repair. Entitled an  
act to provide for maintenance of Rockford  
Bridge' approved February 23<sup>rd</sup> 1847, the Defendants  
Belu Shaw and Ephraim Wyman together  
with Newton Crawford & Daniel De Haven  
were appointed Commissioners of the Rockford Bridge  
in the County of Winnebago and they and their  
successors were by said act constituted a body  
Corporate and politic, under the name and  
style of Bridge Commissioners of the Rockford  
Bridge, and in and by said act (for the purpose  
of repairing said bridge and for paying certain  
debts incurred in erecting the same) were  
authorized to levy and declare a Special  
tax to be levied on the taxable property of  
Rockford Precinct in said County not exceeding  
fifty cents on one hundred dollars of such  
taxable property, and also by said act  
said Commissioners were authorized to cause  
out and deliver to the Collector of said County  
of Winnebago a list of all persons liable to  
taxation under the said act together with the

amount and valuation of the taxable property  
of said precinct, said list together with the  
amount and valuation of said property  
to be taken from the last assessment of taxable  
property of said County and also their warrant  
to the Collector to collect said tax, and the  
said Defendants in fact say that afterwards  
to wit on the 29<sup>th</sup> day of March 1847. the said  
Bridge Commissioners above named, by said  
act appointed entered upon the discharge of the  
duties and authority granted and conferred  
by said act, and took the oath required  
by said act, and that afterwards, to wit on the  
30<sup>th</sup> day of March aforesaid declared the amount  
of tax to be levied levied by said act at fifty cents  
on one hundred dollars of taxable property, and  
afterwards to wit on the 30<sup>th</sup> day of March in the year  
aforesaid made out and delivered to the said  
Samuel P. Maynard then and now Collector  
and Sheriff of said County, a large amount  
of money being necessary to repair said bridge  
in a proper manner to wit, the sum of one  
thousand dollars, a list of all persons liable  
to taxation under said act, together with the  
valuation of the personal property and Real  
Estate of such persons (respectively, and the  
amount of their respective taxes to be paid by  
such persons respectively (which list of persons  
and property was taken from the then last  
assessment of taxable property in said County)  
in which said list the Plaintiff who was then  
and there an inhabitant of said precinct

and an owner of property in said Precinct subject to said tax was charged with a tax (upon real and personal property owned by him and valued at one thousand six hundred and Eighty five Dollars) amounting in the whole to the sum of Eight dollars forty two Cents and five Mills, and thereafter, to wit on the 29<sup>th</sup> day of November in the year aforesaid in pursuance of said act the said Bridge Commrs. - wms by three of their number to wit the said Bela Shaw Ephraim Wymann and Milton Crawford then being such Bridge Commissioners as aforesaid made out and delivered to said Simon P. Maynard then Collector as aforesaid their warrant to collect said tax, thereby commanding him to make of the several persons charged in the aforesaid list the sums set against their respective names and to make return of the same to Ephraim Wymann Treasurer of said Board on the first Monday of March 1848. And the said Defendants in fact further say, that after the delivery of the said Warrant to the said Simon P. Maynard to wit at the time mentioned in said Declaration and by virtue thereof and in pursuance of said act the said Simon P. Maynard still being Sheriff and Collector as aforesaid for the purpose of collecting said tax levied upon and distrained the said goods and chattels in Plaintiffs Declaration mentioned as well he might for the cause aforesaid to wit at Rockford aforesaid, which levy upon and distraining by the said Simon P. Maynard

of the said Goods and Chattels are the several  
supposed trespasses in Plaintiffs declaration  
mentioned, and this they are ready to verify  
wherefore they pray judgment of the  
Plaintiff his action aforesaid ought to be  
or maintain

March & Wright  
Attorneys for Defendants,

And afterwards to wit on the 2<sup>d</sup> day of  
November AD 1848 at the October Special Term  
of said Circuit Court the said Eustiel Dennis  
Plaintiff in the above Cause by Francis Burnett  
his Attorney joined with the said Clerk of said  
Court his certain Demurrer to the Pleas of the  
said Defendant D. R. Maynard, which  
said Demurrer is in the words and figures  
following to wit

"In the Annetsago Circuit Court

Special Term October, 1848

Eustiel Dennis

vs  
Francis R. Maynard  
impleaded with  
Belu Shaw and  
Ephraim Weyman

And the said Plaintiff  
as to the said plea of the said Francis R. Maynard



by him first above pleaded, whereof he puts  
himself upon the Country, doth the like

And as to the pleas of the said  
Hiram R. Maynard by him secondly and  
thirdly above pleaded, the said Plaintiff says  
that he ought not to be barred, &c. by reason  
of any thing by the said Hiram R. Maynard  
in his said second and third pleas, alleged,  
because he says that the said second and  
third pleas, are not sufficient in law.  
And this the said Plaintiff is ready to verify.  
Wherefore he prays judgment &c.  
And the said Plaintiff, according to the forms  
of the Statute in such case made and provided  
shews to the Court here the following Causes of  
of Demurrer to the said pleas, that is to say,  
for that the said second and third pleas  
do not either of them set forth the whole of the  
Act of the General Assembly of the State of  
Illinois, in the said pleas mentioned, which is  
material, and also for that the said second  
and third pleas do not either of them, state  
by what authority the said Bridge Commissioners  
in the said pleas mentioned, continued in  
Office at the time of the delivery of the said  
Warrant to the Collector of taxes, whether by their  
original Appointment or by election.  
And also for that the said second and third  
pleas do not either of them state with any  
certainty who owned the said Bridge, or  
who was liable to keep the same in repair  
or maintain it, or whether any person or

body politic, or the said Rockford Precinct,  
 was, or was not liable, or by what means, or for  
 what reason any person or persons was or were  
 so liable. And also for that the said second  
 and third pleas do not either of them set  
 forth what particular years assessment of  
 taxable property in said County the said Bridge  
 Commissioners took the list of persons and  
 property in the said pleas mentioned. And  
 also for that the said second and third pleas  
 do not either of them state what the said  
 Abram R. Maynard did with the said  
 property in the said declaration mentioned  
 after he had levied upon and detained  
 the same

Francis Bunnap  
 Atty for Pts

And on the same day to wit the 2<sup>d</sup> day of  
 November AD 1848 at the said Special Term of  
 said Circuit Court, the said Ezekiel Dennis  
 Plaintiff as aforesaid by Francis Bunnap his  
 Attorney filed with the Clerk of said Court his  
 Certain Demurrer to the pleas of the said  
 Bela Shaw and Ephraim Bynum defendants  
 as aforesaid, which said Demurrer is in the  
 words and figures following to wit

4  
 Ezekiel Dennis } On the Wm. B. B. Circuit Court  
 3  
 Bela Shaw and } Special October Term 1848  
 Ephraim Bynum }  
 21899-13  
 impleaded with  
 Abram R. Maynard }

and the said Plaintiff as to the  
said plea of the said Bela Shaw and  
Ephraim Wynn by them first above  
pleaded, whereof they put themselves upon  
the Country, do the like,

And as to the pleas  
of the said Bela Shaw and Ephraim Wynn  
by them secondly and thirdly above pleaded,  
the said Plaintiff says he ought not to be  
barred &c. because he says that the said  
second and third pleas are not sufficient  
in law. And this he is ready to verify &c,  
wherefore he prays judgment &c. And the  
said Plaintiff according to the form of the Statute  
in such case made and provided, shews the  
following Causes of Demurrer, to the said  
pleas, that is to say, first that the said second  
and third pleas do not either of them  
set forth the whole of act of the General Assem-  
bly of the State of Missouri, in the said pleas  
mentioned, which is material, And  
also for that the said second and third  
pleas, do not either of them state by what  
authority the said Bridge Commissioners in  
the said pleas mentioned, continued in  
office at the time of the delivery of the said  
Warrant to the Collector of Taxes, whether by  
their Original appointment or by election,  
And also for that the said second and  
third pleas do not either of them state with  
any certainty, who owned the said bridge,  
or who was liable to keep the same in repair

or maintain it, or whether any person or body politic or the said Rockford Precinct was or was not so liable? Or by what means, or for what reason any person or persons was or were so liable. And also for that the said second and third pleas do not either of them state from the assessment list of what year the said Bridge Commissioners took the list of persons and property in the said pleas mentioned.

Francis Burnap  
Atty for Plaintiff.

And afterwards went on the 4<sup>th</sup> day of November A.D. 1848 at the said October Term of the said Court in the records of said Court is the final Judgment Order in said Cause to wit

Gabriel Dennis

vs

William R. Maynard

John Shaw and

Abner Wyman

This day comes the Plaintiff in this Cause by Francis Burnap his attorney and the Defendants by Marsh and Wright their attorneys, and the Demurrer of the said Plaintiff to the second and third Pleas of the said Defendants to the Declaration in this Cause, heretofore submitted having been considered by the Court, It appears to the Court, that the said second and third Pleas are bad

and insufficient in law, It is therefore Ordered  
that the said Demures be sustained as to both  
of the said Pleas, and that Plaintiff have  
judgment thereof, And the said parties respec-  
tively waive the intervention of a Jury for a trial  
of the issue of fact joined between them, as well  
as the assessment of damages upon the said  
judgment on demures, And the said parties  
agree that the said issue be tried and the  
damages assessed by the Court, And thereupon  
after hearing the proofs and allegations of  
the said parties, it appears to the Court that  
the said Defendants are guilty of the trespasses  
alleged against them in the said Declaration  
by the said Plaintiff, And that the said  
plaintiff hath sustained damages by reason  
thereof to the amount of Sixty five dollars.  
It is therefore Ordered and Considered by the  
Court, that the said Plaintiff have and  
recover of the said Defendants his said  
damages to Sixty five dollars, together with  
his costs and Charges by him about his suit  
in this behalf expended, and that he have  
execution therefor, And the said Defendants  
pray an appeal herein to the Supreme Court  
of this State, And thereupon it is Ordered  
that the appeal be allowed, And that the  
same be taken by the said Defendants or  
either of them, provided they or either of them  
shall file in the Office of the Clerk of this Court  
within forty days herefrom, a bond of themselves  
or either of them in the penal sum of Two

hundred dollars, with Charles J. Husmann  
Goodwin A. Sanford and Elyzer N. Potter  
or either of them as surety or sureties  
unconditioned according to the form of the  
Statute in such case made and provided;

and afterwards do wit on the 12<sup>th</sup> day of  
December A.D. 1848 Bela Shaw one of the above  
named defendants filed in the Clerk's Office  
of said Circuit Court an Appeal Bond  
which said Bond is in the words and  
figures following to wit.



"Know all men by these presents, that  
we Bela Shaw and Elyzer N. Potter, all  
of the County of Winnebago and State of Illinois,  
are held and firmly bound unto Ezzel Semis  
of the same County and State, in the penal  
sum of Two hundred dollars, for the payment  
of which well and truly to be made. We bind  
ourselves our heirs executors and Administrators  
jointly and severally, finally by these presents,  
sealed with our seals this 12<sup>th</sup> day of December  
A.D. 1848

The condition of the above Obligation  
is such, that whereas the above named Ezzel  
Semis, at the late Special October Term of the  
Circuit Court, then and there held in and for  
the County of Winnebago aforesaid in an action

of Presump. wherein the said Ezekiel Dennis  
was plaintiff and the said Bela Shaw Attorney  
R Maynard and Ephraim Wynn were  
Defendants, did recover against the said  
Defendants the sum of Sixty five Dollars for his  
damages therein together with his costs and  
charges in that behalf expended, from which  
judgment the said Bela Shaw then and there  
prayed an appeal to the Supreme Court of  
the State of Illinois, which appeal was allowed  
by said Circuit Court.

Now if the said Bela Shaw  
shall prosecute his said appeal with effect  
and without delay, and shall pay whatever  
judgment, costs, damages and interest may  
be awarded or may accrue against him  
in case said judgment shall be affirmed  
then this obligation to be void, Else to remain  
in full force and entire

Sealed and delivered }  
in presence of }  
C. N. Spafford }.

Bela Shaw   
(Signed) E. N. Potter 

State of Illinois  
Winnemago County

I Charles W. Spafford,  
Clerk of said Circuit Court do hereby  
certify the foregoing to be a true copy of the  
Declarations, the Process, Pleas, Demurs, and Bond,  
on file, as also the Record in said Cause  
as appears on file and of Record in my  
Office.

In Witness Whereof I hereunto  
set my hand and affix the  
Seal of said Circuit Court  
at Rockford in said County this  
27<sup>th</sup> day of January A.D. 1849.

Charles W. Spafford, Clerk



<sup>10</sup>  
Winnebago C. C. Court

A. J. K. Clayton et al.

Ezekiel Dennis

Filed Feb. 6. 1849.  
A. J. K. Cl.

Rockford July 21 - 1847

S. Leland Esq  
Bro Sir

Your of the 15<sup>th</sup>  
inst is received. The fee for the Transcript  
in case of Maynard & al's ad's Admin's  
amt. to \$12.40. which please endorse on  
the Transcript & include in Execution

Very Respectfully Yours &c  
Charles W. Shafford

State of Illinois, ss.

Supreme Court, Third Grand Division, at Ottawa:

The People of the State of Illinois, to the Sheriff of Winnebago County---Greeting:  
WE COMMAND YOU, That of the goods and chattels, lands and tenements, and real estate of

*Ezekiel Dennis* \_\_\_\_\_

you cause to be made the sum of *thirty two* \_\_\_\_\_ dollars and  
*eighty two & three fourths* \_\_\_\_\_ cents costs in the said Supreme Court, which *William R.*  
*Maynard, Bela Shaw & Ephraim Hyman* \_\_\_\_\_  
lately recovered against *him* before the Justices of our said Supreme Court, as appears to  
us of record, and make return hereof in ninety days.

WITNESS, the Hon. SAMUEL H. TREAT, Chief Justice  
of our said Court, and the Seal thereof, at Ottawa,  
this *26<sup>th</sup>* \_\_\_\_\_ day of *July* \_\_\_\_\_  
in the year of our Lord one thousand eight hundred  
and *forty nine*.

*Arland* Clerk of the Supreme Court.

Supreme Court.

Airam N. Maynard et al.

vs  
Ezekiel Dennis

Execution.

Bill of Costs \$32.82 $\frac{1}{4}$

Fee Bill 3.50

Am't. \$36.32 $\frac{1}{4}$

Made Money in full  
of Debt on this Execution  
Satisfied in full

Nov 9<sup>th</sup> 1849

J. H. Hewitt  
Coroner

Filed Nov. 16. 1849.

Melard Clerk.

Recd. this Execution August the  
25<sup>th</sup> 1849 at 7 o'clock A.M.  
at Hitchwick

\$39.21

Coroner

Received this Execution this  
August A.D. 1849  
at the Court House  
J. N. Maynard  
J. H. Fuller Deputy



Witness the Hon. James H. Town, Chief Justice  
of our said Court, and the said Melard Clerk,  
this 25<sup>th</sup> day of August 1849.

Supreme Court, 3<sup>d</sup> Grand Division - June Term 1849.

Arian R. Ellaynard, Bela  
Shaw & Ephraim Wymau

vs

Ezekiel Dennis

} Appeal from Winnebago.

Appellants costs = Fil. transcript 20, Dh. cause 12 $\frac{1}{2}$ , apper. of appellants 25,	57 $\frac{1}{2}$
Fil. errors 64, fil. abstracts 25, Ord. to join in error 25, Ent. deflt. 25,	81 $\frac{1}{4}$
Ent. argument ex. parte 25, Ord. taking time to consider 25, Ent. argument 25,	75
Ent. subm. 25, Ord. taking time 25, Ord. revy. 25, Ord. remanding 25,	1.00
Fil. opm. 64, Ent. judt. & opinion 43 fol. 7.74, Copy of judt. & opinion 6.60,	14.40 $\frac{1}{4}$
Costs, & seal 50, Ent. judt. for costs 25, Ord. for extn. 25, execution 50,	1.50
Fil. & Dh. 184, Supp. utw. 12 $\frac{1}{2}$ , bill of costs 37 $\frac{1}{2}$ , Copy 25, posty. 20, Saty. 25,	1.38 $\frac{1}{4}$
Clk's fees for transcript &c.	12.40
	<u>Am't. \$ 32.82<math>\frac{3}{4}</math></u>

A true copy from my fee book as taxed & recorded therein.  
S. Leland Clk. Sup. Court.

[11689-13]

2042 $\frac{3}{4}$   
350  
2392

Supreme Court  
Clayman, Shaw et al.

<sup>vs</sup>  
Ezekiel Dennis

Bill of costs \$32.82<sup>1</sup>/<sub>4</sub>

Received the Clerk fees  
of the Sup. Court

A. H. Spafford  
Clerk

3632 1/4

71  
3723

Supreme Court, 3<sup>d</sup> Grand Division - June Term 1849.

Arian R. Clayman, Belar  
Shaw & Ephraim Wymen

Appeal from Winnebago.

Ezekiel Dennis

Appeller costs = Apper. 25,	fil. & ent. joint 31 <sup>4</sup> ,	bill of costs 37 <sup>4</sup> ,	Copy 25,	1.18 <sup>4</sup>
Cost of seal 50,	fil. & Dh. 18 <sup>4</sup> ,	Supp. uter. 12 <sup>2</sup> ,	Sat. pr. 25,	Dh. pr. 1.25
				2.31 <sup>4</sup>
				Ant. \$ 3.50

State of Illinois, ss.

Supreme Court—Third Grand Division, at Ottawa:

The People of the state of Illinois to the sheriff of Winnebago county--- Greeting:

WE COMMAND YOU, that of the goods and chattels, lands and tenements of \_\_\_\_\_

Ezekiel Dennis \_\_\_\_\_ you cause to be made the sum of three dollars and \_\_\_\_\_

fifty cents, the amount of the foregoing bill, which is due and unpaid, and is a true copy from the Fee Book in my office; and hereof make due return in ninety days.

WITNESS, the Hon. SAMUEL H. TREAT, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this

26<sup>th</sup> day of July  
A. D. 18 49.

Melend Clerk of the Supreme Court.

Supreme Court  
Clayton, Shaw & Myman  
vs  
Ezekiel Dennis  
Fee Bill \$3.50

Fee Book page 26.

not recorded

Filed Nov. 16. 1849.  
Meland Clk.