

11934

No.

Supreme Court of Illinois

Rebyce

vs.

Clark, et al

71641 7

Ogle County
Charles C. Royce
vs.
James Clark et al.

75

11934

1852

State of Illinois }
Cyle County }
}

Plas in the Honorable the Circuit Court
of Cyle County in the State of Illinois

Among the Records and Files of said Court, in a certain Cause,
on the Common law side of said Court, wherein Charles C. Royce is
Plaintiff and Elijah Clark, and James Clark are defendants,
are the following files and entries to wit -

April Term of the Circuit Court of Cyle County
A 1850, Hon. B. B. Shelden presiding -
Monday April 1st 1850 -

Charles C. Royce }
vs }
Elijah Clark & } Appeals
James Clark - }

Now on this day came the
said defendant, by Birdsell their attorney
and filed their motion to discontinue this
suit for the reason that the statute under which
this suit was brought is repealed

And afterwards to wit - on the third day of
April in the year A 1850 at the said April Term
of said Circuit Court came again said defendant -

Charles C. Royce }
vs }
Elijah Clark and } Appeals -
James Clark }

And now on this day came
the said parties, by their attorneys and the defen-
dents entered their motion to discontinue this suit

for the reason that the statute under which it was brought has been repealed, and it appearing to the Court that Ogles County have duly accepted the township organization, and that the towns where the writs in this cause were alleged to have been at large held their annual Town meeting yesterday, therefore it is ordered by the Court that the writs be sustained, - and that said cause be dismissed, - at the plaintiffs' cost, and that the defendants have & receive of the Plaintiff their costs and charges, in this behalf expended, & that they have execution therefor - to all of which Plaintiff excepts - and prays that his exceptions may be filed & remain herein.

And afterwards to wit, on the 4th day of April, A.D. 1850. Came the said Plaintiff, and persons to the Court his bill of exceptions filed herein, which being examined is approved and executed in open Court, which said bill of exceptions is in the words and figures following to wit -

State of Illinois Ogles County
 Circuit Court of said County April 1850

Charles C. Royce
 James Clark &
 Elijah Clark

Appeal from William Jackson a Justice
 of the Peace of said County -

Be it remembered that on the trial of said cause on the 3rd day of April A.D. 1850, in said Court. Came the said James Clark and Elijah Clark, the Defendants, by their Attorney and enter the following motion herein, which motion is in the words and figures following to wit -

State of Illinois
 Ogles County
 Circuit Court of said County
 April Term A.D. 1850

Charles C. Royce

James Clark & Elizabeth Clark

Appeal

Now Comd the said Defendants
by Burchell their Attorney, and move the Court, to dismiss this Cause for
reasons as follows to wit.

- 1st Because the Statute upon which the action is brought, is repealed
by an act entitled "Township Organization" approved Feb 12, 1849
- 2nd Because the County of Ogle adopted Township Organization
by Vote at the General Election in November 1849 according to Statute
in such Case made
- 3rd Because said County of Ogle held an election under said Organization
on Tuesday the 2nd of April A.D. 1850

Burchell Attorney for Defendants

Whereupon it was agreed by and between the said Parties, that the
County of Ogle had organized and duly adopted the "Township
Organization" under and by virtue of the provisions of an act
of the Legislature of Illinois, entitled "An act, to provide for
Township and County organizations", under which any County may organize
whenever a Majority of Voters of such County, at any General Election
shall so determine" approved 12th February 1849. — It is further
agreed and admitted by the parties that the first annual meeting of the
Electors, and election was held in the Township where the laws in the above
entitled suit were at large, on the second day of April 1850 — And
further that the suit was commenced on the 5th day of October, 1849
for the penalty or penalties under the provisions of "an act, to prevent
writings from running at large in certain Counties" approved 10th February
1849. That said action was commenced and prosecuted to a judgment by or
said Jackson, on the 10th day of October 1849, and a judgment entered up
against said Defendants, for the sum of forty five dollars and costs, and was
duly appealed, by said Defendants, to the Circuit Court of said County, and at the
April Term of said Court, and on the third day thereof to wit the 3rd day of April
1850. the foregoing motion was made, and it was agreed that whatever defined
the above facts, constitutes to their action might be considered and taken

advantage of, under this motion, which being heard by the court, the motion is sustained, to which decision the Plaintiff excepts
By - R. Sheldon

State of Illinois }
Ogle County }
3/4

J. R. B. Light, Clerk of the Circuit Court, in and for said County, in the State of Illinois, do hereby certify that the foregoing is a full and complete record of the Order, return in and the bill of exceptions filed in said Cause, as appears to me from the records and files of my Office -

In testimony whereof, I have hereunto set my hand and affixed the seal of said Court this 28th day of April 1852
R. B. Light, Clerk

R. B. Light Clerk

Making transcript of record 1.20
Certificate 35
\$ 1.55

No. 9.
Ogle
Charles R. Royce
vs
James Blackwell

Filed May 24. 1852.
J. R. B. Light, Clerk
By J. H. Sheldahl, Deputy.

State of Illinois }
Supreme Courts. }
June Term 1852

Charles Royce vs Elijah Clark
& James Clark.

And now comes the Plaintiff in error & says that in the record & proceedings in this cause there is manifest error in this Court. The Court below erred in dismissing the Plaintiff's suit, & rendering judgment against him for costs & therefore prays for a reversal of said judgment.
C. S. Shel and for with in error

Y. Selands

Clubs & Supreme Court —

At Lib —

Pass

Send me the seire facies — in the
case of Charles Rye vs James & Elizabeth
Clark — addressed to the Sheriff of Geo
I am yours truly

Oregon Ill

Wm. A. McIs

May 18th 1853

There will be no time for delay —

STATE OF ILLINOIS, }
Supreme Court.

The People of the State of Illinois,

To the Sheriff of the County of *Ogle* ——— Greeting:

BECAUSE in the record and proceedings, and also in the rendition of the judgment of a plea which was in the circuit court of *Ogle* ——— county, before the Judge thereof, between *Charles C. Royce* Plaintiff and *James Clark and Elijah Clark*

defendants; it is said that manifest error hath intervened, to the injury of the said

Charles C. Royce ——— as we are informed by his complaint, the record and proceedings of which said judgment we have caused to be brought into our Supreme Court of the state of Illinois, at Ottawa, before the justices thereof, to correct the errors in the same, in due form and manner, according to law; therefore we command you, that by good and lawful men of your county, you give notice to the said

James Clark and Elijah Clark

that *they* be and appear before the justices of our said supreme court, at the next term of said court, to be holden at Ottawa, in said state, on the *second* Monday in *June* next, to hear the records and proceedings aforesaid, and the errors assigned, if *they* shall see fit; and further to do and receive what said court shall order in this behalf; and have you then there the names of those by whom you shall give the said *James Clark & Elijah Clark* — notice, together with this writ.

Witness, the Hon. SAMUEL H. TREAT, Chief Justice of our said Court, and the seal thereof, at Ottawa, this *20th* day of *May* in the year of our Lord one thousand eight hundred and fifty *three*.

S. Island Clerk of the Supreme Court.
By J. N. Island dep. Clk.

STATE OF ILLINOIS, }
Supreme Court.

The People of the State of Illinois,

To the Sheriff of the County of *Ogle* Greeting:

BECAUSE in the record and proceedings, and also in the rendition of the judgment of a plea which was in the circuit court of *Ogle* county, before the Judge thereof, between *Charles C. Royce* Plaintiff, and *James Clark and Elijah Clark*

defendant, it is said that manifest error hath intervened, to the injury of the said

Charles C. Royce as we are informed by *his* complaint, the record and proceedings of which said judgment we have caused to be brought into our Supreme Court of the state of Illinois, at Ottawa, before the justices thereof, to correct the errors in the same, in due form and manner, according to law; therefore we command you, that by good and lawful men of your county, you give notice to the said *James Clark and Elijah Clark*

that *they* be and appear before the justices of our said supreme court, at the next term of said court, to be holden at Ottawa, in said state, on the *Second* Monday in *June* next, to hear the records and proceedings aforesaid, and the errors assigned, if *they* shall see fit; and further to do and receive what said court shall order in this behalf; and have you then there the names of those by whom you shall give the said *James Clark and Elijah Clark* notice, together with this writ.

Witness, the Hon. SAMUEL H. TREAT, Chief Justice of our said Court, and the seal thereof, at Ottawa, this *24th* day of *May* in the year of our Lord one thousand eight hundred and fifty *two*.

J. Seland Clerk of the Supreme Court.

By *J. H. Seland* Deputy Clerk

Ogle. No. 9.
Charles C. Royce
vs.
James Clark et al.

Sci. Ja.

The within named James Clark &
Elijah Black are and who James in Ogle
County this 3rd day of June 1852

Agreed before Sheriff Ogle, to be
the Rules, to, until 2nd of July
2nd of July's year - Return \$4.10

Filed June 26th 1852.
L. Leland Clk.
By J. K. Leland Depy.

State of Illinois, set.

WRIT OF ERROR—FREE TRADER PRINT.

The People of the State of Illinois,
To the Clerk of the Circuit Court for the County of *Ogle* GREETING :
BECAUSE in the record and proceedings, as also in the rendition of the judgment of a plea which
was in the Circuit Court of *Ogle* county, before the Judge thereof, between

Charles C Royce plaintiff, and *James Clark and
Elijah Clark*

defendant^s it is said manifest error hath intervened, to the injury of the aforesaid

Charles C Royce
as we are informed by *his* complaint, and we being willing that error, if any there be, should be
corrected in due form and manner, and that justice be done to the parties aforesaid, command you that
if judgment thereof be given, you distinctly and openly, without delay, send to our Justices of the
Supreme Court the record and proceedings of the plaint aforesaid, with all things touching the same,
under your seal, so that we may have the same before our justices aforesaid at Ottawa, in the county
of La Salle, on the *second Monday in June* next, that the record and proceedings,
being inspected, we may cause to be done therein, to correct the error, what of right ought to be done
according to law.

WITNESS, the Hon. SAMUEL H. TREAT, Chief Justice of our said
Court, and the seal thereof, at Ottawa, this *twenty fourth*
day of *May* in the year of our Lord one thousand eight
hundred and fifty *two*.

S. Island Clerk of the Supreme Court.
By *C. H. Island* Deputy Clk.

C. Ogle - Co. No. 9
Charles C. Royce
vs.
James Clark et al.
Writ of error.

Filed May 24th 1852.
H. Leland Clerk.
By P. W. Leland Depy.