

No. **11929**

Supreme Court of Illinois

People, ex. rel.

vs.

^{IN}
Wilkinson

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Wyll
The People ex. rel. H. W. Loomis et al.
vs
Ira O. Wilkinson

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1852

11929

Peckard

In the Supreme Court of the State of Illinois.

Of the term of June, in the year of
our Lord one thousand eight
hundred and fifty two.

To the Honorable the Justices of the Supreme
Court of the State of Illinois.

The petition of Henry Warren Loomis and Selden M.
Bronson, of Rockford, in the county of Winnebago,

Respectfully states,

That on the third day
of September, in the year of our Lord one thousand
eight hundred and fifty one, at the September term of
the Circuit Court for the county of Ogle, at the court-
house in Oregon in said county of Ogle, before the
Honorable Ira D. Wilkinson, Judge of the sixth Judicial
Circuit, these petitioners, by leave of the said Circuit
Court, caused a motion in writing to be filed and
entered in the said Circuit Court, to the effect fol-
lowing, that is to say, that a writ of certiorari fa-
cias should be issued out of that court, directed to
Spencer Ruggles, county judge of the said county of
Ogle, to remove into the said Circuit Court certain
insolvent proceedings had before him on or about
the fifth day of June, A.D. 1851, upon the application

of Henry W. Sims, an alleged insolvent, who was then in the custody of the sheriff of Ogle, by virtue of a writ of capias all respondendum issued out of the said court, at the suit of the said Henry Warren Loomis and Selden M. Bronson; a copy of which motion is hereunto annexed, marked A.

And these petitioners further state, that in support of the said motion, they at the same time caused to be filed in the said court, the affidavit of said Henry Warren Loomis, of which a copy is hereunto annexed, marked B; and an affidavit of Francis Burnap, their attorney and counsel on that occasion, of which a copy is hereunto annexed, marked C.

And these petitioners further state, that no further proceedings upon the said motion were had at the said September term; and that on the thirteenth day of January, A. D. 1852, at a special term of the said Circuit Court then being held, an order was made on the motion of these petitioners, that they should have leave to file additional affidavits in support of their motion aforesaid; of which order a copy is hereunto annexed marked D; and that under the said order, they caused to be filed the affidavits of the said Selden M. Bronson, and of the county clerk of Ogle county, whereof copies are hereunto annexed, marked E and F, respectively.

And these petitioners further state, that on the fifteenth day of January, in the year of our Lord one thousand eight hundred and fifty two, at the same special term aforesaid, the motion aforesaid

was argued by counsel on the part of these petitioners only; and that upon that occasion the aforesaid writ of *cepias ad respondendum* and the return thereto, were read and exhibited to the said court; and that a copy thereof is hereunto annexed, marked G; and that the said motion was thereupon taken under advisement, by the said judge of the said Circuit Court, until the then next term thereof.

And these petitioners further state, that on the eleventh day of March, at the March term of the said Circuit Court, in the year of our Lord one thousand eight hundred and fifty two, before the Honorable Ira C. Wilkinson, the above named judge thereof, the final decision of the said court was made, upon the motion aforesaid, and the same was overruled by the said judge, on the ground ^(among others) that the said Circuit Court had no jurisdiction to issue the writ of *certiorari* sought by the said motion, and that thereupon a final order was entered denying the said motion; of which order a copy is hereunto annexed, marked H.

And these petitioners further state, that they believe themselves aggrieved by the said adjudication, that they are advised that the same is erroneous; and they are also advised that an appeal or writ of error, under the circumstances of the case, would not lie; and that they have no remedy in the premises, unless by a writ of *mandamus* out of the Supreme Court of this State, to be directed to the

Judge of the said Circuit Court for the county of
Cgle, commanding him to award the said writ of
certiorari facias, according to the aforesaid motion of
these petitioners in that behalf.

These petitioners therefore pray the said
Justices of the Supreme Court, that a
writ of mandamus may be awarded
and issued out of this court in the premis-
es, in manner and form as ~~to~~ the said
Justices may appear right and proper;
and that these petitioners may have such
relief in the premises as may be legal
and just.

Henry Warren Loomis
Sellen M. Bronson,
By Francis Burnap their Attorney and
Counsel.

A.

In the Ogle Circuit Court,

Of August Term, 1851.

Henry Warren Loomis and Selden M. Bronson, by Francis Burnap their attorney, come and move that a writ of certiorari facias be issued out of this court, directed to Spooner Puggles, county judge of the county of Ogle, to remove into this court certain insolvent proceedings had before him on or about the fifth day of June, A. D. 1851, upon the application of Henry W. Sims, an alleged insolvent who was then in the custody of the sheriff of the county of Ogle, by virtue of a writ of capias ad respondendum issued out of this court at the suit of the said Henry Warren Loomis and Selden M. Bronson.

(Signed)

Francis Burnap,
Atty. & Counsel for said Loomis and Bronson

Dyke Circuit Court.

Henry Warren Loomis and
Selden M. Bronson

vs.
Henry W. Sims.

Motion for certiorari
at common law,

Filed Sept. 3 1851

W. B. Light, clerk

Brunson.

B.

In the Ogle Circuit Court.

Ogle County, ss. Henry Warren Loomis of Rockford in the county of Winnebago, maketh oath and saith, that on or about the first day of May last, he caused to be sued out of the Circuit Court for the county of Ogle, a writ of capias ad respondendum against Henry W. Sims, at the suit of this deponent and Selden M. Bronson, directed to the sheriff of the same county, returnable at the present term of said court, for the sum of nearly one hundred dollars in a plea of debt. And this deponent further says, that he has been informed, and has no doubt of the truth thereof, that the said Henry W. Sims was arrested upon the said writ, on or about the fifth day of June last past, by the sheriff of the said county of Ogle, at or near Byron in said county, and about fifteen miles from the residence of this deponent and of the said Bronson at Rockford aforesaid, and was immediately taken by the said sheriff at his request, before Honorable Sherman Puggles, county judge of the said county, at his residence at Grand Delour in said county. And this deponent further says, that he has been informed, and has no doubt of the fact, that he the said Henry W. Sims made a schedule of his debts, and a pretended

schedule of his property, before the said judge; that the said judge gave him a discharge, purporting to be a discharge under the statute of this state concerning insolvent debtors; and that thereupon the said Henry W. Sims was liberated from custody by the said sheriff, and went to the state of Iowa, where he now resides; and that the whole of the said proceedings took place before the said judge during the vacation of the ~~probate~~ court of probate of said county, and at a distance from the county seat and court house of said county. And this deponent further says, that he had no notice or intimation of the said insolvent proceedings until after they were had, and the said Henry W. Sims had been discharged as aforesaid, and as this deponent believes had left this state. And this deponent further says, that he has been informed and believes it to be true, that the property scheduled by the said Sims as aforesaid, amounted to only to about forty six dollars, and his debts to ~~one~~ about one hundred and ninety five; and that this deponent has been informed, and believes it to be true, that the said Henry W. Sims, at the time when he obtained his said discharge, had abundance of property out of which he might have paid or secured the said debts. And this deponent further says, that according to the best of his knowledge and belief, the said Selden M. Bronson had no notice of the said insolvent proceedings, nor any intimation of them until

they were past; and this deponent has no doubt
that if he had had such notice or intimation, he
would have informed this deponent thereof. And
further, that the said Bronson is now absent from
this county.

(Signed) Henry W. Loomis.

Sworn to & subscribed before me
this 30th day of August A.D. 1851.

Witness my hand and the seal of
L.S. Winnebago County Circuit Court
(Sd) C. W. Spafford Clerk
Winnebago County Circuit Court
State of Illinois.

Ogle Circuit Court.

Henry Warren Loomis and
Selden M. Bronson

vs.

Henry W. Sims.

Affidavit for Certification.

Filed Sept. 3, 1851.

(Sd.) R. B. Light Clerk

Burns.

C.

In the Ogle Circuit Court.

Ogle County ss. Francis Burnap, of Rockford in the county of Winnebago, maketh solemn affirmation and saith, that on or about the twenty eighth day of April now last past, this deponent as attorney of Henry Warren Loomis and Selden M. Bronson, sued out of this court a writ of copias ad respondendum in their favor, against Henry W. Sims, directed to the sheriff of the county of Ogle. And this deponent further says, that the said sheriff made return to the said writ in substance, according to the best of this deponent's recollection, that on the fifth day of June last, he took the said Henry W. Sims by virtue of the said writ, and at his request carried him before Spooker Puggles, county judge of the said county of Ogle, and that the said judge discharged him under the insolvent laws of this state. And this deponent further says, that he has this day searched the files of this court for the said writ and return, but has been unable to find the same. And this deponent further says, that he had no notice or intimation of the said insolvent proceeding, and verily believes that neither the said Loomis or the said Bronson had any such notice, and that if either of them had had notice thereof, they would have attended to oppose the same. And this deponent further says, that he has been informed, and has no doubt of the fact, that the said insolvent proceeding and the

application therefor were had and made before the said judge at his residence in said county, during the vacation of the probate court of said county, and distant from the court house and county seat of said county. And this deponent further says, that he this day called at the dwelling house of the said judge, for the purpose of ascertaining the particulars of the said insolvent proceedings, but was unable to do so, on account of the absence of the said judge from the said county.

Signed Francis Burnap.

Affirmed at Oregon in the county of Ogle, this third day of September, 1851, before me,

(sd.) R. D. Light, Clerk.

Ogle Circuit Court.
Henry Warren Simms and
Selmon M. Brownson
vs
Henry W. Sims.

Applicant for testimony.

Burnap

D.

In the Ogle Circuit Court.

Of January Special Term, 1852.

Tuesday, January 13, 1852.

Henry Warren Loomis and
Selden M. Bronson

^{vs.}
Henry W. Sims.

} Motion for writ of habeas corpus to County
Judge to send up proceedings.

Now on this day come the plain-
tiffs by Barnab their attorney, and on their motion
it is ordered, that they have leave to file additional
affidavits in support of their motion.

(Signed)

Ira O. Wilkinson.

E.

In the Ogle Circuit Court.

Ogle County, ss. Seldon M. Bronson, of Rockford in the county of Winnebago, maketh oath and swith, that he and Henry Warren Loomis were lately partners in trade at Rockford aforesaid, and as such held a demand against Henry W. Sims, which this deponent has been informed and believes the said Loomis sued in the name of himself and this deponent, against the said Sims in the Circuit Court for the county of Ogle. And this deponent further says, that he never had any notice or intimation of any proceeding on the part of the said Henry W. Sims, to obtain his discharge from arrest in the said suit under the insolvent law of this state, until after his discharge therefrom.

(Signed) Seldon M. Bronson.

State of Illinois.
Winnebago County.

I, Charles H. Spafford, Clerk of the Circuit Court for the county of Winnebago hereby certify that the above named Seldon M. Bronson duly swore to the truth of the foregoing affidavit before me at Rockford in the said county of Winnebago, this 10th day of January, A.D. 1852.

In witness whereof I herewith set my hand and the seal of the Winnebago County Circuit Court, the day and year aforesaid.

L. S.

Attest, (Signed) C. H. Spafford, Clerk.

109th Circuit Court,
Loomis and another
vs
Henry W. Sims.

Affidavit of S. M. Bronson.

Filed June 13, 1852,

vsd. R. B. Light, Clerk.

Burnap.

F.

In the Ogle Circuit Court.

Ogle
County, ss. }

John M. Hinkle, county clerk of Ogle county, mak-
eth oath and saith, that no proceedings were ever
taken in the County Court of said county, under the
insolvent laws of this state, by or on behalf of Hen-
ry W. Sims; nor was any discharge of the said
Henry W. Sims, under the said insolvent laws, ever
granted in the said court.

(Signed)

John M. Hinkle.

Sworn at Oregon in the
county of Ogle, this 13th
day of January 1852, be-
fore me.

W. B. Light, clerk }
Cir. Court Ogle Co. Mo. }

Edge Circuit Court,
Loomis and another
vs.
Henry W. Sims.

Affidavit of County Clerk.

Filed January 13, 1852.

(sd.) R. B. Light, clerk.

Burnap.

G.

State of Illinois. }
Ogle County. } ss.

The People of the State of Illinois,
to the Sheriff of the county of Ogle,
greeting.

We command you that you take Henry W. Sims,
and him safely keep, so that you have his body before
the Circuit Court of Ogle County, at the next term
thereof, to be holden at Oregon on the twenty fifth day
of August next, to answer Henry Warren Loomis & Sel-
den M. Bronson, in a plea that he render to them the
sum of four hundred dollars, which he owes to them
and unjustly detains from them — to their damage
twenty dollars. And have you then and there this
writ.

L. S.

Witness R. B. Light, Clerk of our
Circuit Court, at Oregon this 28th
day of April, A. D. 1851.

Attest. (Signed) R. B. Light, Clerk.

State of Illinois.
Ogle County ss.

By virtue of the within copias, I did on this day arrest the within named Henry Sims, and the said Sims desiring to be discharged under the insolvent laws of this state, I did at his request take him before Spooner Puggles, Judge of the County Court of said county, and the said Sims was by order of the said Judge in writing, discharged from my custody on this process. I served the said process by reading the same in the presence and hearing of the within named Henry Sims, on the 5th day of June, A.D. 1851.

(Signed) Alfred Helm, Sheriff Ogle Co. Ill.
By Miles B. Light, Deputy.

Lewis & Bronson

v.

Henry W. Sims.

Copias.

It is ordered by the court that the within named defendant Henry W. Sims be held to bail in the sum of ninety seven dollars and trinity five cents.

Wm R. B. Light, Clerk.

H.

In the Ogle Circuit Court.

Of March Term, 1852.

Thursday, March 11, 1852.

Henry Warren Loomis and
Selden M. Bronson
vs.
Henry W. Sims. }

The motion heretofore made for a writ of certiorari having been heard and due deliberation having been had, It is ordered by the Court, that the same be denied, and that the defendant have and recover of plaintiffs his costs in and about this motion expended, and that he have execution therefor.

(Signed) Ira O. Wilkinson.

State of Illinois. }
Ogle County, ss. }

I, Robert B. Light, clerk of the Circuit Court for the county of Ogle, in the state of Illinois, do hereby certify, that the annexed foregoing copies of motion and affidavits, with the filing thereof, are true copies of the motion and affidavits and filing thereof, on file in the office of the clerk of the said Circuit Court, in the matter to which they relate, being a special motion of Henry Warren Loomis and Selden M. Bronson for a writ of certiorari to the County Judge of said county, to send up insolvent proceedings of Henry W. Sims; that the annexed foregoing copies of orders are truly made from the records of the said court, and are copies of all the entries made in the said records in the said matter; and that the annexed foregoing copy of a writ of *capias ad respondendum* and of indorsements thereon, are true copies of a writ and indorsements thereon, in the files of the said court, and which were exhibited to the said court upon the argument of the said motion.

In witness whereof, I have hereunto set my hand and the seal of the said Ogle Circuit Court, at Oregon in said county, this twelfth day of June, A. D. 1852.

R. B. Light Clerk

Edward F. Dutcher, Esq.
Counselor, &c.
Oregon,
Sir,

Having been informed that you assisted Henry W. Sims in making out his papers for application to the County Judge for his insolvent discharge, referred to in the foregoing petition and accompanying papers, and counselled him in the matter, I hereby give notice to you, that on the twenty eighth day of June instant or as soon thereafter as counsel can be heard, Henry Warren Loomis and Selden M. Bronson, in the said petition named, will move in the Supreme Court of the State of Illinois, at the Court house at Ottawa in the County of La Salle, upon the said petition, for a writ of mandamus, to be directed to the Judge of the Circuit Court for the County of Ogle, as indicated in the said petition. Dated 12 June, 1852.

Yours, &c.

Francis Burnap,
Attorney and Counsel for said Loomis and Bronson.

I hereby acknowledge service of the foregoing notice and of a copy of the petition and papers therein referred to. Dated Oregon, 12 June, 1852.

E. F. Dutcher

Rock Island Ill. June 28th 1852.

The foregoing petition has been read by me,
and the statements thereof are regarded as
substantially correct. The questions thereon
arising are respectfully submitted to the
Hon^{ble}. the Supreme Court, for its decision
and advice in the matter -

Geo. D. Wilkinson

Supreme Court

The People & rel. Henry
Warren Seaman and

Jelden M. Bronson

vs.

Ira O. Wilkinson, judge
of the 14th Circuit

Petition for Mandamus.

Filed July 2 - 1852
L. Keland Clk.

Burnap

Supreme Court.

June Term, 1852.

The People & rel. Loomis and Bronson
vs.
Ira O. Wilkinson, Circuit Judge, &c.

Mandamus.

Brief.

1. The Supreme Court has jurisdiction to issue the mandamus. R.S. 143, §7. People vs. Pearson, 3 Scam. 270, 283.

2. Mandamus is the only remedy the relators have; the cause below not having proceeded far enough to admit of an appeal or writ of error.

3. The relators had a right to the writ of *extra-judicial* in the circuit court, and the granting of it was not a mere matter of discretion in that court. It was a clear right by the common law, and that law ~~was~~ is adopted in full in this state. R.S. 337, §1. And to secure the full benefit of that law, the constitution of 1848, confers common law jurisdiction upon the circuit courts in all cases. S.L. 1849, p. 14, §8. This section differs materially from the doubtful phraseology of R.S. p. 146 §26, formerly giving jurisdiction to those courts.

4. But admitting that it was a matter of discretion to grant or refuse the writ, that discretion has not been exercised; for the judge put his decision upon the ground that he had no jurisdiction. The writ declined to act from an assumed want of power, and ought to be put in motion.

5. Again if it was a matter of discretion to grant or refuse the writ, it was a matter of sound and legal discretion, and not of an arbitrary or capricious one. *Bushing vs. Gay*, 10 *Shepley*, 11.

6. The county court, and not the person who holds the office of county judge, has the powers and jurisdiction of the old probate court. *S.L.* 1849, p. 15, § 8. Jurisdiction of insolvent proceedings belonged to the old court of probate. *R.D.* 282 § 2. This jurisdiction is transferred to the county court, and not to the judge at large. *S.L.* 1849 p. 65 § 13. The old court had no clerk, and could be held at any time, any where in the county. *R.D.* 427 § 8. But the county court can sit only at the courthouse at regular terms. *S.L.* 1849, p. 63, § 5. 1851, p. 19 § 3. The county judge cannot issue the subpoenas. *R.D.* 283 § 5.

7. The proceedings and discharge in question were therefore *coram non iudice*, and void, because the judge had no jurisdiction out of court, and away from the court-house, and because the discharge was not issued under the seal of the court.

8. Those proceedings were utterly void for the reason also that the relators had no notice of them. *Hinderhook vs Colew*, 15 Johnson 537. *Cortiss vs Cortiss*, 8 Vermont 389. ^{14 387 3 n. 24. 42. 52} *Brown's Pl. Ex.* 914, 922. The insolvent act requires notice. R. S. 283 § 5, 6, 7, 9, 10, 12, 13; if not expressly, by irresistible implication.

9. Those proceedings not being authorised by any statute, no appeal lay from them, and the only remedy is by certiorari.

10. It is no objection to a writ of certiorari, that the proceedings to be brought up were void. Certiorari will lie to set aside void proceedings. *Starr vs Trustees of Rochester*, 6 Wendell 564.

11. But the proceedings in question, although void in law, have been operative in fact, and in that view, are rather voidable than void absolutely.

12. ~~The writ~~ of certiorari certainly lies in such a case. ~~but~~ The writ is an essential and important part of the common law, and there can be no doubt of the jurisdiction of the circuit courts of this state to issue writs of certiorari at common law. *Grosvont vs. Burwell*, 1 Salkeld 144, 263. 1 Ed. Raymond 469. *Reg vs. Inhabitants, &c.* 1 Ed. Raymond 580. *Fonda vs. Canal Appraisers*, 1 Wendell 288. *Anonymous* 1 Wend. 90. *Starr vs. Trustees of Rochester*, 6 Wendell 564. *Lawton vs. Commissioners of Cambridge*, 2 Caine's R. 182. *Parks vs. Boston*, 8 Pick. 229. *Le Ray vs. Mayor of New York*, 20 Johnson 438. *Williamson vs. Berman*, 1 Gill & Johnson 146. *Comstock vs. Porter*, 5 Wendell 49. *Wood vs. Randall*, 5 Hill 269, 270.

13. *Young vs. Brown*, 1 Scam. 264, was a case of detinue certiorari.

Supreme Court.

People ~~of~~ vs. Loomis and
Bronson

vs.

Wilkinson, Judge, &c.

Brief

Burnap.

State of Illinois, set.

The People of the State of Illinois to
the judge of the circuit court for the
county of Ogle, in said state, greeting.

Whereas at the ^{June} term of the Supreme Court of
the said state of Illinois, at Ottawa in the county
of La Salle, in the year of our Lord one thousand
eight hundred and fifty-two, Henry Warren Loomis
and Selden M. Bronson, ^{by their attorneys} presented and exhibited in our
said Supreme Court, their petition to the justices
thereof, setting forth, that at the September term of
the said circuit court for the county of Ogle, ^{in 1851} be-
fore the Honorable Ira D. Wilkinson, judge of the
sixth judicial circuit, ^{they} by leave of the said cir-
cuit court, ^{they} caused a motion in writing to be filed
and entered in the said circuit court, to the effect
following, that is to say, that a writ of certiorari
facias should be issued out of that court, direct-
ed to Shomer Ruggles, county judge of the said
county of Ogle, to remove into the said circuit
court certain insolvent proceedings had before
him on or about the fifth day of June, in the
year of our Lord one thousand eight hundred
and fifty-one, upon the application of Henry W.
Sims, an alleged insolvent, who was then in the
custody ^{of the sheriff} of the said county of Ogle, by virtue of
a writ of capias ad respondendum issued out of
the said circuit court, of the suit of the said
Henry Warren Loomis and Selden M. Bronson;
and also setting forth a copy of the said writ of ca-

A trial whereas the said petitioners by their said petition prayed the said justices that a writ of mandamus might be awarded and issued out of the said supreme court in the premises in manner and form as the said justices might appear right and proper

his ad respondendum, and of the return of the said sheriff thereto, and copies of certain affidavits filed by the said petitioners in the said circuit court, in support of their said motion.

And whereas the said petitioners in their said petition set forth, that at the March term of the said circuit court for the county of Ogle, in the year of our Lord one thousand eight hundred and fifty-two, the said motion was overruled by the said judge of the said judicial circuit, on the ground, among others, that the said circuit ~~had~~ court had no jurisdiction to issue the writ of certiorari sought by the said motion, and that an order was thereupon entered in the said circuit court on the eleventh day of March, in the year last aforesaid, denying the said motion. Δ

And whereas the said circuit judge by his statement in writing attached to the said petition, showed to our said justices of the Supreme court that the statements thereof were substantially correct, and submitted the questions arising thereon to the said Supreme court for its decision and order.

And whereas our said justices of the said Supreme court having diligently examined and inspected the said petition and documents and the matters therein contained, have ^{adjudged} ~~advised~~ that a peremptory writ of mandamus ^{in the premises} be issued out of our said Supreme court, ^{according to the} ~~according to the~~ ^{prayer of the said petition.} ~~prayer of the said petition.~~

Now therefore we command the judge of

the said Circuit Court ~~for~~ the ~~said~~ county of Ogle,
that he ~~not~~ do absolutely rescind and set a-
side the said order entered in the said Circuit
Court denying the ~~aforsaid~~ motion of the said
Henry Warren Loomis and Selden M. Bronson,
for ~~the~~ a writ of certiorari ~~of~~ aforsaid, and
that he cause a writ of certiorari at common
law to be issued out of the said Circuit Court
according to ^{of the said Henry Warren Loomis and Selden M. Bronson} the ~~said~~ ^{fore} motion in that behalf.

L. J.

Witness the Honorable Samuel H.,
Brett, Chief Justice of our said su-
preme Court, at the Court House in
Ottawa in the county of La Salle, this
nineteenth day of July, in the year
of our Lord one thousand eight
hundred and fifty-two.

Supreme Court

People of rel. Loomis
and Bronson

vs
Wm. Witherson
Circuit Judge of the
of the Circuit

Precedent for writ of
Peremptory Mandamus.

Filed July 19th 1852,
J. Leland Clk,
By P. H. Leland Depy.

In the Supreme Court,

The People of the State of Illinois
at the relation of Henry Warren
Loomis and Selden M. Bronson

vs.

Ira O. Wilkinson, Circuit Judge
of the sixth judicial Circuit.

Mandamus.

This day come Henry Warren Loomis and Selden M. Bronson, by Francis Burnap, ^{their attorney} and by leave of the court, file their petition for a writ of mandamus to be issued out of this court, in the name of the People of the State of Illinois at the relation of the said Henry Warren Loomis and Selden M. Bronson, directed to ~~Ira O. W.~~ the Honorable Ira O. Wilkinson, Judge of the sixth judicial Circuit of the State of Illinois, and as such Judge of the Circuit Court of ~~the~~ for the County of Ogle, commanding the Judge of the said Circuit Court for the County of Ogle to rescind a certain order made and entered of record in the said Circuit Court ~~of March term~~ on the death day of March, of March term in the year of our Lord one thousand eight hundred and fifty two, when by the said Circuit Court denied a motion theretofore made by the said Henry Warren Loomis in the same court, that a writ of certiorari facias be issued out of ~~this court~~ the said Circuit Court, directed to Spowen Ruggles, County Judge of the County of Ogle, to remove into the said Circuit Court certain insolvent proceedings had before him on or about the fifth day of June, A.D. 1852, upon the application of Henry W. Sims, an alleged insolvent who was then in custody of the Sheriff of the County of Ogle, by virtue of a writ of capias ad respondendum issued out of the said Circuit Court at the suit of the said Henry Warren Loomis and Selden M. Bronson.

Supreme Court

The People & et. Henry
Worms formis and
Jelden M. Bronson
vs.

Ira O. Wilkinson, Judge
of 24th Circuit.

Motion for Mandamus.

Filed July 2^d - 1852
L. Keland Clk.

Brown