

8791

No. _____

Supreme Court of Illinois

Darling

vs.

Banks

71641  7

Mr A. Durling left as above
set forth offers Henry Spring as
Olney Richland County Ill as
security on his bond to be given
on or upon the issuing of a super-
seas &c

This day personally appeared before
the undersigned Horace Wayward
who being duly sworn says that
he is well acquainted with Henry
Spring the person as above offered
for security & that he is good & suffi-
cient security for the sum of six or
eight hundred dollars

Horace Wayward

State of Illinois

Richland County Ill

I Morris B Snyder
Clerk of the Circuit Court of
said County Certify that the above
affidavit was subscribed & sworn
to before me this 31st day of July 1832

In testimony whereof I have
hereunto set my hand and
seal of office day and date
as above

M B Snyder Clerk

Darling
ry &
Banks

Errors to Richmond

8791

Transcript of Proceedings Absolute Banks
vs Andrew Darling
Copy of declaration
of the September term of the Richland
Circuit Court A D 1851

State of Illinois, Richland County, ss
Absolute Banks Plaintiff in this suit Com-
plain of Andrew Darling defendant &c of a
Plea of Verdict on the Case for Slander For that
whereas the said Plaintiff now is a true good
honest and respectable citizen of the state of Illinois
and of the County of Richland and as such hath
always behaved and conducted himself and
hath never been guilty or until the time of the
Committing of the several grievances by the said
defendant as hereinafter alleged and mentioned
been suspected to have been guilty of Per-
jury false swearing or any other such crime
by which and whereof his general good deportment
and truthfulness by the said Plaintiff before
the Committing of the said several grievances
by the said defendant as hereinafter mentioned
had deservedly obtained the good opinion
and Credit of all his neighbors and others
good and worthy Citizens who knew him to wit
at and in the County aforesaid (yet the said defen-
dant well knowing the premises but greatly envying
the plaintiff in his good name and Credit and
contriving and maliciously intending to injure
the said Plaintiff in his said good name and
Credit and to bring him into public scandal
infamy and disgrace with and amongst his
neighbors and whereas also hereafter to wit
the 26 day of August A D 1851 at and in

The aforesaid before one George F. Powers a Justice
of the peace in and for said County a certain suit
at law was then and there tried between one
Samuel H. Brown and the said Andrew Darling
in which the said Andrew Darling was defendant
and upon which trial the said Absalom Banks
Plaintiff herein was then and there produced
and duly sworn as a witness in behalf of said
Samuel H. Brown and then and there was
examined and gave testimony in and upon
the trial of said suit that the said defend-
ant contriving and maliciously intending
to injure the said Absalom Banks Plaintiff
as aforesaid in his said good name as aforesaid
said heretofore to wit on the said twenty
sixth day of July in the year of our Lord
1857 at law & in the County of Richland
aforesaid in a certain discourse which
he the said defendant then and there had
with the said Plaintiff and of and concerning
the testimony which he the said Plaintiff
had given upon the trial of the suit aforesaid
that and there in the presence and hearing
of the said last mentioned Citizens falsely
and maliciously spoke and published to and
of and concerning the said Plaintiff and
concerning the testimony which he the said
Plaintiff had given upon the trial of the
suit aforesaid these false scandalous
malicious and defamatory words following
that is to say You meaning the said Plaintiff
swore to a lie You meaning the said Plaintiff
stated a positive falsehood You meaning
the said Plaintiff swore a positive lie
You meaning the said Plaintiff stated a falsehood

and I can show it. You meaning the said Plaintiff swore to a positive lie and I can show it to you. You meaning the said Plaintiff swore to a falsehood. You meaning the said Plaintiff made a false statement and I can prove it the said defendant then and there by the said several words meaning and intending that he the said Plaintiff had been and was guilty of Perjury in his testimony given upon the trial of the suit aforesaid and he the said defendant was then and by the said Citizens last above named understood to mean and intend and whereas also at and in the County aforesaid in a certain other discourse which the said defendant had of and concerning the said Plaintiff and of and concerning the testimony he the said Plaintiff had given in the trial of the suit aforesaid in the presence and hearing of George H. Powers and divers good and worthy Citizens he the said defendant further continuing and intending as aforesaid in the presence and hearing of the said last mentioned Citizens falsely and maliciously spoke and published of and concerning the said Plaintiff and of and concerning his said testimony upon the trial of the suit aforesaid these other false scandalous malicious and defamatory words following that is to say He meaning the said Plaintiff, swore to a lie. He meaning the said Plaintiff stated a positive falsehood. He meaning the said Plaintiff swore

a positive lie and I can prove it He
the said Plaintiff meaning, swore falsely
He the said Plaintiff meaning, swore to a
falseness, I he. the said Plaintiff mean-
ing, had not swore to a lie I would have
gained my Case He the said Plaintiff mean-
ing, stated a falseness and I can prove
it, I can prove that he meaning the said
Plaintiff has sworn to a lie he the said
defendant then and there by the said
several words so spoke as aforesaid
meaning and intending that the said
Plaintiff in his testimony on the trial
of the suit aforesaid had committed
the Crime of Perjury and he the said
defendant was so then and there and
thereby understood to mean and intend
by the Citizens last aforesaid and when
as also afterwards to wit on the day and
year aforesaid at and in the County
aforesaid in a certain other discourse
which he the said defendant then and
there had with the said Plaintiff of and
Concerning him the said Plaintiff
and of and Concerning the testimony which
he the said Plaintiff had given upon
the trial of the suit aforesaid under
Oath aforesaid in the presence and
hearing of the said Plaintiff and
one George Powers and divers other
good and worthy Citizens of this state
then and there in the presence and hear-
ing of the said last mentioned Citizens
falsely and maliciously spoke to and of
and Concerning the said Plaintiff and

these other false scandalous malicious
 and defamatory words following that is
 to say You meaning the said Plaintiff
 swore a lie You meaning the said
 Plaintiff swore to a lie You meaning
 the said Plaintiff stated a positive
 lie You meaning the said Plaintiff,
 swore a positive lie and I can prove
 it You the said Plaintiff meaning stated
 a falsehood, and whereas also after
 wards to wit on the day and year afove
 said at and in the County aforesaid
 in a certain other discharge which be the
 said defendant then and there had of and
 concerning the said Plaintiff and of and
 concerning the testimony of the said Plain
 tiff upon the trial of the suit aforesaid
 in the presence and hearing of one George
 F. Powers and divers other good and
 worthy Citizens of this state then and there
 in the presence and hearing of the said
 last mentioned Citizens falsely and
 maliciously spoke and published of and
 concerning the said Plaintiff and of and
 concerning the testimony upon the trial
 of the suit aforesaid these other false
 scandalous malicious and defamatory
 words following that is to say He meaning
 the said Plaintiff swore to a lie He the
 said Plaintiff meaning swore to a lie
 and I can prove it He the said Plaintiff
 meaning swore to a positive lie He the
 said Plaintiff meaning stated a falsehood
 and I can show it He the said Plaintiff
 meaning, swore to a falsehood and I can prove it

and I can prove that he the said Plaintiff
meaning swore to a lie. If the said Plaintiff
meaning, had not swore to a lie I would
have gained my Case. If it had not been
for the lie sworn to by him the said Plaintiff
meaning would have gained my Case. I can
show by my books that he the said plain-
tiff meaning, stated a falsehood. I said
that he the said plaintiff meaning, stated
a falsehood and I can prove that he did
I can show by my books that he the said
Plaintiff meaning swore to a lie by means
of the speaking and publishing of which
said several false scandalous malicious
and defamatory words by the said defen-
dant as aforesaid the said plaintiff
hath been and is greatly injured
in his said good name fame and credit
and brought into public scandal infamy
and disgrace with and amongst all
his neighbors and other Citizens of this
state to whom the innocence and integ-
rity of the said plaintiff in the premises
were unknown and on account of
the speaking and publishing of which
said several malicious false scandalous
and defamatory words by the said defendant
as aforesaid divers of the said neighbors
and Citizens to whom the innocence of the
plaintiff in the premises were unknown hath
suspected and believed and doth sus-
pect and believe the said Plaintiff to
have been and to be a person guilty of
perjury and of false swearing as
aforesaid charged upon him. And

imputed to him by the said defendant
and have by reason thereof refused to have
any intercourse with the said plaintiff
as they were before accustomed to have by
reason of the premises and also by means of
the premises, the said plaintiff hath been
and is otherwise greatly damaged to wit at
and in the County of Ripley to the damage
of the said plaintiff of one thousand
dollars and therefore he brings this suit
&c

A. Kitchell
atty for P. P.

endorsed on back, Filed the 25th day
of August 1851

W. B. Snyder Clk

Copy of Summons

State of Illinois }
Richland County } 23

The People of
the state of Illinois to the Sheriff of said
County greeting we Command you to sum-
mon Andrew Darling to be and appear before
the Circuit Court of said Richland County
on the first day of the next term thereof
to be holden at the Court House in Olney
on the 15th day of September next to answer
unto Abraham Banks, on a plea of Trespas,
on the Case to the damage of the said
plaintiff one thousand dollars, as he saith
and have you then and there this writ

Witness our hand
of our said Court at Olney this
28th day of July 1851

W. B. Snyder Clk

W. B. Snyder

Endorsed on back

Executed by

by reading to the defendant July the 28th
1851 R B Marney Sh JRC

and afterwards to wit

At a Circuit Court
begun and held in and for the County of Rich-
land and state of Illinois for the 2^d Judi-
cial Circuit in said state on Monday the
15th day of September 1851 before the Hon
Justin Garland Judge

The following proceedings were had to wit

Abraham Banks

Andrew Darling } Richland County Circuit
Court Sept Term 1851

Plaw this day Comes the
defendant by Hayward & Constable his attor-
nies and defends the wrong and injury &
says that he is not guilty in manner & form
as the said Plaintiff hath above in his
said declaration thereof complained
against him and of this he puts himself
upon the Country &c

Constable & Hayward
atty for Def

and Plff doth the like

Witchell & Shaw &c
The said Plaintiff will hereby take no-
tice that on the trial of the above issue
herein in accordance with the statute
in such cases made and provided he will
give in evidence only for his defence herein
on the following special matters to wit

that the said Plaintiff was duly sworn
& testified as a witness in a Certain Case
at law commenced before one George F.
Powers a Justice of the peace within and
for said County of Richland wherein
Samuel H Brown was Plaintiff and
said Andrew Darling was defendant
the said Abraham Banks testified as
follows that he was in the said Darling
store in Feby or March or April 1851 &
heard the said Darling say to Samuel H Brown
that according to that there was twenty dol
lars due him that the said Darling & the
said Brown were conversing about
their account, that he understood that
they settled their account & the said
Darling agreed that there was twenty dol
lars due & owing the said Brown that
he could not tell the exact time this
Conversation took place but believe it
was in March or April 1851 at any rate
it was after he had got through work on
the said Darling's Boats for he was loafing
at the time he heard this Conversation &
that was after he got through work on
the said Darling's Boats, that this was
the only Conversation he ever heard
between the said Darling & the said
Brown in relation to their matters of
account and the said defendant avers
that the said Plaintiff in this swearing afor
said swore falsely touching and concerning
the said settlement at the time when
& which false swearing defendant will
prove wherefore he might lawfully

spake the words of and Concerning the
 said Plaintiff which in his said
 Declaration the said Plaintiff Charges
 to have been spoken by him as follows
 Constable & Hayward
 Atty for Deft &c

Endorsed on back

Gile this 17 day of September 1851
 Chas B Snyder Ch

and the defendant Comr & makes the following
 affidavit to wit

State of Illinois Richland
 County Circuit Court Sept Term 1851

Abraham Banks

vs } Case
 Andrew Darling }

The defendant in the
 above entitled Cause after being duly
 sworn deponeth & saith that he can not
 safely go into trial at this term of said Court
 on account of the absence of William
 Stowell who is a material witness for said
 defendant as he is informed & believes that the
 said William Stowell was duly subpoenaed
 & that said witness has gone to Evansville
 Ind. & is expected to return before the
 next term of this Court this defendant
 expects to be able to prove by him that
 sometime in the month of February A.D. 1851
 witness was present in the store house of
 this defendant at an attempted settlement
 between one S H Brown and this affiant
 that a certain credit for barrels, for barrels.

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that the said Plaintiff was duly sworn
& testified as a witness in a Certain Case
at law commenced before one George F.
Powers a Justice of the peace within and
for said County of Richland wherein
Samuel H Brown was Plaintiff and
said Andrew Darling was defendant
the said Abraham Banks testified as
follows that he was in the said Darlings
store in Feby or March or April 1851 &
heard the said Darling say to Samuel H Brown
that according to that there was twenty dol
lars due him that the said Darling & the
said Brown were conversing about
their account, that he understood that
they settled their account & the said
Darling agreed that there was twenty dol
lars due & owing the said Brown that
he could not tell the exact time this
Conversation took place but believe it
was in March or April 1851 at any rate
it was after he had got through work on
the said Darlings Boats for he was loafing
at the time he heard this Conversation &
that was after he got through work on
the said Darlings Boats, that this was
the only Conversation he ever heard
between the said Darling & the said
Brown in relation to their matters of
account and the said defendant avers
that the said Plaintiff in this swearing afor
said swore falsely touching and concerning
the said settlement at the time where
& which false swearing defendant will
prove wherefore he might lawfully

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speak the words of and Concerning the
said Plaintiff which in his said
Declaration the said Plaintiff charges
to have been spoken by him as aforesaid
Constable & Hayward
Atty for Spt &c
Endorsed on back

Filed this 17 day of September 1851
M B Snyder Ch

and the defendant Comes & makes the following
affidavit to wit
State of Illinois Richland
County Circuit Court Sept Term 1851

Abraham Banks
vs } Case
Andrew Darling }

The defendant in the
above entitled Cause after being duly
sworn deponeth & saith that he can not
safely go into trial at this term of said Court
on account of the absence of William
Stowell who is a material witness for said
defendant as he is informed & believes that the
said William Stowell was duly subpoenaed
& that said witness has gone to Evansville
Ind. & is expected to return before the
next term of this Court this defendant
expects to be able to prove by him that
some time in the month of February A.D. 1851
witness was present in the store house of
this defendant at an attempted settlement
between one S H Brown and this affiant
that a certain credit for barrels, for barrels.

to be furnished by the said Brown amounting \$20 was in dispute between the said Brown & this affiant and that they disagreed about such credit and separated without having adjusted the matter when this affiant entered the Credit on his books as he claimed it was that witness as this affiant believes will be able to identify this to the satisfaction of the Court at the same conversation & time at which said Plaintiff in the testimony referred to in affiant's plea & notice testified to a settlement as he understood it and an admission on the part of affiant of a balance due from him to the said Brown of twenty dollars affiant shews that he seeks to procure the testimony of the said Jewell in furtherance of justice and a full and fair hearing of the facts in this cause and that this Application is not made for delay merely but for the purpose aforesaid and no other &c

and further this affiant saith not

do,
 subscribed & sworn to
 in Open Court before me
 this 14th Sept. A D 1851
 M B Snyder Clerk

Andrew Darling

and afterwards at the same term of Court the following order was made to wit
 Absolem Banks }
 Andrew Darling } Transpass on the Case

Now at this day Come the parties by their
 Attornies and on motion of the defen-
 dant by his attorney it is ordered that
 that this Cause be Continued until the
 next term of this Court at his dependants
 Costs. It is therefore Considered and adju-
 dged that the plaintiff recover of and
 from the dependant his Costs and charges
 by him about this suit at this term of Court
 expended &c

and afterwards to wit
 At a Court began and
 held in and for the County of Richland and
 State of Illinois for the 4th Judicial Circuit in
 said state on Monday the 15th day of March A D
 1852 before the Hon Justice Harlan Judge

The following proceedings were had
 Absalom Banks }
 by } Trespas on the Case
 Andrew Darling }

Now at this day Comes
 the parties by their attorneys and issue
 being joined therefore let a jury Come
 and thereupon Came a Jury to wit
 Charles Steteville, Amos Harmon, Joseph
 Brown, John Stucky, John P. Higgins, Thomas
 Goin, John Hanes, Jackson Gardner, William
 Higgins, James Peterson, Henry Stoltz and
 John A. Kent twelve good and lawful men
 who being duly tried, pledid and sworn
 the truth to speak on the issue joined

upon their oath, do say we the Jury do find the
 defendant guilty and assess the plaintiff, da-
 mages at the sum of Three hundred dol-
 lars whereupon the defendant moves the
 Court for a new trial in this Cause which
 motion after argument is disallowed
 It is therefore finally Considered and
 adjudged by the Court that the plaintiff
 recover of the said defendant the sum
 of Three hundred dollars damages to-
 gether with his Costs and Charges by
 him about his suit in this behalf
 expended and thereof may have Ex-
 ecution &c

Copy of defendants Exemptions

State of Illinois, Richland County, ss
 Richland Circuit Court
 March term A.D. 1852

Abraham Banks,

vs } In support on the Cause
 Andrew Darling }

Be it Remembered that on the trial of the above entitled
 Cause before the Honorable Garban Judge
 and a Jury the plaintiff proved as follows
 by Peter G. Perry that witness was present
 on the day of a trial between one Samuel
 H. Brown and defendant Darling at
 the Court House in Alton and that during
 the progress of the trial at a time when
 witness and Darling had withdrawn to the

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door of the Court house ~~where~~ Plaintiff Banks,
joined them that in a conversation there
between him (Banks) and Darling Defendant
said you know that when you swore the settle-
ment was after the boats were finished you
swore a lie I can show by my books, the settle-
ment was in February and the boats were
not done till March or April and according
to that you swore a lie witness also testified
that he was present at the trial and heard
Banks sworn as a witness on the part of
Brown that Banks stated that what he
understood was a settlement between
Brown and Darling was at a conversa-
tion which he heard between them at
Darling's store sometime in March or April
1851 that Hayward asked him if it might
not have been in February, that Banks
said no it was after I finished the Boats
for Darling and I did not finish the boats
till March or April for I was loading at
the time

George F. Palmer testified
a day or two after the trial between Brown
& Darling he and others were in company
with Darling, Thinks Mitchell, Dyer, & others
were present conversation come up about the
trial and Banks testimony witness observed
to Darling that if he did not mind Banks
would sue him when Darling said that
he did swear a lie about the settlement
and he believed he could prove it yet by
his books and went on to state in what he
had sworn falsely and spoke of the time of

finishing the boats & other things witness also
 states that while the trial was pending he
 asked Darling how he was going to come
 out and Darling replied that he would
 have gained his case if it had not been
 for Banks' testimony & that is a lie. witness
 also states that he was present at the
 trial between Brown & Darling & heard
 Banks' testimony. Banks said he was
 in Darling's store and heard a set-
 tlement between Brown and Darling
 in March or April 1851. Hayward asked
 him if it might not have been in Februa-
 ry. Banks said he thought not it was after
 he got Darlings boats done for he was loafing
 at the time. William Shelby was one
 of the Jurors on trial between Brown
 & Darling in July 1851 heard Banks' sworn
 Banks said the settlement was in March
 or April he said it might have been in
 February but it was after he finished
 the boats for he was loafing. Banks said
 he knew it was after he finished the
 boats. Samuel H. Brown testified that
 it was about the 11th February when he and
 Darling had settlement. Doesnt recollect
 who was by thinks Stauffer was there doesnt
 think Jewell was. Thinks Banks was because
 he says he was but wont say he was positively
 then considered it a settlement. Does not
 recollect of Jewells asking Darling any
 questions & heard Darling make no answer
 was behind the counter Darling at the Desk

He at the end of it Commenced settlement
 with a Jewell who was called off by Jur-dealer
 and Darling took charge of it this was the
 only settlement. Think Banks said the settlement
 might have been in February but was not
 positive heard something about the boats
 but don't recollect what was frustrated
 Alex Byers states he was by at the time referred
 to by Pomeroy. Pomeroy said to Darling that
 Banks would sue him if he did not quit
 talking so Darling replied he did not bear
 a lie and I believe I can prove it. It don't
 recollect any thing more think he left
 George Lutz heard Banks sworn Banks said
 settlement was in March or April Hayward
 asked if it might not have been in February
 Banks answered for all I know it might but
 it was after the boats were done. Witness thinks
 boats were finished in March was at work
 on them in that month was a juror.

Henry Spring testified that he was present at
 trial between Brown & Darling heard
 Banks sworn. Banks stated the time when
 he heard settlement was in March or April
 when questioned said he thought in March
 or April but was not positive it was in March
 or April it was after the boats were done for he
 was loafing at the time. Said he did not
 think it was in February for he knew the
 boats were not finished in February.
 Thomas W Lilly stated that he heard Banks
 swear that when speaking of the time of
 settlement said it was after boats were finished.

that he could not be positive it might have
been in February. Jonas Spangler states
that Banks swore that the settlement was in
march or April that it was after he finished
the boats, dont know that he used the word
thought this was all of Plaintiffs testimony
Defendant then proved as follows By William
Spewell that he was present at an attempted
settlement between Samuel Mc Brown and
Andrew Darling about the 11th February 1851
settlement was about some Coopering that he
was not by all the time dont recollect who
was then come in just as conversation closed
Darling was at the Desk in the store Brown
behind the Counter at the end of it witness
asked Darling how he came out this time
was led to do so because he had come out
debtor in a settlement had with another hand
Darling replied why when we get twenty barrels
we will owe Brown \$20. Brown did not say
anything but left immediately witness did not
regard it as a settlement the Boats on which
Banks worked were not finished for three or
four weeks after this date
William Gray worked for Banks on boats
between 20th Feb & 10th March but one done
when he left work & the other left unfinished
Stephen D Hay stated that Banks swore
he happened into the store & Brown &
Darling were settling stated it was in
march or April Hayward asked if it
was not in February Banks thought
it was in march or April for he was

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loafing at the time Banks said he understood
it was a settlement that he heard Darling
say to Brown according to that we should
owe you \$20. William Potten states that
Banks swore that he was in the store when
Darling & Brown were trying to settle
thought it was in march or April and
thought it was after he finished work
on the boat, was a juror on trial
between Brown & Darling.

Horace Hayward stated he was attending
to the suit between Brown & Darling Banks
had stated the time of settlement to have
been in march or April I asked him if it
might not have been in February, he said
no at any rate it was after I got thro' my
work on the boat for I was loafing at the
time & that was after I got thro' work on
the boat.

This was all the
testimony in the case and thereupon the
Court gave the following instructions as
asked by the Plaintiff. If the jury believe
from the testimony that the slanderous words
were spoken of the Plaintiff's testimony on the
trial before the Justice of the Peace
and that the defendant intended to
charge the plaintiff with having on that
occasion committed Perjury then they
must find for the plaintiff unless the truth
of the charge has been proved.

If the jury believe from the evidence that
the defendant intended to charge the

Plaintiff with perjury by speaking the words charged in the declaration & that the defendant cannot justify the speaking of the words by showing that the plaintiff was mistaken as to a fact not material on the trial of the Cause. and they should find for the Plaintiff

Unless the defendant has proven on this trial that the Plaintiff did swear to a falsehood on that trial before the Justice of the peace they must find for the Plaintiff if they believe from the Evidence that the defendant spoke the words charged in the Plaintiff's declaration they shall be found for the Plaintiff

If the defendant relies upon the truth of the words charged in the declaration as a defence they must prove the truth of the words charged

The Court also gave the following instructions as asked by defendant which I believe were general & given as asked without being objected to by Plaintiff - & which instructions were mislaid by the jury - whereupon the jury retired and after deliberation returned into Court the following verdict with the jury find the defendant guilty and assess the Plaintiff's damages at three hundred dollars whereupon the defendant moved the Court

for a new trial in this Cause and assign
ed the following Causes therefore

Andrew Darling
vs
Abraham Banks & In trespass on the
Case


now at this day Comes
the defendant and moves the Court for a
new trial herein and assigns as Cause
therefor

- 1st That the Evidence was not sufficient
to sustain the declaration
- 2^{ndly} that the verdict is against the Evidence
& in violation of law
- 3^{rdly} that the verdict is in disregard
of the Evidence under the instructions
of the Court
- 4^{thly} that the damages are excessive
& oppressive upon the defendant
- 5^{thly} that no damages were to be set
up & proven but those to be presumed
from a wrongful speaking of the
words & are excessive

all of which is submit
to the Court
Hayward & Constable
Attorney for defendant

which motion after argument heard
is overruled by the Court & judgement
rendered on the verdict by the Court
whereupon the defendant excepted
to the judgement & Opinion of the Court
in overruling said motion & in rendering

Judgment on the verdict and asked that
this this exception might be allowed
and made a part of the record in this
Cause which is done

J. Garland 

State of Illinois

Richland County 388

I Morris B Snyder
Clerk of the Circuit Court of said
County do hereby certify that the foregoing
pages contain a true perfect and
complete transcript of the declaration
process and proceedings in the case
of Abner Banker vs Andrew Darling
as fully and completely as the same
remains of record in said Court.

In testimony whereof I
have hereunto set my
hand and affixed the
seal of said Court at
Albany this 2nd day of
July 1852
M. B. Snyder Clerk

1st Sup. Court District 3 November Term
State of Illinois 388 A.D. 1852

And now at this day
comes the defendant by Constable & Hayward his
attorneys and says that in the foregoing case and
record thereof there is manifest error, and that
the judgment of the Circuit Court in the pre-
mises is erroneous and should be reversed

Filed the 28th Sept. 1852

F. W. Parson, Clerk

and set aside, and assign a specific error therein - That

1st. The court erred in refusing to set aside the verdict & order a new trial in the premises -

2nd. The Court erred in rendering judgment on the verdict of the jury aforesaid for which and divers other errors, the defendant prays judgment of the said records, and that the said judgment be reversed &c. and that supersedeas issue &c. Constable & Hayward

For Sheriff in Error.

And the S^{ct} says there is no error in the Record -

Attended for Defendant

Clerk of Court 387

Andrew Darling }
or. } Error to Pickland
Absolon Banks } County.

The Clerk of the Supreme Court of the 1st Grand Division, will cause the writ of Error to be issued in this case to be made a supersedeas upon the filing of a bond in his office by the said Darling with Henry Spring his security, in the penal sum of Five hundred dollars, much payable to the said Banks and conditioned as the law requires.

Alton, Aug. 21 1852.

S. Turnbull,
Justice Supr Court.

STATE OF ILLINOIS, }
SUPREME COURT. } ss.

THE PEOPLE OF THE STATE OF ILLINOIS,

To the Sheriff of *Richland* County,

Because in the record and proceedings, and also in the rendition of the judgment, of a plea which was in the Circuit Court of *Richland* County, before the judge thereof, between *Abraham Banks*

Plaintiff and *Andrew Darling*

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

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 Mt. Vernon, 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 *Abraham Banks*

that *he* be and appear before the Justices of our said Supreme Court, on the first day of the next term of said Court, to be holden at Mount Vernon, in said State, on the Second Monday in November next, to hear the records and proceedings aforesaid, and the errors assigned, if *he* shall think fit; and further to do and receive what the said Court shall order in this behalf; and have you then there the names of those by whom you shall give the said *Abraham Banks* notice, together with this writ.

Witness, the Hon. SAMUEL H. TREAT, Chief Justice of our said Court, and the seal thereof, at Mount Vernon; this *29th* day *Oct.* in the year of our Lord, one thousand eight hundred and fifty-*two*

S. W. Weston Clerk of Supreme Court.

Supreme Court

Andrew Darling

v.

Abraham Bank

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| Serving | 50 |
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1852

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Presented by Reading Bank the 13th
1852
Wm & Henry Shupp R.C.

STATE OF ILLINOIS
SUPREME COURT

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