

No. 8774

# Supreme Court of Illinois

Sidney Todd

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vs.

Wm. Carwell, et al

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71641  7



State of Illinois }  
Monroe County } p

Plays of Record in the Circuit  
Court of Monroe County State of Illinois  
Before the Honorable Gustavus Kourier  
Associate Justice of the Supreme Court  
& presiding Judge of the second judi-  
cial Circuit of said State.

Be it Remembered that heretofore to wit on the  
23 Day of March 1848 Sidney Todd Thomas Winst-  
anley & Thomas Harrison who sue for the use of the  
Trustees of Schools of Township N. 2 South Range N. 9  
West of the third principal Meridian by Ellis pie &  
Quick their attorneys came & filed in the office of the  
Clerk of the Monroe Circuit Court aforesaid their Peti-  
tions as follows To Wit

State of Illinois } In the Monroe County Circuit  
Monroe County } Court April Term A.D. 1848

Sidney Todd  
Thomas Winstanley  
Thomas Harrison } Pleffs

vs  
William Powell }  
John Morrison } Debt  
John Gall } Debt .. 2000.00

Action of Debt  
Debt \$ 12000.00  
Dowry .. 2000.00

The Clerk will please issue summonses in this  
Case returnable the first day of the above  
Mentioned term March 17<sup>th</sup> A.D. 1848  
Whereupon the Clerk of said Court on the Day  
& Year last aforesaid issued the following summonses  
to wit State of Illinois Monroe County }  
The People of the State of Illinois }  
to the Sheriff of Monroe County - Greeting



We command you that you summon William Cowell  
John Manison and John Gull if they be found in your  
county personally to be and appear before the circuit court  
of Monroe County on the first day of the next term thereof  
to be holden at the Court House in Waterloo on the  
fourth Monday after the third Monday of March inst  
AD 1848, to answer Sidney Todd Thomas Winstanley  
and Thomas Harrison of a plea of Debt Twelve thou-  
sand Dollars to the claim of the said Sidney Todd  
Thomas Winstanley & Thomas Harrison the Sum of Two  
Thousand Dollars as they say; And leave you then  
then this writ

Witness W. W. Ourebury Clerk of the  
said Circuit Court and the Seal  
thereof at my office in Waterloo  
this 23<sup>rd</sup> day of March AD 1848  
W. W. Ourebury Clk

And afterwards to wit on the 5<sup>th</sup> day of April  
the said plaintiffs by Gillespie & Burck their  
attorneys came & filed in the Clerk's office of  
said Circuit Court the following Declaration

State of Illinois

Monroe County

Of the April Term of the Mon-  
roe County Circuit Court AD 1848

Sidney Todd Thomas Winstanley and Thomas  
Harrison plaintiffs in this suit who are for the  
Use of the Trustees of Schools of Township Numbered  
Two South Range Numbered Nine West of the  
third principal Meridian the greater part of  
which is situated in the County of Monroe in the  
State of Illinois for the Use of Schools complain  
of William Cowell John Manison and John  
Gull being in custody &c of a plea that they the  
said Defendants render unto them the said pla-  
ntiffs the sum of Twelve Thousand Dollars which  
the said Defendants owe to and unjustly detain from  
them



The said Defendants owe to and unjustly detain from them  
For their wrongs heretofore to wit on the sixth day of Septe-  
mber in the Year of Our Lord One Thousand Eight Hundred  
and Forty One at the County aforesaid the said Def-  
endants to wit William Cowell Thos Morrison &  
John Galt <sup>the said Galt</sup> by the name of Needles & Galt together with David  
Pitch John Ryan and John C. Sams the last three have  
since and before the commencement of this suit been by  
their certain writing obligatory of that date which is now  
here to the Court shown because held and fully bound  
unto the said plaintiffs for the use aforesaid in the penal  
sum of Twelve thousand dollars which said writing  
obligatory was and is subject to a certain condition then  
under written whereby after reciting amongst other  
things that on the first Monday of August then last  
past One William Cowell had been elected to the  
office of School Commissioner and Agent for the  
inhabitants of the County of Monroe aforesaid for the  
disposal of School Lands in and for said County  
And Each Congressional Township therein according  
to Law it was stipulated that if the said William  
Cowell should faithfully discharge all the duties  
required of him by Law as such School Commissioner  
and Agent and justly and fairly account for and  
pay over all monies that may come to his hands  
or possession by virtue of his said office and  
shall surrender all monies, Books and papers  
appertaining to his said office whole and undivided  
to his successor in office or whom he requires of him then this  
obligation to be null and void

Plaintiffs aver that the said William Cowell  
did not faithfully discharge all of the duties required of  
him by Law as School Commissioner and agent of said  
County as aforesaid In this to wit that on the first  
day of October A.D. 1841 at the County aforesaid and



which the said William Cowell was such School Commissioner and agent as aforesaid and in exercise of the duties thereof there came to his hands and possession as such School Commissioner and agent belonging to the inhabitants of Congressional Township Numbered Two South Range Nine West of the third principal Meridian the greater part whereof there did and now does lie in the said County of Monroe and the funds whereof were then and there under the control and management of said School Commissioner and agent the sum of Two Thousand Dollars

Plaintiffs further aver that afterwards to wit on the fourth day of September A.D. 1843 at the County of aforesaid one Amos Diers was the duly elected and qualified Successor of the said William Cowell as said School Commissioner and agent and so continued to be until the seventh day of April A.D. 1845 at said County when and where the said Township duly elected according to Law Trustees of Schools whereby the said Township became then and there duly incorporated

Plaintiffs further aver that afterwards to wit on the eighteenth day of January A.D. 1847 at the County of aforesaid one Frederick C. Horn became and was the duly elected and qualified Treasurer of said Township and so continued to be until the 24<sup>th</sup> day of February A.D. 1848 when as the plaintiffs further

One Solomon Patterson became and was & still is the duly elected & qualified Treasurer of said Township and the successor of the said Horn and has assumed ever since the said time last mentioned to wit at the County of aforesaid the duties of such Treasurer as required by Law

Plaintiffs aver that the aforesaid Frederick C. Horn on the 20<sup>th</sup> day of April A.D. 1847 and when he was Treasurer as aforesaid at the County of aforesaid demanded of and from the said William Cowell the said sum of Two Thousand Dollars which the said



Cowell then and there refused to pay. Nevertheless the said Cowell although often requested to do hath not paid the said sum of two thousand Dollars either to the said Annanias Dever, Successor of said Cowell as aforesaid or to Frederick C. Herr Treasurer of said Township or otherwise, or any part thereof, but the said sum of money remains and still is due and unpaid in whole or in part, whereby an action hath accrued to the said plaintiffs for the use aforesaid to demand & have of and from the said defendants for the use aforesaid the said sum of Twelve Thousand Dollars above demanded. Nevertheless the said Defendants notwithstanding hath not as yet although often requested to do paid the said sum of money above demanded, or any part thereof, but the same remains & is wholly due and unpaid to the damage of the said plaintiffs of Two thousand Dollars & therefore they sue  
 Gillespie & Tuitt Attys for plffs.

And afterwards to wit on the 19<sup>th</sup> day of April A.D. 1848. the said Defendants filed their Demurrer to the Declaration of the said plffs which Demurrer is in its words & figures full

as owing to wit

Sidney Todd  
 Thomas Wintecally  
 & Thomas Harrison  
 vs  
 Jm Cowell  
 John Morrison  
 John Tall

Debt

And the Defts by Morrison  
 Emulung & Lissell  
 their Attornies Comand  
 defendt & are say that  
 the matter & all things in  
 the plffs declaration all

edges & ~~set forth~~ in numer and form as therein stated are not sufficient in Law for the plffs to have or maintain their aforesaid action thereof against them wherefore they pray Judgment &c  
 Morrison Emulung & Lissell  
 for Defts



And thompson court on the nineteenth day of April A.D. 1848. and at the April Term of the Monroe County Circuit Court A.D. 1848. And on wednesday the third day of the said Term there was made set down and recorded the following order in this Cause to wit

Lucy Todd  
Thomas Mistake  
and Thomas Harrison

} Debt

129  
William Correll  
John Morrison  
and John Fall

And now this day comes the said Defendants by Ombulney & Rissell their attorneys and file their Demures to the declaration of the said plffs which Demure after argument is sustained by the Court and Judgment for Defendants is entered; And it is thompson considered by the Court that the Defendants recover of and from the said Plaintiff all their legal Costs herein &c

State of Missouri  
J. M. Milburn, Clerk of the  
Monroe County Circuit Court of Monroe  
County in the State of Missouri hereby certify the fore-  
going to be a true and fair Transcript of the record  
in the Cause therein entitled and that the originals of the  
papers therein above set out are of record on file in  
my office In witness whereof I have hereunto  
set my hand and affixed the  
Seal of the said Circuit  
Court at my office in  
Waterloo this day of October  
A. D. 1851

J. M. Milburn





State of Missouri

1<sup>st</sup> Division Supreme Court

And now comes the said  
plaintiffs in Error by Gillispie & Turnbull  
their atty. and say that in the Record &  
proceedings aforesaid there is manifest Error  
in this:

1<sup>st</sup> The Court erred in sustaining the Demurrer  
of said depts. to the Declaration of said pl<sup>ts</sup>.

2. The Court erred in rendering a judgment  
for defendants, when it should have  
been in favor of plaintiffs.

And for every other error appearing in  
the Record & proceedings aforesaid,  
Wherein said plaintiffs pray that the said  
judgment of the Circuit Court may be set  
aside & for naught returned.

Gillispie & Turnbull  
attys. for pl<sup>ts</sup>

And the defendants come & say in nulla sent oratio

No more & Seats of Counsel with  
Depts



Order to Monroe

Sidney Ladd

Thomas Keastan

Thomas Harrison

us.

William

Hubbell

John Morrison &

John Gall

Secord

Prepared

8774

Mr. Patten

Phonetic unit  
in above cause  
directed to Monroe  
County

Hubbell & Gilligan  
for plaintiffs



STATE OF ILLINOIS, }  
SUPREME COURT. } ss.

THE PEOPLE OF THE STATE OF ILLINOIS,

To the Sheriff of *Monroe* 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 *Monroe* County, before the judge thereof, between *Sidney Todd, Thomas Winslow and Thomas Harrison Plaintiffs and William Courell, John Morrison and John Gull*

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

as we are informed by *this* 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 *William Courell, John Morrison and John Gull*

that *they* 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 *they* 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 *defendants* 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 *18<sup>th</sup>* day *February* in the year of our Lord, one thousand eight hundred and fifty-*two*

*Sidney D. Preston* Clerk of Supreme Court.



Supreme Court

185-2

Sidney Todd, et al

vs.

William Cowell et al

Served by reading to John  
Gall and John Morrison  
the within writ; and W-Cowell  
March 16 1852. | not found.

per.

Charles Henckler

Leaving each Sheriff money count  
50¢

\$1.00

returning  $\frac{10}{100}$   
\$1.10

8774

STATE OF ILLINOIS

RECORDS OF THE SUPREME COURT

To the Clerk of

County