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Jonathan Weldon
vs
William Busch et al.

Winnebago

1854 ~~1852~~

94

11810

No. 1851

No. 11810

Supreme Court of Illinois

Weldon

vs.

Busch, et al,

71641 7

State of Illinois, Sct.

The people of the State of Illinois,

To the Clerk of the circuit court for the county of Winnebago—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 Winnebago - county, before the Judge thereof, between Jonathan Weldon

plaintiff and William Burch, John Burch Junior, Washington Moore, Plyna Moore, Matthias Davis, William Davis, David W. Holt, & Emitt Purdy impleaded with Curtis Briggs & Horace Hudson

defendants it is said manifest error hath intervened to the injury of the aforesaid Jonathan Weldon

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 of 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 15th day of April in the year of our Lord one thousand eight hundred and ~~forty~~ fifty.

L. Leland

Clerk of the Supreme Court.

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Jonathan Weldon

vs

William Burch et als.

Writ of Error -

To June Term 1850.

At a regular Term of the Circuit Court within and for the County of Winnebago in the State of Illinois, begun and held on the 14th day of April A.D. 1845. Present the Honorable

Thomas C. Brown, one of the Justices of the Supreme Court and presiding Judge of the Sixth Judicial Circuit in said State,

James L. Loop States Attorney
Aaron Barnum Sheriff
James Mitchell, Clerk

Be it remembered that heretofore to wit on the 22d day of February A.D. 1844. the following Precepe was filed in the Office of the Clerk of the Circuit of said County of Winnebago, which is in the words and figures following to wit.

In the Winnebago County Circuit Court

Winnebago County } ss

Command the Sheriff of Winnebago County to summon William Birch Jr. Washington Moore, Silas Moore Matthias Davis William Davis David M. Holt Curtis Briggs Emmet Pindy and Horace Hudson to appear

on the first day of next Term, Damon
unto Jonathan Welden, in a plea of
Trespass, Damages one thousand Dollars

Francis Bishop
Pltffs Atty.

And on the same day, to wit the 22d day
of February AD 1844. the following
Summons was issued out of the Office
the said Clerk of said Circuit Court,
of Winnebago County, which is in the
words and figures following to wit

State of Illinois } The People of the
Winnebago County } State of Illinois
To the Sheriff of
said County. Greeting

We command
You that You summon William Birch
John Birch Jr. Washington Moore Elias
Moore Matthias Davis, William Davis
David W. Hott Curtis Briggs Emmet
Pindy, and Horace Hudson, to appear
before the Circuit Court of said County, on
the first day of the next term thereof, to be
held at the Court House in Rockford on the
Eighth day of April next, to answer
Jonathan Welden in a plea of trespass
damages one thousand dollars and have
You then there this Writ.

Witness James Mitchell Clerk of
our Circuit Court at Rockford this
22nd day of February AD 1844

Seal

Attest James Mitchell Clerk

Which said Summons has endorsed
thereon the words and figures following
Viz

"Duly served the within by reading
the same to Emmit Pendy and Pleasa
Moore April 6th 1844. The within
writ was not received until April 8th 10 A.M. and
I have not served the balance for want
of time. April 8th 1844.

Fees. Service 1.00 S A Sanford Sheriff

Mileage 4 m. .25

Return 12c $1.37½

And afterwards to wit on the 9th day of
April AD 1844 in the Record of Proceedings at the
April Term AD 1844 of said Court in the
Record of the proceedings thereof is the
following entry to wit.

Jonathan Welden
vs } Trespass
William Bunch et al

Now at this day

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It is Ordered by the Court that this cause be continued, and that an Alias Summons issue returnable to the next Term of this Court.

And afterwards

Best on the 20th day of May AD 1844 the following Alias Summons issued out of the Office of the Clerk of said Circuit Court, which is in the words and figures following, to wit.

State of Illinois
Winnebago County } ss

The People of the State of Illinois To the Sheriff of said County Greeting.

We command You as we have before commanded You that You Summon William Beach John Beach Jr Washington Moore Philip Moore Matthias Davis D. W. Holt, Curtis Briggs Emmit Pinday and Horace Hudson to appear before the Circuit Court of said County on the first day of the next Term thereof, to be holden at the Court House in Rockford on the 3d Monday of August next to answer Jonathan Welden in a plea of trespass, damages One thousand dollars; and have You there then this Writ

Witness James Mitchell Clerk of our Circuit Court at Rockford this 20 day of May AD 1844.

Attest. James Mitchell, Clerk

Which said Dx Alias Summons has endorsed thereon the words and figures following to wit. Dx

Duly served the within by reading the same to the within named William Birch & Washington Moore, Eliza Moore Mathias Davis Emmit Purdy, the other mentioned persons not found in my County August 3rd 1844

G. A. Scofield Sheriff W. C.

Fees serve 2.50
Mileage 27 Mls 1.69
Return .12½
$4.31

And afterwards to wit on the 9th day of August AD 1844 the said Plaintiff filed in the Office of the Clerk of said Court a his certain Declaration in this cause. which is in the words and figures following Viz

In the Winnebago Circuit Court
Of April Term in the year
of our Lord one thousand eight
hundred and forty four.

Winnebago County } ss

William Birch John Birch Junior Washington Moore Plyno Moore Matthias Davis William Davis O W Stoll Curtis Briggs Smith Purcay and Horace Hudson were summoned by the Sheriff of the County of Winnebago to answer unto Jonathan Weldon in a Plea of Trespass. and thereupon the said Jonathan Weldon by Francis Burman his Attorney complains. For that the said Defendants on the twenty sixth day of February in the year of our Lord one thousand eight hundred and forty two being armed with ropes clubs guns pistols swords axes and knives and other deadly weapons with force and arms violently and forcably broke and entered the dwelling house of the said Plaintiff situated in the County of Winnebago aforesaid and continued therein committing in such riotous brutal menacing and outrageous manner for a long space of time to wit: for the space of ten minutes then next following to the great alarm distress and terror of the said Plaintiff and his family then there being, and then and there forced and broke open broke to pieces and damaged divers to wit. two door and four windows of the said plaintiff of and belonging to the said dwelling house and broke in pieces damaged and spoiled divers to wit two locks four hinges and two staples wherewith the said doors were then fastened to wit of the value of ten dollars

there with force and arms assaulted the said plaintiff and ~~then and there with force and arms assaulted the said plaintiff and with great force and violence seized said plaintiff of and belonging to the said dwelling house and body in peace and~~ and with great force and violence seized and ~~force and violence~~ said force of the said plaintiff and then and there gave and struck the said plaintiff a great many violent blows and strokes on and about divers parts of his body and also then and there with great force and violence shook and pulled about the said plaintiff and forced and dragged him out of the said dwelling house and cast and threw the said plaintiff down to and upon the ground and then and there with great force and violence pulled and dragged the said plaintiff along the ground and through the mire then and there being for a long distance to wit: the distance of forty rods within the bounds aforesaid to the great torture and suffering of the said plaintiff and then and there blindfolded the said plaintiff with a bandage which they then and there bound around the head of the said plaintiff so tight as to give him great pain and uneasiness and then and there again gave and struck the said plaintiff a great many other violent blows and strokes and then and there raised and placed the said plaintiff prostrate upon the back of a certain hard going horse then there being with the breast of the said plaintiff lying upon the back ~~and shoulders~~ of the said horse and taking hold of the legs and arms of the said plaintiff the said defendants down forced and pressed the said plaintiff with force and violence to and upon the back of said

horse and then and there still so holding and pressing the said plaintiff, caused the said horse to move irregularly forward under and bearing the said plaintiff and to violently pitch the said plaintiff so being held and pressed down upon the back of the said horse by the said defendants for a long distance to wit for the distance of two miles within the County of Winnebago aforesaid threatening to destroy and take the life of the said plaintiff to the great excruciating and inexpressible agony terror and torment of the said plaintiff and thereby severely bruised hurt and wounded the said plaintiff on and about his breast and divers other parts of his body, and the said defendants then and there to wit within the County of Winnebago aforesaid forcably and violently pulled and stripped off and rent and tore in pieces and destroyed the clothes and wearing apparel to wit one coat one waist coat one shirt and one flannel shirt of the said plaintiff of great value to wit of the value of thirty dollars which the said plaintiff then and there wore and was clothed with and then and there forcably and violently strike and threw down the said plaintiff so stripped and naked to and upon the ground and pulled about and rolled him in the mud then and there being, and then and there forcably and violently tarred and feathered the said plaintiff upon his head and naked body and upon the residue of his clothing and wearing apparel not stripped off and destroyed as aforesaid then and there putting upon the said plaintiff a large quantity to wit six quarts of tar covering his

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body therewith and then and there forcably and violently put the said plaintiff upon a rail and carried him upon the said rail a long distance to wit the distance of half a mile within the County of Winnebago aforesaid and other wrongs injuries and indignities to the said plaintiff and there did to the great damage of the said plaintiff and against the peace of the people of the State of Illinois by means of which said premises not only were the said plaintiff and his family put in great terror apprehension and concern for his life but the said plaintiff was then and there greatly hurt bruised and wounded and became and was sick sore lame and disordered and so remained and continued for a long space of time to wit for the space of ten weeks then next ensuing during all which time the said plaintiff thereby suffered and undergone great pain and was hindered and prevented from performing and transacting his necessary affairs and business by him during that time to be transacted and performed and thereby also the said plaintiff was forced and obliged to and did necessarily pay lay out and expend a large sum of money to wit the sum of fifty dollars in and about endeavouring to be cured of the bruises wounds sickness soreness lameness and disorder aforesaid occasioned as aforesaid to wit in the County aforesaid, And also for that the said defendants on the twenty seventh day of February in the year of our Lord one thousand eight hundred and forty two in the County aforesaid with

force and arms again assaulted the said plaintiff and with great force and violence again seized and laid hold of the said plaintiff and then and there again gave and struck the said plaintiff a great many other violent blows and strokes on and about divers parts of his body and also then and there with great force and violence shoved and pulled about the said plaintiff and again cast and threw the said plaintiff down to and upon the ground and then and there with great force and violence again pulled and dragged the said plaintiff along the ground and thro the mud then there being for a long distance to wit for the distance of forty rods to the great torture and suffering of the said plaintiff to wit in the County of Winnebago aforesaid and then and there again blindfolded the said plaintiff and again gave and struck the said plaintiff a great many other violent blows and strokes and then and there placed the said plaintiff prostrate upon the back of a certain hard going horse then there being with the breast of the said plaintiff lying against and upon the back and shoulders of of the said horse and taking hold of the legs and arms of the said plaintiff the said defendants again drew forced and pressed the said plaintiff with great force and violence to and upon the back and shoulders of the said horse and then and there still so holding and pressing the said plaintiff again caused the said horse to move irregularly forward under and bearing the said plaintiff

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and to violently put the said plaintiff so being held and pressed down upon the back and shoulders of the said horse by the said defendants for a long distance to wit for the distance of two miles within the County of Winnebago aforesaid threatening to destroy and take the life of the said plaintiff to the great excruciating and inexpressible agony terror and torment of the said plaintiff and thereby severely bruised hurt and wounded the said plaintiff on and about his breast and divers other parts of his body and the said defendants then and there forcably and violently pulled and stripped off and rent and tore in pieces and destroyed the clothes and wearing apparel to wit one coat one waistcoat one shirt and one flannel shirt of the said plaintiff of great value to wit of the value of thirty dollars which the said plaintiff then and there wore and was clothed with and then and there again forcably and violently struck and threw down the said plaintiff so stripped and naked to and upon the ground and again pulled and rolled about the said plaintiff in the mud then there being and then and there again tarred and feathered the said plaintiff upon his head and naked body and upon the residue of his clothing and wearing apparel not stripped off and destroyed as aforesaid then and there putting upon the said plaintiff and upon his head and divers other parts of his body a large quantity to wit five other quarts of

of tar wherewith they then and there cov=
ered the said plaintiff and then and there
again forcably and violently rode the said
plaintiff upon a Rail for a long distance to wit the dis=
tance of half a mile within the County of
Winnebago aforesaid and other wrongs
injuries and indignities to the said plaintiff
then and there did to the great damage of
the said plaintiff and against the peace of
the people of the state of Illinois by means
of which said several premises in this count
mentioned the said plaintiff was then and
there greatly bruised and wounded and
became ill and was sick sore lame and
disordered and so remained and continued
for a very long space of time to wit for the
space of ten weeks then next ensuing dur=
ing all which time the said plaintiff there=
by suffered and underwent great pain and
was obliged to and did necessarily lay out
and expend a large sum of money to wit
fifty dollars in and about endeavouring to
be cured of the bruises wounds sickness
soreness lameness and disorder aforesaid
occasioned as aforesaid to wit in the County
aforesaid, and also for that the said defend=
ants on the day and year last aforesaid
with force and arms again assaulted the
said plaintiff to wit in the County of Winne=
bago aforesaid and then and there again
beat bruised wounded and illtreated him
insomuch that his life then and there
greatly despaired of, and other wrongs to
the said plaintiff then and there did to his

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his great damage and against the peace of the State of Illinois and also for that the said defendants on the twenty sixth day of February in the year of our Lord one thousand eight hundred and forty two with force and arms again broke and entered the dwelling house of the said plaintiff in the County aforesaid and then and there demeaned themselves in a riotous brutal and outrageous manner and made a great noise and disturbance therein and stayed and continued therein exhibiting such riotous brutal and outrageous demeanor and making such noise and disturbance for a long space of time to wit for one hour then next following and then and there forced and broke open broke to pieces and damaged divers to wit two doors and four windows of the said plaintiff of and belonging to the said dwelling house and broke in pieces damaged and spoiled divers to wit two locks four hinges and two staples wherewith the said doors were there fastened and other wrongs to the said plaintiff then and there did against the peace of the people of the State of Illinois, by means whereof the said plaintiff and his family were during all the time aforesaid greatly terrified distressed and annoyed and were greatly disturbed in the peaceable possession of the said dwelling house to wit in the County of Winnebago aforesaid. to the damage of the said plaintiff of one thousand dollars. and therefore he brings suit &c

Francis Burnap
Pltfs Atty

And afterwards to wit on the 20th day of August A.D. 1844. at the August Term of said circuit court in the Record of the proceedings thereof is the following entry to wit

Fortunus Weldes
vs
William Burch et al } On motion of the Plaintiffs attorney the defendants are ruled to plead herein by calling of court on friday morning.

And afterwards to wit on the 23d day of August A.D. 1844. the following Pleas and Demurrer were filed in this cause to wit

State of Illinois
Winnebago County Ss } August Term 1844

William Birch Washington Moore
Eliza Moore Matthias Davis

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and Emmet Pardy impleaded with
John Birch Jr William Davis David W.
Holt Curtis Briggs and Horace Hudson
ads
Jonathan Welden }

and the said
William Birch Washington Moore
Elias Moore Matthias Davis & Emmet
Pardy impleaded as aforesaid with John
John Birch Jr William Davis David W. Holt
Curtis Briggs & Horace Hudson. by S. B.
Udell their Attorney come and defend
the force and injury when &c and say
that they are not guilty of the said supposed
trespasses in the Plaintiffs Declaration above
laid to their charge, or any part thereof
in manner and form as the said Plaintiff
hath above thereof complained against them,
and of this they the said defendants, impleaded
as aforesaid put themselves upon the country
&c.

And for a further plea in this behalf
as to the said supposed trespasses in the
second & third counts of the Plaintiffs
Declaration mentioned, the said Defendants
impleaded as aforesaid, by Leave of the
Court here first had and obtained according
to the form of the statute in that case made
and provided, say that the said Plaintiff

ought not to have or maintain his aforesaid action thereof against them because they say that the said Defendants are not guilty of the said supposed trespasses in the said second & third counts in the said declaration mentioned, or of any or either of them, or any part thereof, in manner and form as the said plaintiff hath above thereof complained against them, at any time within two years next before the commencement of suit, and this they are ready to verify, wherefore they pray judgment if the said Plaintiff ought to have or maintain his aforesaid action against them &c

G. B. Udell

Atty for Defts

And as to the 1st Count of the Plffs declaration the defendants say the same is not sufficient in law, and set down as causes of demurrer to the said Count, that the same is double in alleging a breach of the breaking of the close of the Plff, and an assault and battery upon him, and for other insufficiencies &c.

G. B. Udell

Atty for Defts

Which said Plea & Demurrer have endorsed thereon the words, and figures following to wit.

Filed August 28th 1844 J. Stitchet Clk

[11810-15]

and afterwards Court on the 5th day of December AD 1844, a Plurries Summons was issued out of the Office of the Clerk of the Circuit Court of said County, which is in the words and figures following to wit

State of Illinois } The People of the State
Winnebago County } of Illinois To
the Sheriff of said County
Greeting!

We commanded You as we have heretofore oftentimes commanded You, that you Summon John Birch jr William Davis David N. Holt, Curtis Briggs and Horace Hudson who are implended with William Birch Washington Moore Pierce Matthias Davis and Emmet Pardy, to appear before the Circuit Court of said County on the first day of the next Term thereof, to be held at the Court House in Rockford on the Second Monday of April next Damson Jonathan Weldon in a plea of Trespass damages one thousand Dollars

Witness James Mitchel Clerk of
Our said Circuit Court at Rockford
Seal this 5th day of December AD 1844
Attest James Mitchel
Clerk

Which said Summons has indorsed thereon the words and figures following to wit.

Served the within summons on William Davis this 20th day of March AD 1845 by reading the same to him, the within named John Bunch jr. David W. Holt & Curtis Briggs not found in my county.

Fees service .50
Return .12 A Bamm
Travel .36¼ $1.18¾ Sheriff

Served the within by reading to Horace Hudson March 31. 1845
Serv & return 62 A Bamm Sheriff by
Travel 31. $1.12 S. C. Fuller Deputy

And afterwards to wit on the 18th day of April at the April Term AD 1845 of said court in the Record of the proceedings thereof the following was made to wit

Constantine Weldon
vs } Trespass
William Bunch et al

Now on this day came on to be heard the Demurrer heretofore filed by the Defendants by their attorney to the first count of the Plaintiffs declaration, which after argument of Counsel is overruled by the court. And thereupon the said Defendants have to plead to the said Declaration.

[1810-11]

And afterwards to wit on the

19th day of April at the 3rd April Term A.D. 1845. of said Court in the words thereof the following was made & wit.

Jonathan Weldon
vs
William Burch et al

Now at this day came the 3rd and Defendants by their attorney and file their plea to first count of Plaintiffs declaration.

And on the same day & wit the 19th day of April A.D. 1845. the following plea was filed in this cause, which is in the words and figures following & wit.

Wm Bi Burch
William Rich Washington Moore
Alma Moore Matthew Davis
Emmet Purdy Horace Hudson
David W. Holt, William Davis &
John Burch Jr. impleaded with
Curtis Briggs. Can

and the Defendants above named impleaded as above, as to all of Plaintiffs first count, in his declaration contained, except third part relating to the assaulting and beating of the ~~Defendants~~ Plaintiff say that they are not Guilty of the

said assault trespass therein alleged
in manner and form as he has therein
alleged and of this they put themselves
upon the country. and as to the assaulting
and beating the Plaintiff as therein alleged
they were not guilty of. and did not com=
=mit the said second trespasses in manner
and form as the Plaintiff has therein alleged
at any time within two years next before
the commencement of this suit. and this they
are ready to verify. Wherefore they pray
judgement &c

Marsh & Wright
Attornies

Which said Pleas have endorsed thereon
the words and figures following to wit,

Filed April 19th 1845
G. Pitchel Clerk

Cadwallader day Rule

And afterwards to wit on the
21st day of April. 1845. the following pleas
& Demurrer were filed in the cause to wit

Wm Cr Court.
John Buck jr & Dwd W. Holt
Williams Davis Horace Hardson impleaded
with Curtis Briggs William Beach
Warren Rio Moore Elna Moore Matthias Davis

[11810-12]

and Emmet Purdy
vs
Fortune Wilson

And the said John Birch Jr David W. Holt, Jr Williams Davis & Horace Hudson impleaded as aforesaid with Curtis Briggs et al by Marsh & Wright their attorneys, come and defend the force and injury when &c & say that they are not guilty of the said second supposed Trespasses in the said Plaintiffs declaration above thereof laid to their charge, or any part thereof in manner and form as the said Plaintiff hath above thereof complained against them, and of this they put themselves upon the country &c

And for a further plea in this behalf, as to the said second supposed trespasses as above thereof laid to their charge or any part thereof in manner & form as the said Plaintiff hath in the said second & third counts of his said declaration complained against them, by leave of the Court here for this purpose first had & obtained, say actio non, because they say that they were not guilty of and did not commit the said second trespasses in the said second & third counts of the said Plaintiffs declaration mentioned, or any part thereof or any or either of them in manner & form as the said Plaintiff hath above thereof

complained against them at any time within two years next before the commencement of this suit. And this they are ready to verify wherefore they pray judgment &c

Marsh & Wright for said Defendants.

And as to the first count of the said Plaintiffs declaration the said Defendants say that ~~they~~ the same is not sufficient in law for the said Plaintiff to have or maintain his said action & that the said Defendants are not bound to answer the same, and this they are ready to verify & wherefore they pray &c, and for causes the said Defendants set forth & show to the court. First that the said count is double including a breaking of the Plaintiffs close & an assault & battery upon said Plaintiff Second that it is in other respects informal uncertain & insufficient

Marsh & Wright
for said Defendants

Which said Pleas & Demurrer have endorsed thereon the words and figures following to wit

Filed April 21. 1845
J. Mitchell
Clerk

[11810-13]

and afterwards to wit on the 21st day of April AD 1845. the Plaintiff filed his Replication to the Defendants pleas herein which are in the words and figures following to wit

In the Winnebago County Circuit Court
April Term. 1845

Jonathan Wilder

vs

William Birch Matthias Davis
John Birch Jr William Davis
Washington Moore David W. Holt
Plyna Moore Emmit Perdue &
Horace Hudson, impleaded with
Curtis Briggs.

And the said Plaintiff as to all and singular the said pleas of the said Defendants. William Birch John Birch Jr Washington Moore, Plina Moore Matthias Davis William Davis. David W Holt Emmett Perdue and Horace Hudson by them respectively above pleaded. and whereof they have put themselves upon the country doth the like

And as to so much of the said plea of the said defendants by them above pleaded to that part of the first count of the said Plaintiffs declaration as alleges the assaulting and beating of the said plaintiff. the said Plaintiff says that

the said defendants were guilty of and did commit the said several trespasses in manner and form as the said plaintiff hath therein alleged, within two years next before the commencement of this suit, and this the said Plaintiff prays may be inquired of by the country &c

And as to the said pleas of the said Defendants by them secondly above pleaded to the said second and third counts of the said declaration, wherein they charge that the ~~said~~ said Defendants were not guilty of the trespasses in the said second and third count mentioned within two years next before the commencement of this suit, the said Plaintiff says that he ought not to be barred &c, because he says that the said Defendants were guilty of and did commit the said several trespasses in the said second and third counts, mentioned in manner and form as the said Plaintiff hath in this & said second & third counts above thereof alleged within two years next before the commencement of this suit. And this the said Plaintiff prays may be inquired of by the country &c

Francis Barnum
Plfs. Atty

And afterwards to wit on the 25th day of April at the April Term AD 1845 of said Court in the Record of the proceedings thereof the following entered of Record to wit.

[11810-14]

Jonathan Welden
vs
William Beach John Beach Jr
Washington Wane Flynn Wane
Matthias Davis William Davis
D. W. Holt. Curtis Briggs
Emmett Pendy and Horace Hudson } Trespass

Now at this day came the parties and their attorneys, and upon issue joined thereupon came a Jury of good and lawful men to wit. D. C. Floyd Henry Van. Tallenburgh Daniel Thomas. George M Baker Anthony Cortright Samuel Pierson and Jonathan T. Miller James C. Conrose. James B Howell Stevens Crain Samuel Hitson and Stephen Robinson who were severally duly elected tried and sworn. and after hearing part of the evidence retired under the direction of the Court.

And on the same day to wit the 25 day of April A.D. 1845 at the said April Term of said Court, the following was entered of record Vizt

Jonathan Welden
vs
William Beach & als } Trespass

Now at this time again comes the said Plaintiff by his Attorney

and says he will no further prosecute this suit against Horace Hudson one of the defendants in the above entitled cause. It is therefore Ordered by the Court that the said Horace Hudson be discharged

And afterwards to wit on the 26th day of April at the said April Term AD 1845 of said in the Record of the proceedings thereof the following entry was made to wit

Fortunatus Welden
vs
William Birch et al } Trespass

now at this day again come the said parties and their attornies. and the Jury yesterday impannelled to try this cause. and the Jury after hearing all the evidence retired to consider of their verdict. and after a short time they returned into court with the following verdict to wit. We find the defendants not guilty of the said Trespass. and therefore It is ordered and considered by the Court, that the said Defendants have and recover of the said Plaintiff their costs and charges by them about their suit in this behalf expended and that they have execution therefor

(Signed) Thomas C Brown

[11810-10]

And afterwards to wit on the 26th day of April at the said April Term AD 1845 of said Court the following Entry was entered of Record in this Cause to wit

Jonathan Welden
vs
William Burch et al } Trespass

The Plaintiff comes by his Attorney and prays an appeal to the Supreme Court, which is granted by the Court upon condition that he enter into Bond with William G. Cole as security within twenty days from the rising of Court.

And on the same day to wit the 26th day of April AD 1845. the following Bill of exceptions was filed in this Cause to wit,

In the Winnebago circuit court
Jonathan Welan Plaintiff
"Vs"
William Birch Sr.
John Birch Jr.
Washington Moore
Pleyna Moore
Matthias Davis
William Davis
David N Hole and
Emmett Purcay, defendants
implicated with
Horace Hudson & Curtis Briggs

Winnebago County } ss

Be it remembered that on the twenty fifth day of April in the April term of this court in the year of our Lord one thousand eight hundred and forty five the above entitled cause came on to be tried before a jury, and upon the said trial to prove his part of the issue the above named plaintiff called Adeline Welan his daughter who testified that in February one thousand eight hundred and forty two the occurrence happened on account of which said action was brought that at the time she was asleep at her fathers house, that she was awakened by screams of her mother and sister and then heard the voice of a person whom she

took to be that of Plyna Moore one of the above named defendants that she got up and saw several persons dragging her father out of the door of the house and through a gate in front of the house and believed that there were eight or ten or twelve persons engaged in the affray but could not tell their number nor who they were except that she thought that she heard the voice of said Plyna Moore with whose voice she was acquainted. And the said plaintiff also called Spencer Nelson his son who testified that the occurrence for which this action was brought happened on the night of the twenty sixth day of February one thousand eight hundred and forty two that ~~he was~~ his father was at work late in the evening preparing a barrel to salt pork in late in the evening in the house and the witness was holding a candle for him that the outside door which was latched was burst open and several persons entered the house with their faces blackened one of whom struck the witness two or three times on the arm and knocked the candle out of his hand that there was as many as ten or twelve persons entered the house as he thinks but cannot tell their number that after the candle was knocked out of his hand they seized his father and dragged him out of the house and thence about three quarters of a mile which distance the same witness followed them but that he could not identify one of those persons. And the said plaintiff ~~then called~~ ~~two witnesses~~ to show that the said Ple-

fendants were the persons who committed the said offence called as witnesses Jacob Hudson Betsey Glens and Levi Birch who testified nothing material. And the said plaintiff then called Ambrose Barnum who was sworn and Isaac Marsh as Counsel for the said witnesses interposed an objection that the said Ambrose Barnum might claim the privilege of refusing to answer any questions which might implicate him in the transaction for which this suit was brought because it might subject him to indictment and punishment to which it was answered by the Counsel of the plaintiff that the statute of limitations had run upon the offence and that it was not indictable on account of the lapse of time and thereupon the said court decided that the fact that the statutes of limitations had run upon the offence did not take away the said privileges of the witness and that the court could not judge whether all prosecutions arising from the transaction against the said witness were barred by the statute of limitations and that he could not be compelled to testify any thing which could tend to implicate him in the transactions in question. This witness then testified that since the said occurrence he has resided in the neighbourhood of the said defendants in Westfield in the County of Winnebago and on being asked whether he saw the said defendants or any of them at his house on the evening of the night on which the offence in question was com-

[11810-17]

mittia he claimed his said privilege and stated that he would not answer the said question without criminating himself and did not answer the said question, the witness was then asked if he had seen any of the said defendants on the same evening at the house of Duty Hudson in the neighborhood to which question he interposed his said privilege and refused to answer the said question on the same ground, the said witness was then asked whether he had since said time heard any of the said defendants state whether they were engaged in committing the said offence to which question he also interposed his said privilege and refused to answer the said question on the same ground, the witness was then asked whether a horse belonging to him was about that night and whether on the next day the said horse had marks of tar on it to which questions he severally interposed his said privilege and refused to answer the said questions on the same ground and the privilege of said witness was allowed by the Court to all of which the said plaintiff excepted and his exception is allowed. The said plaintiff then called Jane Barnum wife of said Barnum and she was sworn and thereupon Jason Marsh esquire of counsel for the said defendants asked leave of the Court to retire with this witness from the Court room and instruct her as to her rights as counsel for said witness with regard to refusing to testify in the case to which the said plaintiff by his counsel objected, and thereupon the said Court gave the said leave to which the said plaintiff excepted and his said exception is allowed, and thereupon

the said Jason Marsh retired with the said witness accordingly and on returning into Court she testified that ever since the time of the commission of the offence aforesaid she had resided in the neighbourhood of the said ~~plaintiff~~ Defendants in West field aforesaid, and this said witness was then severally asked whether she saw Phyna Moore or Horace Hudson two of the said defendants on the evening on which the said offence was committed to which question the witness refused to make answer on the ground that her answer might tend to implicate her said husband or herself in the said offence and claimed her privilege not to answer the said question on that ground and the same is allowed by the said Court to which the said plaintiff excepts and his said exception is allowed by the Court, and thereupon the said Plaintiff enters a Nolle prosequi in this action as to Horace Hudson and offers him as a witness in this cause and he is sworn, the said Horace Hudson is then asked on the part of the said plaintiff whether he saw any of the said defendants on the night on which the said offence was committed, the said Horace Hudson stated that he could not answer the said question without criminating himself and claims his privilege of refusing to answer the same on that ground, he also testified that he had resided in the neighbourhood of the said defendants in this county most of the time since the said offence happened, and the said Court allowed the said privilege claimed by the said Horace Hudson and he was excused

from answering the said question, and the said plaintiff excepts to the opinion of the said Court in this behalf and his said exception is allowed by the Court. Deity Hudson is then called by the said Plaintiff but testifies nothing material to identify the said defendants as the persons who committed the said offence and he says that the witness Ambrose Barnum and his wife and Horace Hudson had resided in this and Ogle Counties in this State ever since the time of the committing of the said offence. Goodyear B Sanford is then called as a witness by the said plaintiff but testifies nothing material to connect the said defendants with the said offence. Thomas I Jewell is then called by the said Plaintiff but testifies nothing material and the said Plaintiff gives no further evidence, and the said Plaintiff prays that this his bill of exceptions may be signed and sealed by the Honorable Thomas L Browne Judge of this Court in order that the same may become part of the record in this cause and it is so done accordingly

Thomas L Browne Seal

Agreed to by the Counsel

Which said Bill of Exceptions has indorsed thereon the words and figures following, to wit

Filed April 26th 1845
J Mitchel
Clk

State of Illinois
Winnebago County } S. C. W. Spafford
Clerk of the Circuit Court within & for
said County do hereby certify the
foregoing to be a true copy of the
Bond and the proceedings thereon in
a certain cause lately pending in said Court
wherein Jonathan Welden was Plaintiff
and William Burch John Burch &
Payne Moore Matthew Davis William
Davis, David W. Hoit and Emitt Pender
were impleaded with others were defendants

In Testimony Whereof I have
hereunto subscribed my name and affixed
the Seal of said Circuit Court
at Rockford in said County
this 6th day of June AD 1851

Attest C. W. Spafford
Clk

41010-17

In the Illinois Supreme Court.

Jonathan Weldon
vs.
William Burch,
John Burch junior,
Plyma Moore,
Matthias Davis,
William Davis,
David W. Holt and
Emitt Purdy.

Of June Term, 1851.

And now before the justices of the Supreme Court of the state of Illinois, at the court house in Ottawa, in the county of La Salle, to wit on the first day of the term of the same court of June, in the year of our Lord one thousand eight hundred and fifty-one, being the second Monday in the same month of June, comes the said ~~Francis Burnap~~ Jonathan Weldon by Francis Burnap his attorney, and says that in the record and proceedings aforesaid, and in giving the judgment aforesaid, there is manifest error in this, that at the trial of the said cause, the said Circuit Court ought not to have suffered the counsel of the defendants to interpose in advance the objection that the witness Ambrose Barnum might claim the privilege of refusing to answer any question which might implicate him in the transaction for which the suit was brought, because it might subject him to indictment and punishment. And also there is error in this, that the said Circuit Court ought not to have entertained the said objection when raised by the counsel of the defendants, or to have made any decision thereon, until and unless the said witness had claimed the said privilege in person. And also there is error in this, that the said Circuit Court ought not to have decided, that the fact that the statute of limitations

[11810-20]

had run upon the offence, did not take away the said privilege of the said witness. And also there is error in this, that the said Circuit Court ought not to have decided as it did, that the said Ambrose Barnum could not be compelled to testify any thing which would tend to implicate him in the transactions in question in ~~this cause~~ the said cause. And also there is error in this, that the said Circuit Court ought not to have decided that the court could not judge whether all prosecutions arising from this transaction against the said witness were barred by the statute of limitations. And also there is error in this, that the said Circuit Court ought not to have allowed the privilege of the said Ambrose Barnum to refuse to answer whether he saw the said defendants or any of them at his house on the evening of the night on which the offence in question was committed. And also there is error in this, that the said Circuit Court ought not to have allowed the privilege of the said Ambrose Barnum to refuse to answer when asked if he had seen any of the said defendants on the same evening at the house of Duty Hudson, in the neighborhood. And also there is error in this, that the said Circuit Court ought not to have allowed the privilege of the said Ambrose Barnum to refuse to answer whether he had since the said time heard any of the said defendants state whether they were engaged in committing the said offence. And also there is error in this, that the said Circuit Court ought not to have allowed the privilege of the said Ambrose Barnum to ~~answer~~ refuse to answer whether a horse belonging to him was absent on that night, and whether on the next day the said horse had marks of tar on it. And also there is error in this, that the said Circuit Court ought not to have given

leave to the counsel of the defendants to retire from the court room with the plaintiffs witness Jane Barnum, after she was sworn, to instruct her as to her rights with regard to refusing to testify in the case. And also there is error in this, that the said Circuit Court ought not to have allowed the privilege of the said Jane Barnum to refuse to testify whether she saw Plyna Moore or Horace Hudson, two of the said defendants on the evening in which the said offence was committed. And also there is error in this, that the said Circuit Court ought not to have allowed the privilege of the said witness Horace Hudson to refuse to answer the question whether he saw any of the said defendants on the night on which the said offence was committed. And also there is error in this, that all and singular the decisions made by the said Circuit Court at the said trial were wrong and contrary to law, and ought not, nor ought any one of them to have been made. And also there is error in this, that the said plaintiff did not have a fair and impartial trial of the said cause before the said Circuit Court, as he is intitled by law to have had, as manifestly appears by the said bill of exceptions. And also there is error in this, that the judgment in the said cause, by the law of the land ought to have been given in favor of the said plaintiff against the said defendants, and not in favor of the said defendants against the said plaintiff. And the said Jonathan Waldon prays that the judgment aforesaid, for the errors aforesaid, and for other errors in the said record and proceedings being, may be reversed, annulled and altogether holden for nought, and that he

[118/10-21]

may be restored to all things he has lost by reason of the said judgment, &c.

Francis Burnap,
Attorney and Counsel for Plaintiff in error.

William Burch, Elyra Moore, David W. Mebird, Eun Lardy, impleaded with Mathias Lewis Exr.

vs.

Jonathan Wilder

And the said Defendants as above named, join in Error &c

J. Marsh.
Pr. Said Ltfs

In the Circuit Court
Jonathan Wilder
vs
William Burch
et al

Transcript
and Assignment of Error

Filed June 10. 1857.
V. Leland Clk.

1810

Feb 4 p. 85

Rockford, 3 March, 1857.

L. Leland, Esq.
Clerk Supreme Court,
Ottawa.

Dear Sir

I wish you to publish the necessary notice in Weldon vs. Burch and others, in pursuance of the order made at the last term of the court containing the advertisement, and also to send me the chas sine fonias. Inclosed are $3 for the publication.

You will oblige me by inquiring of Judge Dickey what his intention is about holding a Circuit Court in De Kalb, and writing me the result.

Yours truly

Francis Burnap.

Rockford, 12 April, 1850.

S. Leland, Esq.
Clerk Sup. Court
Ottawa,

Dear Sir,

I inclose a praecipe for a writ of error in Weldon vs. Burch and others, and for a scire facias. Of the original defendants below, Curtis Biggs was not served with process, and a nolle prosequi was entered as to Horace Hudson. These two persons cannot therefore be parties to the writ of error.

The time for suing out the writ of error will expire in a few days. Some care will therefore be necessary to have the writ correct. I do not wish the praecipe to be taken as a direction about the form of the writ — only its substance. Be pleased to inclose it to me.

Yours truly,

Francis Burnap.

[11810-23]

Rockford, 30 June, 1850.

L. Leland, Esq.
Clerk Sup. Court
Ottawa.

Dr. Sir,

I inclose $5.00 which I wish you to hand to my old friend Mr. Peters, if he is still in attendance, and get him to regulate the case of Weldon vs. Burnett and others, by suggesting death of Washington Moore, one of the defendants, entering order for publication, and for time to return writ of error, dies sine facias and continuance, as indicated in my letter of 13 June.

If Mr. Peters should have left, be pleased to hand the cash to E. S. Leland, Esq. and get him to perform the service.

Respectfully yours,

Francis Barnett.

In the Supreme Court of the state of Illinois.

Jonathan Weldon
vs.
William Burch,
John Burch junior,
Washington Moore,
Plyna Moore,
Matthias Davis,
William Davis,
David W. Kott and
Emitt Purdy.

In error to Winnebago.

Francis Burnap, attorney for Jonathan Weldon, the above named plaintiff in error, maketh solemn affirmation and saith, that the errors relied upon to reverse the judgment in the above intitled cause, appear by a bill of exceptions taken at the trial thereof in the court below, and that the said bill of exceptions is not among the papers on file in the said cause, but is missing. And this deponent further says, that since the suing out of the writ of error in the above intitled cause, he has in conjunction with the clerk of the Winnebago Circuit Court, made search for the said bill of exceptions among a considerable part of the files of the said court, in which he believed the said bill of exceptions would be most likely to be misplaced, without being able to find the same. And this deponent further says, that he has been informed by the clerk of the said court, that he intends during the present season thoroughly to overhale and rearrange all the papers in the files of the said court; and this deponent expects that in such process the said bill of exceptions will be found. And this deponent further says, that the said cause was tried in April, in the year of our Lord one thousand eight hundred and forty-five, and judgement therein was then ren-

[11810-25]

dered, more than five years having since past; and that leave for further time for making return to the said writ of error is not asked for delay, but for the sole purpose of getting an effectual return to the same.

Francis Burnap.

Affirmed at Rockford in the county of Winnebago, the 13th day of June, 1850, before me,

William Hulin,
Clerk Winnebago County Court.

Supreme Court.
Jonathan Weldon
vs.
William Burch and Thos.
Burnap.

Affidavit of F. Burnap.

Filed June 17, 1850.
C. Wilson Clk.

Rockford, 13 June, 1850.

S. Leland, Esq.
Clerk Sup. Court,
Ottawa.

Dr. Sir,

I inclose you five dollars for fees in Weldon vs. Burch and others, which I did not receive until yesterday, the plaintiff being absent.

I inclose an affidavit for time to make return to writ of error, and another for order of publication, and also the sire facias ad audiendum, which was not served because the writ of error could not be returned, so that an alias may issue.

Washington Moore, one of the original defendants, was dead before the sting out of the writ of error. This ought ~~to~~ perhaps to have been suggested in the writ, and his name omitted in the sire facias. The action being trespass he is wholly out of question. I suppose however the proper way to set this matter right now, is to enter a suggestion of his death since the rendition of the judgment below, and an order that his name be omitted in the further proceedings in the cause, and that an alias sire facias be issued against the other defendants in error.

I shall perhaps attend and see to this matter myself. If not, I shall get some one else to do it.

Respectfully yours,

Francis Burnap.

[11810-56]

Bunop

In the Supreme Court of the State of Illinois.

Jonathan Weldon
vs.
William Burch,
John Burch junior,
Washington Moore,
Plynet Moore,
Matthias Davis,
William Davis,
David N. Plott and
Emitt Purdy.

In error to Winnebago.

Jonathan Weldon, the above named plaintiff in error, maketh oath and saith, That John Burch junior, one of the above named defendants, is not an inhabitant of this state, and is absent therefrom, so that the process of this court cannot be served upon him. And this affiant further says, that ~~Matthias~~ William Davis, also one of the above named defendants, is not an inhabitant of this state, and is absent therefrom, so that he cannot be served with process of this court, as this affiant is informed and believes to be true.

J. Weldon.

Sworn at Rockford in the county of Winnebago, this fourth day of June, 1850, before me.

C. H. Shufford Clerk of Winnebago County Circuit Court, State Illinois

[illegible]

24

Supreme Court.

Jonathan Weldon

vs.

William Burch and others.

Affidavit of Plff.

Filed June 17. 1850.

L. Leland Clk.

Burnap

Jonathan Weldin
vs
William Burch et al

Abstract.

Ambrose Barnum sworn – Morsh Counsel for Defts. interposed an objection that witness might claim the privilege of refusing to answer any questions which might implicate him in the transaction for which suit was brought, because it might subject him to indictment & punishment – to which it was answered by the Counsel for Plff. that the Statute of limitations had run upon the offence – Court decided this did not take away privilege of witness, that Court could not judge whether all prosecutions arising from the transaction were barred – that he could not be compelled to testify anything which could tend to implicate him in the transactions in question.

Witness then testified that since the said occurrence he had resided in the neighborhood of Defts. in Westfield Winnebago Co.

Being asked whether he he saw Defts. or any of them at his house on the evening of the night alluded, he claimed his said privilege & that he would not answer without criminating himself & did not answer.

Being asked whether ~~he had seen~~ he saw

any of said Defts. at house of Duty Hudson he interposed his said privilege & refused to answer—

Being asked whether he had since said time heard any of said Defts. say they were engaged in committing said offence, he interposed his said privilege & refused to answer on the same ground.

Being asked whether a horse belonging to him was absent that night & whether on the next day he had marks of tar on him, he interposed his said privilege & refused &c.

The privilege of witness was allowed by the Court— Pltff. excepted—

Exception allowed—

Jane Barnum being sworn Counsel asked leave of Court to retire with her & instruct her as to her rights to refuse to testify &c. Pltff. objected— leave granted— Pltff. excepted— Marsh, Counsel & she retired together— On her return she testified that ever since the time when she had resided in neighborhood of Defts.

Being formally asked whether she saw Olyna Wood & Horace Hudson two of Defts. on the evening when &c, she refused to answer on the ground that her answer might tend to implicate her or her husband.

Bolle proceeded to Horace Hudson — who being sworn as a witness & asked whether he saw any of the Defts, on the night when &c, stated that he could not, answer without criminating himself & claims his privilege on that ground — testified that he had resided in neighborhood of Defts. most of time since offence happened —

Privilege allowed by Court &c.

The Errors assigned are —

Allowing the privilege & permitting Marsh & the lady to withdraw from the Court for the purpose of instructing & being instructed in relation to said privilege —

Jonathan Weldon
vs.
William Burch et als.

Abstract

filed June 20th 1837

2½
32
64
16
80
5
4,000

SCIRE FACIAS.—FREE TRADER OFFCE, OTTAWA.

State of Illinois, } SS.
Supreme Court,

The People of the State of Illinois

TO THE SHERIFF OF Winnebago 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 Winnebago county, before the Judge thereof, between Jonathan Weldon plaintiff, William Bunch, John Bunch junior, Washington Moore, Plyna Moore, Matthias Davis, William Davis, David W. Holt, & Emitt Purdy, impleaded &c.

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

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 William Bunch, John Bunch junior, Washington Moore, Plyna Moore, Matthias Davis, William Davis, David W. Holt & Emitt Purdy

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 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 Bunch & others notice, together with this writ.

WITNESS, the Hon. Samuel H. Treat
Chief Justice of our said Court, and the seal thereof,
at Ottawa, this 15th day of April
in the year of our Lord, one thousand eight hundred
and ~~forty~~ fifty.

S. Leland
Clerk of the Supreme Court.

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Jonathan Weldon
vs
William Buck et al.

Scire Facias

To June Term 1850.

Filed June 17, 1850.
L. Leland Clk.

STATE OF ILLINOIS, } The People of the State of Illinois,
Supreme Court.

To the Sheriff of the County of Winnebago — 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 Winnebago — county, before the Judge thereof, between Jonathan Weldon plaintiff, & William Buck, John Buck junr, Plyna Moore, Matthias Davis, William Davis, David W. Holt, & Emitt Purdy, impleaded &c. —

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

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, as we have heretofore commanded you, that by good and lawful men of your county, you give notice to the said William Buck, John Buck junr, Plyna Moore, Matthias Davis, William Davis, David W. Holt & Emitt Purdy —

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 Defendants — notice, together with this writ.

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

L. Leland **Clerk of the Supreme Court.**

I hereby certify the within writ I have given notice to the within named Matthias Davis & within named David W. Holt on Saturday the 13th day of May A.D. 1851

Phillips Sheriff
Winnebago County

W810-30

Jonathan Nelson
v
William Burch et al.
Alias Scire Facias
To June Term 1857.

Filed June 10, 1857
W. Wood Clk.

12 mo

Summoned of the within named defendants
John Doe
and
Richard Roe

By virtue of the within writ I have given notice to the within named William Burch Rhyna Moore David M. Holt and Emitt Randolph ~~the~~ reading the same to them respectively ~~this~~ as I am within commanded this eight day April A D 1857

P B Johnson
Sheriff Winnebago County

The within named ~~Matthew Davis~~ William Davis and John Burch junior are not found in my County

P B Johnson Sheriff Win. Co

Fees — Serving	$2.40
Mileage —	1.40
	10
Returning —	$3.90
Serving on M. Davis	1.08
	$4.98

Received, Ottawa, Illinois, March 7, 1851, of Lorenzo Leland, Clk Sup. Court, three dollars for publishing in the Ottawa Free Trader four weeks a legal notice in the case of "Jonathan Weldon vs. William Burch et als., Error to Winnebago."

Wm. & M. Osmer

[1810-32]

Recd. for £3.
for pub. notice

In the Supreme Court of Illinois.
Third Grand Division.

A writ of error directed to the clerk of the Circuit Court for the county of Winnebago, to certify and send up the record and proceedings in a certain cause lately depending in the said Circuit Court, wherein ~~the~~ Jonathan Weldon was plaintiff and William Burch, John Burch junior, Washington Moore, Plyna Moore, Matthias Davis, William Davis, David W. Holt and Emitt Purdy, impleaded with Curtis Briggs and Horace Hudson were defendants, of a plea of trespass, wherein judgment was rendered in favor of the said defendants William Burch, John Burch junior, Washington Moore, Plyna Moore, Matthias Davis, William Davis, David W. Holt and Emitt Purdy against the said Jonathan Weldon, on complaint of the said Jonathan Weldon that manifest error hath intervened.

Francis Burnap,
Atty for said Weldon.

Jonathan Weldon
vs.
William Burch,
John Burch junior,
Washington Moore,
Plyna Moore,
Matthias Davis,
William Davis,
David W. Holt and
Emitt Purdy.

Error to Winnebago.

A writ of sire facias to hear errors in this cause.

Francis Burnap,
Atty. for Plff in error.

[11810-33]

Supreme Court.

Jonathan Weldon
vs.
William Brook,
John Brook junior,
Washington Moore,
Myria Moore,
Matthias Davis,
William Davis
David W. Mott and
Emitt Purdy.

Precipe for writ of error
and sire facias.

Filed Apl. 15. 1850.
Leland Clk.

Burnap.