

8795

No. \_\_\_\_\_

# Supreme Court of Illinois

John Briley

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vs.

Alfred Copland

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71641  7

1  
For Non-Residence, on Sec  
14. Act Relating to Justices of  
the Peace and Constables

John Bailey }  
vs }  
Alfred Copland } Trespass on the case  
} damage \$50, before John B.  
} Hicks J.P.

I do hereby enter myself security for costs  
marked in the above styled Cause & do hereby bind  
filed 8<sup>th</sup> myself to pay or cause to be paid all  
August Costs that may accrue herein either to the  
1850 opposite party or to any of the officers of this  
Hicks Court, dated this 5<sup>th</sup> August 1850.  
J.P.M. Wm. McHowell

upon the filing of the above bond the following  
Summons issued (viz) —

State of Illinois  
Massac County set.

The People of the State  
of Illinois To any Constable of said County  
Greeting. You are hereby commanded  
to summon Alfred Copland (Constable)  
for said County to appear before me at  
my office in Metropolis City on the 14<sup>th</sup>

August 1850. at 12 o'clock in the day time to answer the complaint of John Wiley of a plea of trespass on the case to his damage fifty dollars as he saith (for non performance in office as constable as aforesaid) And hercof make Return as the law directs.

Given under my hand this 3<sup>th</sup> day of August. 1850.

Wm B. Hicks J.P. Mc

Marked  
by  
August  
1850



on said summons are the following  
endorsements " Deffs demand \$50.  
justices fees . . . 3 1/4

Wm B. Hicks served on Alfred Copland by Reading to  
J.P. Mc. him on the 7<sup>th</sup> August 1850.  
Wm. McLawrence

Constables know all men by these presents that I Alfred  
Bend. Copland principal and Joshua S. Copland  
fid with security are held and firmly bound unto  
the Justice the County Commissioners of Massac County  
of the Peace Illinois and their successors in office for  
29<sup>th</sup> April the use of the people of the State of Illinois  
1850 but in the sum of one thousand dollars good

Suit not  
ordered until  
5<sup>th</sup> August  
1850  
Wm B. Hicks

and lawful money of the United States the  
 payment of which is well and truly to be  
 made we each jointly and severally bind  
 ourselves our heirs and assigns firmly by  
 these presents. If default be made  
 - The conditions of bond is such that  
 whereas the above bounden Alfred  
 Copland was on the 6th day of November  
 1849 Elected to the office of Constable for  
 the Hillerman Precinct in ~~the~~ said Massac  
 County. Now if the said Alfred Copland  
 shall well and truly pay over all  
 moneys that may come to his hands  
 by any execution or other process, or  
 otherwise by virtue of his <sup>said</sup> office as  
 said Constable and do and perform <sup>all and</sup> every  
 act and duty that the laws of this State requires  
 of him to perform as Constable then and  
 in that case this bond to be void otherwise to  
 Remain in full force and Virtue in law.  
 In witness whereof we have set our hands  
 and seals this the 19th day of November 1849.

(Signed) Alfred Copland   
 A. S. Copland 

State of Illinois  
Massac County ss.

I J. H. Bailey clerk of  
the County Court of Massac County do  
herby certify that the above is a true  
copy of the original Bond of Alfred  
Copland principal and J. S. Copland  
Security now on file in my office

Given under my hand and the  
seal of the County Court of said  
County. Done at Metropolis City this  
27<sup>th</sup> day of April 1850.

J. H. Bailey Clerk  
W. Geo. Hawke DeClk.

Abstract of John Bailey  
the Judgment vs  
before the Alfred Copland (Constable)  
Justice of the Peace

Nonfeasance  
Trespass on the case  
damage \$50.00  
Sec. 14. Just & Const.  
(1845)

Summons issued on the fifth of August 1850  
Returnable on the 14<sup>th</sup> August 1850 at 12  
o'clock in the day time. Returned served on  
Alfred Copland  
by Reading to him on the 7<sup>th</sup> August  
1850. (Signed Wm. McLowence)

The parties met, and on affidavit of the Plaintiff, this Cause is ordered to be continued until the 21<sup>st</sup> August 1850. at 12 o'clock in the day time. The Court met on the 21<sup>st</sup> August 1850 pursuant to the above adjournment. And this Cause being now heard by the Court, who being fully advised of and Concerning the premises it is considered that the Defendant ought to Recover his costs in and about his defence herein. Therefore it is considered by the Court that the Defendant Recover against the Plaintiff his costs in and about his defence in this behalf expended. Whereupon the Plaintiff prayed an Appeal to the Circuit Court of Massac County, which it granted accordingly.

Wm B. Hicks J. P. Mc.

State of Illinois, Massac County Sct.  
 I Wm B. Hicks an acting Justice of the Peace for said County do certify the above to be a true transcript of the above Judgment in my office. Given under my hand this 9<sup>th</sup> day of September 1850.

Wm B. Hicks J. P. Mc

Appeal  
 Bond  
 Filed  
 Sept 1850.  
 Prothonotary  
 Office

Know all men by these presents that I  
 John Driley principal and William  
 McLawell security are held and  
 firmly bound unto Alfred Copland  
 in the penal sum of fourteen dollars  
 good and lawful money of the United  
 States for the payment of which well and  
 truly to be made we bind ourselves, our  
 heirs and Executors and Administrators  
 jointly and severally firmly by these presents  
 signed with our hands and Sealed with  
 our seals and dated this 9<sup>th</sup> day of September  
 1850.

The condition of the above obligation is  
 such that whereas on the 21<sup>st</sup> day of August  
 1850 the said Alfred Copland recovered  
 before John B. Hicks an acting Justice  
 of the Peace for said County the sum of  
 seven dollars his costs in and about his  
 defence in a certain suit decided as  
 aforesaid wherein John Driley was plaintiff  
 and said Copland was defendant. And from  
 which said Judgment the said Driley has  
 taken an Appeal to the Circuit Court of  
 Massac County. " Now if the said  
 Driley shall prosecute his said

Appeal with effect and shall pay  
whatever judgment may be rendered  
by the Court upon the dismissal or trial  
of said appeal then this obligation to be  
void otherwise to remain in full force and  
effect. this 9<sup>th</sup> September 1850.

John Wiley Seal  
William W. Powell Seal

Approved by me this  
9<sup>th</sup> September 1850.

at my office in Metropolis  
M. D. Hicks Clerk

Upon the filing of the above Appeal Bond  
the following summons was issued to the  
Appellee (Alfred Copland)

State of Illinois }  
Massac County } The People of the  
State of Illinois To the  
Sheriff of said County Greeting. We  
Command you that you summon  
Alfred Copland if to be found in your  
County that he do and appear before  
the Circuit Court for said County on  
the first day of the next term thereof



8  
to be holden at the Court House in  
Metropolis City on the third Monday  
in the month of October next they  
marked and there to answer John Brila of  
filed the An Appeal pending in said Court  
25<sup>th</sup> Sept 1850 and have you then and there this  
1850 with an endorsement thereon  
Worswick, as to the manner you execute the  
same.

Massachusetts  
Court Seal  
1850

Witness John Worswick  
Clerk of said Court  
and the Judicial Seal  
thereof this 9<sup>th</sup> September  
1850  
J. Worswick  
Attorney

On the above Summons is the following  
endorsement by the Sheriff me viz  
Served on the within named Alfred Leland  
by reading on the 25<sup>th</sup> day of Sept 1850  
John W. Read Sheriff me

And afterwards I wit at the October Term  
1850 of the said Circuit Court began  
and held for the County of Nassau at  
the Court House in Metropolis City on

9

the third Monday in October 1858.  
The Hon William A. Denning Presiding  
there was no order taken in said  
Cause consequently the same was  
continued until the June Term 1857  
(2nd Monday in said month) at the Court  
House in Metropolis City. The Hon  
William A. Denning Presiding

On Wednesday the 18th  
day of June 1857. the following order  
and Judgment of the Court was  
regularly entered as of Record among the  
Judicial Proceedings of said Court

vs  
John Briley  
vs  
Alfred Copland

(Appeal) vs  
Pliff  
Trespason the  
Case. Damages \$50.  
Defendant  
(non feassance)

Came the parties by their  
Attornies moved the Court to dismiss  
this Cause for want of Jurisdiction in  
the Court below which motion is by  
the Court sustained. and Cause dismissed  
accordingly. Therefore it is Considered by  
the Court that the defendant Recover  
against the Plaintiff his costs in and about

his defence in this behalf expended,  
and that Execution may issue &c &c.

State of Illinois

Massac County set.

I John B. Hick's  
Clerk of the Circuit Court for said County  
do hereby certify that the 10 ten preceding  
pages (this one) included contains a true  
and complete Copy of the Record and  
proceedings had before the justice of  
the Peace for said County (as certified  
by him) and also a true & complete  
Copy of the Record and proceedings had  
in the Circuit Court in the cause of  
John Briley against Alfred Copland  
(Constable of said County) brought into said  
Court by Appeal by the said Briley, who  
sued said Alfred Copland in an  
action of Trespass on the Case damages  
\$50. for non feissance in office as said  
Constable.

Witness John B. Hick's clerk  
of said Court and the  
Judicial Seal thereof  
this 23rd September 1851  
Wm. H. H. Walker

John Briley p[er] in error

vs  
Alfred Copeland def[endant] in error

In the Supreme Court 1<sup>st</sup> Grand  
Division State of Illinois Nov term  
A.D. 1857

and now on this day  
comes this p[er] by Richard S. Nelson  
his attorney & ~~states~~ says that in  
the record & p[ro]p[er] a[pp]e[ar]s & also in the  
giving of the Judgment in the p[er] a[pp]e[ar]s  
it is manifestly error in this that  
the Judgment a[pp]e[ar]s has been en[ter]ed  
a[pp]e[ar]s for the Alfred Copeland, when  
by the Law of the Land it ought to have  
been given for the said John Briley and  
against this Alfred and this he  
this p[er] is ready to verify &c

and assigning special ground,  
of error that p[er] saith that 1<sup>st</sup>  
the Court below erred in dismissing  
the a[pp]e[ar]s such ~~cause~~ <sup>brought</sup> by the  
John Briley a[pp]e[ar]s against the Alfred  
he for John B. Hicks J.P. before whom  
it was originally commenced for want of  
~~jurisdiction~~  
2<sup>nd</sup> The Court erred in sustaining the  
motion of the Alfred Copeland to  
dismiss this cause for want of Jurisdic-  
tion in the Court below  
3<sup>rd</sup> The Court erred in dismissing said  
cause for the want of Jurisdiction in

in the Court below -

Richd. S. Nelson attorney  
for p[ar]ty in error

Wherein this p[ar]ty: in the record a[nd]  
appearing in the record proceedings &  
Judgment a[nd] award - says that the said  
Nelson be dismissed vacated & proceed  
with this estate &c

Richd. S. Nelson attorney  
for p[ar]ty in error

Joinder in error

Allen & Simons Attys for deft in error

24

John Orley

14

Alfred Chapman

Prepared

14

6.8.74

8795

The People of the State of Illinois,  
To the Sheriff of *Massac* 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 *Massac*  
County, before the judge thereof, between *John Briley, Plaintiff*  
and *Alfred Copeland*

defendant, it is said that manifest error hath interwened to the injury of said *Plaintiff*

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* Springfield, 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 *Alfred Copeland*

that *he* and appear before the Justices of our said Supreme Court, at the next term of  
said Court, to be holden at *Mt. Vernon* Springfield, in said State, on the *2<sup>d</sup>* Monday in  
*November* next, to hear the records and proceedings aforesaid, and the errors as-  
signed, 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 *Alfred Copeland* notice together with  
this writ.

Witness, the Hon. *Samuel A. Yates* Chief

Justice of our said Court, and the seal thereof, at *Spring Mt.*

*Vernon* field, this *24<sup>th</sup>* day *November*  
in the year of our Lord, one thousand eight hundred and  
*forty- fifty one*

*Amey D. Paster*  
Clerk of the Supreme Court.

I served the within by reading the  
Notice to ~~Alfred Capelant~~ on the  
1<sup>st</sup> day of Dec 1851

Service \$ 50  
Miles 15 at 5 75  
Retain \$ 1 3 3

Wm Bruner Sheriff of  
Massac County, Ill

8795

Supreme Court.

Plaintiff in error,

*John Parley*

vs.

Defendant in error,

*Alfred Capelant*

Scire Facias.

Filed.

3011

SUPREME COURT

STATE OF ILLINOIS