

No. 8687

Supreme Court of Illinois

Wm. Scofield

vs.

John Brissenden

71641  7

Pleas Before the Honorable Samuel
S Marshall sole presiding Judge
of the Circuit Court in and for the
County of Edward and State of
Illinois at the April Term 1852
Began and held at the Court house
in Albin on Monday the 19th
day of April A.D. 1852

Be it remembered that herebefore writ
on the 8th day of March in the year 1852
William Schofield filed in the Clerk's Office
of said Circuit Court his Bill in Chancery
against John Shipman and James Kemmer
Sheriff of Edward County aforesaid.

Which Bill is in the word and
figures following to wit:

"To the Hon. S. S. Marshall, Judge
of the Circuit Court for the County of
Edward in Chancery &c &c &c.

Respectfully shews unto your honor
your orator William Schofield of said County,
That in or about the year The President
Directors and Company of the Bank of Illinois
at Shawneetown obtained judgment against
one William Pickering upon which they
procured executions to be levied upon the following
land of said Pickering said County, viz the South
half of Sec. 18, in Town 2 South of Range
11 East, and on the 31st day of October
1850 said land were struck off
and sold by the Sheriff of

Said County to one John Pispender
at and for the sum of \$1000. in Shawneetown
Bank paper. That at said sale it was
proclaimed that such paper would be
received at par and said Pispender
paid for said lands said sum of \$1000.
in Shawneetown paper which was worth
but fifty cents pr. dollar and cost said
Pispender that sum. Your orator
further shews. That at the last August
Term of this Court 1851 he obtained a
judgment against said Pickering for
the sum of \$61-31/4 cents & cost, and thus
being a judgment-Creditor of said Pickering
as the best-if not only means of collecting
his Money, he desired to redeem said land
so sold to said Pispender as aforesaid and
on the 30th January 1852 during the time
when as such judgment-Creditor he had
a right to redeem - Your orator took
out Execution on his judgment gave the
same to James Keenan, then Sheriff
of said County directing him to levy
the same on said land, and tendered
to said Sheriff the sum of \$675. in
specie to redeem said purchase of said
Pispender said sum being the full
value of said \$1000 - so bid & paid
by said Pispender and also the interest
thereon at the rate of ten per cent,
but said Sheriff wholly refused to receive

said sum in redemption of said land
pretending the same was not enough
and refused to levy your Patens Execution
as aforesaid, but afterwards received said
sum of \$675. as a deposit in Court
and now threatens to convey said land
to said Phipps. Wherby your
Patens debt is endangered as he knows
of no other property upon which it can
be levied except upon land similarly
situated. All of which is contrary to
Equity. And in as much as your
Patens is without remedy at Common
Law, and can only be relieved in Equity.
And to the end that the Court may by
injunction restrain and forbid
said Sheriff from conveying said land
to said Phipps or any one else
until this Cause can be heard and
that the said Phipps and the
said Common Sheriff as aforesaid
may be made Defendants here to
and may answer this Bill. That
upon final hearing the said Sheriff
may be ordered and directed to receive
and apply said sum of \$675. in
redemption as aforesaid. And
to proceed upon your Patens Execution
to sell said land and make the money
that the Court may grant to your Patens

Each other for the relief in the premises
as may be just and equitable. May it
please the Court to grant to your orator
the Peoples writ of injunction as aforesaid
And the writ of summons directed said
defendants, &c. Commanding &c.
And your orator, will ever pray &c.

William Schofield

State of Illinois

Monte County } ss, William Schofield
being sworn says the matters contained
in the foregoing bill so far as stated from
his own knowledge are true - and so far
as stated from the information of
others he believes them to be true.

William Schofield

Sworn to & subscribed before me this 19th
July 1852


J. Jones, Clerk.

Upon which said bill is the following
order endorsed thereon by his Honor, Samuel S
Marshall Jy.

" State of Illinois }
12th Judicial Circuit } ss.

The Clerk of the Eastern County
Circuit Court will give a summons
And writ of injunction in pursuance of
the prayer of the foregoing Bill upon the
Complainant filing his Bond with Moses
Smith and William Hancock his sureties

in the sum of \$500 - Conditioned to pay
to the defendants, all damages which
they or either of them may sustain
by the wrongful suing out this injunction
in case the same should be dissolved, or
the bill herein be dismissed by the Court -
Feb'y 21st A.D., 1852

Sam'l S Marshall, Cir Judge 
And thereupon to wit on the 8th day of
March in the year 1852 appeared the following
Bond was filed in the Clerk's Office of the
said Circuit Court viz,

" Know all men by these presents
that we William Schofield, Moses Smith
and William Hammett of the County of
Edward and State of Illinois, are held
and firmly bound unto John Rippon
and James Keener Sheriff of Edward
County in the State aforesaid in the
penal sum of five hundred dollars,
for the payment of which sum well
and truly to be made we and each of
us bind ourselves our heirs, executors
and Administrators jointly, severally,
and firmly by these presents, Witness
our hand and seals this 8th day of
March A.D., 1852. The condition of the
above obligation is such that whereas
the above bound William Schofield
has sued for and obtained a writ of

injunction from the Judge of the Circuit
Court of said Edward County, enjoining,
restraining and forbidding the said
James Kemmer, Sheriff as aforesaid from
conveying certain land to said John
Brispender or any one else until the said
Circuit Court shall make other orders to
the contrary. Now if the said William
Schepfield shall pay a cause to be paid
to the said John Brispenden and James
Kemmer Sheriff as aforesaid or to either
of them all damages which they or
either of them may sustain by the
unlawful issuing out the aforesaid
injunction in case the same shall
be dissolved or the bill be dismissed by
the Court. Then the above obligation to
be void otherwise to remain in full force.

Attest
Walter S. May, Clerk of Court
Circuit Court of Edward County

William Schepfield (real)
Moses Smith (real)
William Hancock (real)

And on the day and year last aforesaid Court
on the 8th day of March in the year 1852

The Clerk of the said Circuit Court issued the
writ of injunction as prayed for in the
said Bill, which said writ is in word
And signs following to wit

State of Illinois ss
Edward County ss The People of the State
of Illinois, to James Kemmer, Sheriff of said

County and all others acting under mine
Authority. Whereas William Schofield has long
submitted his bill of Complaint to the Judge
of the Circuit Court in and for the said County
on the Chancery side thereof against
John Ripperden and you the said
James Kanner Sheriff as aforesaid defend-
ants, wherein amongst other things it is
alleged that certain moneys were
tendered to you to be applied in redemption
of the following land in said County Viz:
The South half of Sec. 18, Town. 2, South
of Range 11, East which moneys you
refused to receive in redemption of said
land but received the same on deposit &c.

It is therefore in Consideration of the
premises do strictly enjoin and Command
you and all persons acting under you
that you do from hence forth absolutely and
entirely desist from conveying the said
above described tract of land to the said
John Ripperden or any one else until the
said Circuit Court shall make other
order to the contrary, And you are
hereby Commaned to stand appear
before the Judge of our said Circuit
Court on the first day of the next
term thereof to be holden at the Court
house in Albin on the third Monday
in the month of April next, then
and there to answer the Matter

And things contained in said Compla-
aints Bill of complaint, And further
to do and receive whatever the said
Court may then And there Consider in
this behalf - And hereof fail not
under the penalty of what the law
directs, Witness Myself Walter L. Mayo, Clerk
of the Circuit Court of said
County at Albin this 8th day
of March A.D. 1832

Walter L. Mayo, Clerk

To the Coroner of said County to execute and
return,

Afterward to wit on the 15th day of March
in the year 1832 the said James Keener
Sheriff as aforesaid came into the Clerk's
Office of said Circuit Court, and
made the following endorsement on said
Writ. To wit,

"I acknowledge service of the within
writ this 15th day of March 1832

James Keener, Sheriff
E. C. Illinois

And on the 8th day of March 1832 aforesaid
Summons issued from the Clerk's office of
said Circuit Court in words and
figures following:

State of Illinois vs. the People of the State
Laward County vs. the People of the State
of Illinois to the Coroner of said County
Greeting - We command you to summon

James Kemmer Sheriff of said County and
John Ripperden if they can be found in
your County to be and appear before the
Judge of our Circuit Court on the first
day of the next term thereof to be holden
at the Court house in Albion within and
for the said County of Edwards on the
third Monday in the month of April next,
to answer William Schofield in a certain
Bill in Chancery filed against them
in our said Court in the Chancery side
thereof &c. and of this writ make
legal service and due return at the
time and place aforesaid,

W

Witness Walter & Mayo, Clerk of
said Circuit Court at Albion
this 8th day of March Anno Domini
1852

Walter & Mayo, Clerk
Upon which said writ is the following
endorsement, to wit

" I acknowledge service of the within writ
this 15th day of March 1852

James Kemmer, Sheriff, E. C. Illinois
" I acknowledge service of the within writ
29. March 1852

John Ripperden
Used afterwards to wit on the 20th day
of April in the year 1852 being the
~~third~~ ^{second} day of the term of said Court just
before which the following proceedings
were had and entered of record viz

William Schofield

vs

John Bispender

James Kemmer

In Chancery

Now at this day come
the said parties, by their Attornies, and
the said defendants moves the Court
to dissolve the injunction granted herein
and dismiss the said Bill for the
want of Equity therein which motion
is set down for hearing at Chambers.

And afterwards to wit on the 21st
day of April in the year 1852 being the
third day of the said term of the said
Circuit Court the following further
proceedings were had and entered of
record viz.

William Schofield

vs

John Bispender and

James Kemmer

In Chancery

The said motion to
dissolve the injunction heretofore granted
herein and to dismiss the said Complain-
ants bill in the premises for want
of sufficient Equity therein made
on yesterday having been heard at
Chambers by His Honor the Judge presi-
ding and said motion having been
heard and said bill carefully considered
and examined and the Court being

satisfied that there is a total want
of equity in the claim for relief set
forth and alleged in the said Bill
and that the prayer thereof is against
right and the equity of the parties
and the said injunction for such reasons
should be dissolved and the said bill therefor
dismissed. It is therefore ordered and
decree'd by the Court now here in Chancery
sitting that the motions of the said
defendants made as aforesaid be
sustained and that the said injunction
be dissolved and the said bill of the
said Complainant, ^{filed here} be dismissed and
the said defendants discharged from
further answering to the same. It is
further ordered and decree'd that the
said defendants recover of the said
Complainant their Costs and Charges
about their defence in this behalf
expended and that they have execution
therefor &c. Whereupon came the said
Complainant by Webb his Solicitor
and prays and appeal from the said
Court rendering the decree as aforesaid
to the Supreme Court of the State of Illinois
and tenders as his security on the appeal
bond of the law in such cases required
Moses Smith and Charles Schiefel
which said securities or either of
them are approved by the Court

And the said Appeal allowed upon the
Complainant filing his bond in
accordance with the Statute in such
case made and provided, in the sum
of One hundred Dollars conditioned
according to law, with the said
Moses Smith and Charles Schofield
or either of them as his sureties on
said bond within forty days from the
date of this decree &c.

And afterward to wit on the
31st day of May in the year 1852 the said
Complainant filed in the Clerk's Office
of said Court the following bond viz.

"Know all men by these presents that we
William Schofield and Charles Schofield
of the County of Lawrence and State of Ohio
are held and firmly bound unto John
Purpender and James Kenner of
the County and State aforesaid in the
penal sum of One hundred dollars
for the payment of which sum well and
truly to be made we bind ourselves our
heirs executors and Administrators
jointly severally and firmly by these
presents, Witness our hands and seals
this 31st day of May A.D. 1852

The execution of the above obligation is
such that whereas at the April
Term ¹⁸⁵² of the Circuit Court for the
above named County and State a certain

suit in Chancery on Bill & injunction
was heard wherein the above bounden William
Schefield was Complainant and the said
John Phipps and James Kemmer were
defendants, upon which trial the said
Court ordered the said bill to be dismissed &
the injunction to be dissolved, and rendered
judgment against said Complainant
for costs of suit per which order and
judgment of the Court the said William
Schefield has prayed for and obtained an
Appeal to the Supreme Court of said
State. Now if the said William Schefield
shall duly prosecute his said appeal
with effect and shall moreover pay
the amount of the judgment rendered
and to be rendered against him in
case the said order & judgment shall be
affirmed in the said Supreme Court
then this obligation to be void otherwise
to remain in full force and virtue

Attest
Walter S. Major, etc. } William Schefield Esq.
Chas. Schefield Esq.
Cir. Court E. C. Ill. }

State of Illinois }
Edward County } J. Walter & Mayo
Clerk of the Circuit Court in and for
said County of Edward do hereby certify
that the foregoing sheets contain a true
transcript of the records in the above
entitled Cause as appears from the
papers and records in my Office.

The Testimony whereof
I have hereunto set my
hand and affixed the
Seal of said Court at
Albion this 16th day of
June in the year 1852
Walter & Mayo, Clerk

Transcript

William Schofield

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John Rippendental

Winfield, Illinois.

October 22, 1859.

F. D. Preston Esq.
W. Va.

I enclose herewith a record
from Edwards county, Schofield vs. Brissenden et al.
which you will please file. I also send \$5.00 fees.
Please send me a receipt.

Very Respectfully Yours,

Edwin Beecher

No. 27

William Scofield

v.

vs.

Goodyear's Metallic Co.
Manufactured under the
PATENT OF HENRY DAVENPORT

Rule in appeal
error appeal
dismissed for
want of prosecution
and

8687