

No. 8552

Supreme Court of Illinois

President & Trustees of
Elizabethtown

vs.

Leplers

71641  7

No 63 — 17

Nov Dec 1859.

Elizabethtown No.
my

Super

unto Hudson

Affirm

8552

President & Trustees of the town of
Elizabethtown — plaintiffs in

v. } Error to Hardin

Emaly Ann Sifler — Deft in error

And the said plaintiffs by Warren
their atty. Comes and says that the record and
proceedings aforesaid and the rendition of the
Judgment aforesaid there is manifest error
in this Court,

- 1st The Court erred in not permitting
the plaintiffs to introduce the Books
of the Corporation containing the
Ordinances of said town,
- 2^d The Court erred in rendering Judgment
for Cost against the plaintiffs,
- 3^d The Court erred in not ~~rendering~~
Assessing a fine against the
said defendant,
- 4th The Court erred in not granting
a new trial,

And the plaintiff ~~prays~~
that the judgment aforesaid, and for other
errors apparent on the record & proceedings
aforesaid, may be reversed and held for
naught.

Jas M Warren atty
for plaintiff in error

Inditer in Error

Olney for defendant.

1 State of Illinois }
Hardin County } S.S.

Pleau before the Honorable
Wesley Sloan Judge Nineteenth Judicial
Circuit State of Illinois and presiding in
the County of Hardin at the Court house in
Elizabethtown at the May Term of the Court
24th Monday in May 1860

State of Illinois }
Corporation of }
Elizabethtown } S.S.

Lucinda Mott Comes and upon
her oath states, that Emily Ann Jane Lefler
Wife of John M. Lefler on the 8th day of April
1859 did within the Corporate Limits of the town
of Elizabethtown. then and there make an
Assault ~~upon~~ in and upon the person of her the
said Lucinda Mott with a certain Brick Bat
in her left hand, had and held

Subscribed & Sworn to before }
me this 11th day of April 1859 } Lucinda Mott
Jas A Ledbetter J.P. }

State of Illinois } Corporation of Elizabethtown
Hardin County } S.S. President & Board of Trustees of
the town of Elizabethtown
VS Assault on Lucinda Mott

Emily A. C. Lefler

Emily A. C. Lefler being first duly Sworn states
under oath. that in the above entitled Cause
she believes she cannot have a fair and Impartial
trial before Jas A Ledbetter Justice of the peace
for the reason that said ~~justice~~ Justice is so
prejudiced against her, Wherefore she prays a

Change of Venue
 Subscribed And Sworn to } Emily A. P. Sepler
 before me 22 April 1859 }
 Jas A Seabetter J. P.

President and Board of } Assault upon Lucinda	
Trustees of the Town of } Mott with a Brick bat	
Elizabeth town } Justice Cost	\$2 " 00
VS } Constable Cost	80
Emily Ann P Sepler } Witness fees	\$2 " 00
	Witnesses Lucinda Mott Mary
	Mott, C. H. Goble & M ^{rs} Miller

Affidavit filed and Capereus issued April 11th 1859
 in hands of Mariel Asbel C. H. G. Returnable forthwith
 Capereus returned served by bringing forth the Body
 of the Defendants on the 18th day of April 1859
 and upon the oath of the Defendant the Case was
 Continued until the 22nd of April 1859 Parties
 appeared on the 22nd day of April 1859 and defen-
 dant filed an Affidavit for a change of venue which
 was awarded by the Court and proceeded to trial
 and after hearing the Evidence it is the Opinion
 of the Court, that the Defendant was Guilty of an
 Assault upon Lucinda Mott and I therefore
 fine the Defendant five Dollars \$5.00 and Enter
 Judgement Against the Said Defendant for five
 Dollars fine and for all Cost of Suit this 22nd day
 of April 1859

John A. Seabetter J. P. Seal
 State of Illinois }
 Hardin County }
 Corporation of the Town }
 of Elizabeth town }
 J. Jas. A. Seabetter a
 Acting Justice of the Peace in and for the County

3

And Corporation aforesaid do hereby Certify
that the above and foregoing is a true and correct
transcript of the proceedings had before me in
the above styled Cause Given under my hand
and Seal this 25th day of April 1859

Jas A. Sedbetter J.P. Seal

Appeal Bond

Know all Men by these presents that We Emily
A. Lefler And are held and
firmly bound unto the Trustees of Elizabethtown
in the penal sum of Thirty Dollars Current
Money of the United States, for the payment
of which well and truly to be made, we bind
ourselves, our heirs and Administrators, jointly
severally, and firmly by these presents
Witness our hands and Seal this 23rd day April 1859

The Condition of the above obligation is such
That Whereas the said Trustees of the town of
Elizabethtown did, on the 22nd day of April A.D.
1859 before Jas A Sedbetter a justice of the
Peace for the County of Hardin receive a judge-
ment against the above bound Emily A Lefler
for the sum of Ten Dollars. from which Judgement
the said "Emily A. Lefler hath taken an
Appeal to the Circuit Court for the County of
Hardin aforesaid & State of Illinois "

Now if the said Emily A. Lefler shall prosecute
her said Appeal with Effect, and shall pay what
ever Judgement may be rendered by the Court
upon Dismissal or trial of said Appeal, then
the above obligation to be void. Otherwise to
remain in full force and, Virtue and Effect

Emily Ann Lefler } Seal
D. J. Watkins } Seal

The President and Trustees of the Town of Elizabethtown
 vs
 Emily Ann Sepler

In the Hardin
 Circuit Court
 May Term
 1859

Be it Remembered that
 May Term Hardin Circuit Court 1859
 The President and Trustees of } Plaintiff
 Elizabethtown }
 vs } Appeal
 Emily A. Sepler } Defendant

Now in this day Came the
 Said Plaintiff by Warren their Attorney as well
 also the Said Defendant by Olney & Borman
 her Attorneys and this Cause being Submitted
 to the Court and the proofs being heard and the
 Court now being sufficiently advised in the
 premises. It is Ordered and Adjudged by the
 Court that the said defendant. Record of
 the Said plaintiffs, a Judgement for all
 of her Reasonable Cost and Charges in and
 about that behalf expended and that she
 have Execution therefor &c

The President & Trustees of } In the Hardin
 the town of Elizabethtown } Circuit Court
 vs } May Term
 Emily Ann Sepler } 1859

Be it Remembered
 that on the trial of the above Entitled Cause
 the Counsel for the plaintiff, to maintain
 and prove the Issue on the part of the plaintiff
 proved by Lucinda Mott, that Sometime
 about the day of 1859 within the

5

Corporate limits of Elizabethtown a disturbance
 had taken place between some Popham Children
 and the Defendant, that she Lucinda Mott
 went out of doors in her own yard, and Sam
 defendant in her Garden, a distance of some
 fifteen steps from where she was, that she
 asked defendant what ~~she~~^{was} meant by all this
 disturbance, defendant told witness that she
 had thrown at the Children, thereupon some
 angry words issued when the defendant having
 a brick bat in her hand, drew up her hand
 which held the brick bat, like she was in the
 act of throwing it at witness, that after holding
 it in that attitude for a short time threw it
 down, and said she would not belittle
 herself with witness, witness stated that
 at the time defendant drew the Brick bat
 on witness. They were not more than about
 fifteen feet apart; Plaintiff proved also by
 Lucinda Cobb that she saw defendant draw
 a Brickbat in the attitude of throwing it at
 Lucinda Mott some time about the day of

1859 in Elizabethtown Sam defendant
 afterwards spun round and threw the Brick
 Bat down on the ground, The plaintiffs then
 introduced the acts of the Legislature of the
 State of Illinois, incorporating the town of
 Elizabethtown approved February 13 1857 as
 evidence to prove the existence of the Incorporation
An act to Incorporate the town of "Elizabethtown"
in Hardin County

Section 1. Be it Enacted by the people of the State of -
 Illinois, represented in the General Assembly
 That the Inhabitants and Residents in the
 town of Elizabethtown in Hardin County

6 are hereby made a body Corporate and
politic in law and in fact by the Name and
Style of. The president And board of trustees
of the Town of Elizabethtown, and by that
Name shall have perpetual Succession, and
a Common seal, which they may alter at plea-
sure, and in whom the Government of the Cor-
poration shall be vested, and by whom its
affairs shall be managed. 2. The Boundaries
of said Corporation shall include as follows
Commencing at the Mouth of big Creek, from
thence due North one mile, from thence due
East one mile, from thence South to the Ohio
River, thence down the Ohio River to the place
of Beginning, and the Jurisdiction of Said
Corporation shall extend to all that part
of the Ohio River lying Opposite the said town
of Elizabethtown 3 That there shall on the
first Monday of April next, be elected five trustees
and on every first Monday of April thereafter, who
shall hold their office one year, and until the Successors
are duly elected and qualified, and public notice
of the time and place of holding said Election shall
be given by the president and trustees, by an advertise-
ment, by posting it up in at least four of the most
public places in said town, for the space of ten days
No person shall be a trustee of said town who has not
Arrived at the Age of Twenty One Years, and who has
not resided in said town Three Months next prece-
ding his Election, and who is not at the time thereof,
a bona-fide freeholder, and, moreover, who
has not paid a State or County tax; and white
free male inhabitants over Twenty one years of age
who have resided in said town one Month next
preceding an Election, shall be Entitled to

6.

7
vote for trustees, and said trustees shall, at their first meeting proceed to Elect one of their body presed
ent and shall have power to fill all vacancies in
said board which may be aequined by death or
resignation: provided, the vacancy may not Exceed
three Months. All vacancies which shall Occur
for a longer time, the board shall give ten days
Notice, by posting up at least three advertisement
in said town, for such vacancy to be filled, as
provided for in regular Elections, and to Appoint
a Clerk and assessors, a treasurer, a street supervisor
and a town Constable, to give bond and Security
in such amount as the trustees may require. And
the said town Constable shall take an Oath of office
before some justice of the peace, that he will faithfully
discharge the duties of said office; and it shall be
his duty to Collect all fines, and serve all processes
at the suit of the Corporation, and do such other
Matters and things, pertaining to the office, as may
be required of him by the Ordinances and by-laws
of said Corporation. 4. Said Corporation is hereby
made Capable, in law, to take and hold to them
selves and Successors, any lands, tenements heredita
ments; have power to sue, and be sued, to plead
and answer and be answered in any Court whatever
5. The trustees of a said and their Successors or a
Majority of them, shall have power and Authority
to ordain and Establish such rules and regulat
ions, for their Government and direction, and for
the transactions of the business and concerns of
the Corporation, as they may deem Expedient, and
to ordain and Establish and put in Execution
such by-Laws, ordinances and Regulations as
shall seem Necessary for the Government of said
Corporation, and for the Management, Control,

dispositions and Applications of its Corporate
 property; and, Generally, to do and Execute all
 and singular such acts, Matters and Things
 which to them may seem necessary to do them to
 do, and Not Contrary to the laws and Constitution
 of this state & The said trustees shall have power
 to levy and Collect a tax not Exceeding one half
 of one per Cent, on all lots and Improvements
 and personal property lying and being within
 the Corporate limits of said town, According to
 Valuation; to tax public shows, and houses of public
 Entertainment, taverns, stores and Groceries, for
 the purpose of Making and improving the streets
 and Keeping them in repair, and for the purpose
 of Erecting such buildings and other works of
 public Utility as the interest and Convenience of
 the inhabitants of said town may require,
 and the Circumstances render proper and Ex-
 pedient; and said trustees may Adopt such
 Mode and Means for the Assessment and Collection
 of such taxes, and the Rents, issues, and profits
 thereof, which may be necessary for the erection
 of any public School Houses in said town Market
 house or any other public building, to promote
 the interest and public good of the Citizens of
 said town, and the same to sell, Grant, and
 dispose of, if Necessary; they shall, also, have
 power to Regulate, Guard, pave and improve
 the Streets, Lanes, and Alleys, within the
 limits of said town and Corporation, and
 to Extend or open or widen the same, making
 the persons injured thereby a adequate Compensation
 to ascertain which the Board
 shall Cause to be summoned } ss { ~~as may be~~
 } ~~as may be~~ }

9
six good and Careful Men, freeholders, and
inhabitants of said town, not directly interested
who, being first duly sworn for that purpose, shall
inquire into and take into Consideration as
well the benefit as the injury which may occur.
and estimate and assess the damages which
would be sustained by the reason of the opening
extending or widening any street, Avenue,
Lane or alley, and shall, Moreover, Estimate
the Amount which other persons will be benefited
thereby, who shall contribute towards the
persons injured, all of which shall be returned
to the Board of trustees, and their hands and
seals, and they who shall be benefitted and so
assessed shall pay the same; in such manner as
shall be provided, and the residue, if any, shall
be paid out of the ^{town} treasury; and said Corporation
shall prescribe, the manner of Selling property,
when the tax levied upon is not paid: provided
~~that in conducting such sale the provisions of~~
~~the act~~ no sale of town lots or other real Estate
shall be made until public notice of the time and
place shall be ~~made~~ given, by advertising at
four of the most public places ⁱⁿ said town at
least fifteen days previous thereto: Provided,
~~that in conducting such sale the provisions of the~~
act concerning public revenue, so far as the
same may be applicable, shall be complied
with. That the trustees of said town or a
majority of them, shall have power to preserve
good order and harmony in said town, to punish
for open indecency, breaches of the peace, gamb-
ling, gaming houses, horse racing, shooting,
and all disorderly houses, and riotous meetings
to remove obstructions in the streets and public

ways, and all nuisances; for which purpose they may make such by-laws and ordinances as to them they may think Expedient, and not inconsistent with any public law of this state, and impose fines for the breaches thereof; which fines shall be recoverable before any Justice of the peace residing in said town. All suits and Judicial proceedings under this act shall be brought in the Manner and style of the, President and Trustees of the town of Elizabethtown; Said presidents and Trustees shall have full power and Authority to have declare what shall be a nuisance; have the Exclusive power of Granting Grocery licenses, and to fix the rate thereof; to provide a penalty for the failure or neglect to procure such licenses; have the Exclusive power to Grant license to Shows, peddlers, stage boats, and to fix a penalty therefor. & It shall be the duty of any Justice of the peace residing in said town and he is hereby authorized and Empowered, upon the Violation of any laws or ordinances of said Corporation, to issue his warrants directed to the town Constable or any Authorized County Officer, to apprehend any offender or offenders, and bring them or him forthwith before him, and, after, hearing the Evidence, if it shall appear that the said Accused has been guilty of a Violation of any such laws or ordinances of the Corporation, to impose such fines or imprisonment as such be appointed out in such laws or ordinances, Provided such fines shall not exceed Five Dollars and Imprisonment Twenty four hours: Provided, however, that Writs of Certiorari, and Appeals shall be

11
shall be granted from Judgements under this
act, as in other Civil Cases; and in all other
Criminal Cases; the defendant shall be entitled
to an appeal to the Circuit Court, by entering
into bond or recognizance, as the Case may be
require, before the Justice of the peace, within
Twenty days after the rendition of the Judgment
with such security and such amount as the
Justice shall think ^{right} proper; and all fines imposed
for a breach of the peace or violation of the Corpora-
tion Ordinances, and all Moneys Collected for
Grocery licenses, licenses for peddling, licenses for
stage boats and Phormen shall be paid into
the treasury of said Corporation, to be laid out
and expended as provided for in section six of
this act - § 9 - That when any town lots or real
estate shall be sold for taxes by virtue of this act,
the same may be redeemed at any time within
two years from the date of such sale, by the
owner of said property, or his or her agent
Executor or administrator, paying to the trea-
surer of said town, for the use of the purchasers,
at the rate of ten per cent, per annum, together
with the cost accruing thereon, 10 - That
upon the application of the owners of a Majority
of the front lots on any Street, it shall be
Lawful for the Board of Trustees to Levy and
Collect a special tax on the owners of the lots
of said Streets or part of a street, according to
their respective fronts, not to exceed one per cent,
for the purpose of Grading and paving the side
walks on said streets, 11 That all Ordinances
of said trustees shall be fairly written out
signed by the Clerk, and published by posting
the same up in three of the most public places

in said town; and no ordinances shall be in force until published as aforesaid at least ten days. 12 The Justices of the peace and Constables who are required to render service under this act, shall be entitled to the same fees and collect them in the same manner as now is or ^{may} hereafter be provided by law. 13 That the president or any two of the trustees, shall have power to call a meeting of the board, by giving one day's notice thereof, and a majority shall constitute a quorum to do business, but a majority shall have power to adjourn from time to time, to compel the attendance of absent members, and in the event that the notice of an election is not given as required by this act, or from any other cause, that an Annual Election shall not be held at the proper time, it shall be lawful for the late Clerk of the board, or any two qualified voters in said town, at any time thereafter to give notice as aforesaid of the time and place of holding a Special Election; and the trustees elected at such special Election, shall have all the powers conferred by this act. 14 The qualified voters within the Corporation shall vote, on the first Monday in June next for or against becoming incorporated under this act. If the majority of all the votes cast at said Election are in favor of being incorporated then this act shall be in full force otherwise to be null and void. This act to take effect and be in force from and after its passage. Approved February 13. A. D. 1857

The plaintiff then introduced in evidence the poll books showing the vote taken by the

Inhabitants of said town for and against the
 adoption of said Charter. The plaintiff then
 produced a Book of said Corporation containing
 the Ordinances passed by the board of trustees of
 said Corporation, and proved by the Clerk of
 said Corporation that he was the Keeper of the
 Books of said Corporation, and that the Books
 offered in evidence contained the ordinances
 of said Corporation passed by the trustees of said
 Town, to the introduction of which the said
 Defendants then and there objected, which
 objection was sustained by the Court, and
 refused to let said Books be read in Court
 evidence, To the Opinion of the Court in refusing
 to admit said Book of Ordinances as aforesaid
 to be given in evidence, the said plaintiff
 then and there excepted, and prays that this
 then Bill of Exceptions may be signed and
 sealed and made part of the record in this
 Cause, which is accordingly done

Wesley Sloan Seal }
 Judge. J. C.

State of Illinois }
Hardin County } JP

I, James M^cFarlan
Clerk of the Circuit Court of Hardin County
in the State of Illinois do hereby certify that
the foregoing Fourteen pages Contains a full
true and Complete Record of the above entitled
Cause wherein The President and ^{Trustees} of the
Town of Elizabethtown is Complainant and Emily
Ann Sefler is Defendant as the same
appears from the Books and Files in my office

In testimony whereof I have
set my hand and affixed the
Judicial Seal of said Circuit
Court at Elizabethtown the 10th
day of November A. D. 1859
Jas. M^cFarlan Clk C. C. H. C. Ill

President & Board of
Trustees of Elizabethtown.

Emily Ann Sefler
Record.

Filed Nov. 17. 1859.

A. W. Johnston Clk

Paid by Warren \$5.00

Error to Hardier
President & Justices of Supreme Court
Elizabeth ~~Whitman~~, } 3^d Grand Division
185 }
Emaly Ann Lefler, } Nov Term 1859

It is agreed by Counsel in
this case that the cause be submitted
to the Court upon the Records, Abstracts,
Briefs, and such printed or written
arguments, that either party may see
fit to file, if they wish to do so.

That the Court shall take the
cause when called in its order.

Relative 17th Nov 1859 } Jas M Warren atty for
} plaintiff in Error
} John Olney atty for
} deft. in error.

It is further agreed in this case that no objection shall be
taken on account of the order of the Court not showing
that a motion for a new trial was made, That a mo-
tion for a new trial was made and overruled by the
Court below and the plaintiff excepted

John Olney atty for deft.

Jas M Warren for plb

63
President & Trustees
of Elizabeth Town.

"

Emily Ann Phelps

Agreement.

Filed Nov. 19. 1859.

N. Johnston Clerk

In Sup. Court Nov. Term 1859.
President & Trustees
of Elizabethtown
against
Emily Ann J. Sepler.

- 1 The evidence in this case does not shew that an assault was committed against Mrs. Mott.
- 2 The evidence does not shew the poll books or result of the vote, on the election held for adoption or rejection of Charter.
- 3 The book of ordinances is not copied into the record - and this Court cannot say the Court below erred in rejecting it. It does not appear said Book contained an ordinance against Assault.
- 4 The plaintiff did not prove publication of ordinance
- 5 The bill of exceptions does not contain or at least does not purport to contain all the evidence

Any one of the above grounds is sufficient to prevent this Court reversing the judgment

Olney for
def.

I agreed with Mr. Warren to take no advantage of his failure to move for a new trial

Olney

63-17

Emily A. J. Sepler
ats.
President & Trustees
of
Elizabethtown

Printed by Olney
for defence

STATE OF ILLINOIS—IN THE SUPREME COURT—FIRST GRAND
DIVISION—NOVEMBER TERM, 1859.

Page of Record.	Pres't & Board of Trustees of Elizabetht'n, vs. Emily Ann I. Leffler.	}	Plt'ffs in Error. [Error to Hardin. Defn'dnt in Error.
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1—2 This was an action bro't by the plt'ffs against Emily Ann I. Leffler before a J. P. for a violation of a corporation ordinance, and a fine of \$5 assessed against her, from which the def'dt took an appeal to the Cir. Court.

4 At the May term of said court, 1859, the case was submitted to the court, proofs heard and jdg'mt for def'dt for cost; motion for a new trial was overruled and the plt'ffs excepted, and filed their bill of exceptions.

5 That the evidence produced on said trial was in substance as follows: That def'dt drew a brickbat in the attitude of throwing it at Lucinda Mott, that after holding it in that attitude a short time, turned round and threw it down; that at the time def'dt was within 15 feet of Lucinda Mott; that the occurrence took place within the corporation of Elizabethtown.

5 The plt'ffs then introduced in evidence the act of the Legislature of the State of Ills., incorporating the town of Elizabetht'n, approved Feb'y 13, 1857, (which is copied in the record.)

12—13 The plt'ffs then introduced in the evidence the poll books showing the vote taken by the inhabitants of said town for and against the adoption of said charter. The plt'ffs then introduced a book of said corporation containing the ordinances passed by the Br'd of Trustees of said corporation, and prove by the Cl'k of said corp'n that he was the keeper of the books of the corp'n, and that the book offered in evidence contained the ordinances of said corp'n passed by the Trustees of said town, to the introduction of which the def'dnt objected, and the obj'n sustained by the court, and the plt'ffs excepted.

BRIEF.

Pres't & Board of Trustees of the town of Elizabht'n, vs. Emily Ann I. Leffler. Error to Hardin.

This was an action bro't by the plt'ffs against the def't before a J. P. for a breach of a town ordinance, and a fine assessed against def't for \$5, and appeal taken to the Cir. Court. The cause submitted to the Court. The plt'ffs proved that def'dt committed the assault. And proved the existence of the charter and acts done under it.

The plt'ffs produced and pryed the book of ordinances, and offered the book in evidence, the def'dt objected to its introduction, which was sustained by the court. The court found for the def'dt; the plt'ffs then entered the motion for a new trial, which was overruled and jdg'mt was entered for def'dt, and the plt'ffs excepted.

To prove the existence of a corp'n it is sufficient to produce the charter, and prove acts done under it. Pres't & Trustees of Mendota, vs. Thompson: 20 Ill. R.: 197.

Written proof that all the preliminary steps were taken is not necessary. Same case. A corp'n acting as such cannot be questioned collectively. Same case, also, People, vs. Watkins: 19 Ill.: 120.

The presumption follows that the Trustees had the power under the charter to make ordinances for the punishment of assaults; and assaults and batterys.

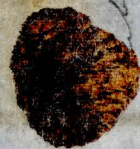
The charter of said town was approved 13th Feb'y, 1857. Session acts, 1857, page 600.

JAS. M. WARREN, att'y for plt'ffs in error.

63

Truster of Elizabeth
184

depler



counted in Brief

Labrador

1857

Office

Elizabethtown }
vs. }
Sepler. }

In this case complaint was made before a Justice of the Peace against the defendant for an alleged assault upon a Mrs. Mott. On appeal to the Circuit Court, the cause was tried before the Judge without a jury.

1 The defendant proved that she held a brick bat in her hand and raised her hand as if in the act of throwing. She then turned round threw down her bat and said she would not belittle herself with Mrs. Mott.

2 Plff then proved charter

3 Next the Poll book. Record does not show what the vote was.

4th Plff then proved book of ordinances and offered it in evidence - which was rejected. The book is not copied

Plff. did not prove publication of ordinances - ~~Did not move for new trial.~~
The bill of Exceptions does not contain all the evidence.

603-17

Elizabethtown.

against

Emily A. Leffer.

STATE OF ILLINOIS—IN THE SUPREME COURT—FIRST GRAND
DIVISION—NOVEMBER TERM, 1859.

Page of Record.	Pres't & Board of Trustees of Elizabetht'n, vs. Emily Ann I. Lefler.	} } }	Plt'ffs in Error. [Error to Hardin. Defn'dnt in Error.
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4 At the May term of said court, 1859, the case was submitted to the court, proofs heard and jdg'mt for def'dt for cost; motion for a new trial was overruled and the plt'ffs excepted, and filed their bill of exceptions.

5 That the evidence produced on said trial was in substance as follows: That def'dt drew a brickbat in the attitude of throwing it at Lucinda Mott, that after holding it in that attitude a short time, turned round and threw it down; that at the time def'dt was within 15 feet of Lucinda Mott; that the occurrence took place within the corporation of Elizabethtown.

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BRIEF.

Pres't & Board of Trustees of the town of Elizabht'n, vs. Emily Ann I. Lefler. Error to Hardin.

This was an action bro't by the plt'ffs against the def't before a J. P. for a breach of a town ordinance, and a fine assessed against def't for \$5, and appeal taken to the Cir. Court. The cause submitted to the Court. The plt'ffs proved that def'dt committed the assault. And proved the existence of the charter and acts done under it.

The plt'ffs produced and pryed the book of ordinances, and offered the book in evidence; the def'dt objected to its introduction, which was sustained by the court. The court found for the def'dt; the plt'ffs then entered the motion for a new trial, which was overruled and jdg'mt was entered for def'dt, and the plt'ffs excepted.

To prove the existence of a corp'n it is sufficient to produce the charter, and prove acts done under it. Pres't & Trustees of Mendota, vs. Thompson: 20 Ill. R.: 197.

Written proof that all the preliminary steps were taken is not necessary. Same case. A corp'n acting as such cannot be questioned collectively. Same case, also, People, vs. Watkins: 19 Ill.: 120.

The presumption follows that the Trustees had the power under the charter to make ordinances for the punishment of assaults; and assaults and batterys.

The charter of said town was approved 13th Feb'y, 1857. Session acts, 1857, page 600.

JAS. M. WARREN, att'y for plt'ffs in error,

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Traders of Elizabethtown
N.J.

W. H. H. H.

Subscribed and Signed
Attest

Verboten

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