

14421

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

# Supreme Court of Illinois

Reaper's Bank

---

vs.

Dubois et al

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STATE OF ILLINOIS,  
SUPREME COURT,  
Third Grand Division

No. 3

*Subsist*  
<sup>75</sup>  
*Reaper B*  
1863

442

United States of America  
State of Illinois County of Cook,

Pleas before the Honorable the Judges of  
the Superior Court of Chicago within and for the County  
of Cook and State of Illinois at a regular term of  
said Superior Court of Chicago begun and holden at  
the Court House in the City of Chicago in said  
County and State aforesaid on the first Monday  
being the second day of January in the year of our  
Lord one thousand eight hundred and sixty  
and of the Independence of the United States  
of America the eighty fourth:

Present The Hon. John M. Wilson Chief Justice  
of Superior Court of Chicago.  
Van. H. Higgins & Grant Goodrich Judges  
Carlo Haven — Prosecuting Attorney  
John Gray — — — Sheriff of Cook County

Attest

Walter Kimball: Clerk

Be it remembered that heretofore to wit on the Twenty  
sixth day of October A.D. Eighteen Hundred and fifty nine  
came the Reaper Bank and filed in the office of the Clerk  
of said Superior Court its certain Bill of Complaint  
on the chancery side thereof: Which said Bill of  
Complaint is in the words and figures following to wit:

To the Honorable Judges of the Superior Court of Chicago in Chancery sitting:

Humblly complaining sheweth unto your Honors The Reapers Bank that it is a corporation organized and doing business under the general banking laws of the State of Illinois.

That Augustus H Burley for the purpose of banking under the provisions of such laws has heretofore lawfully transferred and deposited with the Auditor of the State of Illinois public stocks issued by the United States of America to the nominal and real value of One Hundred Thousand Dollars (\$100,000)

That the Auditor thereupon in accordance with the provisions of the law registered and countersigned circulating notes to the amount of about Ninety four thousand Dollars (\$94,000) payable at the office of your Orator at Fairfield in the County of Wayne and State of Illinois and delivered the same to your Orator to be loaned and circulated according to the ordinary course of a banking business as more

That the said Augustus H Burley did on

the fourteenth day of April A.D. Eighteen Hundred & Fifty nine under his hand and seal make a certificate in compliance with Section Seven of the Act known as the General Banking Law of the State of Illinois a copy of which certificate is hereto attached marked "Exhibit A" and made a part of this your Orators bill of complaint.

That such certificate was acknowledged and recorded in the office of the Recorder of Wayne County and copies thereof filed in the offices of the Secretary of State and the Auditor of State

That thereupon your Orator became a body politic and corporate and entitled to certain privileges immunities and franchises secured by said law and by contract with the State of Illinois.

That the office of your Orator was and is established in the town of Fairfield in the County of Wayne in the State of Illinois.

That Augustus H. Burley is the President and Frederick G. Clapp is the Cashier of your Orator.

That a portion of the circulating notes of your Orator, countersigned and registered by the Auditor as aforesaid, have been executed and signed by the President and Cashier in accordance with

the requirements of law and issued and circulated as money.

Your Orator further shows unto your Honors that on the Twelfth day of October A. D. Eighteen Hundred & Fifty nine James M. Adsit and Elisha W. Willard were the owners and holders of a package of five hundred dollars (\$500.) of the circulating notes of your Orator and at ten o'clock in the forenoon of that day by the hand of Charles A. Beecher a Notary Public residing at Fairfield presented the same at the Office of your Orator and demanded the redemption thereof in the legal coin of the United States.

And your Orator shows that upon such presentation and demand it tendered to the said James M. Adsit and Elisha W. Willard in redemption thereof the silver coin of the United States of America in pieces of the denomination of dimes and half dimes and the said James M. Adsit and Elisha W. Willard thereupon accepted one hundred and fifty dollars (\$150.) thereof and refused to receive payment of the balance.

And your Orator further shows unto your Honors that on the Thirteenth day of October in the year aforesaid the said James M. Adsit and Elisha W. Willard were also the owners and holders of a

certain other package of five hundred dollars (\$500) of the circulating notes of your Orator and at ten o'clock in the forenoon of that day by the hand of Charles A Beecher the Notary Public as aforesaid residing at Fairfield presented the same at the office of your Orator and demanded the redemption thereof in the legal coin of the United States.

And your Orator shows that upon such presentation and demand it tendered to the said James M Adsit and Elisha W Willard in redemption thereof the silver coin of the United States of America in pieces of the denomination of dimes and half dimes and the said James M Adsit and Elisha W Willard thereupon accepted two hundred & ninety dollars thereof and refused to receive payment of the balance.

And your Orator further shows that notwithstanding such tender of redemption as aforesaid the said James M Adsit and Elisha W Willard caused the said notes except those redeemed by your Orator as aforesaid to be protested for non payment by the said Charles A Beecher a Notary Public of the County of Wayne aforesaid: and such protest and the notes accompanying the same were presented to the Auditor of State and filed in his office and copies thereof

into liquidation as of right and justice they ought to have done).

But now so it is may it please your Honor that the said lessee K<sup>d</sup> Dubois James M<sup>r</sup> Adsit and Elisha W<sup>m</sup> Willard colluding and confederating with each other refuse to comply with such request and pretend that such tender of redemption was insufficient and illegal &c.

All which actings doings pretences and refusals are contrary to equity and good conscience and tend to the manifest wrong and injury of your Orator in the premises. In consideration whereof and forasmuch as your Orator can only have relief in the premises in a Court of equity where matters of this nature are properly cognizable and relievable).

To the end therefore that the said Defendants Lessee K<sup>d</sup> Dubois James M<sup>r</sup> Adsit and Elisha W<sup>m</sup> Willard may if they can show why your Orator should not have the relief hereby prayed and may according to the best and utmost of their several and respective knowledge remembrance information and belief full true direct and perfect answer make to all and singular the matters and things hereinbefore stated and charged (their several and respective

Answers under oath being hereby <sup>expressly</sup> waived) and that as fully and particularly as if the same were here repeated and they and every of them distinctly interrogated thereto.

And your Orator prays that the said Jesse K. Dubois may be prohibited and restrained from giving notice in any newspaper that the circulation of your Orator will be redeemed out of trust funds in the hands of said Auditor of State; from selling or offering to sell the public stocks aforesaid; from calling in the circulation of your Orator by reason of any such alleged refusal to redeem such circulation notes and from taking any measures to compel your Orator to redeem said notes or to force your Orator into liquidation. And that your Orator may have such other or further relief in the premises as the nature of this case may require and to your Honors shall seem meet.

May it please your Honors to grant unto your Orator the Peoples Writ of Injunction issuing out of and under the seal of this Honorable Court to be directed to the said defendant Jesse K. Dubois and to his counsellors Attorneys Solicitors Trustees and agents therein and thereby commanding and strictly enjoining the said Jesse K. Dubois and the persons before men-

tioned as hereinafter prayed.

May it please your Honors to grant unto your Orator the Peoples Writ of Subpoena issuing out of and under the seal of this Honorable Court to be directed to the said Defendant Jesse Ke Dubois James Mc Adair and Elisha W Willard therein and thereby commanding them and each of them on a certain day and under a certain penalty to be and appear before the Judges of this Honorable Court at the Court Room in the City of Chicago then and there to answer all and singular the premises and to stand to and abide by and perform such order and decree therein as to your Honors shall seem agreeable to equity and good conscience And your Orator will ever pray &c

Gallup v. Hitchcock } A. H. Burley  
 Sol's for Compl't } President

State of Illinois }  
 County of Cook }

Augustus A. Burley being duly sworn deposes and say that he is the President of the Peoples Bank of Fairfield in the County of Wayne and State of Illinois the complainant in the above bill of complaint; that he has read the said bill and knows the contents

thereof and that the same are true of his own knowledge except those matters and things stated upon information and belief and as to those he believes them to be true.

Subscribed & sworn to before me  
this 25<sup>th</sup> day of Oct. A.D. 1859

A. H. Burley

Benj<sup>d</sup>. C. Gallup  
Notary Public

Notarial  
Seal

Exhibit. A.

I whose name is hereunto annexed do hereby certify  
1<sup>st</sup> That I purpose establishing an office of discount  
deposite and circulation and do hereby agree to  
become incorporated upon the terms and con-  
ditions and subject to the liabilities prescrib-  
ed in the Act of the General Assembly of the State  
of Illinois entitled "An act to establish a  
general system of banking" and the name  
assumed to distinguish such association and  
to be used in its dealings is the Peacemakers Bank


2<sup>d</sup> That its business is to be carried on in the town  
of Fairfield Wayne County State of Illinois.

3<sup>d</sup> That the capital stock of the association is  
one million dollars divided into ten thousand  
shares of one hundred dollars each.

4<sup>th</sup> That the name and residence of the respective shareholders and the number of shares held by each are as follows.

Aug<sup>s</sup> H. Burley Chicago Illinois 10,000

5<sup>th</sup> That said association shall commence on the fifteenth (15) day of May A.D. 1859 and terminate on the fifteenth (15) day of May<sup>A.D.</sup> 1884 Given under my hand and seal this fourteenth day of April A.D. 1859

A. H. Burley 

State of Illinois }  
Wayne County } J. B. B. Stocumb Clerk of the  
Circuit Court in and for said County do hereby certify that the foregoing is a true and correct copy of a certificate Recorded in Book. B.P. 303 of Mortgage records in my office. In Testimony whereof I have hereunto set my hand & seal official at Fairfield this 22<sup>d</sup> day of April A.D. 1859  
J. B. B. Stocumb Clk

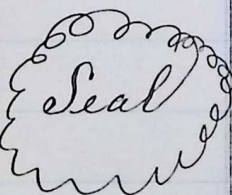


Exhibit B.

State of Illinois }  
County of Wayne } SS

Be it known That on this Twelfth day of October in the year of our Lord One Thousand Eight Hundred and fifty nine

at ten o'clock in the forenoon. I Charles A. Beecher  
a Notary Public duly commissioned and sworn  
and residing at Fairfield in the County and State  
aforesaid at the request of James Mc Adair and  
Eliha W. Willard the owners and holders thereof  
went with a package of Five Hundred Dollars of  
the circulating Bank Notes of the Reapers Bank  
located in the town of Fairfield in the County and  
State aforesaid of denominations numbers and  
letters given in the Schedule hereto annexed and at  
ten o'clock in the forenoon of said day deman-  
ded at the Counter of said Bank during the usual  
hours of business, between the hours of ten o'clock  
in the forenoon and three o'clock in the after-  
noon of A. H. Burley the President thereof the  
redemption of said circulating Notes in the legal  
coin of the United States and at the same time  
stated to said President the amount contain-  
ed in said package, which the said A. H. Burley  
the President then and there refused to redeem  
except in the following manner that is to say  
immediately after said package was laid  
upon the counter of said Bank by me, the  
said President took the same and slowly counted  
one by one the notes contained in it and after  
counting the same took from said package one  
five dollar note and laid it down upon the  
counter of said Bank and then brought out a

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bag containing dimes and half dimes of the silver coin of the United States and slowly proceeded to count out five dollars and placed it on the counter for me and took up said five dollar note thus redeemed and laid it by itself upon the counter, and thereupon took another note from said package and laid it upon the counter and counted out to me in like manner in dimes and half dimes the amount thereof and placed the same on the counter before me and in this manner continued to redeem the notes of said package in dimes and half dimes one by one till three o'clock in the afternoon when the said President declared said Bank closed for the day at which time the said President had redeemed one hundred and fifty dollars of said package. the specie for which I removed together with said notes remaining unredeemed from said President, and notified the said President that on the next morning at ten o'clock I should present five hundred dollars more of the circulating notes of said Bank for and in behalf of the said Willard and Adsit for redemption.

Whereupon, I, the said Notary at the request of the said James M Adsit and Elisha W Willard did protest and by these presents do solemnly protest as well against the said Bank as all whom it doth or may concern, for exchange, re-exchange

and all costs charges damages and interest by reason of the non-redemption of said circulating Notes so remaining unredeemed as above stated.

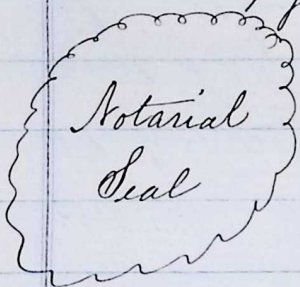
And I, the said Notary, do hereby certify that on the same day and year above written, due notice of the foregoing Protest was left at said Bank by me as follows:

Notice for A H Burley President of said Bank

" for \_\_\_\_\_

" for \_\_\_\_\_

And I also certify that I did, on the same day, during the business hours thereof, deliver to A. H. Burley the President of said Bank at the office and place of business of said Bank, a copy of such Protest, together with a copy of the Schedules thereto annexed.



In Testimony Whereof I the said Notary have hereunto set my hand and affixed my Notarial seal the day and year above written.

Charles A Beecher  
Notary Public

Fees - Noting 25<sup>cts</sup> / " : Protest & Record. 50<sup>cts</sup> / " : Notices 25<sup>cts</sup> : Seal 25<sup>cts</sup> : Certificates 25<sup>cts</sup> / " : \$ 1.50

Schedule attached to foregoing Protest

Copy  
Letter. A. Beechers Bank Fives No 1.

No's 2795. 2734. 2715. 2747. 2755. 2762. 2725. 2712.  
2714. 2717. 2701. 2711. 2740. 2770. 2708. 2753. 2790.  
2754. 2745. 2735. 2738. 2731. 2783. 2792. 2742. 2743.  
2757. 2758. 2761. 2750. 2724. 2736. 2797. 2719. 2752.  
2794. 2722. 2748. 2780. 2716. 2741. 2718. 2739. 2767.  
2703. 2704. 2751. 2745. 2771. 2772. 2777. 2788. 2730.  
2723. 2796. 2756. 2769. 2776. 2781. 2800. 2732. 2746.  
2763. 2782. 2785. 2749. 2778. 2713. 2706. 2710. 2737.  
2759. 2726. 2727. 2729. 2733. 2744. 2793. 2760. 2728.  
2774. 2720. 2721. 2702. 2786. 2791. 2779. 2789. 2764.  
2705. 2707. 2784. 2798. 2799. 2766. 2768. 2787. 2765.  
2709. 2773.

Exhibit. C.

State of Illinois }  
County of Wayne } ss

Be it known That on this Thirtieth  
day of October in the year of our Lord One Thousand  
Eight hundred and fifty nine at Ten o'clock in the  
forenoon, J. Chas. A. Beecher a Notary Public duly  
commissioned and sworn, and residing at Fair

field in the County and State aforesaid, at the request of James McAdsit and Elisha W. Willard the owners and holders thereof went with a package of Five Hundred Dollar circulating Bank Notes of the Peapack Bank located in the town of Fairfield in the County and State aforesaid, of the denominations, numbers, and letters given in the Schedule hereto annexed; and at ten o'clock in the forenoon of said day demanded at the counter of said Bank during the usual hours of business, between the hours of ten o'clock in the forenoon and three o'clock in the afternoon of A. H. Burley the President thereof and at the same time stated to said President the amount contained in said Package, the redemption of said circulating notes, in the legal coin of the United States, which the said A. H. Burley, the President then and there refused to redeem except in the following manner, that is to say, immediately after said package was laid upon the counter of said bank by me, the said President took the same and slowly counted one by one the notes contained in it, and after counting the same took from said package one five dollar note and laid it down upon the counter of said bank, and then brought out a bag containing dimes and half dimes of the silver coin of the United States and slowly proceeded to count out

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five dollars and place it on the counter for me and took up said five dollar note thus redeemed and laid it by itself upon the counter and thereupon took another note from said package and laid it upon the counter and counted out to me in like manner in dimes and half dimes the amount thereof and placed the same on the counter before me, and in this manner continued to redeem the notes of said package in dimes and half dimes, one by one till three o'clock in the afternoon when the said President declared said Bank closed for the day at which time the said President had redeemed two hundred and ninety dollars of said package the specie for which I received together with said notes remaining unredeemed from said President.

Whereupon, I, the said Notary at the request of the said James Mc Adsit and Elisha W. Willard did protest, and by these presents do solemnly protest as well against the said Bank as all whom it doth or may concern, for exchange, re-exchange and all costs, charges damages and interest by reason of the non-redemption of said circulating Notes as remaining unredeemed as above stated.

And I, the said Notary, do hereby certify that on the same day and year above written, due notice of the foregoing Protest was left at said

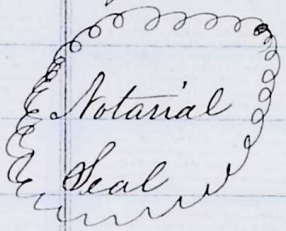
Bank by me as follows:

Notice for A. H. Burly, President of said Bank

" for

" for

And I also certify that I did, on the same day, during the business hours thereof, deliver to A. H. Burly, the President of said Bank, at the office and place of business of said Bank, a copy of such Protest, together, with a copy of the Schedules thereto annexed.



In Testimony Whereof, I the said Notary have hereunto set my hand and affixed my Notarial seal the day and year above written

Chas A Beecher

Notary Public

Fees - Noting 25 cts; Protest and Record 50 cts; Notices, 25; Seal, 25 cts; Certificate, 25 cts; \$1.50.

Schedule annexed to above Protest

Letter. A. <sup>Copy</sup> Peapack Bank. Five No 2. \$500.

- Nos. 3342. 3341. 3340. 3345. 3310. 3304. 3302. 3386. 3355. 3354. 3346.
- 3359. 3358. 3357. 3356. 3400. 3399. 3395. 3393. 3390. 3398. 3397. 3396.
- 3394. 3392. 3391. 3385. 3384. 3383. 3382. 3381. 3380. 3379. 3378. 3377.
- 3376. 3375. 3374. 3373. 3372. 3371. 3370. 3369. 3338. 3326. 3325. 3324.
- 3322. 3317. 3336. 3330. 3368. 3367. 3366. 3365. 3364. 3363. 3362. 3361.
- 3360. 3314. 3334. 3333. 3332. 3329. 3328. 3323. 3309. 3308. 3307. 3306.
- 3305. 3303. 3389. 3335. 3353. 3352. 3351. 3350. 3349. 3348. 3347. 3327.

338<sup>4</sup>. 3388. 3339. 3318. 3321. 3320. 3319. 3316. 3315. 3313. 3312. 3311.  
3301. 3314. 3343. 333<sup>4</sup>. 3331.

And thereafter on the said Twenty sixth day of October A.D. Eighteen hundred and fifty nine there issued out of and under the seal of said Court Peoples Writs of Injunction and Summons in said cause on the Chancery side thereof. Which said several Writs with the Sheriffs Returns thereon endorsed, are in the words and figures following to wit:

State of Illinois } ss  
County of Cook }

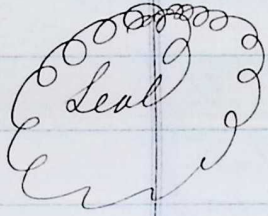
The People of the State of Illinois:  
To Jesse H. Dubois Auditor of the State of Illinois  
and to your Attorneys, Solicitors, Agents and Servants  
and to each and every of them, Greeting:

Whereas, it hath been represented to the Honorable John  
Mc. Wilson, one of the Judges of the Superior Court of Cook  
County in said County and State aforesaid, on the part of  
The Peoples Bank Complainant in its certain bill  
of Complaint exhibited before said Judge, and filed  
in said Court, against you the said Jesse H. Dubois  
together with James Mc. Adsit and Elisha W. Willard  
to be relieved, touching the matter therein com-  
plained of. In which said bill, it is stated among

other things, that you are combining and confederating with others to injure the complainant, touching the matters set forth in said bill, and that your doings and doing in the premises are contrary to equity and good conscience. And the said Judge, having under his hand endorsed upon said bill an order that a writ of Injunction issue out of said Court according to the prayer of said bill. We, therefore, in consideration thereof, and of the particular matters in said bill set forth, Do Strictly Command you the said Jesse W. Dubois and the persons before mentioned, and each and every of you, that you Do Absolutely Desist And Refrain From giving notice in any newspaper that the circulation of the Peapack Bank will be redeemed out of trust funds in your hands: from selling or offering to sell the public stocks of the United States of America transferred by Augustus H. Burley to you; from calling in the circulation of said Bank by reason of any alleged refusal to redeem the circulating notes of said Bank; and from taking any measures to compel said Bank to redeem certain circulating notes of said Bank lately protested by Charles A. Beecher a Notary Public in and for the County of Wayne in the State aforesaid or to force said Bank into liquidation, until this Honorable Court in Chancery sitting shall make other order to the contrary. Hereof fail not under the penalty of what the

law direct.

To the Sheriff of Sangamon County to execute and return in due form of law.



Witness Walter Kimball, Clerk of our said Court and the seal thereof, at Chicago, in said County.

this 26<sup>th</sup> day of October A.D. 1859

Walter Kimball Clerk

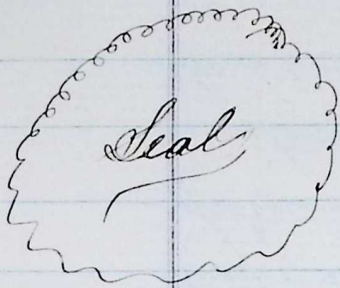
Served this writ on the within named Jesse. H. Dubois by delivering a true copy thereof to him the 27<sup>th</sup> day of Oct 1859  
A. B. Perkins Sheriff

State of Illinois }  
County of Cook }

The People of the State of Illinois to the Sheriff of Sangamon County, Greeting:

We Command You that you summon Jesse. H. Dubois James McAdair & Elisha W Willard if they shall be found in your County, personally to be and appear before the Superior Court of Chicago, of said County of Cook, on the first day of the next term thereof, to be holden at the Court House in the City of Chicago in said County on the First Monday of November next to answer unto The Peoples Bank in its certain Bill of Complaint filed in the said Court on the Chancery side thereof.

And have you them and these this writ, with



an endorsement thereon, in what manner  
you shall have executed the same.  
Witness Walter Kimball, Clerk of our said Court  
and the seal thereof, at the City of Chicago,  
aforesaid this 26<sup>th</sup> day of October A.D. 1859  
Walter Kimball Clerk

Served this Writ on the within named Jesse. M.  
Dubois by delivering a copy thereof to him the 27<sup>th</sup> day  
of Oct 1859  
J. B. Perkins Sheriff

State of Illinois }  
County of Cook } ss

The People of the State of Illinois to the  
Sheriff of said County, Greeting:

We Command You that you summon Jesse. M.  
Dubois, James. M. Adsit & Elisha W. Willard if they  
shall be found in your County, personally to be and  
appear before the Superior Court of Chicago of said  
County of Cook, on the first day of the next term  
thereof to be holden at the Court House in the  
City of Chicago, in said County, on the First Monday  
of November next, to answer unto The Reapers Bank  
in its certain Bill of Complaint.

And have you then and then this writ, with an endorse-  
ment thereon, in what manner you shall have executed  
the same.

Witness Walter Kimball, Clerk of our said

Seal

Court, and the seal thereof, at the City of Chicago, aforesaid, this 26<sup>th</sup> day of October A.D. 1859.

Walter Kimball Clerk

Endorsed - Served this writ on the within named James M. Adsit, & Elisha W. Willard by delivering a copy thereof to each of them the other defendant not found in my county this 2<sup>7</sup><sup>th</sup> day of October 1859.

John Gray Sheriff  
By A. C. Hessing Deputy

And thereafter to wit on the            day of            A.D. One thousand eight hundred and fifty nine came the said Defendants by Walker, Van Arman & Dexter their Solicitors and filed in the office of the clerk of said court their answer to said declaration in the words and figures following to wit:

State of Illinois  
Superior Court of Chicago

The Reaper Bank

vs

James M. Adsit, Elisha  
W. Willard, and Jesse H.

Dubois

In Chancery

The joint and several answer of the above named defendants to the Bill

of complaint of the above named Complainant.

These defendants saving and reserving to themselves all exceptions to the many errors and insufficiencies in said Bill contained for answer thereunto or to such parts thereof as these defendants are advised is material for them to make answer unto, answering say.

They admit that the said <sup>Complainant is a</sup> Corporation is organized and is doing business under the general Banking Laws of the State of Illinois and that Augustus H. Burley for the purpose of banking under such laws has deposited with the Auditor of the State of Illinois, Stocks of the United States to the amount and value of One hundred thousand dollars as in said bill alleged.

These defendants also admit that the said Auditor registered and countersigned circulating notes to the amount of Ninety four thousand dollars payable at the office of said Complainant at Fairfield in the county of Wayne and State of Illinois and delivered the same to the said Complainant to be circulated as in said bill alleged.

These defendants further answering admit that said Burley did on the fourteenth day of April A.D. 1859 make and execute the certificate required by Section seven of the Act known as the General Banking Law of the State of Illinois that a true copy of such certificate is ~~inserted in said bill~~, that such certificate was duly acknowledged and was recorded in the office of the Recorder of said County of Wayne and that copies

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thereof were filed in the office of the Secretary of State and of the Auditor of the State and that thereupon the said Complainant became a body corporate under the general banking laws of the State of Illinois and the amendments thereto made

These defendants further answering admit that the office of said Complainant is established in the Town of Fairfield in said County of Wayne State of Illinois and that the said Burly is the president and Frederick J. Clapp is the Cashier of the said Complainant Bank.

These defendants admit that a portion of said circulating notes of the complainant have been signed by said President and Cashier and have been issued and circulated as money.

These defendants further answering admit that on the twelfth day of October A.D. 1859 these defendants James M. Adair and Elisha W. Willard were the owners and holders of Five Hundred dollars of the circulating notes of the said Complainant and at ten o'clock in the forenoon of that day by the hand of Charles A. Beecher a Notary Public residing at Fairfield presented the same at the office of said Complainant and demanded the redemption thereof in the legal coin of the United States of the President and acting teller of said Complainant Bank and they say that at the <sup>same</sup> time the said Beecher stated to said President the amount

contained in said package.

And these defendants further answering say that on presentation of said notes and demand for redemption (to said Burley President of said Complainant Bank) in the legal coin of the United States said Complainant then and there tendered in redemption thereof the silver coin of the United States of the denomination of dimes and half dimes or of any other denomination as in said bill alleged and they deny that they refused to receive any of the coin tendered in redemption of said package of said notes and they say that on said presentation of said notes at the office of said complainant as in said bill stated, the said Complainant refused to redeem said notes belonging to said Adair and Willard and contained in said package or any of them except in the following manner that is to say - Immediately after said package was laid upon the counter of said Bank by said Beecher Notary Public as aforesaid the said Complainant President and August Burley took the same and slowly counted one by one the notes contained in said package and then took from said package one of said notes said notes & separately laid it down upon the counter of said bank by itself and then brought out a bag containing dimes and half dimes of the silver coin of the United States and slowly proceeded to count out five dollars

and placed it on the counter for said Beecher the Agent of said defts Willard & Adsit and took up said five dollar note thus redeemed and laid it by itself upon the counter and then took another note from said package and in the same manner redeemed the same in dimes and half dimes & in this manner continued to redeem the notes of said package in dimes and half dimes one by one until three o'clock in the afternoon when said Burley President of said Complainant Bank declared said Bank closed for the day at which time said Bank had redeemed one hundred and fifty dollars which coins so paid in redemption were received by these defendants Adsit & Willard and at the same time said Burley President and acting teller of said complainant was notified by said Beecher Notary Public as aforesaid for and on behalf of said Willard and Adsit that he should call the next morning at ten o'clock A. M. with another package belonging to said Willard and Adsit and present the same for redemption and these defendants say that they gave such notice in order that said complainant might be prepared with money collected or with such assistance as might be necessary to count and redeem the same.

These defendants admit that they caused the said notes of said package so remaining unredeemed

ed to be protested for nonpayment by the said Charles A Beecher a Notary Public of the said County of Wayne and that such protest and the notes accompanying the same were presented to this Defendant Dubois the Auditor of the State of Illinois and filed in his office and that a copy thereof was delivered to the said Augustus H Burley president of the said complainant Bank and that a true copy is also attached to said bill of complaint.

These defendants further answering admit that on the thirteenth day of October A.D. 1859 the said defendants James Mc Adsit and Eliza W Willard were also the owners and holders of a certain other package package of five hundred dollars of the circulating notes of said complainant and at ten o'clock of the forenoon of that day by the hand of Charles A Beecher Notary Public as aforesaid residing at Fairfield presented the same at the office of said complainant to the President and acting teller thereof and demanded redemption thereof in the legal coin of the United States and these defendants Willard & Adsit say that the said Beecher at the same time stated to said Burley that said package contained five hundred dollars of the circulating notes of said Bank.

And these defendants further answering

deny that on presentation of said notes (to said  
 Purley President of said Complainant Bank) a  
 demand of redemption thereof in the legal coin of the  
 United States as above stated said complainant  
 then and there then and there tendered to said  
 Willard and Adsit in redemption thereof the silver  
 coins of the United States of the denomination  
 of dimes and half dimes or of any other denom-  
 ination and they deny that the said defendants  
 Willard and Adsit refused to receive any of the  
 coins offered in payment or redemption of said  
 notes or of any of them and they say that the  
 said complainant on such presentation of said  
 package refused to redeem said notes belonging  
 to said Adsit and Willard except in the follow-  
 ing manner that is to say - Immediately after  
 said package was laid upon the counter of said  
 Bank by said Beecher Notary Public as afore-  
 said the said Complainant Bank took the  
 same and slowly counted one by one the notes  
 contained in said package and after this was  
 done took from said package one of said notes and  
 laid it down upon the counter of said Bank by  
 itself and then brought out a bag containing <sup>dimes</sup>  
 and half dimes of the silver coin of the United  
 States and slowly proceeded to count out five  
 dollars and placed it on the counter for said  
 Beecher and took said five dollar note so

redeemed and laid it by itself upon the counter and thereupon took from said package another of said notes and laid it upon the counter and in like manner proceeded to redeem it and in this manner continued to redeem the notes of said packages in dimes and half dimes one by one until three o'clock in the afternoon when said Burley President of said complainant Bank declared said Bank closed for the day at which time said complainant Bank had redeemed two hundred and ninety dollars

And these defendants further answering say that said complainant although requested so to do refused to redeem said notes so remaining unredeemed all which said notes remaining unredeemed are fully described in the \_\_\_\_\_ the certificates of protest attached to said bill of complaint

These defendants admit that they caused the said notes of said packages so remaining unredeemed to be protested for non payment by the said Charles A Beecher a Notary public of the said County of Wayne and that such protest and the notes accompanying the same were presented to this defendant Dubois the Auditor of the State of Illinois and filed in his office and that a copy thereof was delivered to the said Augustus H Burley president of the said complainant Bank and

that a true copy is also attached to said bill of complaint.

These defendants further answering admit that the said complainant was notified by this defendant Dubois Auditor as aforesaid to pay said protested notes with twelve percent interest thereon from the date of such protest together with costs and protest fees and expenses as in said bill alleged.

And these defendants further answering say that the said defendants Willard and Adair have requested the said defendant Dubois Auditor as aforesaid to proceed to sell the said stocks deposited with him by said complainant and to put said Complainant Bank into liquidation.

And these defendants deny all unlawful combination and confederacy in the said bill charged without that any other matter or thing material or necessary for these defendants to make answer unto and not herein or hereby well & sufficiently answered unto confessed or avoided traversed or denied is free to the knowledge or belief of these defendants. All which matters and things these defendants are ready to aver maintain and prove as this Honorable Court shall direct and humbly pray to be hence dismissed with their reasonable costs and charges in that behalf most wrongfully sus-

tained.

Walker Van Arman & Dexter  
Sols for Defts

And afterwards to wit on the      day of      in  
the year aforesaid there was filed in the office of  
the clerk aforesaid certain Stipulations in  
words and figures following to wit:

The Peoples Bank

vs

Elisha W Willard, James  
Mc Adair, Jesse N. Dubois

Superior Court of Chicago

In Chancery

It is hereby stipulated and agreed  
in this cause that the facts and circumstances relating  
to and connected with the presentation demand of  
payment and protest of the said protested notes as  
set forth in the answer filed in said cause and  
in the copy of the notaries protest attached to said  
bill are true and are to be so considered upon the  
hearing in this cause.

Chas Hitchcock

Sols for Com

Walker Van Arman & Dexter  
Sols for Defts

affidavit  
of  
Jesse K. Dubois  
Reaper Bank  
vs  
Jesse K. Dubois  
James M. Aderit  
and Elisha H. Willard

In the Superior Court  
of Chicago

Jesse K. Dubois, being sworn states, that the answer on file in this cause was not filed herein by his authority or consent - that the attorneys and solicitors who prepared and filed the same are not and were not employed or authorized by him to appear in said cause, or to answer therein for him, and affiant states that said answer is not his answer and he disclaims the same. Affiant supposes said answer, so far as the use of his name is concerned therein was made under misapprehension and mistake on the part of the solicitors who filed the same as to their authority to appear for affiant. Affiant believes he has a good defence to said bill, as set forth in his answer herewith to be filed, and craves leave to file the said answer, and farther he says not

Jesse K. Dubois

State of Illinois  
City of Springfield

}<sup>ss.</sup> I C. H. Miner, a notary public within and for the City aforesaid hereby certify that on this fifteenth day of December AD 1859, before me personally came Jesse K. Dubois Auditor of public accounts, and subscribed and

made oath to the foregoing affidavit

In testimony whereof I have hereunto subscribed  
my name and affixed my notarial seal the day and  
year aforesaid —

Notarial  
Seal

C. H. Mines

N. P.

And afterwards, to wit, on the fourth day of January in  
the year of Our Lord One Thousand Eight hundred and sixty  
said day being one of the days of the January term  
of said Superior Court of Chicago, the following among  
other proceedings were had in said Court, on the Chancery  
side thereof, in the following cause, and entered of  
record, to wit:

The Reaper Bank

vs

Jesse K. Dubois, Auditor of State  
James M. Adsit and Elisha W. Willard

Decree

It is ordered, adjudged  
and decreed that the Order enjoining the defendants, and  
their agents and attorneys, heretofore entered in the above  
cause, be continued and made perpetual upon the complainants  
depositing in the Office of said Jesse K. Dubois, the Auditor  
of State, the legal coin of the United States for the redemption  
and payment of the circulating notes described in said bill  
of complaint together with twelve per cent interest per  
annum thereon from the date of the protest thereof  
and all costs and protest fees and expenses. within

ten days from the entry of this decree, or if appeal shall be perfected in said cause, then within ten days from notice of the affirmation of such decree, by the Supreme Court of the State of Illinois, upon appeal if the same shall be so affirmed, and that on default of such payment the complainants bill be dismissed.

And thereupon comes said complainant and prays an appeal herein to the Supreme Court which is allowed by the Court on said complainants filing bond in the sum of two hundred dollars to be approved by a Judge of this Court, said bond to be filed within ten days from this date.

Appeal Bond

A. M. Burley

And afterwards: to wit: on the day and year last aforesaid Augustus M. Burley, filed in the office of the Clerk of said Court, his appeal bond, in words and figures following, to wit:

Know all Men by these presents, that the Reapers Bank as principal and E. Aiken as security all of the County of Cook and State of Illinois are held and firmly bound unto Elisha W. Willard, James W. Adair and Jesse N. Dubois in the penal sum of Two Hundred Dollars lawful money of the United States for the payment of which said sum well and truly to be made, we bind ourselves our heirs, executors and administrators jointly and severally firmly by these presents.

Witness our hands and seals this fourth

day of January A.D. 1860.

The Condition of this obligation is such that -  
whereas in a certain cause heretofore brought in the Superior Court of Chicago, on the Chanery side thereof, wherein the said Reaper Bank is complainant, and the said Elisha W. Willard, James M. Adsit and Jesse K. Dubois are defendants, a final decree was at the January term of said Court and on the day of January ad 1860. made by said Court against the said Reaper Bank, and in favor of the said Elisha W. Willard, James M. Adsit and Jesse K. Dubois, from which said decree of the said Court the said Reaper Bank, has prayed an appeal to the Supreme Court of the State of Illinois which has been allowed.

Now, therefore if the said Reaper Bank, shall duly prosecute its said appeal with effect and moreover shall pay the amount of the decree, costs, interest, and damages rendered and to be rendered against it, in case the said decree shall be affirmed in the said Supreme Court then the above obligation to be void otherwise to remain in full force and effect.

The Reaper's Bank

By A. H. Purley Pres. (L.S.)

E. A. H. Purley (L.S.)

E. Aiken (L.S.)

Approved by me this  
4<sup>th</sup> day of January  
A.D. 1860. John M. Wilson

J. of the Superior Ct of Chicago

And afterwards, to wit; on the thirteenth day of January  
in the year last aforesaid, said day being one of the days  
of the January term of said Court, the following proceeding  
was had in the following entitled cause and entered of record,  
to wit:

The Reapers Bank

vs

Bill in Chancery

Jesse K. Dubois, Auditor vs James M. Adsit  
And Elisha W. Willard

Order

And now at this day comes Jesse

Jan 13/60

K Dubois Auditor of the State of Illinois one of the defend-  
ants herein and prays an appeal to the Supreme Court  
from the order and decision of the Court entered in this  
cause, which appeal is allowed by the Court on said  
Jesse K Dubois Auditor to filing bond in the sum of two  
hundred Dollars to be approved by a Judge of this Court  
said bond to be filed within ten days from this date.

Bond

And afterwards; to wit: on the seventeenth day of January


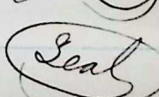
Jesse K. Dubois

in the year last aforesaid Jesse K. Dubois, filed in  
the office of the Clerk of said Court, his appeal bond  
in words and figures following to wit:

Know all Men by these presents that We, Jesse  
K. Dubois, auditor of the State of Illinois, and Stephen  
J. Logan are held and firmly bound unto the Reapers  
Bank and its assigns in the penal sum of Two hundred  
Dollars, for the payment of which, we bind ourselves

our heirs, executors, administrators and assigns,  
jointly, severally and firmly by these presents. Witness  
our hands and seals this 16<sup>th</sup> day of January A.D.  
1860 - The condition of the above obligation is such  
that whereas the said Peoples Bank did at the  
January 1860 term of the Superior Court of Chicago  
obtain a decree perpetuating an injunction <sup>against</sup>  
the above bounden Jesse K. Dubois, Auditor &c  
from which decree the said Jesse K. Dubois, Auditor  
&c, has taken an appeal to the Supreme Court  
of the State of Illinois.

Now if the said Jesse K. Dubois, Auditor &c;  
shall prosecute said appeal with effect and  
without delay, and shall moreover comply with  
the requisitions of said decree of the said Superior  
Court and shall also pay all such costs, interests  
and damages as may be awarded against him  
in case the said decree shall be affirmed by  
the said Supreme Court, then this obligation  
to be void, otherwise to remain in full force  
and effect.

Jesse K. Dubois Auditor &c.   
S. T. Lagan 

Approved by me  
John N. Gibson C. of the  
Superior Court of Chicago

State of Illinois  
Cook County

I Walter Kimball, Clerk of the Superior Court of Chicago within and for the County of Cook in the State of Illinois, Do hereby certify the above and foregoing to be a full, true, and correct Transcript of the papers now on file in my office, together with all orders and decrees, entered of record in said Court in a certain suit therein, on the Chancery side thereof, wherein the Peoples Bank was complainant and Jesse K. Dubois, James M. Adsit and Elisha W. Willard were defendants



In testimony whereof, I have hereunto set my hand, and affixed the seal of said Court at Chicago in said County this thirteenth day of April A.D. 1860.  
Walter Kimball Clerk



Springfield Ill. Dec. 11<sup>th</sup> 1862

The Clerk of the Supreme Court  
of the State of Illinois for the  
Third Grand Division

Will enter as dismissed two  
suits by appeal from the Court  
Superior Court of Chicago  
in which Jesse K. Dubois Auditor  
of Public Accounts is appellants  
and the Reapers Bank Appellees  
at the cost of Reapers Bank  
Stephen L. Logan  
Attor for Plff.

<sup>13</sup>  
Dubois

23

Reaper Bank

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Slip to draw on

Filed April 18 1863

L. Leland  
Clerk