

No. 13164

Supreme Court of Illinois

Wilson

vs.

People

71641  7

STATE OF ILLINOIS,

SUPREME COURT,

Third Grand Division.

No. 41.

Wilson

vs

Peaple

State of Illinois vs } Suprem Court
 & Illinois 3^d Div
 day Jan 1859

People of Illinois vs }
 & Thompson & Goodrich
 vs
 John L. McKen et al }

It is agreed in
 this case that the motion to
 dismiss the appeal shall be
 withdrawn and a final in-
 struction filed before the third
 day of the next Term of the
 Supreme Court at Ottawa & the
 case continue until the next
 Term

Hooper Ainsworth & Thompson
 Attorneys for Plaintiff
 Walter Van Arman Esq
 Counsel for appellee

J L Selens
 Clerk of Supreme Court
 Dear Sir

With your permission
 I will file the above case & file
 the above argument among the papers
 of mine

Hooper Ainsworth & Thompson
 Attorneys for Plaintiff
 Walter Van Arman Esq
 Counsel for appellee

Supreme Court.

John H. Phelps & son of
Shipman et al

vs

John L. Wilson et al.

Reputation.

Filed May 23, 1839
L. Leland
Clerk.

Wm L. Wilson et al

vs

The people of the State of
Illinois for the use of
Sherman Goodridge -

And the said appeals come
and now this Court do dis-
miss this appeal for the
reason that

The judgment appealed
from does not amount
exclusion of cash to twenty
dollars, or relate to a franchise
or franchise

Goodrich Hancock Smith
for appeals

24 41

John L. Stoughton
ccds

Plasmo pl. for add
Shipman & Goodrich

Motion to dismiss
appeal

Filed April 22, 1839

L. L. Stoughton
Clerk

State of Illinois }
Cook County . . }

Pleas before the Honorable John M. Wilson
Sole Judge of the Cook County Court of Common Pleas
within and for the County and State aforesaid had
at the regular Vacation November term of said Court of
Cook County Court of Common Pleas begun and holden
at the Court House in the City of Chicago on the first
Monday being the first day of November in the year of
our Lord one thousand eight hundred and fifty eight
and of the Independence of the United States of America
the Eighty fourth.

Present The Honorable John M. Wilson Judge
John Gray Sheriff
Attest Walter Kimbale. Clerk.

Be it remembered that heretofore to wit on the sixth
day of January A. D. Eighteen hundred and fifty eight a
Process for Summons was filed in the Office of the Clerk of
said Cook County Court of Common Pleas in the words and
figures following to wit:

"State of Illinois } In Cook County Court of Common
County of Cook } Pleas.

The People of the State of Illinois
vs of Daniel B. Shipman and
Charles, L. Goodrich

(122)

John L. Wilson, James E. Bishop
N. B. Judd, John H. Kinzie, George
W. Cole, L. C. P. Freer, George H.
Snow and Samuel Ward

The Clerk of said Court will issue
a summons in the above cause directed to the Coroner of Cook
County in a plea of Debt in the sum of Two thousand dollars
returnable at the February Term of said Court A. D. 1858.
To Walter Kimball Esq

Clerk.

Plaintiffs Attys
Chicago 1858."

And thereupon accordingly on the said sixth day of
January A.D. eighteen hundred and fifty eight, summons
accordingly issued out of and under the Seal of said Court;
Which said summons with the Sheriffs return thereon endorsed
is in the words and figures following, to wit:

State of Illinois }
County of Cook } p

The People of the State of Illinois to
George P. Hanson, Sheriff of said County
Greeting .

(2)

We command you that you summon John L. Wilson, James
A. Bishop, N.B. Sudd, John H. Kinzie, George W. Dole, S. C.
P. Yeager, George W. Snow and Samuel Heard, if they shall
be found in your County personally to be and appear before
the Court County Court of Common Pleas of said County
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 February next to answer unto The People
of the State of Illinois for the use of Daniel B. Shipman
and Charles L. Goodridge, Plaintiffs in a Plea that they render
unto the said The People of the State of Illinois their debt
in the sum of Ten thousand dollars, which they owe to and
unlawfully detain from the said Plaintiffs to the damage of
the said Plaintiffs as they pay in the sum of Ten thousand
dollars. And have you then and there this Writ with
an endorsement thereon in what manner you shall have
executed the same.

Witness Walter Kimbale, Clerk of our said Court
under the Seal thereof at Chicago in said County
this sixth day of January A.D. 1858.

Walter Kimbale. Clerk.

Endorsed

Serve this summons on the within named John
L. Wilson by reading same to N.B. Sudd, L.C. P. Yeager
Jan'y 7. John H. Kinzie, S. Geo. W. Dole & George W. Snow
Jan'y 13. and on James A. Bishop Jan'y 14. Samuel Heard
Jan'y 7. 1858.

George P. Nauman

Coroner.

And also on the said sixth day of January A. D. Eighteen hundred and fifty eight the said plaintiffs filed in the Office of the Clerk of said Court Declaration in said Suit; Which said Declaration with the instrument thereupon filed, is in the words and figures following, that is to say

State of Illinois }
Cook County . . } to wit

In Cook County Court of Common

Plas. To February Term 1858.

The People of the State of Illinois
vs of Daniel B. Shipman and
Charles, L. Goodrich

(vs)

John, L. Wilson and others

And the said plaintiffs by
Hooper, Ayer & Semmes their Attorneys complain That whereas
heretofore to wit on the seventeenth day of November in the
year of our Lord one thousand eight hundred and fifty six
at the County aforesaid the said Defendants John, L. Wilson
James, E. Bishop, N. B. Quad, John H. King, George W. Polo,
L. G. P. Freer, George W. Snow and Samuel Hovea defendants
herein, executed a penal Bond to the People of the State of Illinois
with a condition thereto attached in the words and figures
following to wit, " Know all Men by these presents that we
John, L. Wilson, James, E. Bishop, N. B. Quad, John H. King,
George W. Polo, L. G. P. Freer, George W. Snow and Samuel

Hoard, of the County of Cook and State of Illinois am held
and firmly bound unto the People of the State of Illinois
in the penal sum of Ten thousand dollars lawful money of
the United States for the payment of which well and truly I
do make me jointly and severally bind ourselves our heirs
executors and administrators firmly by these presents. Sealed
with our seals and dated this Seventeenth day of November
A.D. 1866.

The Condition of the above obligation is such that
whereas John L. Wilson has been duly elected Sheriff of the
County of Cook in the State Illinois. Now if the said John
L. Wilson shall faithfully and truly perform and discharge
the duties required or to be required of him as such Sheriff
of said County of Cook, then this obligation to be void otherwise
to remain in full force and effect.

(Signed)	John L. Wilson	(Seal)
	James E. Bishop	(Seal)
	N. B. Judd	(Seal)
	John H. Kuzie	(Seal)
	Geo. W. Dole	(Seal)
	L. G. P. Freer	(Seal)
	G. W. Snow	(Seal)
	Samuel Hoard	(Seal)

which Bond was signed, sealed and delivered, and was duly
approved as appears by endorsement thereon in the words and
figures following, to wit, "Approved in Open Court this 17th
Nov, 1866 by George Manierre Judge of 7th Judicial Circuit

Illinois -

And the said Plaintiffs by their said Attorneys further complain that heretofore and after the execution delivery and approval of the said Bond, to wit on the twenty first day of December A. D. Eighteen hundred and fifty seven, the said Daniel B. Shipman and Charles, S. Goodridge for whose use this suit is instituted, in due form of law, having first duly made the Affidavit and given the Bond required by Chapter 88 of Revised Statutes of the State of Illinois prosecuted and sued from and out of the said Cook County Court of Common Pleas a Writ of Replevin against the Michigan Central Railroad Company and Joseph W. Smith, wherein the said Defendant John, L. Wilson as such Sheriff of Cook County to whom the said Writ was directed, was commanded to cause the goods and chattels therein named, to wit, Ninety nine barrels of Turpentine, one empty barrel and twelve hogheads of Oil marked "S & H" to be replevied and delivered to the said Daniel B. Shipman & Charles, S. Goodridge (by the name of Charles, S. Goodwin) Plaintiffs in said Replevin, without delay, as by record and process thereof remaining in Cook County Court of Common Pleas is manifest Which said Writ after the passing out of the same and before the return of the same to wit on the twenty first day of December A. D. Eighteen hundred and fifty seven was delivered to the said John, L. Wilson as such Sheriff as aforesaid to be by him duly executed and returned according to the tenor and ^{Exigency} ~~purpose~~ of the said Writ and the duty of the Office of the said John, L. Wilson he then being Sheriff of Cook County in the State of Illinois as aforesaid

And the said plaintiffs further say that the said John L. Wilson, Sheriff as aforesaid according and by the duty of his Office, ought to have duly executed the said Writ of Replevin according to the Command thereof and taken the said Goods and Chattels therein named and described and delivered the same to the said Daniel B. Shipman and Charles L. Goodridge without delay if said goods and Chattels could be found and if not to have made return of such fact to the Cook County Court of Common Pleas. Nevertheless the said plaintiffs by their said Attorneys further charge that on the said twenty first day of December A. D. Eighteen hundred and fifty seven, the said John L. Wilson, then being Sheriff of said County of Cook in the State of Illinois as aforesaid, before the said Cook County Court of Common Pleas falsely and wilfully and in violation of the said Writ and to the prejudice and injury of the said Daniel B. Shipman and Charles L. Goodridge and them to defraud, of the goods and chattels in the said Writ of Replevin as aforesaid, the plaintiffs having given Bond as hereto annexed I have taken the within described property and delivered it to the said plaintiffs, also by serving the within named defendants by George Williams and William Smith, Agents of the within named Michigan Central Railroad Company as by said Writ & return annexed remaining in said Cook County Court of Common Pleas is manifest whereas in fact the said plaintiffs by their said Attorneys aver & charge that the said John L. Wilson, Sheriff as aforesaid never did deliver to the said plaintiffs in the said Writ mentioned, to wit, the said Daniel B. Shipman and the

said Charles L. Goodridge (by the name of Charles L. Goodwin
or to any one for them authorized to receive the same, the said
goods and Chattels mentioned and described in the said Writ of
Replevin & return as having been taken by him, but altogether
failed and neglected so to do to the great injury and prejudice
of the said Daniel B. Shipman and Charles L. Goodridge

And so the said Plaintiffs by their said Attorneys say that
the said John L. Wilson as Sheriff of Cook County in the State
of Illinois, hath not faithfully and truly performed and discharged
all the duties required of him as such Sheriff of Cook County in
the State of Illinois, which according to the tenor and effect of
the said Bond or writing obligatory and the condition thereof
heretofore recited he ought to have performed and discharged
but has wilfully neglected the same to the great prejudice and
injury of the said Daniel B. Shipman and Charles L. Goodridge
for whose use this suit is instituted And this the said
Plaintiffs are ready to verify &c. &c.

Wherefore the said Plaintiffs by their said Attorneys
pray judgment and the debt aforesaid together with damages to
be to them adjudged and set forth, With this that the said
Plaintiffs will verify that the said Daniel B. Shipman and
Charles L. Goodridge (by the name of Charles L. Goodwin) in
the said Writ of Replevin mentioned and the said Daniel B.
Shipman and Charles L. Goodridge on the endorsement of the
original Summons in this cause mentioned are the same
persons and not others or And the said Plaintiffs bring
into Court here the writing obligatory aforesaid, sealed with

the seals of the said defendants, which testifies the debt aforesaid
in form aforesaid, the date whereof is the same day and year
aforesaid.

Hopfer, Ayres & Semmes
Plaintiffs Attorneys.

(Copy instrument sued on)

Know all Men by these Presents That we John L. Wilson,
James E. Bishop, W. B. Quack, John H. Kunzie, George W.
Orlo, L. C. P. Freer, George W. Snow, Samuel Hoard of
the County of Cook and State of Illinois are held and firmly
bound unto the People of the State of Illinois in the penal sum
of Ten thousand dollars lawful money of the United States for
the payment of which said sum well and truly to be made
we jointly and severally bind ourselves our heirs executors &
administrators firmly by these presents - Sealed with our seals
and dated this seventeenth day of November - A. D. 1856.

The Condition of the above Obligation is such that
whereas John L. Wilson has been duly elected Sheriff of the
County of Cook in the State of Illinois shall faithfully and
truly perform and discharge all the duties required or to be
required of him as such Sheriff of said County of Cook then
this obligation to be void, otherwise to remain in full force
and effect.

Approved in Open Court this 17th Novr signed John L. Wilson (Seal)
1856 - George Maniero James E. Bishop (Seal)
Judge 4th Judicial Circuit, Ill.

(signed) M. B. Judd (Seal)
 John H. Kenzie (Seal)
 Geo. W. Dolo (Seal)
 L. C. P. Freer (Seal)
 G. W. Snow (Seal)
 Samuel Hoar (Seal)

"State of Illinois"
 County of Cook }

I William L. Church Clerk of the Circuit Court of the County of Cook in the State aforesaid do hereby certify that the above and foregoing transcript is a true and complete transcript of a certain Sheriff's Bond filed in the Office of the Clerk of the Circuit Court aforesaid on the 17th day of November A.D. 1856.

In witness whereof I have hereunto set my hand and affixed the Seal of our said Honorable Court this 4th day of January A.D. 1858.

W. L. Church, Clerk."

And hereafter to wit on the eighth day of February A.D. Eighteen hundred and fifty eight the said Defendants filed in the Office of the Clerk of said Court their Demurrer to said Declaration: Which said Demurrer is in the words and figures following to wit:

"John L. Wilson, James E. Bishop } Cook County Court
 M. B. Judd, John H. Kenzie, George W. Dolo, L. C. P. Freer } of Common Pleas.
 George W. Snow }

Snow and Samuel Stuard

vs

The People of the State of Illinois

February Term, A.D. 1858.

And the said defendants by
J. M. Walker and Goodrich, Samuel Smith their Attorneys
come and defend the wrong and injury when it can be said
that the said Declaration and the matters therein contained in
manner and form as the same are above stated and set
forth are not sufficient in law for the said Plaintiffs to have
or maintain their aforesaid action thereof against them said
Defendants and that said defendants are not bound in law
answer the same. And this said defendants are ready to
verify. Therefore by reason of the insufficiency of the said
Declaration in this behalf the said Defendants pray judgment
and that the said Plaintiffs may be barred from having or
maintaining their aforesaid action thereof against said defendants.

And the said Defendants according to the form of the
Statute in such case made and provided state and show to
the Court the following causes of Demurrer to said Declaration.

1st For that there is no sufficient designation in said Declaration
of the names of the Plaintiffs who bring the suit and complain.
For that there is no sufficient designation of the names of the
Defendants against whom the suit is brought and who are
complained of or against in said Declaration. For that said
Declaration has no such formal commencement or conclusion
as that it can be determined in what form of action it is
whether debt trespass on the case covenant assumpsit or what

form of action For that said Declaration has not the formal
 commencement or conclusion proper in an action of debt and
 is not in form a Declaration in debt - For that said
 Declaration has not statement of the amount of debt claimed
 For that said declaration is indefinite and not sufficiently
 specific and certain in the statement of the names of the
 Plaintiffs or Defendants or amount of the debt claimed or in
 the assignment of the breach of the condition of the Bond there
 described For that there is no sufficient breach alleged of
 the Condition of the Bond in said Declaration mentioned and
 also that the said Declaration is otherwise uncertain, informal
 and insufficient

J. M. Walker, and
 Goodrich Farnell & Scoville
 Defts Attys."

And afterwards to wit on the fourth day of March
 (being one of the days of the regular February term of said
 Court) A. D. Eighteen hundred and fifty eight the following
 proceedings were had and entered of record in said Court to wit

" The People of the State of Illinois
 for the use of Daniel B. Shipman and
 Charles L. Goodridge

(vs)

Debt.

John L. Wilson, James E. Bishop, N.B.
 Lusk, John H. Kinzie, George W. Poles, S.C.
 P. Yeeer, Geo. W. Snow and Samuel Howard

" This day came the said plaintiffs by Hooper, Ayres & Semmes their Attorneys and the said Defendants by Goodard & Smith their Attorneys also came and the Court having heard the said Defendants demurred to the said plaintiffs declaration filed herein after argument of counsel therein being fully advised now sustains the said Demurrer, and on the said plaintiffs Motion it is allowed to amend their said Declaration, and this cause is continued

And thereafter to wit on the twenty sixth day of May A. D. Eighteen hundred and fifty eight the said plaintiffs filed in the Office of the Clerk of said Court, their amended declaration which said amended Declaration and further amendments thereto, thereafter filed are in the words and figures following, to wit:

" State of Illinois } Cook County ... } to wit: Pleas. The People of the State of Illinois vs of Daniel B. Shipman and Charles L. Goodridge (22) John L. Wilson and others	In Cook County Court of Common Pleas.
--	---------------------------------------

And the said plaintiffs the People of the State of Illinois by Hooper & Hanson their Attorneys come, That whereas heretofore to wit on the seventeenth day of November in the year of our Lord one thousand eight hundred & fifty six, the said defendants John L. Wilson, James E. Bishop, by name of Jas E. Bishop, Norman B. And by name

of N. B. Cudd, John H. Kingie, by name of John H. Kingie,
George W. Dole, by name of Geo: W. Dole, Samuel A. P. Freed,
by name of S. A. P. Freed, George W. Snow, by name of G.
W. Snow and Samuel Hoard, by name of Samuel Hoard, made
and executed a penal Bond (with the condition hereinafter
recited) to the People of the State of Illinois, the said Plaintiffs
in the words and figures following to wit,

' Know all Men by these presents, That we John L. Wilson
James E. Bishop, N. B. Cudd, John H. Kingie, George W. Dole
and S. A. P. Freed, Geo. W. Snow, Samuel Hoard of the County
of Cook and State of Illinois are held and firmly bound unto
the People of the State of Illinois in the penal sum of Ten
thousand dollars, lawful money of the United States for the
payment of which said sum well and truly to be made we
jointly and severally bind ourselves our heirs executors and
administrators firmly by these presents. Sealed with our seals
and dated this 17th day of November A. D. 1856, the condition
whereof was as follows.

" The Condition of the above obligation is such that whereas
John L. Wilson has been duly Sheriff of the County of Cook in
the State of Illinois Now if the said John L. Wilson shall
faithfully and truly perform and discharge and perform all
the duties required or to be required or to be required of him
as such Sheriff of said County of Cook, then this obligation to
be void, otherwise to remain in full force and effect: It is
said Bond was duly signed sealed and delivered by the parties
obligors therein, the said Defendants and was duly approved by

George Manierre Judge of the 1st Judicial Circuit the said
17th day of November A.D. 1856.

And the said Plaintiffs by their said Attorneys complain
that heretofore and after the Execution delivery and approval of
said Bond to wit on the 21st day of November ~~November~~^{December} A.D. 1857 the
said Daniel B. Shipman and Charles, L. Goodridge for whom
this suit is instituted, in due form of law, having first
duly made the Affidavit ~~and given the Bond~~ required by the
Statute of the State of Illinois procured and sued forth out
of the said Cook County Court of Common Pleas a Writ of
Replevin against the Metugan Central Railroad Company
returnable the first Monday of January A.D. 1858 and before
W. Smith, wherein the said Defendant John, L. Wilson as Sheriff
of the County of Cook as aforesaid to whom the said Writ was
directed was commanded to cause the goods and chattels there
named, to wit, "Ninety nine barrels of Turpentine, one empty barrel
and twelve hogheads of Oil marked S H, to be replevied and
delivered to the said Daniel B. Shipman and Charles, L. Goodridge
by the names of Daniel B. Shipman and Charles, L. Goodwin
plaintiffs in said replevin without delay, as by record & process
thereof, remaining in Cook County Court of Common Pleas is
manifest. Which said Writ after the panning out of the same
and before the return day thereof to wit on the said 21st day of
December A.D. 1857 was delivered to the said John, L. Wilson
as such Sheriff of the County of Cook aforesaid to be by him
duly executed and returned according to the tenor & exigency
the said Writ and the duty of the Office of the said John, L.

Wilson, he then being Sheriff of Cook County in the State of Illinois as aforesaid.

And the said Plaintiffs further aver that after the issuing of the said Writ of Habeas Corpus and before the return of the goods therein named, by the said John L. Wilson as Sheriff as aforesaid as hereinafter recited the said Daniel B. Shipman and Charles L. Goodridge in their own proper names executed to the said John L. Wilson Sheriff as aforesaid a Bond with Security approved by said John L. Wilson as such Sheriff as aforesaid, and conditioned as required by the Statute of Illinois in such case made and provided and then and there delivered the same to the said John L. Wilson as such Sheriff as aforesaid.

And the said plaintiffs aver that at the time of serving out said Writ of Replevin the said Daniel B. Shipman and Charles E. Goodridge were the bona fide ~~holders~~^{owners} and lawfully entitled to the possession of the said goods and chattels named & ~~were wrongfully withheld from them by the said defendants.~~ described in said Writ of Replevin. And the said plaintiffs further aver that the said Charles, L. Goodridge was intended in the said Writ to be understood by the name therein wrongfully through mistake inserted Charles, L. Goodwin by the Clerk of said Cook County Court of Common Pleas, and that it was further fully understood by the said John, L. Wilson, Sheriff of the County of Cook as aforesaid at the time the said Writ of Replevin was placed in his hands that the said name of Charles, L. Goodwin was erroneously inserted in the said Writ instead of the name of the said Charles, L. Goodridge, and that the delivery of the goods and chattels described in said Writ of Replevin after legal seizure thereof was to be made to the said Daniel B. Shipman and Charles, L. Goodridge as the real plaintiffs in the said Replevin.

And the said plaintiffs further say that the said John, L. Wilson as such Sheriff of the County of Cook as aforesaid, according and by the duty of his Office ought to have duly executed the said Writ of Replevin and taken the said goods and chattels therein mentioned and described and delivered the same to the said Daniel B. Shipman and Charles, L. Goodridge without delay of said goods and chattels could be

George Manierre Judge of the 4th Judicial Circuit the said
17th day of November A.D. 1856.

And the said Plaintiffs by their said Attorneys complain
that heretofore and after the Execution delivery and approval of
said Bond to wit on the 21st day of ~~November~~^{December} A.D. 1857 the
said Daniel B. Shipman and Charles, L. Goodridge for whom
this suit is instituted, in due form of law, having first
duly made the Affidavit ~~and given the Bond~~ required by the
Statute of the State of Illinois procured and sued forth
of the said Cook County Court of Common Pleas a Writ of
Replevin against the Michigan Central Railroad Company
returnable the first Monday of January A.D. 1858 and before
W. Smith, wherein the said Defendant John, L. Wilson as Sheriff
of the County of Cook as aforesaid to whom the said Writ was
directed was commanded to cause the goods and chattels there
named, to wit, "Ninety nine barrels of Turpentine, one empty barrel
and twelve hogheads of Oil marked S H. to be replevied and
delivered to the said Daniel B. Shipman and Charles, L. Goodridge
by the names of Daniel B. Shipman and Charles, L. Goodwin
plaintiffs in said replevin without delay, as by record & process
thereof, remaining in Cook County Court of Common Pleas is
manifest. Which said Writ after the panning out of the same
and before the return day thereof to wit on the said 21st day of
December A.D. 1857 was delivered to the said John, L. Wilson
as such Sheriff of the County of Cook aforesaid to be by him
duly executed and returned according to the tenor & exigence
the said Writ and the duty of the Office of the said John, L.

found and if not to have made return of such facts to the
said Cook County Court of Common Pleas: whereas the said
Plaintiffs aver and charge that on the said 21st day of December
A. D. 1857 the said John L. Wilson as such Sheriff of the
County of Cook aforesaid in due form of law seized and took
possession of the said goods and chattels in the said Writ of
Replevin mentioned but that so far from delivering the same
to the said Daniel B. Shipman and Charles L. Goodridge
agreeably to the duty of his said Office, the said John L. Wilson
Sheriff of the County of Cook as aforesaid, wilfully neglecting his
duty in that behalf, and to the great prejudice and injury of
the said Daniel B. Shipman and Charles L. Goodridge who
and wilfully neglected after said seizure to deliver the goods and
chattels so taken by him to the said Daniel B. Shipman and
Charles L. Goodridge but wilfully neglecting his duty permitted
the said Goods and Chattels so seized by virtue of the said
Writ of Replevin - to be taken from ^{by the said Joseph W. Smith} his custody and ~~carried off~~
such person and before the return day of said Writ, to wit on
the said 21st day of December A. D. 1857, whereby the said
Daniel B. Shipman and Charles L. Goodridge wholly lost
said Goods and Chattels, and whereby they have sustained
damage to the amount of Two thousand dollars, and this the
said Plaintiffs are ready to verify and so forth.

Therefore the said Plaintiffs complain that the said John
L. Wilson as Sheriff of the County of Cook aforesaid, hath not
faithfully and truly performed all the duties required of him
as such Sheriff of said County of Cook, but hath wilfully

neglected the same to the great prejudice and injury of the said
Daniel B. Shipman and Charles S. Goodridge for whose use
this suit is brought, to wit in the sum of Ten thousand dollars
wherefore the said Plaintiffs the said People of the State of
Illinois, pray judgment and the Debt aforesaid, together with
damages for the detention of the same to them to be adjudged
and so forth, with this that the said Plaintiffs by their
said Attornies will verify that the said Daniel B. Shipman
and Charles S. Goodridge for whose use this suit is instituted
and the said Daniel B. Shipman and Charles S. Goodridge
in the said Writ of Replevin named as Daniel B. Shipman
and Charles S. Goodwin are the same persons and not other
or different And the said Plaintiffs by their said Attornies
bring into Court the writing obligatory aforesaid sealed
with the Seals of the aforesaid defendants, which testifies the
debt aforesaid in form aforesaid the date whereof is the same
day and year aforesaid.

Hooper Hanson

Attornies for Plaintiffs"

And afterwards to wit on the ninth day of June A.
Eighteen hundred and fifty eight the said defendants filed in
the Office of the Clerk of said Court, their Demurrer to said
Amended Declaration, in the words and figures following
that is to pay.

"John L. Wilson, James E. Bishop
N. B. Lueda, John H. Kinzie,
George W. Lolo, L. C. P. Truer,
George W. Snow and Samuel Hoard

ats

The People of the State of Illinois

Cook County Court
of Common Pleas,

And the said Defendants
by J. M. Walker & Goodrich Farwell & Smith their Attorneys
come and defend the wrong and injury when to and pay that
the said amended Declaration and the matters therein contain
in manner and form as the same are above therein stated
and set forth are not sufficient in law for the said Plaintiffs
to have or maintain their aforesaid action thereof against the
said Defendants, and that the said Defendants are not bound
in law to answer the same and this said Defendants are
ready to verify, Therefore by reason of the insufficiency of
the said Amended Declaration in this behalf the said defendants
prays judgment and that the said Plaintiffs may be barred
from having or maintaining their aforesaid action thereof
against the said defendants &c

J. M. Walker, and
Goodrich, Farwell & Smith
Defendants Attys.

"And the said Plaintiffs pay that the said Declaration
is sufficient in law.

Proper & Cousin "

And afterwards to wit on the fourth day of November
(being one of the days of the said November term of said Court
A. D. Eighteen hundred and fifty eight, the following among
other proceedings were had and entered of record in said
Court to wit.

"The People of the State of Illinois
vs of Daniel B. Shipman and
Charles L. Goodridge

vs

John L. Wilson, James E. Bishop, N.B.
Cudd, John W. Kirzie, Geo. W. Dale
L. C. P. Freer, George W. Snow
and Samuel Hoard

Debt on

Official Bond.

This day came the said Plaintiffs by
Hooper Myers & Lemmes their Attorneys and the said defendants
by Goodrich, Furwell & Smith their Attorneys also came and
counsel being heard on the Demurrer of the said Defendants
to the amended Declaration of the said Plaintiffs in this cause
and due deliberation being thereupon had and the premises
fully understood, it appears to the Court that the Demurrer
of the said Defendants herein pleaded in bar to the Declaration
of said Plaintiffs in this cause is sufficient in law to bar
the said Plaintiffs who due to the use aforesaid from having
and maintaining their said action against the said defendants
the demurrer to said amended Declaration is therefore
sustained with leave to the said Plaintiffs to further

amend their said amended Declaration, which is accordingly
done, and further amended Declaration filed, to which said
defendants file their Demurrer, which is joined by said Plaintiff
and joinder in demurrer also filed, and Counsel being further
heard upon the Demurrer of the said Defendants to the
further amended Declaration of the said Plaintiffs, and after
deliberation being thereupon had and the premises fully
understood it appears to the Court that the Demurrer of
the said Defendants herein Pleaded in bar to the further
amended Declaration of the said Plaintiffs, is likewise
sufficient in law to bar the said Plaintiffs from having and
maintaining their said action against the said defendant
the demurrer to said further amended Declaration is sustained
with leave to the said Plaintiffs to further amend their said
Declaration and the said Plaintiffs electing to stand by their
said Declaration, it is considered by the Court that judgment
be entered on the Demurrer for the said Defendants

Therefore it is considered that the said Defendants do
have and recover of the said Plaintiffs their costs and charges
by them about their defence in this behalf expended and have
execution therefor.

And thereupon come the said Plaintiffs, Daniel B.
Shipman and Charles S. Goodridge, to whose use the action
is brought and by their Counsel enter their exceptions here
and pray an Appeal to the Supreme Court of the State of
Illinois which is allowed on filing their appeal Bond in Two
hundred dollars with security to be approved by Judge of

The Condition of this Obligation is such that whereas at the November Term A. D. 1858 of the Cook County Court of Common Pleas judgment was rendered by said Court in favor of the said obligees above mentioned upon a demurrer filed by their Attorneys to the Plaintiffs amended Declaration in the above entitled suit from which judgment the said Daniel B. Shipman and Charles S. Goodridge for whose use said action was instituted have prayed an Appeal to the Supreme Court. Now if the said Daniel B. Shipman and Charles S. Goodridge shall duly prosecute said Appeal and well and truly pay the judgment, costs, interest and damages, which shall be recovered by said Defendants or to which they may be entitled in case the said judgment of the said Court of Common Pleas shall be affirmed then this obligation shall be void, otherwise to remain in full force

Approved by me

John M. Wilson

Judge &c

Dan. B. Shipman (Seal)

Chas. S. Goodridge (Seal)

Wm. B. Lounsbury (Seal)

State of Illinois }
County of Cook } &

I Walter Kimball, Clerk of the Cook County Court of Common Pleas, within and for the County and State aforesaid Do hereby certify the foregoing to be a full true and correct Transcript of the papers now on file in my office, together with all orders entered of record

in said Court in a certain therein, wherein The People of the
State of Illinois vs of Daniel B. Shipman and Charles S.
Goodridge are Plaintiffs and John, S. Wilson and others
are defendants.



In testimony whereof I the said Walter
Kimball have hereunto set my hand and
affixed the Seal of said Court at Chicago
in said County this Eleventh day of April
A. D. 1859. Walter Kimball Clerk

~~43~~ 41
State of Illinois
Cook County Court of
Common Pleas.

The People of the State of
Illinois vs of Shipman
Hoodrudge

vs
John L. Wilson & others

Record.

Filed April 19, 1889
L. Leland
Clerk

\$5 pd Clerk

Cause in

Trans \$4.50 Paid by J. L. Leland.
McKinstry