No. 14538

Supreme Court of Illinois

Board of Supervisors,
Iroquois County

---

vs.

Keady et al

71641

STATE OF ILLINOIS,

SUPREME COURT,

THIRD GRAND DIVISION.

No. 130

J. W. Middleton & Co., Stationers, 100 Lake St.

STATE OF ILLINOIS,
SUPREME COURT. } ss. The People of the State of Illinois,

To the Sheriff of Iroquois County, GREETING:

Because, In the record and proceedings, and also in the rendition of the judgment of a plea which was in the Circuit Court of Iroquois County, before the Judge thereof, between William F. Keady, Cyrus B. Barnes and Louis Troup plaintiffs, and The Board of Supervisors of Iroquois County, Georgl King George Woodford & Thomas Vennum defendants, it is said that manifest error hath intervened, to the injury of the said defendants

as we are informed by their complaint the record and proceedings of which said judgment we have caused to be brought into our Supreme Court of the State of Illinois, at Ottawa, before the Justices thereof, to correct the errors in the same in due form and manner, according to law: Therefore, We Command You, That by good and lawful men of your County, you give notice to the said William F. Keady Cyrus B. Barnes & Louis Troup

that they be and appear before the Justices of our said Supreme Court, at the next term of said Court, to be holden at Ottawa, in said State, on the first Tuesday after the third Monday in April A. D. 1864, to hear the record and proceedings aforesaid, and the errors assigned, if they shall see fit; and further to do and receive what said Court shall order in this behalf; and have you then there the names of those by whom you shall give the said William F. Keady Cyrus B. Barnes & Louis Troup notice, together with this writ.

Witness, The Hon. Pinkney H. Walker, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this 6th day of April in the year of our Lord One Thousand Eight Hundred and Sixty-four

L. Leland
Clerk of the Supreme Court.
by J. B. Rice Deputy

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Board of Supvrs
Ekards
vs
Keady et al

Sci Fa

State of Illinois }
Iroquois County } ss

I did on this 8th day of April A.D. 1864 Serve this writ by reading the same to each of the within named Plaintiffs to wit: William F. Keady Cyprus B. Barnes and Louis Troup as herein commanded.

H.O. Henry Sheriff

Fees 3 Services 1,50
3 miles Travel 15
Return 10
$1.75

Filed April 25, 1864
L. LeLand
Clerk

STATE OF ILLINOIS, } ss. The People of the State of Illinois,
SUPREME COURT,

To the Clerk of the Circuit Court for the County of Iroquois Greeting:

Because, In the record and proceedings, as also in the rendition of the judgment of a plea which was in the Circuit Court of Iroquois County, before the Judge thereof, between William H Heady, Cyrus B Barnes and Louisa Stomp

plaintiffs and The Board of Supervisors of Iroquois County, Henry King George Woolfolk and Thomas Wenum

defendants, it is said manifest error hath intervened, to the injury of the aforesaid defendants as we are informed by their complaint and we being willing that error should be corrected, if any there be, in due form and manner, and that justice be done to the parties aforesaid, command you that if judgment thereof be given, you distinctly and openly, without delay, send to our Justices of the Supreme Court the record and proceedings of the plaint aforesaid, with all things touching the same, under your seal, so that we may have the same before our Justices aforesaid at Ottawa, in the County of La Salle, on the first Tuesday after the third Monday in April next, that the record and proceedings, being inspected, we may cause to be done therein, to correct the error, what of right ought to be done according to law.

Pinckney H Walker

Witness, The Hon. ~~JOHN D. CATON~~, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this fifth day of April in the Year of Our Lord One Thousand Eight Hundred and Sixty four

L Leland

Clerk of the Supreme Court.

J. B. Rice Deputy

130

Board of Supvrs.
vs.

No. 130 vs.
Keady

WRIT OF ERROR.

~~This Writ of Error is made~~ a ~~Supersedeas, and as such is to be obeyed by~~ all concerned.

Clerk.

FILED April 6th A. D. 1864

L. Leland
Clerk.

SUPREME COURT.---STATE OF ILLINOIS.

THIRD GRAND DIVISION.

The Board of Supervisors of Iroquois County, George King, George Woodford & Thomas Vennum
vs.
William F. Keady, Cyrus B. Barnes and Louis Troup, Defendants in Error, Complainants below.

Abstract of Bill.

Record page.

3 Recites Act of Legislature of 1859, "To relocate the seat
4–5–6 of Justice of Iroquois county." Laws of the State of Illinois,
7–8–9 Session of 1838, pages 185, 186, 187, show qualification of Commissioners and location of county seat at Middleport, and charges that it has ever since continued at that point.

9 to 12 Recites Act of February 11, 1863, for removal of county seat.

12–13 Charges that an election was held under last mentioned act, and that 1,952 votes were cast in all—that 1,138 were cast "for removal," and 810 "against removal."

13 Charges that the last act was illegal, unconstitutional and void.

1st. Because it fixes and appoints two distinct and separate places to which to remove the county seat, to-wit: South Middleport or Stanley's Addition.

2d. Because it provides that a majority of the votes cast shall determine the question.

3d. That it provides that the fiscal affairs of the county shall be managed by commissioners.

13–14 Charge that no sufficient notice were given of said election, either by posting or publishing.

1st. It was not published in two newspapers and no publisher refused to publish.

2d. The notices put up were not signed by the town Clerks as the law contemplated.

15 Charges that there must have been in order to render the removal constitutional, a majority of the legal voters resident in the county, and that there was not such majority.

16 Charges that 700 voters were absent in the army and could not vote.

16–17 Charges that the law is void for uncertainty, because it does not fix a specific spot for the county seat, and that a removal will throw great burdens upon tax-payers.

17 to19 Charges that the act is unconstitutional.

1st. Because it was passed in violation of the law of 1845, requiring notices before presenting petition, and because no petition was presented.

2d. Because it authorised all legal voters to vote, but made no provision for the voters in the army.

19–20 Charges that illegal votes were cast.

20 Charges that the Act was unconstitutional, because it was not read in the Senate and House on three different days and no emergency declared.

21 Charges the Act is unconstitutional.

1st. Because it is local and embraces more than one subject matter, and only one is expressed in the title.

2d. That the Legislature has not yet closed its session, and no time is fixed when it shall go into effect.

21 to23 Charges that immediately after such election, a request was made by one-third of the Supervisors of the Clerk of the county, who called a meeting of the Board of Supervisors, but no notice of such meeting was published in any newspaper, and no other notice given, and such meeting would be illegal, but that the Board intend to meet and transact business and select a site in South Middleport or Stanley's Addition, on which to build Court House, jail and county buildings, and expend a large amount of the funds of the county for such site, and to build county buildings thereon, contrary to law.

25 Charges that in February, 1862, the Court House in Middleport was burnt, insured for $5,000, and $4,000 insurance already paid over.

25 to27 Charges that George King, Treasurer, George A. Woodford, County Clerk, and Thomas Vennum, Circuit Clerk, will obey the order of the Board of Supervisors, and remove their records to the new county seat, unless enjoined.

28 to30 Charge confederacy and request by complainants to abstain from illegal acts complained of.

31 to34 Prayer for injunction against the Board of Supervisors, Treasurer and two Clerks.

35–36 Order for injunction by C. F. M'Neill, Master in Chancery.

36 to40 Conveyance for site at Middleport.

55 to58 Answer and replication. Answer admits that the law for removal of county seat was passed by the Legislature—admits the

election and majority in favor of removal of county seat—admits the Board of Supervisors intend to locate county seat according to vote of the people. Denies the other allegations. Charges that M'Neill, Master in Chancery was interested and of counsel in the subject matter.

62 to68 The depositions of C. F. M'Neill, Chester Kinney and James Fletcher, were wholly upon the question, of whether the Master granting the preliminary injunction was interested.

DEPOSITION OF GEORGE A. WOODFORD.

25 My age is twenty-eight, residence Middleport, business, County Clerk of Iroquois county. I am acquainted with the parties. I have acted as County Clerk since December 1, 1861. I assisted in canvassing the votes for removal of county seat, and called to my assistance, Messrs. Michael Hogle and James C. Steely, two of the justices in the town of Middleport. One poll book and one tally list were returned to me from each town before said vote was canvassed. The most or perhaps all of them, were returned by one of the judges or clerks of the election. I forget whether they were sealed or not—most of them were sealed. I think that either at that election or the November election previous, the returns from the town of Papineau, formerly Weygandt, were returned to me in wrapping paper unsealed. I don't remember which election. I think some of the ballots were returned to me before we canvassed, and some were not. We did not count any of the ballots, were governed wholly by the poll books and tally lists. I do not know how many soldiers had enlisted in the army previous to the election. I find by looking at the records in the office, that about four hundred and forty-three were entitled to bounties. I cannot state the exact number that were in the army at that time, but from information from various sources, should estimate the number at from one thousand to twelve hundred. I suppose most of them at the time of their enlistment were citizens resident in Iroquois county, I don't know of any that were not. I think notice of the election was published in the Middleport *Press*. I don't know whether in the *Republican* or not. I don't know that either publisher refused to publish it. I do not know whether the town clerks posted notices of the election or not. One or two town clerks returned notices to me with certificate on the back that they

had posted them. The notices were printed, and about sixty-four had my name printed on, and about sixty-four were signed by my genuine signature. I don't know how many of each kind were posted. I have a copy with my genuine signature. It reads as follows: "Election Notice." State of Illinois, Iroquois County, ss. Public notice is hereby given that on Tuesday, the 17th day of March, 1863, an election will be held at the usual place of holding elections in the several towns in the county and State aforesaid, for the purpose of enabling the people of Iroquois county to vote for the removal or against the removal of the county seat or seat of justice of said county from the town of Middleport to the town of South Middleport, in the county and State aforesaid, which election will be opened at eight o'clock in the morning and continue open until six o'clock in the afternoon of same day. Given under my hand and official seal, at Middleport, this 14th day of February, 1863. George A. Woodford, County Clerk." I was clerk of the Board of Supervisors, on and before the 18th day of March, 1863. A request for a special meeting of the Board of Supervisors was filed with me, on or about the 18th day of March, 1863, and I issued a circular to the members of the Board, notifying them of such meeting, and delivered at the *Press* office a notice of such meeting for publication, but believe such notice was not published. I think there was no notice published in either of the papers in the county. I hold my office in the building occupied as a Court House, and have since August, 1862. There is a bulletin board at the door of the building. I think there was never any notice posted on it that there would be an application made to the Legislature for removal or relocation of the county seat, and I did not notice any such publication in either of the newspapers. I think I would have seen it if it had been published.

ON CROSS EXAMINATION.

In canvassing the votes of said election, I did as in cases of election of county officers. In my estimate of the soldiers, I estimated all that had enlisted, but some had returned home, and I presume a great many were dead, but I have no means of estimating the number. Many were also minors. I can't tell how many were legal voters.

DIRECT EXAMINATION.

I can't name any that had returned except Capt. Petts.

DEPOSITION OF N. B. PETTS.

90 My age is twenty-eight, residence Middleport, occupation, merchant. I have been in the United States service, Captain of Co. C. 51st Illinois. Raised my company in Iroquois county. Ninety of my men were recruited from Iroquois county, and on the 17th of March 1863, they were in the army of the Cumberland in Tennessee. I should think of the 90, about 7 were minors. I was acquainted with most of the men that enlisted from Iroquois county. I should think one in nine or ten were minors.

ON CROSS EXAMINATION.

I don't know how many on the 17th of March, 1863, had died or been discharged, nor how many were in Iroquois county, but think about nine men of my company were at that time alive and in Iroquois county. Henry C. Willard, according to his own statement, was not twenty-one years of age, but I think he voted at that election. His father, A. G. Willard was chairman of the Board of Supervisors.

DEFENDANT'S DEPOSITIONS.

William W. M'Kee. Resided in Watseka, (formerly called South Middleport.) 19th or 20th February, 1863, 23 or 24 days before election, I posted three notices, one on the Pierce School house, one on the Washington School house, and one on the Kankakee road near Spring creek bridge, all in the town of Iroquois. I had three other copies of the notice, and gave the same to the town clerk at the same time I posted the others. (Witness gives copy of notice verbatim, like the one set out in Woodford's deposition.) I think the three places where I posted the notices were the most public places in the town.

DEROSITION OF CHARLES A. STUCK.

Aged 31 years. I know of nine notices being posted by myself in said county, the first two in the town of Martinton, on

the 18th of February, 1863 ; one in the village of Martinton, on the blacksmith shop, one on White's School house ; also on the same day, I posted three in Weygandt or Papineau town—the first on Switzer's School house, the second at a cross-road in said town, and the third, at the residence and office of J. Gendron, justice of the peace. The next day I posted two in the town of Beaver ; the first at St. Mary's village in said town, on a shoemaker's shop, one at the Vankirk crossing. The next day, Feb. 20th, I posted one on Fry's School house, in said town of Beaver ; on the same morning I posted one on a barn in Buckhorn in Browntown town, and on my way back, on same day, I posted one in Martinton town, at Bean's Grove. Said notices posted by me were for an election to be held on the 17th day of March, 1863, for the people of Iroquois county, to vote for or against the removal of the county seat to South Middleport. They were printed notices, except the signature, and were like the notice spoken of by William W. M'Kee in his deposition. I consider the places I posted the notices in the most public places in the respective towns. I also gave 3 notices to the town clerk of Papineau on the 18th February, and on the 19th gave three to town clerk of Brown.

DEPOSITION OF JAMES T. S. IRONS.

114–15 On the 17th of Februry, I posted four printed notices of election, to be held on county seat question. Same notices as mentioned in M'Kee's deposition, in four places as public as any in the town.

DEPOSITION OF WILLIAM MUNSON.

115–16 On 17th February, 1863, I posted three notices like that mentioned in M'Kees's deposition, in three of the most public places in Concord town.

117 In February, 1863, and more than twenty days before the election, I received notices from the clerk, George A. Woodford, like the one mentioned in M'Kee's deposition, and posted three in three public places in the town of Middleport.

118–19 DEPOSITION OF JOHN WILLOUGHBY.

In February, 1863, and three or four weeks before the election in March, 1863, on the county seat question, I posted four notices in four of the most public places in the town of Ash Grove, like the notice mentioned in M'Kee's deposition.

1I9–20 DEROSITION OF EDWARD RUMLEY.

I posted four printed notices in the town of Onarga, at four of the most public places, like that mentioned in the deposition of M'Kee.

121–22 DEPOSITION OF ASA B. ROFF.

Age 45, attorney at law. I posted on the 19th and 20th of February, 1863, nine notices, like that mentioned in the deposition of M'Kee. Three in the town of Ashkum, three in the town of Chebanse, and three in the town of Gilman, at the most public places in the respective towns. I also gave three notices to the town clerks of each of said towns respectively.

122 to4 DEPOSITION OF DOLE PIERCE.

In February, 1863, more than 20 days before the election, on the 17th of March, I posted three notices in three of the most public places, in the town of Prairie Green, like that named in the deposition of M'Kee.

124 to5 DEPOSITION OF JAMES MARKEL.

Twenty-one days before the 17th of March, 1863, I posted five notices like that mentioned in M'Kee's deposition, at five of the most public places in the town of Crabapple.

125 to6 DEPOSITION OF RANSOM MUNSON.

I posted three notices like that mentioned in M'Kee's deposition, in three of the most public places in the town of Middleport, on the 20th Feb., 1863.

127–28 DEPOSITION OF MATHEW PIERCE.

I posted one notice like that named in M'Kee's deposition, in the town of Milford, in the most public place, twenty-one days before the 17th of March, 1863.

128–29 DEPOSITION OF HENRY L. PINNEY.

I posted three notices like that named in the deposition of M'Kee, in the town of Milford, on the 18th day of February, 1863.

130–31 DEPOSITION OF C. SECRIST.

I saw four notices like that mentioned in M'Kee's deposition, posted in the town of Milford, in four of the most public places, on the 18th or 20th of February, 1863.

131 to3 DEPOSITION OF A. G. SMITH.

On the 25th February, 1863, I published in the Iroquois *Republican* notice for an election, as follows: (Notice like M'Kee's.)

134 to5 DEPOSITION OF J. R. PRICE.

I posted three noticess, like that mentioned in M'Kee's deposition, at three of the most public places in the town of Ash Grove, the 20th February, 1863.

135 to6 DEPOSITION OF KENDALL SHAUKLAND.

I posted three notices like that mentioned in M'Kee's deposition, in the town of Prairie Green, on the 20th of Feb., 1863, in three of the most public places.

137–8 DEPOSITION OF A. G. WILLARD.

I posted four notices like that mentioned in M'Kee's deposition, in four of the most public places, in the town of Concord, more than twenty days before the 17th of March, 1863.

140–44 DEPOSITION OF JOSEPH H. TYRRELL.

I posted three notices in three of the most public places, in the town of Loda, on the 20th of February, 1863, for an election to be held on the 17th of March, 1863, for the relocation of the county seat of Iroquois county.

146to8 Final decree for perpetual injunction against the removal of the county seat, and decree against Board of Supervisors for costs.

149 Order for an appeal by agreement, without appeal bond.

23 130 1

Board of Supervs
of Fayette Co
vs
Kenady

Abstracts

Filed Apl 21 1864
L Solomon Clk

130

SUPREME COURT OF ILLINOIS:

THIRD GRAND DIVISION,—APRIL TERM, A. D. 1864.

BRIEF.

THE BOARD OF SUPERVISORS OF IROQUOIS COUNTY, GEORGE KING, GEORGE WOODFORD AND THOMAS VENNUM, Appellants,

vs.

WILLIAM F. KEADY, CYRUS B. BARNES AND LOUIS TROUP, Appellees, Complainants below.

RANDALL & FULLER,
LELAND & BLANCHARD,
ROFF & DOYLE,
} ATTORNIES FOR APPELLANTS.

Filed April 27 1864
L Leland Clk

OTTAWA, ILL.:
PRINTED AT THE OFFICE OF THE OTTAWA REPUBLICAN.
1864.

THIRD GR

APRIL TERM, A. D. 1864.

THE BOARD OF SUPERVISORS of Iroquis County, GEORGE KING GEORGE WOODFORD, and THOMAS VENNUM, Appellants,
vs.
WILLIAM F. KEADY, CYRUS B. BARNES, and LOUIS TROUP Appellees, Complainants below.

ARGUMENT ON PART OF APPELLANTS.

STATEMENT OF CASE.

and obtained an injunction and at the November Term, 1863, Judge Starr made a decree of perpetual injunction, restraining the defendants from carrying out the objects contemplated by said act and said election, from which decree the defendants appealed.

In entering upon the discussion of this case, we feel constrained to say that it seems to us that there is not only no fairly debatable question in it, but that there is absolutely nothing which presents the semblance of a question. In this wordy age, however, in which orators are expected to talk learnedly and lengthily whether they have anything to say or not, (an age in which even the current coin of the realm is language), a treatise or speech of some length might be considered necessary on the affirmative of the time-honored proposition that two and two make four, and under this head, who should be next president, would hardly be considered foreign to the subject.

It may not be improper to give a few items of history connected with this case, which, though not in the record, perhaps the

whole village became submerged by both the Sugar Creek and Iroquois rivers, overflowing their banks and remaining so for several weeks. The records of Iroquois county contain abundant proof, that on one occasion, for the term of six weeks, the Court House could not be approached in any direction, except by boats, and twice since it has been built has this occurred. Two or three years since it was burned. The Board of Supervisors were then called upon to re-build, and one of the first questions naturally presenting itself was where they should locate it, and avoid the calamities of subsequent overflows. The Peoria and Oquawka Railroad had in the mean time been built, and running near the village, crossed the Sugar Creek, and fixed its depot about a mile and a half from the court house, on grounds so high as to be beyond the reach of floods. This is the point known as South Middleport. The people of Middleport had also subsequently to the building of the court house, extended the limits of their village to high ground, extending to the boundaries of South Middleport. On this high ground the Board of Supervisors located the new site for the court house, within the limits of Middleport, as extended, but beyond the original limits of the village, about half way between the ruins of the old court house and the rail road depot. But because it was beyond the original limits of the village, Judge Starr perpetually enjoined the Supervisors from building there. Manifestly erroneous as this decree was, yet the people of the county, whose records were exposed to ruin by being kept in buildings which were but mere rookeries, seeing that the Legislature would sit sooner than the Supreme Court, determined to apply to the Legislature for relief. The law now brought to the attention of the Supreme Court, is the result of the application.

The points made on the other side are :

1st. That the Legislature of 1863, was bound by the action of the Legislature of 1845. We have concluded, after careful reflection, to cite the case of Farley vs. the County of Logan, 17, Ill. 151, and pass to the next point.

The second point made is that the act of February 11, 1863, is

a public law. We are happy to say that there is no unpleasant difference of opinion between us and our opponents on this point. We will concede for the purpose of this argument, that it is a public law. We do not care whether it is or not. We desire, however to guard against this concession being construed, to be an acquiescence in the soundness of the elaborate opinion of Judge Starr Although that is introduced under this head, it really belongs to another branch of the case. We may, however, be permitted to say in this connection that it is not usual to quote the opinion of the court below, except in cases where there is a dearth of other authority.

Under the above second point, and as a branch thereof, is discussed what his Honor Judge Starr considered the main and really the only point worthy of his consideration, and it was upon this point of supposed unconstitutional legislation that the decision below turned. With a realizing sense of the weight of the responsibility imposed upon us, we enter upon the discussion of the question whether the Supreme Judicial Tribunal of this State shall say to the Legislature of this great and growing State. you have transcended your powers ; you have disregarded the fundamental law ; you have violated the constitution ; you have provided for holding an election for or against the removal of the county seat of one of the counties of the State, on the 17th of March A. D. 1863, by an enactment which did not take effect till sixty days after Governor Richard Yates had prorogued the Legislature

We do not propose to review at any great length the opinion of the court below. It is founded entirely upon an adjudication of this court in relation to swine running at large in an adjoining county, to-wit, the county of Livingston. It seems to us that there is a distinction between that case, (Wheeler vs. Chubbuck, reported in the 16th volume of the reports of this State, on page 361) & this. If the court below had held that the expression A. D. 1863 meant A. D, 1864, under the authority of that case it might have been more difficult to meet the argument, but we think the court went too far when it held that the words A. D. 1863 meant nothing at all. The Legislative will, we think, ught not to

have been entirely set aside, and it seems to us that this must be the practical operation of the perpetual injunction of his Honor below, if the decision be sustained. In the case of Wheeler vs. Chubbuck, this court held that the word next might refer to two or three dates. In the case at bar it seems to us that the expression 17th of March A. D. 1863, is much less ambiguous. We think that the only true construction to be given to the expression is to let it mean what it says, and if this rule of construction be adopted, it is an end of this case, and this court must hold that the election was properly held on the 17th of March A. D. 1863. Although we have spent a great deal of time in searching for authorities directly in point, our search has been unavailing. We have been compelled to come to the conclusion that the reason why we could not find a case in point was that the position taken by our opponents was not really a point, but only something which appeared like a point, as a cloudbank seen through a fog, is sometimes taken for a point. There is, however, a case in the 5th of Howard Miss. 273, which has a bearing on this question. Under a similar constitutional provision an act was passed to which the 60 day provision was applicable. A supplemental act was passed, to take effect on its passage. This provision in the supplemental act causes the act to which it is a supplement to go into effect at the same time the supplemental act does.

An act for the removal of the county seat of Tazewell county, provides for a similar election, on the 1st Saturday of April 1849, and it has no other indication when it should become a law. Are the proceedings under that act nullities? (Acts of 1849, p 47.)

Laws of this character may be called acts *in presenti* to take effect *in futuro*. 4 Selden 490, and are good laws in this State, 5 Gilm 1, though there is to be a voting of the people.

Courts are not warranted in declaring laws unconstitutional unless the violation is plain, clear and palpable. We cite here only a few of a large number of cases to this effect. There is no conflict of authority on this subject:

People v. *Marshal*, 1 Gilm, 689.
Clarke v. *City of Rochester*, 24 Barb 470
Bruce v. *Schuyler*, 4, Gilm, 274.
Jackson v. *Gitchrist* 15 John 358.
Adams v. *Howe*, 14 Mass. 348.

On the subject of construction generally, see

Wood v. *Blanchard*, 19, Ill. 38.
Smith against City Madison, 7, Ind, 86.
Commonwealth v. *Kimball*, 24 Pick. 93.

Legislators shouldnot be stultified by the judicial tribunals without reasonable provocation. We hope this court will not deem it necessary to write down the Legislators of 1863 such asses as the other side claim them to have been.

The next point is that the law being a public but local law, embraces more than one subject, when one only is mentioned in the title, which is "An act to entitle the people of Iroquois to remove the county seat," and the wandering from the title specified is that when the county seat is moved, there are to be county buildings erected at the county seat, and this is to be attended to by the Board of Supervisors, who are appointed commissioners therefor.

The subjects claimed to be other than in the title are not only germain to it, but are absolutely essentialincidents.

Belleville and Illinoistown R. R. Co. v. *Gregory*, 15 Ill 20.
Fereman' Benevolant Association, v. *Lounsluroy* 21 Ill. 511
O'Leary v. *County of Cook*, 28, Ill. 538.

The next point is that the Legislature has named the Board of Supervisors commissioners to locate the county buildings. As the objection seems to be the calling the Board of Supervisors by the name of commissioners, the only authority we desire to

cite is a remark made by some one who we think, lived near a *point* in England called Stratford, on Avon Creek, to the effect that "a rose by any other name would smell as sweet."

The next point is that South Middleport, consisting of South-Middleport and an addition thereto called Stanley's, is no point.

The word point is not used in the Constitution in its geometrical sense. The kind of poipt which hath neither length, breadth nor thickness, was not the one intended by the framers of the Constitution, but they meant the point of common parlance as applied to cities and towns. For instance, Ottawa is a good business *point*, and it would be a good enough *point* for the Supreme Court, if they had better hotels there. When Chief Justice Caton was on the bench, as two of your Honors will probably recollect, this question was presented in an application for an injunction, pending an appeal by the complainants in a similar case in relation to the "Kendall County Seat," in which the injunction had been dissolved on final hearing in the court below. Judge Caton carried the record to Springfield, and took the opinion of Judges Walker and Breese, and the whole court was in favor of the views here urged. That was a much stronger case. In order to unite the vote of Yorkville and Bristol, separate towns on opposite sides of Fox River, in favor of the removal from Oswego, the act described a circle with a radius of eighty rods, the arc passing through both towns. The Supervisors to build any where within the circle. It was then held that the *circle* was a point. Bad geometry—but good law neverthelss.

If in case of the destruction of Court House in Chicago, a new one was desirable, must it be erected on the foundations of the old one? Could not the present one be converted to another use, and another be built elsewhere in the city by the Supervisors?

The next point is that a majority of the voters of the county did not vote. We think this point, with the soldiers, is disposed of by the case of People ex re Mitchell vs. Warfield, 20, Ill. 159

We are satisfied that the authority of that case is not successfully shaken by the argument on the other side.

The next point is that the notice of election was not given. The evidence shows a full compliance. It was published in the two newspapers and put up in all the towns. But the law is a public law and a time is fixed in the law. Under such circumstances, an omission to give the notice, would not vitiate the election.

All we desire to say in relation to the ninth point, is that surplussage does not vitiate and *de mimis non curat lex.*

RANDALL & FULLER,
LELAND & BLANCHARD,
ROFF & DOYLE.

For Appellants.

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SUPREME COURT,

STATE OF ILLINOIS.

THIRD GRAND DIVISION.

APRIL TERM, A. D. 1864.

THE BOARD OF SUPERVISORS OF IROQUOIS COUNTY AND GEORGE A. WOODFORD, GEORGE KING AND THOMAS VENNUM.
Plaintiffs in Error,
VS.
WILLIAM F. KEADY, CYRUS B. BARNES AND LEWIS TROUP,
Defendants in Error.
} ERROR TO IROQUOIS COUNTY.

RANDALL & FULLER, AND ROFF & DOYLE,
ATTORNEYS FOR PLAINTIFFS IN ERROR.

CHESTER KINNEY AND JAMES FLETCHER,
ATTORNEYS FOR DEFENDANTS IN ERROR.

Filed April 20. 1864
L Leonard Clk

POINTS AND ARGUMENT FOR DEFENDANTS IN ERROR.

MIDDLEPORT, ILLS.
PRINTED AT THE PRESS OFFICE.

State of Illinois, Iroquois County.

SUPREME COURT, STATE OF ILLINOIS.

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Points and Argument for Defendants in Error.

In 1839, by an act of the General Assembly of the State of Illinois, Middleport, in the county of Iroquois, became the County Seat of Iroquois county. Since which time it has remained the county seat of said county.

See Laws of 1839, pages 185, 186 and 187, and

the proceedings under and by virtue of said act, as appear in the complainants' bill in this case.

At the session of the Legislature in 1863, an act of the General Assembly was attempted to be passed, submitting the question of the removal of the said county seat of Iroquois county from its present location at Middleport to "*South Middleport*," or "*Stanley's Addition*" thereto; which act or pretended act of the General Assembly, it is claimed in the plaintiffs' bill of complaint, is unconstitutional and void, for the following reasons, and that all proceedings had and done under and by virtue of said act are void.

I.

It is claimed, as we apprehend correctly, that it was a condition precedent that before either house of the General Assembly could take notice of, or act in the matter, a petition should be presented to them, signed by a majority of the qualified voters of the county in which the county seat was to be removed; and that such petition could not finally be acted upon by the General Assembly, which prays the removal of the seat of justice, or which may affect the rights and interests of any person or persons, unless the petitioners shall have given four weeks' notice in some newspaper, printed in this State, and a copy of said advertisement shall be put up on the court house door in said county, at least two months before such petition or petitions shall be presented to the General Assembly.

Cook's Statutes, page 738, *Sec.* 1, 2.
Revised Statutes of 1845, *page* 411, *Sec.* 1, 2.

Said act of 1845 being in force at the time of the

pretended passage of the act of Feb. 11, 1863, and not complied with, renders the act itself void and of no force. It was no doubt the intention of the law makers that created the act requiring a petition of a majority of the legal voters of the county, and the notices therein required to be given, that there should be no undue advantage taken, that the removal of a county seat or seat of justice being a public matter in which all the residents, citizens and tax payers of the county, always are to a greater or less extent interested, all had a right to know what any person or parties were attempting in the premises. Hence such notices and petitions were required; and the General Assembly in this matter acting without the condition precedent to their acting, being complied with, and without repealing the former general law before acting, did so without having jurisdiction, and when the matter was not properly or legally before them, and their act so passed is void.

It may be said by the defendants that the act of Feb. 11, 1863, repeals the act of 1845. That cannot be so, inasmuch as the General Assembly could not under the act of 1845, take notice of any application for the passage of an act submitting the question of removal to the people, unless the law then in force was first complied with, to wit, a petition presented asking for such act, signed by a majority of the qualified voters of the county. The mere statement in the act of Feb. 11, 1863, that "*All acts or parts of acts which conflict with this act are hereby repealed*," does not, as we apprehend, repeal a general law of the State, not at all in conflict with it. The act of Feb. 11, 1863, and the act of 1845, are not in conflict. It is apparent from

the act itself that it was not the intention of the law makers to repeal any general law, or particularly the act of 1845. Laws of previous legislatures as long as they remain in full force are as binding upon succeeding legislatures as upon individuals. No doubt the General Assembly could have repealed this general law, as well as any other, but while the same remained in full force, they were bound to obey the same. No notice had been posted, or published in any newspaper, as is required by the law of 1845.

Cook's Statutes, 738, *Sec.* 1, 2.

We may be told that the law of 1845 was not in force. But it never has been repealed. And under the Constitution Schedule, Sec. 1, we find that this act in common with all others not in conflict with the Constitution, remains in force. Cook's Statutes, page 75, which section is in the words following:

"That all laws in force at the adoption of this Constitution, not inconsistent therewith, and all rights, actions, prosecutions, claims and contracts of this State, individuals or bodies corporate, shall continue and be as valid as if this Constitution had not been adopted." That statute remained as the law at the time of the adoption of the Constitution, and was not and is not inconsistent therewith; hence it remains still the law.

The act of 1845 referred to, is certainly a general public law, by its own terms. It reads as follows:

Sec. 1. "No petition or petitions shall be finally acted upon by the General Assembly, which prays for a change of county lines, the erection of new counties, *the removal of the seat of justice of any* county, or which may affect the rights and interests of any person

or persons, unless the petitioner or petitioners shall have given four weeks' notice in some newspaper printed in this State, and a copy of said advertisement shall be put up on the court house door in said county, at least two months before such petition shall be presented to the General Assembly.

Sec. 2. "No county shall hereafter be divided, or county seat removed unless it be done on a petition signed by a majority of the qualified voters of said county so to be divided, or the county seat removed; which petition shall particularly describe the line or lines of divisions or curtailment so proposed, and particular place to which such county seat is proposed to be removed."

We are aware that this court has decided in 17 *Ill. R.*, 151, that the act referred to is "merely advisory and cannot abnegate or abolish the power of subsequent legislatures," but in that case it would not seem that the other question was raised, that notice must be given by publication and by putting the same up on the court house door, for the period required by the statutes above copied. In this case there was neither notice or petition; we apprehend that it cannot be claimed that the statute in regard to notices in such cases is merely directory and advisory; it seems to be a positive requirement that was not complied with, as appears by the evidence of George A. Wooodford, who was at the time county clerk and held his office in the court house in said county.

Cushing's Law of Legislative Assemblies, Secs. 788, 789, 790, *pages* 310, 311.

If the act is repealed at all, it must be by impli-

cation. Statutes are seldom repealed by implication. The law disfavors such repeals.

12 *Ill. R.*, 341.
13 *Ill. R.*, 728.
4 *Gilman R.*, 221.
4 *Pickering R.*, 410.
5 *Hill R.*, 221 *to* 225.
9 *Cowen R.*, 437, 506.
Sedgwick on Statutes and Constitutional Law, *pages* 123, 124, 125.

II.

The act of Feb. 11, 1863, submitting the question to the people of the county as to the removal of the seat of justice of Iroquois county is a *public act.*

Says *Sedgwick in his Work on Statutes and Constitutional Law:* "The establishment of towns and counties and the boundaries, *Court Houses*, jails, bridges and ferries, and all matters of public policy, and acts relating to them are of course public acts."

Sedgwick on Statutes, *pages* 30, 31, 32, 33, 34.
10 *Howard U. S. R.*, *Curtis's Condensed Reps.*, *pages* 494, 495.
8 *Howard U. S. R.*, 569.
7 *Mass. R.*, 9.
1 *Kent Commentaries*, 460.
5 *Gilman R.*, 216.
1 *Scam. R.*, 74.

Says Kent, in Vol. 1, of his Commentaries, page 460: There is another material distinction in respect to public and private statutes. The courts of justice are bound, *ex officio*, to take notice of public acts without

their being pleaded, for they are part of the general law of the land, which all persons, and particularly the judges, are presumed to know. Public acts cannot be put in issue by plea. *Nul tiel* record cannot be pleaded to a public statute; the judges are to determine the existence of them from their own knowledge. But they are not bound to take notice of private acts, unless they be specially pleaded, and shown in proof, by the party claiming the effect of them."

It is decided by this court in 5 *Gil.*, 214, that a county is a public corporation, subject completely to the control of the legislature.

It is also decided by this court in 1 *Scam.*, 74, that an act fixing the boundary lines of a county is a public act.

Acts of the General Assembly are published in two parts, one entitled "Public" and the other "Private" laws; all acts for the removal of county seats, &c., are published as public laws, showing that the legislature itself recognized them as public laws or acts.

Blackwell on Tax Titles, page 727, *Secs.* 108, 109.
4 *Blackford R.*, 234.
Laws of 1861, *page* 137.
9 *Greenleaf R.*, 54.
2 *Greenleaf R.*, 303.
2 *Penn. R.*, 1050.
1 *Missouri R.*, 24.
1 *Dever. and Bat. R.*, 115.
6 *Alabama R.*, 289.
7 *Mass. R.*, 9.
10 *Mass. R.*, 91.
4 *Sheply R.*, 58 *and* 69.

Under the authorities it will not be contended that the act of Feb. 11, 1863, is not a public act.

It being a public act by virtue of the constitution of the State of Illinois, does not go into effect for sixty days after the end of the session at which it was passed.

We find that Sec. 23, of Article 3, of the New Constitution reads as follows:

"And no public act of the General Assembly shall take effect or be in force until the expiration of sixty days from the end of the session at which the same may be passed, unless in case of emergency the General Assembly shall otherwise direct."

It is well known that the session of the General Assembly for the year 1863, did not close until the month of June, 1863, hence the election held in the month of March, to wit, March 17, 1863, was held before the end of the session, and was held without authority of law.

The provisions of the Constitution as found in Sec. 23, Art. 3, as we apprehend, is imperative, and is not to be done away with by any sort of intendment or implication. The question raised in this case upon this point is so fully and completely passed upon and decided in 16 *Ill. Reports at page* 361, that we are constrained to copy the opinion of the court in that case, delivered by Chief Justice Caton. The Chief Justice says:

"The question is, whether the law took effect and became in force before the expiration of sixty days from and after the close of the session at which it was passed. *We think it did not.* The 23d Sec. of the 3d

Art. of our constitution declares, "And no public act of the General Assembly shall take effect or be in force until the expiration of sixty days from the end of the session at which the same may be passed, unless in case of emergency the General Assembly shall otherwise direct." The object of this provision of the constitution no doubt was to enable those who are to be governed or affected by a law, to become informed of its provisions, while at the same time, in cases of emergencies a discretion is vested in the legislature to dispense with this provision of the constitution, and direct that the law shall sooner go into operation. It may not be denied that this discretion cannot be revised by the court, and that the General Assembly is the sole judge of the emergency, which shall induce them to anticipate the constitutional period when a law shall go into operation. But such direction must be made in a clear, distinct, and unequivocal provision, and cannot be helped out by any sort of intendment or implication. And such is the unequivocal understanding of the legislature, as evinced by the entire legislative history under this constitution. Wherever it is designed that a law shall go into force before the expiration of the sixty days, we universally find a separate clause at the end of the act, of the following purport: "This act to take effect and be in force from and after its passage." We find one hundred and twenty-seven acts passed at the same session of the legislature, terminating with substantially the same distinct and unequivocal clause. There is one, declaring, by a separate and distinct clause, also, at the end of the act, that it should take effect on the first day of August. There are two in which it is declared, in a similar way, that they should take effect on the first day of April, and two others in

which it is also declared in a similar way that they should take effect on the first day of March, the very day on which it is insisted that this act took effect. This at least serves to show what is the universal practice of the legislature, when they deem an act of sufficient emergency to take it out of the constitutional provision. In the law in question there is no distinct clause declaring when the act, as a whole, should take effect and become an operative law. It is true that the act says, that after the first day of March next, certain acts should not be done, but whether the word *next* refers to a time succeeding the final passage of the bill, or the approval by the Governor, or the time fixed by the constitution for the law to take effect, the legislature did not say. In order to take an act out of the constitutional provision, the legislature must direct that the act, as a whole and entirety, shall take effect at a different time; *and it is not sufficient that certain parts of it might bear a construction which would, taken separately, give those parts effect at an earlier period.* The legislature did not direct that this act should become an operative law before the time fixed by the constitutional provision quoted.

"The judgment of the circuit court must be reversed and the cause remanded."

Apply the law and the reasoning of the foregoing case to this, and no question would seem to remain upon this point.

Wheeler vs. Chubbuck, 16 *Ill. R.*, 161.

We find that since the adoption of the New Constitution of 1848, there has been passed under the provisions of such constitution, by the legislature of this

State, twenty-one acts relative to the removal, the location and relocation of county seats. Out of the whole number, we find no act like the one in this case; we find also at the end of nearly all these acts that there is a special provision as to when the act is to take effect and be in force, and in cases where such provision is not found, the election to be held under and by virtue of the act is not to be held until after the expiration of sixty days. There is not an instance as far as we have been able to find, where an election was to be held or the vote taken within the sixty days, unless the act itself provided that it should be in force and take effect from and after its passage. "This, at least, serves to show what is the universal practice of the legislature, when they deem an act of sufficient emergency to take it out of the constitutional provision," as said by C. J. Caton, in 16 *Ill. R.*, 362.

It will be seen by this act of Feb. 11, 1863, that only about *thirty-four* days elapsed from the time of the *passage* of the act, to the time provided therein for holding the election, and that the session had not adjourned *sine die.*

The circuit court in delivering the decision, and opinion, in the case, as to the constitutionality of the act used the following very proper, correct and appropriate language. Not claiming that the decision has any binding force upon this court, we still are disposed to give it as showing the reasons for not dissolving the injunction. The court (Starr, Judge.) says: "Courts should at all times when they can do so legally, so construe and interpret laws that the expressed wishes of the people may be carried into effect. It seems in this

case that by an act of the General Assembly, passed February 11, 1863, the question of the removal of the county seat of this county was submitted to the people, that in pursuance of such act an election was held on the 17th day of March next, after the passage of the act, at which time the voters of the county voted a majority in favor of such removal. It is not the province of this court at this time to try the question of the regularity of such election. The main question now before the court is, whether the act itself, submitting the question to the people, is constitutional. If it is unconstitutional, then every act and proceeding done under and by virtue of it is void. If the people desire the removal of their county seat, they certainly wish it done according to law. The question raised by the counsel for the defendants, as to the injunction being granted by the Master in Chancery, who is a property owner in one of these towns, and consequently interested in the result of these proceedings, I think there is nothing of it. He does not decide upon the merits at all. The bill being presented to him, if he saw enough in it to justify him in so doing, it was his duty to order the issuing of such writ, and it is entirely immaterial what his interests were. And in this case, if I should dissolve this injunction, on that ground alone, I should be compelled upon the showing in the bill filed, to grant another. I am of the opinion that that is no cause for dissolving the injunction. Another question raised by the counsel for the defense is, that all parties interested should be made parties on the record. As a general rule, the position taken is correct, but such rule has exceptions. Where the parties are so numerous that they cannot be spread upon the record, any number of them can sue, as in this case. The complainants

bring this suit for themselves and in behalf of all other citizens, residents and tax payers in and of said county. I am of the opinion also that the suit is properly brought.

"There are a large number of questions presented by this bill, which it will not be necessary for this court to pass upon at this time. The question of the constitutionality of the act of the General Assembly of Feb. 11, 1863, authorizing this election to be held, &c., is among the more prominent ones presented. I shall therefore proceed to give my views upon that alone. By the 23d Section of Article 3d of the Constitution of this State: 'No public act of the General Assembly shall take effect or be in force until the expiration of sixty days from the end of the session at which the same may be passed, unless in case of emergency the General Assembly shall otherwise direct.' Did this act go into effect before that time? Did the General Assembly otherwise direct as contemplated by said provision of the Constitution. The Supreme Court of this State in a very similar case reported in 16 *Ill. R.*, 361, says:" (Here follows a copy of the opinion of the Supreme Court in the case above cited, after which the court proceeds to say:) "I adopt the language of the Supreme Court as found in the case of *Wheeler vs. Chubbuck*, 16 *Ill. R.*, 361. This is fully expressive of my views of the case at bar, and I apprehend decisive of this question. It is not a question as between the two towns of Old and New Middleport, but is a question in which all the people of the county have an interest. It is also better that the case should be disposed of at this term, than to delay until the county has been to large expense erecting county buildings, and then find that courts cannot be held at such places, for

the reason that the county seat has not been constitutionally removed. The more I reflect upon the question, the more fully I am convinced that the act under which the election of the 17th day of March, 1863, was held, is unconstitutional and void; and the act being unconstitutional, all proceedings had under it are void. I am therefore of the opinion that the injunction was properly granted, and should not be dissolved. It is unnecessary for me to decide the other questions raised by the bill. I should be glad if an arrangement could be made to take the opinion of the Supreme Court upon the question. If I am wrong I should be glad to know it."

It is to be recollected that constitutional provisions, so far as they relate to the power of a State legislature, are not grants of power, but limitations of power, and that the rule in such case is that such provisions shall be strictly construed.

15 *Ill. R.*, 388, 392.
2 *Scam. R.*, 79.
3 *Scam. R.*, 127.
6 *Cranch. R.*, 87.
3 *Wash. C. C. R.*, 313.
15 *Wend. R.*, 138.
Sedgwick on Stat. and Const. Law, 18, 19, 20.

It will be borne in mind that the opinion delivered in the case of Wheeler vs. Chubbuck, 16 *Ill. R.*, was the unanimous opinion of this court. Then applying to that case the rule laid down in the case of *Field vs. The People*, 2 *Scam. R.*, 79, that, "When the Supreme judicial tribunal of a State has declared what the law is on a given point, when the same point comes again in litigation, all the courts in the State are bound

to conform to the decision." We are told that the intention of the legislature was manifest upon the face of the act, that it should go into effect on or before the 17th day of March, then next, after the passage of the said act; and if that was not the intention, the General Assembly would not have fixed upon that day, to wit, the 17th day of March, 1863, on which to take the vote and hold the election. That intention is no more manifest in this case than it was in the case already referred to in 16 *Ill. R.* The act of the General Assembly passed upon by this court, can be found in *Session Laws of* 1853, *at page* 153. It will be seen the same number of days had elapsed from the time of its passage to the time it was supposed to go into effect, as in the act of Feb. 11, 1863, as found in the Session Laws of 1863, at page 51. Still this court held that act unconstitutional, and tell us that the direction as to when the act shall go into effect, "must be made in a clear, distinct and unequivocal provision, and cannot be helped out by any sort of intendment or implication." And that is not all that this court have decided in that case in answer to the position taken by the plaintiff in error, but the court further say: "In order to take an act out of the constitutional provision, the legislature must direct that the act as a whole and entirety, shall take effect at a different time; and it is not sufficient that certain parts of it might bear a construction which would, taken separately, give those parts effect at an earlier period." That is a full and complete answer to the position taken by the plaintiff in error, as to the apparent intention of the legislature.

However strongly courts may desire to carry out the expressed wishes of the people, and however much

it may be argued that the majority should govern and rule in cases of this nature, still we apprehend it is not the province of any court to overrule and override the plain and obvious terms of the constitution, in order to carry into effect a law that would otherwise, according to the constitution itself, and the decisions of this court, be held unconstitutional and void. It is not the wish of the legal voters, residents and tax payers, of Iroquois County, to change the location of their county seat or seat of justice unless it can be done in due form and strictly in accordance to and with the constitution and laws of this State. Much better be without a court house and other county buildings than to be illegally taxed to erect such buildings, and discover in the end that they are still without buildings in which courts can be legally held. This was the view of the circuit court in which we believe such court correct. This is not by any means an individual matter, but on the contrary, interests the whole people of the county. Those voters of the county who voted for such removal, no doubt did so under the belief that the act submitting the question was valid, and that the question was by the act submitted to them in common with all others legally entitled to vote, in accordance to the constitution of this State. The majority may be in favor of such removal, when it can be done in a legal manner, but the majority are not in favor of having it illegally and unconstitutionally done.

We may be again told that the preamble to the act of Feb. 11, 1863, shows a necessity or an emergency by its own language. It may be admitted that it shows a necessity or an emergency for the building of a court house and other county buildings. But it does

not follow by any means that because the county needs public buildings, that there is an emergency for the removal of the county seat to another place, and that the act should go into effect immediately. The preamble itself is no part of the act, and from its own language is entirely foreign to the subject of removal, and if the legislature could see such an emergency as to take it out of the provisions of the constitution, and did see it, why did they not declare it in the act itself in a specific manner.

For convenience of reference we give below a copy of the act of Feb. 11, 1863, submitting the question of removal to the people:

"*An Act to enable the People of Iroquois County to vote for a Removal of the County Seat:*

PREAMBLE.

"WHEREAS, The Court House of the county of Iroquois was destroyed by fire in February, A. D. 1862; and, whereas, there are no suitable buildings and conveniences in the town of Middleport for holding courts and transacting the public business of the county; therefore,

"Sec. 1. Be it enacted by the people of the State of Illinois, represented in the General Assembly, That on Tuesday, the 17th day of March, A. D. 1863, an election shall be held in the county of Iroquois, in the State of Illinois, at the usual place of holding elections, for determining whether the present Seat of Justice shall be removed and re-located.

"Sec. 2. The officers of elections shall attend on the day of election and conduct said election according to the laws of this State in cases of election of county

officers, and all legal voters of said Iroquois county shall be entitled to vote for or against the removal of the County Seat of said county to the town of South Middleport.

"Sec. 3. The ballots shall be in the following form, to wit: "For Removal," "Against Removal;" and the officers of said election shall make returns in the manner and time now prescribed by law in case of election of county officers in the State.

"Sec. 4. When the returns shall have been made to the County Clerk of said Iroquois county, he shall proceed to canvass said returns and open and count the votes cast at said election, in every respect as in cases of election of county officers as now provided by law for said county of Iroquois; and if a majority of all the votes cast at said election are "For Removal," then South Middleport (consisting of South Middleport and Stanley's Addition thereto,) shall be and remain the permanent Seat of Justice of said county.

"Sec. 5. If the Seat of Justice shall be established at the said town of South Middleport, according to the provisions of this act, the Board of Supervisors of said county are hereby constituted and appointed commissioners to select the site for the erection of public buildings, either upon the original plat of South Middleport or Stanley's Addition thereto, as shown upon the records of said plats in the Recorder's office of said county, and it is hereby made their duty forthwith as soon as practicable to procure or erect suitable public buildings for the public officers of said county, and for holding the County and Circuit Courts of said county in said town of South Middleport or Stanley's Addition thereto; and when such arrangements have been made,

the records and officers of said county shall be removed to said place, and the County and Circuit Courts shall be held at that place.

"Sec. 6. Public notice of said election shall be given by the County Clerk, in two newspapers, printed at Middleport in said county, and the town clerks of the several towns shall cause a copy of said notice to be posted up in three of the most public places in each town, at least twenty days previous to the holding of said election, and said notice shall state that the election is called for the purpose of removing the County Seat of said county to the town of South Middleport, but notice of said election may be published and put up by any citizen of said county in said several towns as aforesaid, and if actually posted up, shall be deemed legal and sufficient notice of said election; provided, also, that the refusal of any publisher of any paper in said county to publish said notice shall not render said election invalid.

"Sec. 7. All acts or parts of acts which conflict with this act are hereby repealed."

"S. A. BUCKMASTER,
"Speaker of the House of Representatives.
"FRANCIS A. HOFFMAN,
"Speaker of the Senate.

"Approved February 11, 1863.
"RICHARD YATES, Governor."

III.

This act, while it is a public law, is also a local law, and being a local law is unconstitutional and void, as it embraces more than one subject not expressed in the title, and does not comply with the terms of *Sec.*

23, *Art.* 3, *of the Constitution of this State*, which is in the following language: "And no private or local law which may be passed by the General Assembly shall embrace more than one subject, and that shall be expressed in the title."

The title to this act is, as will be seen in the following words:

"An act to enable the people of Iroquois county to vote for the removal of the county seat." The title clearly expresses but one subject and that is to vote, &c., and nothing more. But we find in Sec. 5 of said act, that the Board of Supervisors of said county are appointed Commissioners to select the site for the erection of public buildings, either upon the original plat of *South Middleport* or Stanley's Addition thereto, and it was also "made their duty forthwith as soon as practicable to procure or erect suitable public buildings for the public officers of said county, and for holding county and circuit courts of said county in said town of *South Middleport* or *Stanley's Addition thereto.* We find nothing in the title of the act in relation to the appointment of Commissioners. There is nothing expressed in the title except simply to *enable the people to vote*, &c. This being, as we have shown, a local law, is covered by the provision of the constitution above cited. There is here put into this act a provision totally outside, and different from the purposes of that expressed in the title, and embracing another subject to wit: the building of county buildings, an entirely foreign matter so far as the removal, or the voting for a removal is concerned, and are not expressed in the title or even intimated therein. It is just such a provision as would not attract attention, as would slip in unob-

served by those who, looking to the title, considered it a merely local act, interesting only as to those involved in the question of voting for or against a removal. It is, as we apprehend, precisely within the mischief, to remedy which, the provision cited was put in the constitution. It is either a trick or a blunder which is a palpable fraud on both the law and the constitution. We look upon it as plainly unconsitutional, as well as being in the teeth of all legal principles and all honest practice. The discussion which its existence has permitted in this case upon this point, we deem of much more consequence than any limited mischief it may do. And we desire and are more than willing that the point taken should be followed out to a decision so authoritive as to settle the law of this State on a question so vitally important to community.

IV.

The Board of Supervisors are constituted by the *act of* 1861, a corporate body, and manage the finances of the county under and by virtue of the township organization law, and are the only constitutional body that has the authority to build public buildings in the county.

Laws of 1861, *pages* 235, *Sec.* 3.

Laws of 1861, *Art.* 14, *Sec.* 14, makes it the duty of such Boards, as often as it shall be necessary, to build court houses and jails, or cause them to be repaired, in their respective counties, at the expense of such counties. The county of Iroquois is acting under township organization laws, and the Statute above cited is the general law of the State, and applies to all counties acting under township organization laws. Section 5 of

this act takes away the right of the Board of Supervisors to act in the matter of building court houses and jails, without repealing the general law, and is in conflict with it. Can the Board of Supervisors act in two capacities at the same time, under two conflicting Statutes, one a general and the other a special law? Under the terms and scope of Sec. 5 of said act, were the members of the Board of Supervisors in office and serving at the time the act was passed, to wit, Feb. 11, 1863, to continue to act as Commissioners after their term of office expired, or were their successors clothed with the powers of such Commissioners? The act fails to inform us. If we are told it was the intention of the legislature to make the (then) Board of Supervisors and their successors in office such Commissioners, we would ask why make that provision, when they were virtually clothed by a general law of the State with all the powers granted them by this special and local law? Again, if we are told that it was the design of this special act to empower the then existing Board with exclusive authority, it then continues them in office, to the exclusion of the legally constituted authorities in the premises, and would be repealing a general law by implication, which is seldom permitted, as shown by the following authorities:

12 *Ill. R.*, 341.
13 *Ill. R.*, 728.
4 *Gilman, R.*, 221.
4 *Pickering R.*, 410.
5 *Hill R.*, 221 *and* 225.
9 *Cowen R.*, 437 *ond* 506.
Sedgwick on Statutes, 123, 124 *and* 125, *and authorities cited.*

We may be told that Sec. 7 of the same act re-

peals all laws in conflict with it. If it repeals the general law, how far is that general law repealed, and will the Board of Supervisors of Iroquois county at any time have the power to again build or repair court houses and jails; if not, who has the authority hereafter so to do? And if they are again to possess such power, when does the authority of the Commissioners cease, and the duties of the Board, as such, commence by virtue of the general law? The act fails again to inform us. If the general law is repealed at all as to the duties of the Board of Supervisors, it must be by implication; and if it ever again goes into force it must again be by implication; and if the general law is repealed by the 7th Section of this act, it is entirely repealed, and ousts the Board of Supervisors, as such, of any jurisdiction in the premises, and they cannot hereafter act.

Again, if the general law is repealed, does it repeal it as to other counties, or only as to this. (Iroquois?) The act again fails to tell us. We apprehend that it was not the intention of the 7th Section of the act of Feb. 11, to repeal the general law, and if not, there is a conflict of authority in the Board of Supervisors and the would be Commissioners. Who then shall act? We take the position that the legislature might as well have appointed Commissioners outside of the Board of Supervisors as to have appointed them, without repealing the general law. It is certainly creating a new set of officers, and gives them a new and different name, and compels them to act in the capacity of Commissioners. Suppose in this case, (as we apprehend they well might,) the present Board of Supervisors should claim the right, under the general law, to

act in the matter; and the old Board acting or claiming to act as Commissioners, should attempt by virtue of the act of Feb. 11, 1863, to erect public buildings, there would then certainly arise a conflict of jurisdiction that perhaps could be settled by *quo warranto*, and perhaps by injunction in behalf of the people interested. If it can be reached by writ of injunction, we can reach it in this proceeding, as it is directly made a question in the complainants' bill. But we were told in the court below that we could only test the rights to act by a direct proceeding by *writ of quo warranto*, admitting, as they did, that there might be an apparent defect, but that complainants had mistaken their remedy. Proceedings by *quo warranto* would not prevent the defendants continuing their illegal exercise of pretended authority until all the mischief was accomplished that could be, to restrain the doing of which the bill in this case was filed and the injunction granted. The act is void for uncertainty.

V.

The act is void as it does not fix any definite and certain point to which the county seat was to be removed, as required by the constitution and laws of this State. But on the contrary, attempts to fix two points, neither of which is certain or definite. The constitutional provision in this respect is in the following language, as found in Art. 7, Sec. 5:

"No county seat shall be removed until the *point* to which it is proposed to be removed shall be fixed by law, and a majority of the voters of the county shall have voted in favor of its removal to such point."

The general Statute in regard to the removal of

county seats is in the following words, as found in *Cook's Statutes, at page* 738, *Sec.* 2:

"No county shall hereafter be divided, or county seat removed, unless it be done on a petition signed by a majority of the qualified voters of said county so to be divided, or the county seat removed, which petition shall particularly describe the line or lines of division or curtailment so proposed, *and the particular place to which such county seat is proposed to be removed.*"

The act of *Feb.* 11, 1863, *Sec.* 5, recognizes by its own terms two points or places, and authorizes the Commissioners to select a site "for the erection of public buildings, *either* upon the original plat of South Middleport *or* Stanley's Addition thereto." The question then arises, what does the word *either* mean as used in the act referred to? Take the word in its plain English, it means one or the other in the alternative, giving and granting a choice, or discretion. Webster, in his Unabridged Dictionary, says it means "*one or another of any number*," and again he says, "*each*, every one separately considered. This word when applied to sentences or propositions, is called a *distributive* or a disjunctive *conjunction*, it precedes the first of two or more alternatives, and is answered by or before the second or succeeding alternative." Again, we find the word *either* immediately followed by the word *or* in the same sentence. Now, what is the meaning of the word *or* as used in the act? We again refer to Webster, and find he says "it is a connective that marks an alternative, as you may read *or* write, that is, you may do one of the things at your pleasure, but not both; it corresponds to either, you may *either* ride to London *or* to Windsor." If Webster is correct, the Commissioners

can, at their pleasure, locate the site and county buildings in one place or the other, or at one point or the other, but not at both. Then they have discretion in the matter that the act attempts to grant them that is not allowable under the constitution and the laws of this State.

Again, what did the framers of the constitution mean by using the specific word *point*, as used by them in *Sec.* 5 *of Art.* 7? That is a very certain word, and carries with it its meaning. They could have used the words place, locality, city, town or village. But instead of that, they used the more exact, specific, and certain expression. Webster says it means "*exact place.*" It cannot then mean two places; and the act itself, by using the words *either* and *or* in the manner in which they are used, recognizes more than one point. We are told that the legislature, in the act of 1845, in regard to the removal of county seats, &c., as found in *Cook's Stats.*, 738, *Sec.* 2, used the word *place* instead of *point.* We admit they did, and so it reads; but they were careful to put the word *particular* before the word *place*, which makes the expression synonymous with the language used in the constitution. The word *particular*, as used, is a governing expression, and controls what follows, and means certain, special, fixed. Webster calls it an *adjective*, and it would, according to the rules of grammar, qualify the noun *place*, and gives it as meaning: "pertaining to a single person or thing, not general, individual, noting, or designating a *single* thing by way of distinction, noting some property or thing peculiar, single, not general, having something that eminently distinguishes one from others. A distinct, separate, or minute part." It cannot mean then

that it can be one place, *or either*. We are again told that the act, Section 2d, makes South Middleport and Stanley's Addition one and the same place, by the language included in parenthesis, in these words: "consisting of South Middleport and Stanley's Addition thereto." This simple declaration does not make it so, and does not bring the two points within one, by any means. If it did, they could as well say (South Middleport, consisting of South Middleport and Kent Station,) a place some miles distant. The proximity of places does not make them the same place. The town of "South Middleport" is one place and locality, and laid out, surveyed and recorded as such, and by the name of "South Middleport." "Stanley's Addition" is also laid out, suurveyed and recorded by the name of "Stanley's Addition;" it may adjoin the town proper, and may be miles away. Can it be perceived from the act which division or point it was the intention of the legislature or the voters to remove the county seat to? If Stanley's Addition is South Middleport, then why make the two points distinct in the act? Why say that such Commissioners can locate and build in either of the places? The ballots were in this form: "*For Removal*," "*Against Removal*." And then the attempt is made to allow these Commissioners to locate at either of the two points or places named. In the attempt to make two *points*, they fail to fix by law, as contemplated by the Constitution and the Statute, any *particular* place.

Constitution, Sec. 5, *Art.* 7.
Revised Laws of 1845. *Cook's Stat.*, 738.

VI.

The next question raised by the complainants' bill,

is one that this court may consider settled in a former adjudication upon a similar point. We refer to the case of *The People ex-relatione John W. Mitchell vs. Richard N. Warfield, County Clerk of Saline County*, 20 *Ills. R.*, 159. Believing, as we do, that there is a vast difference in the case reported and the one at bar, we will not be charged with taking issue with that decision, by saying that the rule laid down in that case, under the facts as they existed therein, have no application to the facts of this case. Hence we contend that the decision of that case does not govern this. We will again quote the language of the constitution upon this point as found in *Art.* 7, *Sec.* 5. No county seat shall be removed until the point to which it is proposed to be removed shall be fixed by law, *and a majority of the voters of the county shall have voted in favor of its removal* to such point."

That a majority of the voters of the county of Iroquois did not vote at this election, is made certain by the evidence taken in this case, as fully and conclusively appears in proof. At the time of holding this special election, from ten to fourteen hundred of residents and citizens of the county were in the service of the United States, as officers and soldiers in the army; that out of that number, from seven hundred to nine hundred were voters, and did not and could not under the provisions of the act of Feb. 11, 1863, vote or have any voice in the determining of the question. These men neither lost or gained a residence, but were still legal and competent voters in the county—simply absent temporarily at their country's call, fighting the battles of the nation. Their homes were here, their families were here. They continue to pay taxes upon

their property here in this county. They and each of them have as much and as deep an interest in the good and welfare of the county as those that remained at home and voted. It is immaterial how they would have voted. Under the constitution and the laws of the State they were fully entitled to vote as they should deem expedient and proper. They were entitled to all the rights of citizens, residents, tax payers, and freemen. They lost no rights by enlisting into the service, they waived none by taking up arms for the country. Had they remained at home and not voted, no doubt the rule laid down in 20th Ill. R., 159, would have applied to them. It seems that in that case 26 votes were actually cast in blank, or that did not vote for either place; hence comes in the reason of the decision. These 26 voters stood passive, and with all the privileges of voting upon that question, failed to do so, thereby waived their right of their own accord, and not by compulsion, as in this case. Vastly different is this case. At a time when it was well known to all that full one-third of the legal voters of the county were in the army, and away from home, making it, under the act, impossible for them to vote, a special election was held within about one month from the passage of the act, and the vote taken thereunder, involving interests of vital importance to all the legal voters then in the field. And that, too, under an act, as we think we have shown, in itself unconstitutional and void, in more respects than one. These men, these voters and tax payers, claim their rights in the premises, inasmuch as they have not barred them by any act of their own. No laches is imputable to them, no purposely standing by and not voting, no want of diligence can be charged to them. This proceeding is instituted for their benefit

as much as for the benefit of those whose names appear upon the record, and is prosecuted in behalf of those named, and in behalf of all other citizens, residents, tax payers and legal voters in said county. But in order to avoid the force of this position, we are told that the act of the legislature provides in Sec. 3, that "all the legal voters of said Iroquois county shall be entitled to vote for or against the removal of the county seat of said county to the town of South Middleport," and "why did they not do it?" The answer to this question is made apparent upon the record by the evidence. They were in the army and could not vote. It was not in their power to vote. But it was in the power of the law makers to so legislate that their votes could have been taken; following the precedent in other cases, their votes could have been taken in the army, under proper rules and regulations. Then perhaps the said election would not have been quite so repugnant to the constitution and the law of the State. The simple expression that "all the legal voters of said Iroquois county shall be entitled to vote for or against the removal of the county seat," &c., did not grant to the voters in the county or in the army any new privileges. They had that right granted to them long before the 11th day of February, 1863, and had and retained that right on the 17th day of March, 1863, and retain it still, aside from any provisions of the act of Feb. 11, 1863. In nearly, if not in all attempts to remove county seats, sides are taken, interests are at stake, frauds are practiced. Such acts are usually drafted by parties in interest, and in many instances pass both branches of the General Assembly without much deliberation. They are local in their nature, and the majority of the members take but little notice of them; they are hur-

ried through at the suggestion of those in interest. Hence originates such mistakes as is apparent in this act.

We have no charges of fraud to make, the record shows more than we are disposed to say. But we do say, and believe the act itself sustains us in so doing, that it was an attempt to remove and locate the county seat upon some part of Stanley's Addition, so called, for the benefit of a few speculators, under the guise and pretence of locating the same at "South Middle port," a more central point, and that too in fraud of the legal voters of the county, and in violation of the constitution and laws of the State, without regard to the rights of the citizens of the county. If this is not so, why did they so frame the act submitting the question that the election would be held within thirty-four days from the day of its passage? Did they apprehend that the war would close within sixty days, the constitutional period for the law to go into effect, at which time the soldier would return and claim his right to be heard? Why was not this matter, as is usual, presented and voted upon at a general election? Why was it voted upon while the laws were yet unpublished, and sealed up in the hands of the Secretary of State, and not to be seen until the re-assembling of the legislature in June thereafter, long after the election was to be held? If we have made charges not justified by the record in this case, it will be remembered that such are not as to the legislature, but as to those who engineered the matter through that body, and *they* can justify only on the ground of interest.

We are well aware how far this court has gone in the case cited in 20 Ill., in putting a construction upon

the provision of the constitution, as found in Sec. 5, Art. 7. And we desire it distinctly understood that we are not here to contend with or combat the opinions of this court; it is not our province or intention. But we base our views upon, as we think, an entire different state of facts than appearrd in the case cited. In that case all had a chance to vote; in this, it was impossible under the act for all to vote. In that case the vote was taken at a general election. In this it was at a special election. In that 26 only failed to vote, but were in a situation so to do, if they saw fit. In this, from 700 to 900 did not vote, and were in the army and could not. In that case, the laws had been published and circulated long before the election. In this, the laws had not been published nor circulated, but remained under the seal of the Secretary of State, and the people went to the election uninformed. In that case, full nine months intervened between the passage of the act and the time of holding the election, and the General Assembly had long before that time closed its session. In this case, only 34 days intervened from the time of passing the act to the time of holding the election. In that case, the act went into effect by its own terms, "from and after its passage." In this case, the act did not go into effect at all until 26 days after the election was held, if it ever took effect; and the election was held nearly three months before the end of the session at which it was passed, and would not have legally gone into effect until about the 11th day of August then next; the General Assembly having been prorogued on the 11th day of June, 1863. In that case, notices of election (it is admitted) were duly posted according to the law. In this, it is denied and proved, and we think shown, that notice was not posted. Under the provis-

ions of the constitution of this State, and the laws, and by virtue of the special law of Feb. 11, (if it can in any sense be called a law,) and under decision of this court above cited, the point we make here is good, and that decision does not reach this case under the facts.

VII.

How is it, in view of the act of February 11, 1863, to be ascertained that the county seat has been legally removed? The act does not even make it incumbent upon the County Clerk to make a certificate of that fact; and this court has already decided in 20 *Ill. R.*, 159, that even where the Clerk certifies the result, it is no legal evidence that a majority of the voters of the county have voted for the one place or the other. If the Clerk certifies the result at all, he does it under the general law, as in other elections. Then what legal evidence have the Board of Supervisors that the county seat has been removed? This court has said that, "that must be an open question, to be tried in any legal mode, the same as if the law had not authorized him to canvass the vote at all." Hence the question remains undecided, and the Board of Supervisors have no right to proceed to removal.

VIII.

It will be seen that by Sec. 6 of the said act of Feb. 11, 1863, it was made the duty of the County Clerk to see that public notice was given of said election, by posting, and publishing in two newspapers, printed in said Middleport, in said county, at least twenty days previous to the holding of said election. It is charged

in the plaintiffs' bill that such notices were not published, and that no publisher of any newspaper published in said Iroquois county, did at any time refuse to print or publish said notice. This allegation of the bill is sustained by the evidence of George A. Woodford, the County Clerk. Whereby it is clearly shown that the election was held without complying with even the terms of the act itself, and is therefore void under the provisions of the act, even if the act was valid.

IX.

The ballots cast at said election were not in the form prescribed by the law. Sec. 3 of said act provides that, "the ballots *shall* be in the following form, to wit: "For Removal," "Against Removal." The ballots voted at said election were in the following words:

"South Middleport Ticket."
"For Removal."
"Old Town Ticket."
"Against Removal."

Nothing is said in the ticket as to "Stanley's Addition." The form of the ballots does not correspond with the act.

We have now gone through with the leading questions raised by the complainants' bill. There are other questions made in the bill, that will appear from an examination of the record, and which we are not disposed at this time to comment upon.

We then arrive to the questions raised by the defendants in the court below, on their motion to dissolve the injunction and dismiss the bill, which questions will

no doubt be again raised in this court by the plaintiffs in error.

First. That there is no equity in the bill filed by complainants. The scope of the bill is to prevent the Board of Supervisors and the other parties named therein as defendants, from proceeding to remove the county seat or seat of justice from its present location to another point, as will appear by the bill itself. The complainants are citizens, residents and tax payers of the county, who sue for themselves and all other citizens and tax payers of the county of Iroquois. It is charged in the bill that the said Board are about to illegally expend and squander a large sum of money in such removal, purchasing site, erecting buildings, &c., at a place not legally made or appointed the county seat of said county, whereby the tax payers, the complainants in common with all others, would be greatly injured and damaged. The equities of the bill appear upon its face, and it is useless to spend time in discussing the question. The interest of the complainants is direct and certain, and there is no other mode of procedure by which the defendants in the court below could be prevented from illegally, wrongfully and unjustly proceeding under this pretended and void authority, to remove the public records, public offices, and erecting public buildings. In the case found in 20 Ill. R., 165, this court has virtually approved of this manner of proceeding in a case involving some of the same questions. We shall not trouble this court with even an attempt by argument to prove that there is equities in this bill, or to establish a fact that is so apparent upon the record, but simply refer this court to the bill itself.

The second point made by the defendants below,

is, that all the parties in interest were not made parties to the record. This point is also virtually decided in 20 Ill. R., 165, by this court, in which this court said: The case before us shows that a bill in equity was filed in *due form, and by proper parties*, in the Circuit Court of Saline county. This court in that case recognizes the right of an individual to file his bill for the purpose of settling the question, and the very question to be settled in this case, and the question in that case was specifically left to a court sitting as a court of equity.

We are willing to admit the general rule: that all parties in interest are to be made parties on the record. But this rule has many exceptions, and on this point we will content ourselves by simply referring to the authorities.

Martin vs. Dryden, et. al., 1 *Gil.*, 209, 210.
Whitney, et. al. vs. Mayo, et. al., 15 *Ill.*, 251–254.
Willis, et. al., vs. Henderson, 4 *Scam.*, 20.
West vs. Randall, 2 *Mason*, 181.
Lucas vs. Bank Darien, 2 *Steward*, 280.
Joy vs. Wurtz, 1 *Wash.*, 517.
Strong vs. Waterman, 11 *Paige*, 607.
Hendricks vs. Robinson, 2 *John. ch.*, 283.
Brown vs. Ricketts, 3 *John. ch.* 553.
Mann vs. Butler, 2 *Barb. ch.*, 362.
Story's Equity Pleading, *Secs.* 94 *to* 115.
1 *Daniels' Chancery Practice*, 292, 293, 294.
Cooper's Chancery Pleadings, 39, 40.

We might continue to enumerate authorities upon this point. The whole subject is fully digested in Story on Equity Pleading, above cited, and approved in many instances by this court. The complainants "sue

on behalf of themselves, and the other citizens, residents and tax payers in and of said county of Iroquois," bringing themselves and this case within the rules laid down by Story and the decisions of this court above referred to. It will be readily seen that it was utterly impossible to make all of the 4,000 or 5,000 tax payers of the county parties upon the record. Hence the rule applies to this case, and disposes of the second position taken by defendants below.

Third point. That the injunction was granted by C. F. McNeill, Master in Chancery, and he was interested. It may be admitted that he was a citizen of the county, and a tax payer, and a legal voter, yet he was Master in Chancery in and for the same county, and was one of the proper officers to apply to under the statute to order the issuing of the writ of injunction. If he saw enough in the complainants' bill to justify his so doing, he was compelled so to do; he had no discretion; he decided nothing upon the merits, and had no more interest than a circuit judge would have had, provided he was a resident of the same county. Besides, the evidence taken in the case conclusively shows that it was a matter of necessity that the injunction should be forthwith granted. The evidence of Chester Kinney, Attorney for the complainants, details the facts and circumstances under which the writ was ordered. At the time the application was made to him by said Kinney, the Judge of the circuit was in a distant county holding court, and could not be reached in time to prevent the contemplated evil. It was the wish of the Master that the Circuit Judge should be applied to, which was impossible. The Master is not a party to the record, nor is he Attorney for the complainants,

and never has been, either, and has no more interest than any other citizen. Hence their objection is groundless.

We have now stated the positions assumed by the complainants in their bill, and given our reasons as clearly as we are able, why we believe the law unconstitutional and void, and that under the act of Feb. 11, 1863, the county seat or seat of justice has not been constitutionally re-located, and that the injunction to restrain the defendants in the court below was properly granted, and properly sustained by that court, and should be affirmed by this.

We have discussed the points somewhat at length, under the supposition that the question involved would be submitted upon printed arguments and briefs. We believe, therefore, that we are justified in asking a careful examination of the record and our points thereon in this case. Personally with the complainants on the record, it may be of little moment whether the judgment of the circuit court be affirmed or reversed, but as involving the interests and rights of the whole people of the county, it becomes a matter of no small importance. Had the question of removal been submitted to the people under a valid law, under the provisions of the constitution, and a majority of the voters of the county had by a fair expression, voted for such removal, it would not have been the province of the complainants herein, or any other citizens, to set up their individual wishes against such legally expressed will of the people; and it is not the object of the complainants in this case to thwart or stand in opposition to the legally expressed will of the people. But believing as they do, that a strict compliance with the constitution

and the laws is as necessary in cases of this nature as in any other, they are willing to submit the question to be adjudicated upon by this court, and are ready to stand by and abide its decision. Believing at the same time that the decision of the case in the circuit court was in all respects correct, and this court should affirm the same. Then if the people of Iroquois county desire hereafter to change the location of their county seat, they can apply to the General Assembly and procure the passage of a constitutional and valid act for the purpose of submitting the question to the legal voters of the county. The constitution and the laws are ample and sufficient for that purpose, and guarantees to them fully and completely that right. But a strict compliance therewith is absolutely necessary.

The complainants are justified on other grounds in instituting these proceedings, inasmuch as in case the re-location and change of the seat of justice is illegal, years of litigation might ensue over the question, in other forms of actions, and the question still remain unsettled. It will be also remembered that the removal attempted is only virtually from one part of the village to another, being a distance of about three-fourths of a mile, consequently no great inconvenience can ensue by allowing the county seat to remain where it lawfully is until it can be legally removed.

We, therefore, in all confidence in the merits and law of the case, ask that the judgment of the circuit court be affirmed.

CHESTER KINNEY,
JAMES FLETCHER,
For Appellees.

To all to whom these presents shall come Greeting

Know ye that we having caused to be inspected the Records and proceedings remaining in the office of the Clerk of the Circuit Court in and for the County of Iroquois and State of Illinois do find therein certain Records and proceedings in the words and figures following, to wit: —

United States of America
State of Illinois } ss
Iroquois County

Pleas before the Honorable Charles R. Starr Judge of the Twelfth judicial Circuit and Presiding Judge of the Iroquois County Circuit Court in the State of Illinois, at a term of the said Iroquois County Circuit Court begun and held at the Court House in the Town of Middleport in said Iroquois County on the second Tuesday the same being the Ninth day in the month of June in the year of our Lord one thousand Eight hundred and Sixty three —

Present Hon Charles R. Starr Presiding Judge Twelfth Judicial Circuit
" Charles R. Wood States Attorney Twelfth Judicial Circuit
Marion C. Henry Sheriff of Iroquois County
Thomas Commins Clerk of the Iroquois County Circuit

Be it remembered that on the 23rd day of March A.D. one thousand eight hundred and sixty three there was filed in the office of the Clerk of the Circuit Court of Iroquois County a Bill in Chancery which Reads in words and figures following — to wit —

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State of Illinis. } ss. Iroquois County Circuit Court of
Iroquois County. } the June Term A.D. 1863.

To the Hon Charles R. Starr Judge of the 20th Judicial Circuit of the State of Illinis in the Iroquois County Circuit Court in Chancery Sitting.

Humbly Complaining Show unto your Honor your orators William F. Keady, Cyprus B. Barnes and Lewis Throop who are citizens residents and tax payers of the County of Iroquois and State of Illinis who sue on behalf of themselves and all the other citizens residents and tax payers in and of said County of Iroquois. That heretofore to wit on the 23d day of February in the year of our Lord one thousand Eight hundred and thirty nine there was an act of the General Assembly to wit the Legislature of the State of Illinis passed in due form of law and was then in due form of law approved by the then Governor of the said State of Illinis which act of the General Assembly to wit the Legislature of the State of Illinis and the preamble thereto reads in substance as follows to wit:—

"An act to relocate the seat of Justice in the County of Iroquois

"Whereas the Town of Montgomery in the County of "Iroquois is within three miles of the State line of Indiana "and that the County seat is by Law located at this "Town and that to continue the seat at this place renders "it very inconvenient and expensive for the Citizens of "said County to travel a great distance to the present "seat of Justice And Whereas the title to the present "site is in minors heirs and cannot be legally obtained

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and Whereas a large majority of the inhabitants of said County are anxious that the County seat should be located in a more central point which will accomodate them. Therefore Sec 1. Be it enacted by the People of the State of Illinois represented in the General Assembly. That M. L. Covell John Moore and Chesney Thread of McLean County be and they are hereby appointed Commissioners whose duty it shall be to locate a permanent seat of Justice for the County of Iroquois. and the County seat when selected & located shall be called by such name as the said Commissioners may designate.

Sec 2. The above named Commissioners or a majority of them, shall meet at the town of Middleport in said County of Iroquois on the first monday in June next or within thirty days thereafter. And after being duly sworn by some Justice of the Peace faithfully to take into consideration the convenience of the people, Situation of settlements now made and that may hereafter be made, and the eligibility for said site, shall proceed to fix upon a place for said County seat.

Sec 3. When said Commissioners or a majority of them shall have agreed upon a place for said County seat as is provided in the second section of this act they shall make report thereof under their hands particularly describing the place they have so selected. to the County Commissioners Court of Iroquois County who, at their next term shall cause the same to be Entered on the records of said Court. and the place so selected

" shall be and remain the permanent seat of Justice
" of the said County of Iroquois.
" Sec 4. Should said Commissioners conclude to locate
" said seat of Justice on private property, or the property
" of individuals, they shall ask and obtain from said
" individuals a donation of at least twenty acres
" of land, or should the location be made in some
" town or village, the said commissioners shall ask and
" obtain of the proprietor or proprietors of said Town or
" village, a donation of not less than fifty town lots
" of an average value with the remaining ones within
" said town or village; and shall also describe said
" donation with certainty by metes and bounds as near as
" may be; Provided, That should the proprietor or proprietors
" neglect or refuse to make the donation herein provided
" for the said commissioners shall then be required to
" locate the said seat of Justice on the nearest eligible
" situation on public land, and it shall be the duty of
" said Commissioners, previous to locating the said seat
" of Justice on land belonging to an individual or
" individuals to take a deed in fee simple to said
" County of Iroquois for such land as may be donated
" as aforesaid, and provided further, That if the said
" Commissioners shall locate said seat of Justice on
" public land, the County Commissioners Court shall be,
" and they are hereby authorized and required to purchase
" any quantity of land, not exceeding one quarter
" section, in the name and for the use of the said
" County of Iroquois; which land or such part thereof

"as the said Commissioners Court may direct, shall be
"laid off into town lots in such manner, and sold for
"the use of said County at such time and place as
"the County Commissioners Court may direct.
"Sec 5. The County Commissioners Court of said County of
"Iroquois, shall allow the said Commissioners such
"reasonable compensation for their services as they may
"deem just, not to exceed three dollars per day, to be
"paid out of the County Treasurer of said County.
"Sec 6. all acts and parts of acts comming within the
"perview of this act are hereby repealed.
"Approved. February 23° 1839."

Which will fully appear by reference being had to the said act of the General Assembly, as printed and published on pages 185. 186. and 187 of the acts of the General Assembly to wit. Laws of the State of Illinois passed by the Eleventh General Assembly, at their session began and held at Vandalia the then Capital of the State of Illinois on the third day of December one thousand eight hundred and thirty eight "Published in pursuance of Law" and approved by the Governor of said State on the said 23rd day of February A.D. 1839. To which your Honor is referred for greater certainty. And afterwards to wit on the 17th day of June A.D. 1839 the said M. L. Covell and John Moore two of the — Commissioners. the same being a majority of the said Commissioners appointed by the said act of the General Assembly, met at the Town of Middleport in the County

Iroquois & State of Illinois, in pursuance of said act and took and subscribed an oath of which the following is a copy, in substance and to the effect as follows to wit:

"We the undersigned do solemnly and sincerely swear that we will perform the duties required of us by law in the relocation of the seat of Justice of the County of Iroquois honestly and impartially without favor or affection to any person or persons according to the best of our abilities"

"John Moore"
"M. L. Covell"

"State of Illinois }
"County of Iroquois } Sworn to and subscribed before the undersigned a Justice of the Peace for said County this thirteenth day of June A.D. 1839."

"Alexander Wilson"

Which said Commissioners after they had taken and subscribed the oath aforesaid took upon themselves their duty as such Commissioners in the locating of a permanent seat of Justice for the said County of Iroquois and did then and there carefully examine, and upon mature deliberation were of the opinion that the convenience of the people the settlements then made and that might thereafter be made, and the eligibility for said site would be best promoted and the interests of the County more permanently secured by a removal of the said seat of Justice from the said Town of Montgomery, and as no suitable situation for a town could be had which was strictly in the geographical

center of said County or in the center of what appeared to them might be the center of future population, they believed it to be their duty to locate the seat of Justice at the most eligible point to both, they therefore believing the Town of Middleport in said County of Iroquois, — possessed in a greater degree all the advantages sought for and required by said act of the General Assembly, than any other point thereupon declared the seat of Justice of the said County of Iroquois to be removed from the said Town of Montgomery and to be permanently located at the Town of Middleport in the said County of Iroquois after first securing the donation required by the said act of the General Assembly, by selecting one hundred lots in the said Town of — Middleport of an average value of the remaining ones within said Town of Middleport, and taking a deed in fee simple to said County of Iroquois, for said one hundred lots, of the proprietors of said Town of Middleport, as will more fully and at large appear by reference being had to the said original deed now remaining on record in the Recorders office of Iroquois County and to which your orators beg leave to refer your Honor for greater certainty, a copy of which said deed is hereto attached and marked "A" and made a part of this bill of complaint, and the said Commissioners after having agreed upon a place for said County seat as aforesaid, as provided by the second section of the act of the General Assembly made report thereof under

their hands particularly describing the place they had so selected to the County commissioners Court of the County of Iroquois on the 8th day of July A.D. 1839. and caused said report together with said oath to be entered on the records of said Court as will more fully appear by reference being had to the records of said court, a copy of which said record is herewith presented marked "B" and which your orators ask leave to make the same a part of this their bill of complaint. and to refer your Honor to the same for greater certainty.

And your orators further represent unto your Honor that the said Commissioners appointed as aforesaid to locate the said seat of Justice as your orators are informed and believe did then and there as aforesaid in pursuance of the act of the General Assembly aforesaid permanently locate the said seat of Justice of said County of Iroquois at the Town of Middleport in said County of Iroquois, and your orators aver that said Town of Middleport where said seat of Justice was removed thereto, became, was then and has continued to be and now is the County seat and seat of Justice of the said Iroquois County. and your orators further aver that on or about the Seventh day of February in the year of our Lord one thousand eight hundred and sixty three there was a pretended act of the General Assembly to wit the Legislature of the State of Illinois passed entitled An act to enable the People of Iroquois County to vote for the removal of the County seat. which said act is in the words and figures following to wit —

" Whereas. The Court house of the County of Iroquois was
" destroyed by fire in February A.D. 1862 and Whereas
" there are no suitable buildings and conveniences in the
" Town of Middleport for holding Courts and transacting the
" public business of the County: therefore
" Sec 1. Be it enacted by the people of the State of Illinois
" represented in the General Assembly. That on Tuesday
" the 17th day of March A.D. 1863. an election shall be held
" in the County of Iroquois in the State of Illinois at the
" usual place of holding elections. for the purpose of determin-
" ing whether the present seat of Justice of said County
" shall be removed and relocated.
" Sec 2. The officers of election shall attend on the day of
" election and conduct said election according to the laws
" of the State in cases of election of County officers, and all
" legal voters of said Iroquois County shall be entitled to
" vote for or against the removal of the County seat of
" said County to the town of South Middleport.
" Sec 3. the ballots shall be in the following. to wit —
" "For removal", "against removal" and the officers of said
" election shall make returns in the manner and time no
" prescribed by law in case of election of County officers
" in the State.
" Sec 4. When the returns shall have been made to the
" County clerk of said Iroquois County. he shall proceed to
" canvass said returns, and open and count the votes
" cast at said Election in every respect as in cases
" of election of county officers. as now provided by law

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" for said County of Iroquois, and if a majority of all the
" votes cast at said election are for removal then the said
" Town of South Middleport (consisting of South Middleport and
" Stanleys Addition thereto), shall be and remain the permanent
" seat of Justice of said County. But if a majority of all the
" votes cast shall be against removal, then the Town of
" Middleport the present County seat shall be and remain
" the permanent seat of Justice of said County.
" Sec 5. If the seat of Justice shall be established at said
" Town of South Middleport according to the provisions of this
" act, the Board of Supervisors of said County are hereby
" constituted and appointed Commissioners to select the site
" for the Erection of public buildings, either upon the
" original plat of South Middleport or Stanleys addition
" thereto as shown upon the records of said plats in the
" recorders office of said County, and it is hereby made
" their duty forthwith as soon as practicable to procure
" or erect suitable public buildings for the public offices
" of said County, and for holding the County and Circuit
" Courts of said County in said Town of South Middleport
" or Stanleys addition thereto: and when such arrangments
" have been made the records and offices of said County
" shall be removed to said place, and the County and
" Circuit Courts shall be held at that place.
" Sec 6. Public notice of said Election shall be given by
" the County Clerk in two newspapers printed at —
" Middleport in said County and the Town clerks of
" the several towns shall cause a copy of said notice
" to be posted up in three of the most public places

" in each town at least twenty day previous to the
" holding of said Election, and the said notice shall
" state that the election is called for the purpose
" of removing the County seat of said County to the
" Town of South Middleport, but notice of said election
" may be published and put up by any citizen of the said
" County in the said several Towns as aforesaid, and if ~~so~~
" actually posted up, shall be deemed legal and sufficient
" notice of said election; provided also, that the refusal
" of any publisher of any paper in said County to publish
" said notice, shall not render said election invalid,
" Sec 7. All acts or parts of acts which conflict with this
" act are hereby repealed.

" S. A. Buckmaster
" Speaker of the House of Representatives.

" Francis A. Hoffman
" Speaker of the Senate

" Approved February 11. 1863.

" Richard Yates Governor

That afterwards to wit, on the 17th day of March A.D. 1863,
a pretended election was held in the said County of
Iroquois claimed to have been under and in pursuance
of the terms and conditions of said last mentioned
pretended act of the General Assembly as aforesaid, at
which said pretended election there were cast or
voted or pretended to be cast in all one thousand
nine hundred and fifty two ballots. That of that —

number there was written or printed thereon these words — "South Middleport Ticket" "for removal" one thousand one hundred and thirty eight ballots, and that of the said one thousand nine hundred and thirty eight ballots so cast in all as aforesaid there was written or printed thereon these words. "Old Town Ticket" "against removal" — Eight hundred and ten ballots.

And your orators further aver and charge the fact to be as your orators have been informed, and believe that the said pretended act of the General Assembly passed and approved as aforesaid is illegal unconstitutional and void, in as much as the act in its terms fixes and appoints two distinct and separate places to which to remove the County seat or seat of Justice to wit South Middleport or Stanley addition.

And your orators further charge and show unto your Honor that the said act of the General Assembly passed and approved as aforesaid on the Eleventh day of February A.D. 1863. is unconstitutional and void, in as much as it provides in its terms, that a majority of the votes cast may determine the question. And your orators further show unto your Honor that the said act passed and approved as aforesaid is unconstitutional and void in this that it provides by special law that the fiscal matters of the County shall be managed by — Commissioners. And your orators further complaining show unto your Honor that as they have been informed and believe, there was not at any time previous to the said pretended Election held on the 17th day of March A.D. 1863.

due and legal notices published in Two newspapers printed in the Town of Middleport as contemplated by the said act of Febu 11th 1863 passed and approved as aforesaid and that neither of the publishers of said Two newspapers published in said Middleport at any time refused to publish said notices, nor has any publisher of any newspaper published in said Iroquois County refused to publish said notices. And your orators further show unto your Honor, that as your orators have been informed and verily believe. the Election held on the 17th day of March A.D. 1863 was illegal, and for want of due and legal notice void, and further that all notices or pretended notices posted and purporting to have been posted were not in due form nor in accordance with the said act of the General Assembly of February 11th A.D. 1863 'Entitled "an act to enable the people of Iroquois County to vote for a removal of the County seat. And your orators further charge and aver & show unto your Honor as they have been informed, and believe no such notices were at any time or in any manner posted or put up in many towns in said Iroquois County. And your orators admit that in some portions of Iroquois County certain notices purporting to be election notices were put up and posted a copy of which said pretended notices is hereto annexed and marked "D" and presented herewith and made a part of this the complainants bill of complaint and to which your orators beg leave to refer your Honor, for greater certainty. And your orators further charge and aver

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that none of said pretended notices were signed by the Town Clerks in the various Towns or in any form or manner put up or posted by them as contemplated by the said act of the legislature of February 11th 1863. aforesaid, as they are informed and believe, and that in consequence thereof and of the law in such cases said election held as aforesaid on the 17th day of March 1863 is and was illegally held and is void.

And your orators further aver and show unto your Honor that as they have been informed and believe it was necessary at such election to vit the election held on the 17th day of March A.D. 1863 in pursuance of the act of the General Assembly to vit of the Legislature of the State of Illinois, passed February 11. 1863 and entitled "An act to enable the People of Iroquois County to vote for a Removal of the County seat." and under the constitution of the said State of Illinois that in order to authorize a Removal of the County seat of said Iroquois County that a Majority of all the legal votes of said County should be cast for Removal, and your orators charge and aver the fact to be that no such majority was had and obtained in favor of or For such removal, and allege and charge that the said County seat or seat of Justice still remains & of right should remain at its present location to vit. at The Town of Middleport. and that there has not at any time been a constitutional majority of legal votes or ballots cast For Removal, as provided and

contemplated by the Constitution and laws of the State of Illinois. And your orators further show unto your Honor, that a large number of legal voters largely interested in the location of the County seat of Iroquois County and well entitled under the Constitution and laws of the State of Illinois, to vote at any election in the said County were and have been for the period of 6 months last past & now and were at the time of holding said Election and now are temporaly absent from the County and in the service of the United States as Soldiers, and are tax payers and citizens of this County, that the number so absent and in the service as aforesaid, is as your orators are informed and verily believe is upward of seven hundred, constituting and composing that number of the legal voters under the constitution and laws of this State in said Iroquois County that they the said persons so absent as aforesaid, were and have been deprived of voting and having a voice in the pretended election held on the said 17th day of March 1863. contrary to the act of the General Assembly passed and approved as aforesaid on the 11th day of February A.D. 1863. and Contrary and in violation of the true intent and meaning of the constitution and laws of the State of Illinois.

And your orators farther show unto your Honor that the act of the February 11th 1863. as aforesaid is as your orators verily believe void for uncertainty in as much as it does not designate any specific certain

and definate point to which the County seat is to be removed. but leaves the whole matter in great doubt and is therefore as your orators verily believe uncertain irrational and void. and should not be enforced. And your orators for themselves and in behalf of a large number of residents. citizens and tax payers of the said County of Iroquois in said State of Illinois would further represent & shew unto your Honor that if the said County seat is removed by virtue of and in pursuance of said pretended act of the General Assembly of February 11th 1863. entitled "an act to Enable the People of Iroquois County to vote for the removal of the County seat," and in pursuance of the said illegal and void election held under and by virtue thereof on the 17th day of March AD 1863. great damages will be sustained by your orators in common with all the People of the said County of Iroquois in as much as the people of said County as well as your orators will be compelled to pay a large amount of taxes to build County buildings to wit: a Court House. Jail and offices for the officers of said County. And also will be compelled to pay lay out and expend divers large sums of money in and about removing the offices and Records of and belonging to said County. And your orators further shew unto your Honor that the said Act of the General Assembly passed and approved as aforesaid on the 11th day of February 1863. is illegal and void in as much as the said act was passed in violation of Section 1. and 2 of the act of the -

General Assembly of the State of Illinois passed March 3 1845 Requireing two months notice to be posted up on the Court House Door in said County of Iroquois and also ~~two~~ Requireing four weeks notice in some newspaper ~ published in said State of Illinois before such petition shall be presented & acted upon & also requireing a majority of the voters to sign a petition therefor, and in violation of other laws, and the Constitution of the State of Illinois. And as your orators are informed and believe no such notices were ~ published in any newspaper published in this State of Illinois, for four weeks, nor was any notice posted up on the Court House Door of said County of Iroquois for the period of two months or any other period, and no notice was given as required by said Sec 1 and 2 of the act of March 3 1845, and no petition was presented to the Legislature or General Assembly of the State of Illinois as required by law in such cases

And your orators further show unto your Honor that said act of the General Assembly to wit. of the legislature of the State of Illinois passed and approved as aforesaid on the Eleventh day of February A.D. 1863, provides that, "all legal voters of said Iroquois County shall be entitled to vote for or against the removal of the County seat of said County to the Town of South Middleport."

That a large number of the voters in behalf of whom this suit is prosecuted are now in the service of the United States as Soldiers in the Army and have been for six months last past & were at the time of said

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Election and were entitled to vote at such Election under the Constitution & Laws of this State but have been deprived of so doing to their great damage and injury.

And your orators further show unto your Honor in behalf of themselves and all other citizens, residents and tax payers of the said Iroquois County that the said Act of the General Assembly of February 11th 1863 aforesaid is as your orators are informed and believe unconstitutional and void in as much as the said act provides in its terms in these words to wit: "And all legal voters of "said Iroquois County shall be entitled to vote for "or against the Removal of the County Seat of said "County to the town of South Middleport," and in every respect fails to provide any means for allowing a large number to wit, not less than seven hundred of such legal voters in the army as aforesaid to vote and by thus failing have entirely failed to obtain a Constitutional Majority of all the legal voters of said County of Iroquois as provided by the Constitution & Laws of the State of Illinois.

And your orators in behalf of themselves and all other citizens, residents and tax payers in and of said County of Iroquois show unto your Honor that as they are informed and believe a large number of votes or ballots were cast at the said pretended election on the 17th day of March A.D. 1863. for removal, by persons and individuals not legal voters and not at the time of holding said pretended election entitled to vote,

And your orators further represent and show unto your Honor that as they have been informed and believe,

Minors and persons & persons under the age of Twenty one years was or were permitted to and did act as members of certain election boards at said Election without any legal right or authority so to do, to the great damage and injury of your orators and all other residents citizens and tax payers and legal voters in and of said County Iroquois. And your orators show unto your honor, that a number of the election returns as your orators have been informed came in illegally and improperly, in this that the same were returned by persons & parties not members of the election boards from whence they purported to come, and others came in and were returned to the County Clerk of Iroquois County not as the law requires in such cases, but were notwithstanding canvassed and counted by the said County Clerk and canvassed by him and his associates to the great damage and injury of your orators and other residents citizens and tax payers in and of said Iroquois County in said State, And your orators further show unto your honor that the said act of the Gneral Assembly of February 11 1863 is unconstitutional and void in as much as the said act was not read in either the Senate or House of Representatives composing the Gneral Assembly of the State of Illinois on three different days, as is required by the Constitution of the State of Illinois there being no Emergency declaired in either house of the Gneral Assembly. And your orators further show unto your honor that the

said act of the General Assembly passed February 11th 186
as aforesaid is unconstitutional and void in as much as
the said act is a local law & embraces more than one
subject, and only one of which is expressed in the
Title. And your orators further show unto your Honor
That the Legislature of the State of Illinois to wit the
General Assembly has not yet closed its session, but
did adjourn over until the month of June next 1863.
That Sixty days has not yet expired since the passage
of the act of February 11th 1863. That there is no time fixed
by said act when the same goes into effect. That as
your orators have been informed and believe said act
of February 11th 1863, would not become a law until
April 11th 1863 if the General Assembly had adjourned on
the said 11th day of February 1863 and had closed its session
on that day. Whereas said General Assembly has not
yet closed its session; and said act as your orators
are informed and believe does not become a law
until sixty days after the close of the session of said
General Assembly according to the Constitution of the
State of Illinois. there being no case emergency declared
by said General Assembly. Your orators therefor charge
and show unto your Honor that the election held on
the 17th day of March, having been held before the said
act went into force is void and of no effect, and
your orators so charge and allege the fact to be,
And your orators further show unto your Honor, that
immediately after said pretended election held on
the 17th day of March 1863. to wit on the 18th day of

March 1863, a request was made & served upon George A. Woodford Clerk of the Board of Supervisors of said Iroquois County, which request is in the words and figures following to wit!

"To George A. Woodford Clerk of the Board of
" Supervisors of Iroquois County State of Illinois.
" The undersigned being one third of the members of the
" Board of Supervisors of said County of Iroquois do request
" that a Special Meeting of said Board be held to convene
" on Monday the 23d day of March A.D. 1863, at the Court
" House in the Town of Middleport in said County.
" Dated this 18th day of March 1863."

"A. G. Willard
"John Paul
"K. Shankland
"I. H. Jones
"Isaac Beyea
"E. K. Farmer.

Whereupon said George A. Woodford Clerk of the Board of Supervisors as aforesaid as your orators are informed and believe did call a meeting of said Board of Supervisors to assemble on the 23d day of March 1863. And your orators further show unto your Honor that they are informed & verily believe that no notice of such intended meeting of said Board of Supervisors was at any time published in any newspaper published in said Iroquois County previous to the meeting of said board as is required by law in regard to special

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meetings of Boards of Supervisors. Notwithstanding there was and still is two newspapers of general circulation published in said Yavapai County, and was so published at the time of calling said meeting of said Board. And your orators further show unto your honor that they have no information sufficient to form a belief whether any other or different notice required by law was given or not. They therefore aver & charge that no such notice was given. Your orators therefore further show unto your honor that the meeting of said Board of Supervisors in the manner as aforesaid is illegal and void and that they have no legal authority to do or transact business as supervisors at such pretended meeting. And your orators further show unto your Honor that they are now informed and verily believe that said Board of Supervisors or a majority thereof do intend and will meet and attempt to do and transact business, and among other thing they intend to select a site in "South Middleport" or "Stanleys Addition" on which to build a Court House Common Jail and County offices, and to contract to Expend a large amount of the funds of and belonging to said County for said site. And your orators further charge and show unto your Honor that they are informed and believe and so charge the fact to be that said Board of Supervisors are intending to erect, establish and locate offices for all the County officers of said County, and also a Court House and Common Jail for said County, either in "South

Middleport or Stanleys Addition in violation of any legal right, so to do as the law requires, said Board of Supervisors if they erect such County buildings at all, that they shall erect the same at the County seat of said County. and your Orators further show unto your honor that they are informed and believe and so charge the fact to be that it is the intention of said Board of Supervisors to proceed immediately and without delay to remove or cause to be removed the County offices and the County Records consisting of the Recorders office and the Records therein, and the Circuit Clerks office and the Records therein and thereunto belonging. The County Clerks office and the Records thereunto belonging and the County Treasurers office and the Records thereunto belonging, and appertaining as well as all things belonging to said offices to the said town of "South Middleport" or to "Stanleys Addition" in the said County of Scioto, and are intending to expend a large amount of the funds of the County in so doing without any legal right or authority so to do. And your Orators further show unto your Honor that they are informed and believe and so charge the fact to be that the said contemplated expenditure of divers large sums of money in the securing of a pretended site and in the erection of a Court House thereon in said Town of "South Middleport or "Stanleys Addition" will be a useless expenditure of the said sums of money without any advantage to said County of Scioto in as much as said contemplated

Court House would be erected at a point, and the County offices and Records removed to a point, not authorized by law as the seat of Justice of said County, and the said divers sums of money would be squandered and lost to said County and should said Board of Supervisors establish or erect offices for said County officers and erect a common Jail as aforesaid it would require an additional large sum of money for such purpose, to be assessed upon and collected off of the tax payers of said County, which would be drain from the Treasury of said County of Iroquois for such purpose, and said sum would be in like manner unlawfully and uselessly — expended at the place aforesaid, and for the reasons aforesaid. Your orators further show unto your honor that in the month of February A.D. 1863 the Court House in the Town of Middleport the present County seat of Iroquois County was consumed by Fire and at the time said Court House was consumed as aforesaid was insured to the amount of Five Thousand dollars and the sum of Four Thousand Dollars of said Insurance money has all ready been paid to said Board of Supervisors as your orators are informed, and believe which said sum of four thousand dollars your orators are informed and believe the said Board of Supervisors contemplate expending in erecting or in attempting to erect County Buildings in South Middleport or Standup Addition (so Called) without any legal authority so to do. Your orators further show unto your Honor that George A. Woodford is Clerk of the County Court of said County and he is

also Clerk of the Board of Supervisors, whose duty it is, has been and will continue to be as your orators are informed and believe among other things to issue County orders directed to the Treasurer of said County for all sums of money ordered to be expended by said Board of Supervisors. And your orators believe that should the said Board of Supervisors cause the said contemplated removal to be made, and the contemplated site to be purchased for said court house and the contemplated court house and other County buildings to be erected thereon, to wit at the town of "South Middleport" or "Stanleys addition" (so called) said George A. Woodford would issue County orders upon the treasurer of said County for all sums so appropriated as aforesaid requiring said Treasurer to pay such sum or sums of money as such orders may be drawn for and the money arrising therefrom will be expended, squandered and lost as aforesaid in the erection of said contemplated Court House in "South Middleport" or "Stanleys addition" and in removing the County records and the County office and purchasing the said contemplated site in said "South Middleport" or "Stanleys Addition" said George A. Woodford, and your orators further show unto your honor, that George King of said County of Iroquois is the Treasurer of said County, whose duty among other things is to pay all orders which comes into his hands as such Treasurer upon such County orders as shall be presented to him as such Treasurer

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According to the Statute in such case made and provided issued by the said Clerk and should the said Clerk issue orders to said Treasurer as aforesaid upon the said appropriation by said Board of Supervisors of any and all sums of money, for the purpose of erecting said County Building or any of them or for the purpose of removing said County records and offices, in and to the said "South Middleport" or "Stanley Addition" will pay out the money to such an amount as shall be called for by said order if in his hands as such Treasurer upon said orders as aforesaid as your orators are informed and believe.

And your orators further show unto your honor that Thomas Beaumont of said County is Clerk of the Circuit Court in and for Iroquois County in said State, and is also Ex officio Recorder in and for said County and is the Custodian and Keeper of such Circuit Court & County records, And as your orators are informed & believe is about to remove said Records or threatening to move the same, And your orators believe he will do so if permitted or allowed so to do, and if not restrained from so doing by this Honorable Court, and unless so restrained as aforesaid will do so without any legal authority so to do.

And your orators further show unto your Honor that the said George A. Woodford Clerk of the County Court as aforesaid, and Jorge King Treasurer of Iroquois County as aforesaid are about to & threaten as your orators are informed & believe to remove the

the records in their respective offices and belonging thereto, to some place in "South Middleport" or Stanleys addition so called and will do so unless restrained or prohibited from so doing by this honorable Court, to the great damage and injury of your orators and the citizens and tax payers of said Iroquois County & without any legal right and authority so to do and contrary to the form of the Statute in such case made and provided And your orators further show unto your Honor that they have been informed and and verily believe & so charge the fact to be that the said Board of Supervisors aforesaid are now threatening to order the removal of the County Records and the County offices of said County to some place or point in the so called town of "South Middleport" or "Stanleys Addition" and attempt and threaten to make one of the said last name places or points the County seat or seat of Justice of said Iroquois County. And your orators verily believe that unless such Board of Supervisors are enjoined & restrained from so doing they will order the removal said Records and do all the acts and things hereinbefore charged without any warrant of Law for so doing. contrary to the form of the Statute in cases, and to the great damage and injury of your orators, in common with all citizens residents & tax payers of said County of Iroquois ——— And your orators further charge and show unto your honor that the said Board of Supervisors are ———

combining and confederating themselves with George A. Woodford county Clerk as aforsaid George King Treasurer as aforsaid, Thomas Brennan Circuit Clerk and Recorder as aforsaid and divers other persons to your orators now unknown, but who when discovered your orators ask to make parties defendants in this proceeding, to fraudulently deceitfully and illegally and unjustly wrongfully and without lawful right so to do, to remove the Records of and belonging to said Iroquois County, and to do and perform all the acts deeds and things hereinbefore charged in this your orators Bill of Complaint, all of which your orators verily believe they will do and perform unless restrained by this honorable Court to the great damage & injury of your orators and residents, citizens and tax payers of said Iroquois County. And your orators further show unto your that they have often requested said Board of Supervisors not to erect or cause to be erected said contemplated Court House, in said South Middleport or Stanley addition or make any orders in relation thereto or expend said Four Thousand Dollars or any other sum of money out of said County Treasury, therefor as aforsaid or remove the records of said County to "South Middleport" or "Stanley addition" or ~~none~~ to either of said places, and your orators in like manner have often requested said George A. Woodford Clerk of the County Court of said County and Clerk of said Board of Supervisors not to issue

any order for said sum or any other sums of money
ought to be so unlawfully expended waisted and
squandered by said Board of Supervisors as aforsaid
And also in like manner your orators have often
requested George King Treasurer of said County not
to pay out of the said County Treasury any money or
monies so unlawfully sought to be expended as
aforsaid upon such order or orders which may be
issued by said George Woodford as aforsaid, and
your orators well hoped that no disputes would have
arrisen touching the matters and things hereinbefore
charged and set forth, but that the said defendants
would have complied with the reasonable requests of
your orators as in concience and equity they ought
to have done. But now so it is may it please your
Honor that the said Board of Supervisors and George A
Woodford and said George King and said Thomas
Vennum combining and confederating together to
and with divrs other persons as yet to your orators
unknown but whose names when discovered your
orators pray may be inserted herein as defendants
and they made parties hereto with proper and apt words
to charge them how to injure and oppress your orators
by erecting or causing to be erected said Contemplated
Court House in "South Middleport" or "Stantys addition"
as aforsaid, and by removing the Records and
offices and officers of said County to said "South
Middleport" or "Stantys addition" by removing the

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County Seat or seat of Justice from Middleport where the same is legally located to "South Middleport" or "Standup Addition" by erecting County offices and said common Jail of said County in said "South Middleport or "Standup addition, and by expending and squandering the money of and belonging to said County of Doupuis whereas your orators charge that said defendants have no lawful right to purchase site erect or cause to be erected said Contemplated Court House or said County offices or said Common Jail in "South Middleport" or "Standup Addition" or to remove the County records, County offices or county officers to said Town of "South Middleport" or "Standup Addition" or to either of said places in In tender consideration whereof and for as much as your orators are remediless in the premises, at and by the strict rules of the common law, and are only relievable in a Court of Equity where matters of this nature are properly cognizable and relievable.
To the end therefor that the said Board of Supervisors the said George A Woodford Clerk of said County Court and clerk of the Board of Supervisors and the said George King Treasurer of said County and Thomas Vermuun Circuit Clerk and Ex officio Recorder of said County, and their confederates may respectively full, true, direct and perfect answers make (the oath of said Defendants being hereby waived pursuant to the Statute in such case made and provided) according to the best of their respective Knowledge information and belief to all and singular

the matters and charges aforesaid and that as fully and peticularly in every respect as if the same were again here repeted and they thereunto particularly interrogated. And that the said Defendants may be enjoined and restrained from purchasing a site procuring or erecting or causing to be procured or erected said contemplated Courthouse or procuring or erecting or causing to be procured or erected said County offices, or erecting or causing to be erected said Common Jail in "South Middleport" or "Stanley Addition" or removing the County records or any part thereof, or in any manner removing the County offices or County officers to "South Middleport" or "Stanley Addition" or making any order or orders or contracts in relation to procuring or erecting such contemplated Courthouse County offices or Jail in "South Middleport" or "Stanley Addition" or making any orders or contracts in relation to removing said County Records or county offices and County officers or issuing — or causing to be issued any order upon the County Treasurer therefor — or paying out of the County Treasury any money or monies for such purpose — or purposes. And that your Orators may have the most gracious writ — or writs — of Injunction of the State of Illinois issuing out of and under the seal of this Honorable Court to be directed to the said Board of Supervisors of Brown County and State of Illinois and the said George A Woodford Clerk of the County Court of Brown County and State

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of Illinois and Clerk of the Board of Supervisors of said County, and the said George King Treasurer of Iroquois County and State, and Thomas Vennum Clerk of the Iroquois County Circuit Court and Ex officio Recorder of said County. to restrain said Board of Supervisors from procureing or erecting or causing to be procured or erected said Contemplated Court House, and the County offices, and said Common Jail in said "South Middleport or "Standys Addition" and making any contracts or orders in relation thereto, or in removing said County Records or any part thereof or removing said county offices or County officers or any of them, to "South Middleport" or "Standys Addition" and, to restrain George A. Woodford from issuing any orders on and to the County Treasurer of said County for any money or moneys that may be so ordered by said Board of Supervisors to be expended squandered and wasted for said purpose, and to restrain said George King from paying out of the said County Treasury any money or moneys upon orders issued by said Clerk for such purpose or purposes, and restraining said George A. Woodford George King and Thomas Vennum from removing Attempting to remove their respective offices, or the records therein belonging to South Middleport or Standys Addition, in said County of Iroquois;

May it please your honor not only to grant to your orators not only the most gracious peoples writ or writs of injunction issuing out of & under the seal of this Honorable Court to be directed to the said

Board of Supervisors the said George A. Woodford & said George King and Thomas Dennnnn to restrain them from proceeding in the premises touching any matters in question aforesaid, but also the most gracious writ or writs Subpoenas of the said State of Illinois to be directed to the said Board of Supervisors the said George A. Woodford the said George King and the said Thomas Dennnnn commanding them & each of them by a certain day and under a certain penalty therein to be inserted to be and appear before your honor in this Honorable Court and then and there to answer the premises, and further to stand to, and abide such order as shall be agreeable to equity and good Conscience, And that your orators may have such other and further relief as the nature of this case shall require and shall be agreeable to to equity and good Conscience, And your orators will ever pray &c

W. F. Keady
C. B. Barnes
Lewis Troup.

State of Illinois }
Iroquois County } ss. Personally appeared before me the undersigned clerk of the Circuit Court in and for said County William F. Keady, Cyrus B. Barnes, and Lewis Troup The above named complainants who after being duly sworn depose and say and each for themselves —

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doth depose & say that he has heard the above and foregoing bill read and knows the contents thereof- and say and each for himself doth depose and say that the matters and things therein contained, which purport to be upon their and each of their own knowledge they say and each of them says are true, and the matters & things therein contained which purport to on their information and belief they say and each for himself says that they & each of them believe the same to be true

W. F. Keady
C. B. Barnes.
Lewis Troup

Subscribed and sworn to before me this 23d day of March AD 1863.

Thomas Vennum Clk
Cir Court Iroquois Co Illinois

State of Illinois }
Iroquois County } ss

The clerk of the Circuit Court of said County will issue a writ of Injunction according to the prayer of the Complainants in the foregoing bill upon the filing by said Complainants of a bond in the penal sum of one thousand dollars, with George B. Joiner, William Freis, M. V. B. Harwood, W. S. Kay, David Troup, J. H. Allen, E. Bowman, and James H. Lawrence as their securities according to the Statute in such case made and provided As the foregoing

bill shows an emergency which will not permit notice to the defendants to appear and show cause why this injunction shall not be granted. the same is granted without notice and appearance of defendants

C. F. McNeill. Master in Chancery.

March 23, 1863.
Masters fee $10.—

Hugh Newell Et.al vs Town Commissioners of Iroquois Co.

— Deed —

This Indenture made this entered into this Eighteenth day of June in the year of our Lord one Thousand Eight hundred and Thirty nine. Between Hugh Newell. Jacob A. Whiteman. and Laura his wife James Smith and Mary his wife of the County of Iroquois and State of Illinois and Jacob Troup and Susannah his wife of the County of Jasper and State of Indiana of the first part and Jonathan Wright. Adam Karr and Samuel McFall County Commissioners of Iroquois County and their successors in office for the use of the People of said County of the second part Witnesseth: that the said parties of the first part for and in consideration of Location of the permenant seat of Justice pursuant to Law in the Town of Middleport in said county have granted bargained and sold aliened released enfeoffed, conveyed and confirmed and by these presents do grant bargain and sell alien release enfeoff convey and confirm unto the said party of the second part and to their successors in office for the use aforesaid the following described Town Lots with all the appurtenances lying and being in the said Town of Middleport To wit; Lots No. one. Two. three. four. five. six. seven & Eight in Block No. seven. Lots No. one. two. three. four. five. six. seven & Eight in Block Ten. Lots No. one. two. three and four in Block No one. Lots. one. two. three. & four in Block No two Lots No. one. two. three. four five. six. seven & Eight in Block No. Twelve.

Lots No one, two, three, four, five six, seven and Eight in Block No. Thirty four Lots no. one, two three four five six seven and eight in Block No Twenty. Lots No. one, two. three, four five six seven and eight in Block No Thirty five. Lots no. one, two three four five six seven and eight in Block No. Thirty six. Lots No. one. two three four five six seven and eight in Block no. Thirty seven Lot no. one in Block no Fifteen Lots no. Two and three in Block No. Twenty five. Lots No. six and seven in Block no Twenty six. Lots No. one two and three in Block No Twenty seven. Lots no. one two five and six in Block No Twenty Eight Lots No. seven and eight in Block no. Fifty Lot no. Four in Block no. Fifty one Lot no. two in Block No. Fifty four. Lots one, three and four in Block no. fifty five Lots no three four seven and eight in Block no fifty six. Lots no Three four five six and seven in Block no sixty five, and all the estate right title claim interest and fee of them the said parties of the first part of in and to the same. To have and to hold the said Town Lots with all the appurtenances unto the said party of the second part and to their successors in office for the use aforesaid forever. and the said parties of the first part do covenant and agree with the said party of the second part and with their successors in office that they will and their heirs executors and administrators shall Warrant and forever. Defend the said town Lots

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with all the appurtenances unto the said party of the second part and to their Successors in office for the use aforesaid against all and every person or persons whatsoever lawfully claiming or to claim the same,

In Witness Whereof, the said parties of the first part have hereunto set their hands and Seals on the day and year first above written

Sealed Signed and Delivered in presence of M. L. Covell

Hugh Newell (Seal.)
Jacob A. Whiteman (Seal.)
Louisa Whiteman (Seal)
Jacob Trump (Seal.)
Susannah Trump (Seal.)
James Smith (Seal.)
Mary Smith (Seal.)

State of Illinois
County of Iroquois } ss. I, Aaron M. Goodnow an acting Justice of the Peace in and for said County do hereby certify that the above named Hugh Newell, Jacob A. Whiteman and Louisa his wife Jacob Trump and Susanah his wife (who are personally known to me to be the persons whose names are subscribed to the foregoing deed of conveyance as having executed the same) this day in their proper persons came before me and acknowledged that they severally signed sealed and delivered the said deed for the uses and purposes therein mentioned, And the said Louisa Whiteman and Susannah Trump being made fully acquainted

with the contents of the foregoing deed and by me examined separate and apart from their husbands acknowledged that they severally executed the said deed and relinquished their dower to the Town Lots therein mentioned Voluntarily freely and without compulsion of their said husbands.
Given under my hand and seal this Eighteenth day of June A. D. 1839.

Aaron M. Goodnow J.P. (seal)

State of Illinois,
Iroquois County } ss. I Ira Lindsey an acting Justice of the Peace in and for said County do hereby certify that the above named James Smith and Mary his wife (who are personally known to me to be the persons whose names are subscribed to the foregoing deed of conveyance as having executed the same), this day in their proper persons came before me and acknowledged that they severally signed, sealed and delivered the said deed for the uses and purposes therein mentioned, And the said Mary Smith being made fully acquainted with the contents of the above deed and by me examined Separate and apart from her husband acknowledged that she executed the said deed and relinquished her dower to the Town Lots, therein mentioned voluntarily freely and without compulsion of her said husband.
Given under my hand and seal this Nineteenth day of June A.D. 1839.

Ira Lindsey J.P. (seal)

Filed for Record July 20th A.D. 1839. at Eight o'clock A.M. and Recorded on the same day

H. Newell Recorder

State of Illinois }
Iroquois County } ss.

I, Thomas Brennan Clerk of the Circuit Court and Ex. officio Recorder in and for the said County in the State aforesaid do hereby certify that the above and foregoing is a true and complete transcript of the Record of a deed from Hugh Newell, Jacob A. Whiteman & wife Jacob Trump & wife and James Smith & wife to the County Commissioners of Iroquois County and I further certify that the dates of the filing and Recording thereto annexed are the same that appear of Record.

Seal

Attest Thomas Brennan Clerk and the Seal of said Court at office in Middleport this 21st day of May A.D. 1862.

Thomas Brennan Clerk

And on the said 23d day of March 1863. there was filed in the office of the Clerk of said Court an Injunction Bond as follows!

Know all men by these presents that we William F. Keady Lewis Trump and Leyne B. Barnes, G. B. Joiner Wm Frees, M. V. B. Harwood, W. S. Kay, David Trump, J. H. Allen E. Bowman & J. W. Lawrence of the County of Iroquois and State of Illinois are held and firmly bound unto the Board of Supervisors of Iroquois County

in the State of Illinois and Thomas Vennum, George A. Woodford, and George King in the penal sum of one thousand Dollars Lawful money of the United States for the payment of which well and truly to be made and done we bind ourselves our heirs Executors and administrators Jointly severally and firmly by these presents as Witness our hands and seals this 23d day of March A.D. 1863.

The condition of the above obligation is such that Whereas the above bounden William F. Keady Lewis Fromp & Cyrus B. Barnes have this day filed in the Circuit Clerks office of said County their certain Bill in Chancery praying therein that a Writ of Injunction may be issued from the Circuit Court of said County against them the said Board of Supervisors, and Thomas Vennum Clerk of said Circuit Court, George A. Woodford Clerk of the County Court of said County and George King Treasurer of said County, to restrain the said Board of Supervisors from building or causing to be built the County buildings of said County at South Middleport or Stanleys addition thereto and also to restrain said Board of Supervisors from removing the Records of said County to said South Middleport or Stanleys addition thereto, also to restrain said Board of Supervisors from removing or causing to be removed the County officers and County offices to said South Middleport or Stanleys addition thereto, —

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Also to restrain said Thomas Vennum as Clerk of said Circuit Court, George Woodford as Clerk of said County Court and George King as Sheriff of said County from removing their offices or the Records of said County belonging to their respective offices to said Town of South Middleport or Stanleys Addition thereto, for the reasons and causes set forth in said Bill in Chancery - And a Writ of Injunction being about to be issued upon the order of C. F. McNeill master in Chancery to restrain said defendants as aforesaid according to Law -

Now Therefore if the said William F. Keady, Lewis Troup, and Cyrus B. Barnes the said Complainants in said Bill of Complaint shall well and truly pay or cause to be paid to the said Board of Supervisors, the said George A. Woodford, Thomas Vennum and George King and to each and every of them all such costs, and damages as they may sustain as shall be awarded against them the said Complainants, in case the said Injunction shall be dissolved then the above and foregoing bond to be void otherwise to be and remain in full force and virtue in Law.

W. F. Keady — (Seal)
Lewis Troup — (Seal)
C. B. Barnes — (Seal)
G. B. Joiner — (Seal)
Wm Frees — (Seal)
M. V. B. Harwood — (Seal)
W. S. Kay — (Seal)
David Troup — (Seal)
J. H. Allen — (Seal)
E. Bowman — (Seal)
J. W. Laurmee — (Seal)

And afterwards on the said 23rd day of March 1863 there issued from the office of the Clerk of said Court a writ of Summons which reads as follows, to wit:

State of Illinois
Iroquois County ss.

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

We command you that you summon the Board of Supervisors of Iroquois County, State of Illinois, George A. Woodford Clerk of the County Court of Iroquois County George King, Treasurer and Thomas Vennum Clerk of the Circuit Court and Ex Officio Recorder of said County, to personally be and appear at and before the Iroquois County Circuit Court on the first day of the next term thereof to be holden at Middleport in said County on the second Tuesday in the month of June A.D. 1863. to answer unto William F. Keady, Cyrus B. Barnes and Lewis Trump citizens residents and tax-payers of Iroquois County who sue on behalf of themselves and all other tax-payers of said County in their certain Bill of Complaint filed on the Chancery side of said Court, and have you then and there this writ with your return endorsed hereon.

Witness Thomas Vennum Clerk of the Circuit Court and the seal thereof at Middleport this 23rd day of March AD 1863.

Court seal

50 U.S. Revenue Stamp

Thomas Vennum Clerk

And the Sheriffs Return endorsed on said Writ reads as follows,

Served this writ by giving a copy of the same to the Chairman of the Board of Supervisors, also on the County Clerk, the Circuit Clerk and the Treasurer of Iroquois County by delivering each a copy of the within writ this 24th day of March 1863.

H. O. Henry Sheriff

Fees Service $2.00
4 copies of writ - 2.00
4 Miles travel .20
Return .10
$4.30

And on the 23d day of March 1863. there issued from said Clerks office a writ of Injunction in words and figures following;

State of Illinois }
Iroquois County } ss.

The People of the State of Illinois;

To the Board of Supervisors of Iroquois County in the State of Illinois, George A. Woodford Clerk of the County Court of Iroquois County, George King Treasurer of Iroquois County and Thomas Brennan Clerk of the Circuit Court and Ex. officio Recorder of Iroquois County 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 Charles R. Starr presiding Judge of the Circuit Court of Iroquois County in the State aforesaid on the part of William F. Keady, Cyrus B. Barnes —

and Lewis Trump citizens residents and tax-payers of said County of Iroquois and State of Illinois, Complainants in their certain bill of Complaint, exhibited before said Judge, and filed in said Court, against you, the said Board of Supervisors of Iroquois County in the State of Illinois, George A. Woodford Clerk of the County Court of Iroquois County George King Treasurer of Iroquois County and Thomas Vennum Clerk of the Circuit Court and Ex-officio Recorder in and for Iroquois County Illinois to be relieved touching the matters therein complained of, In which said bill, it is stated among other things, that you are combining and confederating with others to injure the complainants, touching the matters set forth in the said bill, and that your actings and doings in the premises are contrary to equity and good conscience. And the Master in Chancery in the absence of 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 Board of Supervisors of Iroquois County in the State of Illinois, and the persons before mentioned, and each and every of you, that you Absolutely Desist and Refrain from purchasing or procuring a site or location for the Court House of Iroquois County Illinois in the Town of South Middleport or in Stanleys addition

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thereto, and from erecting or causing to be procured or erected a Court House for said County of Iroquois in said Town of South Middleport or Stanleys addition thereto, from procuring or erecting or causing to be procured or erected offices for the County officers of Iroquois County. to wit, for the County Clerk of said County, for the County Treasurer of said County and for the Clerk of the Circuit Court of said County in said town of South Middleport or Stanleys addition thereto, and from erecting or procuring or causing to be procured or erecting a Common Jail for said County in said Town of South Middleport or Stanleys addition, and from removing the County Records, of said County to the Town of South Middleport or Stanleys addition and from removing or causing to be removed the County officers or the offices or Records of their offices to said Town of South Middleport or Stanleys addition thereto, and from making any orders or contracts in relation to procuring or erecting a Court House in said town or addition aforesaid, and from procuring or erecting or from making any contract or contracts or order or orders in relation to a Common Jail or County offices in said town of South Middleport or Stanleys addition thereto, and from issuing or causing to be issued any orders upon the County Treasurer of said County as a consideration or payment for such said Court House, Common Jail, County offices in said South Middleport or Stanleys addition thereto, and from paying any money out of the County Treasury for the purpose of erecting or —

procuring any of said buildings in said South Middleport or in Stanleys addition thereto.

And you the said George A. Woodford Clerk of the County Court of Iroquois County are hereby enjoined and restrained from issuing any order or orders upon the County Treasurer for or on account of any appropriation made by the said Board of Supervisors, of any moneys for the purpose of procuring or erecting or causing to be procured or erected any Court House, Common Jail, or County offices for the County officers of said County in said Town of South Middleport or Stanleys addition thereto and you the said George King Treasurer of said County are hereby commanded to refrain from paying out any money from the County Treasury of said County upon orders issued by said Clerk of the County Court for any such purpose mentioned as aforesaid.

And the said George A. Woodford Clerk of the County Court, George King County Treasurer, and Thomas Brennan Clerk of the Circuit Court and Ex officio Recorder of said County of Iroquois are each and every of them hereby enjoined and restrained from removing their said offices or the Records thereof from the Town of Middleport to the Town of South Middleport or Stanleys addition thereto in said Iroquois County, until this Honorable Court in Chancery sitting, shall make other order to the contrary. Hereof fail not, under the penalty of what the law directs.

To the Sheriff of said County to execute, and return

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in due form of law

Witness Thmas Dennnnn Clerk of the said Court and the seal thereof, at Middleport in said County, this 23d day of March A.D. 1863.

Court seal

50¢ U.S. Revenue Stamp

Thmas Dennnnn
Clerk

And the Sheriffs Return endorsed on said Injunction Writ, reads as follows,

Served this writ by delivering a copy of the same to George A. Woodford the 23d day of March 1863, also by delivering a copy of the same to the Chairman of the Board of Supervisors to Thmas Dennnnn Clerk of the Circuit Court, to George King Treasurer, all officers of Iroquois County Illinois this 24th day of March A.D. 1863.

H. O. Henry Shff

Fees 4 Services 2,00
4 Copies & writ 2.00
4 Miles Travel 20
Return 10
$ 4.30

And afterwards to wit on the tenth day of June A.D. 1863 there was filed in the office of the Clerk of said Court a motion to dissolve Injunction in said cause in words following—

William F. Keady, Cyrus B. Barnes and Lewis Dunn
vs
The Board of Supervisors of Iroquois County George A. Woodford George King & Thmas Dennnnn

In Iroquois Circuit Court
In Chancery No 637.

And now come the defendants by

Randall & Fuller their solicitors and move that the injunction heretofore granted by the master in Chancery in this case be dissolved, and for cause show

1 - There is no equity in the bill

2 - The bill does not make the proper parties

3 - The injunction was granted without notice to the defendants

4 - The master granting the injunction was at the time of granting the same and still is greatly interested in the subject matters of the bill and was and still is of counsel for the parties complainant

Randall & Fuller
defts Solrs

And on said 10th day of June AD 1863. there was an affidant filed in said cause on part of defendants in words as follows, to wit!

William F. Keady. Cyrus B.
Barnes Lewis Throp
vs,
The Board of Supervisors of
Iroquois County George A. Woodford
George King & Thomas Cummins

In Chancery No 637
In Iroquois Circuit Court,

State of Illinois
Iroquois County

Asa B. Roff being duly sworn on oath says that C. F. McNeill Master in Chancery is largely interested

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in the matters & things set forth in the bill of complaint in the above entitled cause – that he has been and this affiant believes now is of counsel for the matters & things in controversy in respect to the removal of the County Seat, and has been and was long before and since making the order for an injunction in the bill in the above cause actively and openly engaged in opposing such removal of the said county seat.

Sworn & subscribed
before me this 10th May 1863
5 cts Revenue Stamp
Thomas Vennum Clerk

A. B. Roff

And on said tenth day of June AD 1863. there was filed in said Court. affidavits in said cause on part of plaintiffs which reads in words following, to wit!

State of Illinois }
Iroquois County } ss. Circuit Court June Term 1863.

William F. Keady
Cyrus B. Barnes & Lewis Trump
vs
Board of Supervisors and others

William F. Keady and being duly sworn depose and say that they are two of the complainants in the above entitled cause. that they have not at any time employed L. F. McNeill the Master in Chancery who granted the injunction

in this case, and that they know that he is not and never has been counsel or attorney for the complainants & is not now counsel or attorney in the said above entitled cause for any of the complainants, That said McNeill has not at any time been or acted as counsel in the case at the request of complainants or otherwise, That the counsel engaged in this case are Chester Kinney James Fletcher Geo B. Joiner an not said C. F. McNeill and that said McNeill has never on any occasion acted as attorney or counsel in the said case, and is not now counsel or attorney therein, That they believe he has no interest in the matter pending in said proceeding except as a citizen and tax payer of said County in common with all other citizens and tax payers of said County

W. F. Keady
C. B. Barnes

Subscribed & Sworn to before me this 10th day of June 1863. Chester Kinney

N. P. Seal

Notary Public

State of Illinois }
Iroquois County } ss Circuit Court June Term 1863.

W. F. Keady Etal

vs

Board of Supervisors etal

Chester Kinney being duly sworn deposes and says. that he is of counsel

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for the complainants in the above entitled cause in Chancery, that the bill therein was drawn by him in connection with James Fletcher & Geo B. Joiner that L. F. McNeill the Master in Chancery who allowed or ordered the injunction therein is not and never has been of counsel in the said cause and has not acted as such. That this affiant after having prepared said bill of complaint, presented the same to said L. F. McNeill, as such master and requested him to order or grant an injunction in the same. That said L. F. McNeill then requested this affiant to go before Hon L. R. Starr the Judge of the 20th Judicial Circuit that this affiant learned that said Hon L. R. Starr was then in Livingston County in this State holding Court and this affiant had not time to go to Livingston County and said said Judge Starr and insisted upon said McNeill granting said injunction, as the Board of Supervisors were about to meet, and would take action in the premises and to delay such time as was necessary to go to Pontiac would make it too late to enjoin their proceeding in the premises That said injunction was granted on the application of this affiant, as one of the Counsel for the complainants, by said McNeill for want of time to apply for the same to the Judge of said Circuit

Subscribed & Sworn to
before me this 10th day of June
A.D. 1863. & Thomas Vennum Clk

Chester Kinney

And afterwards on said 10th day of June in the year of our Lord one thousand eight hundred and sixty three to the same being one of the regular days of the June Term of the Iroquois County Circuit Court in the State of Illinois for said year A.D. 1863, said Court being then duly organized and sitting in open Court for the transaction of business the following proceedings were had and entered of Record by said Court, to wit;

William F. Keady, Cyrus B. Barnes and Lewis Troup
vs
The Board of Supervisors of Iroquois County, George A. Woodford George King and Thomas Vennum

} Injunction

This day come the Defendants by Randall and Roff their attorneys and enter herein their motion to the Court to dissolve the Injunction in this cause,

And afterwards to wit, on the Sixteenth day of June A.D. 1863. it being one of the regular days of the June term of said Court for the year last aforesaid, And said Court being then duly organized and sitting in open court for the transaction of business, as aforesaid, the proceedings were entered of Record by said Court, in words as follows —

William F. Keady, Cyrus B. Barnes and Lewis Thrap
vs
The Board of Supervisors of Iroquois County, George A. Woodford George King and Thomas Vennum

Injunction

The motion by the Defendants to dissolve the Injunction in this cause coming up for argument it is ordered by the Court that the same be overruled, and on motion leave is given to the Defendants to file their answers to the Bill herein within sixty days from this date, and it is further ordered that Complainants Replication or Exceptions to the answer be filed with the Clerk within four days after said sixty days, and it is further ordered that the proofs in this cause be closed by the first day of the next Term of this Court and this cause is hereby set down for trial at next Term,

And afterwards, to wit on the first day of August A.D. 1863. there was filed with the Clerk of said Court, Defendants Answer which reads in words following, to wit:

The separate and respective answer of the Board of Supervisors of Iroquois County Thomas Vennum and George A. Woodford & George King defendants to the Bill of Complaint of William F. Keady, Cyrus B. Barnes and Lewis Thrap Complainants against the Board of Supervisors of Iroquois County Thomas Vennum, George A. Woodford and George King defendants.

These defendants saving & reserving to themselves all and every manner of benefit of exceptions to the many errors and insufficiencies of the said Complainants bill or to so much thereof as they are advised by Counsel it is material to make answer unto, they answering say that true it is that the legislature did enact a law authorising an election to be held to determine the question of removal of the County seat of Iroquois County, and true it is that such Election was held under the provisions of said law, and resulted in a large majority of the votes of said County in favor of removal, and true it is that the board of Supervisors defendants if not restrained by injunction would proceed to establish the said County seat at the place fixed by said Election, and erect such public — buildings as in their judgment the public interests required. These defendants insist that the said Complainants bill does not make the proper parties and is insufficient and shows no just ground for the interference of a Court of Equity.

These defendants insist and maintain that C. H. McNeill master in Chancery of Iroquois County who made the order for an injunction in this case was materially interested in the questions in the same — that he had been counsel for the persons complainant or some of them upon the very subject matters in the said bill contained, and as such counsel had filed a bill in Chancery in the Circuit Court of Iroquois

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County. They insist and maintain that for the reason that he was so interested his order granting an injunction ought to be vacated and set aside, as contrary to equity and good conscience, and as to all other matters and things in the said bill contained not herein confessed or avoided, traversed or denied the same are denied, And having fully answered these defendants pray that they may be hence discharged with their reasonable costs in this behalf expended.

Roff-Randall & Fuller
Defts Solrs

The Board of Supervisors of Iroquois County, Thomas Emmons, George A Woodford By Roff Randall & Fuller Their Solrs

And afterwards on the 14th day of August in the year A.D. 1863. there was filed with the clerk of said Iroquois Circuit Court in said cause, Plaintiffs Replication which reads as follows to wit:

State of Illinois } ss.
Iroquois County }

Iroquois County Circuit Court of the November Term A.D. 1863.

The Replication of William F. Keady, Cyrus B. Barnes and Lewis Thrap Complainants to the answer of the Board of Supervisors of Iroquois County, Thomas Emmons George A. Woodford and George King defendants

These Replicants saving and reserving to themselves all, and all manner of advantage of Exception

to the manifold insufficiencies of the said answer, for Replication thereunto say that they will aver and prove their said Bill to be true, certain, and sufficient in the Law to be answered unto; and that the said answer of the said defendants is uncertain, untrue, and insufficient to be replied unto by these Repliants; Without this, that any other matter or thing whatsoever in the said answer contained, Material or effectual in the Law to be replied unto, Confessed and avoided — traversed or denied, is true; all which matters and things these repliants are, and will be ready to aver and prove as this Honorable Court shall direct; and pray as in and by their said bill of Complaint they have already prayed —

Kinny & Fletcher
Sol^rs for Compl^ts.

William F. Keady
Cyrus B. Barnes &
Lewis - Thorp
By Kinny & Fletcher
their Sol^rs

And afterwards to wit on the Seventeenth day of November A.D. One thousand eight hundred and sixty three. The same being one of the regular days of the November term of said Court for the year aforesaid, and the said Court being then duly organized and sitting in open court for the transaction of business the following proceedings were had and entered of Record by said Court in words as follows

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637 William F. Keady. Cyrus B. Barnes and Lewis Troup vs The Board of Supervisors of Fresno County. George A. Woodford George King and Thomas Vermuun } Injunction

On motion of Randall & Fuller — Solicitors for Defendants it is ordered that the Depositions on file in this cause be published.

and following on the 18th day of November A.D. 1863. it being one of the regular days of said November Term of said Court for the year aforesaid, and said Court being duly organized as aforesaid, the following proceedings were had and entered of Record by said Court in words to wit

637. William F. Keady. Cyrus B. Barnes and Lewis Troup vs The Board of Supervisors of Fresno County. George A Woodford George King and Thomas Vermuun } Injunction

It appearing to the Court that the Depositions taken in this cause have not all been filed with the Clerk of this Court it is ordered that all depositions in this cause be filed herein by twelve o'clock M of to day,

And on the 18th day of November A.D 1863. there was filed by the clerk of said Court in said Cause certain depositions, which read in the words and figures following to wit;

State of Illinois } ss. Iroquois County Circuit Court.
Iroquois County }

William F. Keady
Lyman B. Barnes &
Lewis Tromp —
vs
The Board of Supervisors
of Iroquois County Et.al, } In Chancery

To the above named defendants, or to Roff, Randall and Fuller their attorneys and Solicitors, you will hereby take notice that on this 1st day of September next 1863. between the hours of nine o'clock in the forenoon and five o'clock in the afternoon of the same day the said complainants will by themselves or by attorneys appear before Michael Hogle Esq a Justice of the peace in & for said County, at his office in the town of Middleport in said County and we shall then and there cause the depositions of C. F. McNeill, W. S. Kay, James Fletcher, Chester Kinney, George A. Woodfor Geo. B. Joiner and others, witnesses residing in said County of Iroquois to be taken and shall continue from day to day until all are taken, which depositions when so taken

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as aforsaid will be read and used as evidence on our part on the trial of the above entitled cause now pending in the circuit Court of Iroquois County. When & where you can be and appear & put such cross interrogatories to said Witnesses as you think proper –

W. F. Keady
C. B. Barnes &
Lewis Tomp
By Fletcher & Kinney their Solicitors

Notice to take Depositions
We admit due Service
of a Copy of the within notice
this 15th day of Aug 1863.
Roff, Randall & Fuller
Attorneys for Defts

State of Illinois } ss
Iroquois County }

In Iroquois County Circuit Court

William F. Keady Cyrus B. Barnes & Lewis Tomp
vs
The Board of Supervisors of Iroquois County Et. al

In Chancery

The Depositions of Cornelius F. McNeill Chester Kinney, James Fletcher, Geo A. Woodford & N. B. Pettis, of the County of Iroquois and State of Illinois, — Witnesses of lawful ages produced and sworn and examined upon their corporal oaths on the days hereinafter mentioned in their several depositions at my office, in the Town of Middleport in said County and State

aforesaid, in pursuance to the foregoing Notice, for the Examination of the said Cornelius F. McNeill, Chester Kinney James Fletcher, George A. Woodford & N.B. Pettis and others, Witnesses in a certain suit and Matters in ~~Chancery~~ controversy, now pending and undetermined in the said Circuit Court, Wherein William F. Keady, Cyrus B. Barnes, & Lewis Troup are Complainants, and the Board of Supervisors of Boyuis County et. al. are defendants, in behalf of said Complainants, as well upon the Cross interrogatories of the Defendants as on the interrogatories of of the Complainants. The said Cornelius F. McNeill. Chester Kinney. James Fletcher, George A. Woodford & N. B. Pettis being first duly sworn by me as witnesses in said cause previous to the Commencement of their examination, to testify the truth as well on the part of the Complainants as the Defendants in relation to the matters in controversy between the said Complainants and Defendants so far as they should be interrogated, thereto; testified and deposed as follows:—

C. F. McNeill being duly sworn deposeth and says in answer to the following interrogatories as follows, To wit!

Int. 1st State your name, age, residence, and occupation?

Ans.— My name is Cornelius F. McNeill I am forty one years of age, I reside at Middleport Boyuis Co. Ills. my occupation is an Attorney at Law &c

— — — —

Int. 2d - State whether you are Master in Chancery in and for the County of Iroquois and State of Illinois, and if so, how long have you been such Master in Chancery?

Ans. - I am - I think I have been Master in Chancery something over a year -

Int. 3d. State whether you was Master in Chancery on the 23d day of March 1863 for said County

ans. - I was -

Int. 4th - State whether you, as such master in Chancery granted an order for a writ of Injunction, upon a bill presented to the Hon Charles R. Starr Judge of the 20th Judicial Circuit of the State of Illinois in the Iroquois Co. Circuit Court, in said State of Illinois on or about the 23d day of March 1863, Wherein the Board of Supervisors of Iroquois County State of Illinois; George A. Woodford, Clerk of the County Court of Iroquois George King Co. Treasurer and Thomas D Emmons Clerk of the Circuit Court, and Ex officio Recorder of said Co, were defendants; and William F. Keady, Cyrus B. Barnes and Louis Thop citizens, residents and tax payers of Iroquois County, who sue on behalf of themselves and all other tax payers of said County in their certain bill of Complaint, filed on the Chancery side of said Court on or about the 23d day of March A.D. 1863, were complainants?

Ans. - I did grant such order as Master in Chancery

Int. 5th - State whether you are acquainted with the parties

Mentioned in interrogatory number four and your answers thereto in this your deposition and if so were you acquainted with them at the time you granted said order for injunction?

Ans. — I am acquainted with said parties, and was at the time I granted the order for said injunction

Int 6th — State whether you were retained, employed, assisted or had any thing to do with the getting up of the said bill of injunction upon which you granted said order of injunction as an attorney or otherwise? —

Ans. — I neither was employed, consulted by the parties nor in any manner assisted, in getting up said bill, and never saw said bill, until after it had been drafted and read to me by Mr Kinney one of the Attorneys for the complainants; —

Int 7 — What time was it that Chester Kinney read said bill to you, and what was his object in reading said bill to you, State if you know? —

Ans. — It was on the 23d day of March A.D. 1863 after the the middle of the forenoon, of said day, his object in reading said bill was to procure an order from me as Master in Chancery, for an injunction according to the prayer of said bill. —

Int 8th — State when Mr Kinney applied to you to obtain said injunction, and read said bill whether Mr Kinney said any thing to you, and whether you said anything to him in regard to said injunction — and if so what was said by Mr Kinney and what was said by you? —

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Ans— at said time a conversation occured between us the — exact words of which perhaps I cannot give but the substance of which is about as follows. In answer to him or his application. I refused to grant said order for injunction unless it was evidant that the rights, and interests of the Citizens and Tax payers of Boyntis County could not be secured in any other manner. I requested Mr Kinney to make his application to Judge Starr on that day a meeting of the Board of Supervisors had been called, Mr Kinney represented to me that they would undoubtedly take action select a site for a Court House in South Middleport, Contract for the building of the same & remove the County records to said Town before it could be possible. to have said bill examined, by Judge Starr or any Judge out of the County. Having reason to believe his representations to be correct. I told him I would examine said bill I did so and granted said order for said injunction —

Int. 9th State who is Judge Starr and who was he at the time you granted the injunction spoken of by you above? —

Ans. — He is and was at said time, Judge of (this) the 20th Judicial Circuit of the State of Illinois, —

Int.= State whether there was any Court in session in which said Judge Starr was holding a term of the circuit Court, in and and for the 20th Judicial Circuit of the State of Illinois. on the 23d day of March A.D. 1863? —

Ans. — From information and belief, I have reason to

say that said Judge Starr at that time, was holding a term of the Circuit Court in said 20th Judicial Circuit at Pontiac Livingston Co. Ills,

Int. 10th — What is the distance from Middleport Ills to Pontiac Livingston Co Ills —

Ans — About sixty miles, according to my best information and belief. —

To all the above interrogatories and answers thereto the Defendants object direct examination close on the part of Complainants Attorney A.B. Roff Cross examination on the part of Defendants

Int 11th In your answer to interrogatory eight on your direct examination, you say, That Mr Kinney represented to me that they (refering to the meeting of the Board of Supervisors) having been called for that day) would undoubtedly take action, select a site, for a Court House in South Middleport Contract for the building of the same & remove the County records, to said Town, before it would be possible to have said bill examined by Judge Starr or any Judge out of the Circuit you continue and say, having reason to believe his representations, to be true, I told him I would examine said bill; you will please state your reason or reasons for believing said representations of Mr. Kinney to be true!

Ans. — — My main reasons were these. the election for the removal of the County seat to South Middleport had been held the Tuesday before, I think the next day after the election as I recolect it. The call for the Special Meeting

of the Board of Supervisors referred to was deposited with the County Clerk, and it was generally understood that said Meeting was called for the purposes mentioned in my answer to ~~said~~ direct interrogatory number eight. That is to select a sight for the Court house remove the County Records and further a majority of said Board of Supervisors, had on previous occasions manifested indecent haste and determination in violation of law and the rights of our citizens to remove the location of the Court House out of the present County Seat. This they had manifested in my presence both in their official capacity and in public conversations. —

Cut 2' Will you explain what you mean by the Expression "indecent haste" used in your answer to Cross interrogatory first, and State when and where such indecent haste was manifested by a Majority of said Board of Supervisors and give the names of the members composing said majority you refer to.

Ans. — Acting upon the matter without due consideration as the importance of the case demanded, and on more than one occasion when the consideration of the matter was before the Board of Supervisors the Chairman of said Board a majority of said Board acquiessing thereto would insultingly refuse to hear remonstrances, or reasons against the removal of the Court house, and would take action without fair discussion of the matter, and further I also consider that the issuing of the call for the special Meeting of the Supervisors referred to, to convene within a very few days of the election of a new Board of

Supervisors at which the people could give an expression of their views upon the matters refered to, and all without any apparent urgent necessity for the same, Manifested clearly to my mind, an indecent haste in the matter, I cant now name the Supervisors without a record of the vote. But they were those who generally voted in favor of removal

Int 3° — When you say in your answer to cross interrogatory two that you I can not name the Supervisors without a record of their vote, but they were those who voted in favor of a removal. What record do you refer to and when and where was the voting for a removal done by them

Ans — The Record Kept by the County clerk of the proceedings of that Board of Supervisors during their official year and particularly the record of their votes on the Court house question when before the Board of Supervisors

Cross examination closed by attorney for Defendants

C. F. McNeill

Subscribed and sworn to before me this 1st day of Sept A.D. 1863

(Witness claimed fees one day) Michael Hogle J.P.

The further taking of these depositions continued until tomorrow morning 9 o'clock A.M. Sept. 2° 1863

M. Hogle J.P.

September 2° 1863 nine o'clock A.M. The further taking of these depositions resumed —

Chester Kinney being first duly sworn —

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According to law says in answer to the following interrogatories as follows to wit.—

Int 1st — Are you acquainted with the parties to the above entitled suit!—

Ans — I am acquainted with the complainants and know most of the Board of Supervisors and the other Defendants

Int 2d — What is your name. age. residence. and business in life

ans — Chester Kinney age thirty five Resides in Middleport Iroquois County Ills. business attorney at law —

Int. 3d — State who are the attorneys for complainants in the above entitled suit! —

ans — James Fletcher. Geo B. Joiner and My self & I think H. S. Kay was consulted —

Int 4th — were there ever any other attorney or attorneys — employed. consulted. or retained. in any shape or manner. to your Knowledge if so State who they were. on the part of the complainants

ans — No. There never was any other attorneys except as above mentioned —

Int 5 — Was ever C. F. McNeill master in Chancery who granted an order of the injunction in the above entitled cause. ever at any time retained employed — counseled advised with as an attorney or otherwise to your Knowledge. previous to the commencement of said suit. or at any time since the commencement of said suit. in relation to the bringing of said suit. or conducting it. except as master in Chancery at the time said bill was read to him. when said order was granted by him for said injunction

and if so State, when said retainer employment
counsell or advise was had with said C.F. McNeill;

Ans — Never to my Knowledge.

Int 6th — If said C.F. McNeill had been employed in said suit, or anyways interested in said suit as an attorney, would you have known it?

Ans — I certainly should

Int 7th — Is said C.F. McNeill interested in said suit or was he in any manner interested in said suit at the time of granting said order, or at any other time except in common with the ballance of the Citizens of the County of Iroquois?

Ans 8 — He was not to my Knowledge;

Int 9 — If said C.F. McNeill had been interested in any way in said suit, at the time of granting said order or since or before, would you have known it?

Ans — I should —

Int 10th — State if you know who applied to said C.F. McNeill as Master in Chancery, to obtain an order, upon the bill of injunction filed in the above entitled cause —

Ans — I did

Int 11th — State whether you readily obtained said order or whether you had difficulty in obtaining it from said C.F. McNeill, and state what was said between you and the said C.F. McNeill at the time you made application for said order?

Ans — I presented the bill to him, and asked him to

grant an order on the bill for an injunction. He requested me to read the bill and I did so. He then in the first place refused to grant the order for injunction, and requested me to go the Hon. — L. R. Starr, Judge of the 20th Judicial Circuit and get him to grant the order, I then informed him that Judge Starr was holding Court at Pontiac in Livingston Co. a distance of Sixty or Seventy miles from this place (Middleport) and that I would not have time, to go to Pontiac before the Board of Supervisors would meet, that they were to meet on Monday the 23d day of March 1863. and that it was my opinion that they would take immediate action in regard to the removal of the County records, County offices and County officers, and the selecting of a site for the Court house in South Middleport or Stanleys addition thereto, and if he did not grant the order for injunction it would be too late to avail us any thing after taking time to go and see Judge Starr, I told him also that some of the members of the Board were already in town, that they would probably meet and organize immediately after dinner of that day being the 23d day of March 1863. the day on which they were to meet. He then remarked that he felt compelled to grant the order, but if I had time to go to Pontiac he would not do it. He then granted the order and I took the bill and the order to the Circuit Clerk's office and filed them.

on which the injunction in this case was issued:

To all of the above interrogatories and answers thereto the Defendants by their attorney N.B. Roff Object

Subscribed and sworn to before me this 2d day of Sept A.D. 1863.
Michael Hogle J.P.
(Witness claiming fee one day)

Chester Kinney

Direct examination closed by Complainants.
The Defendants ask no questions
Direct examination resumed by Complainants
James Fletcher being first duly sworn according to Law in answer to the following interrogatories as follows
To wit—!

Qut 1st — What is your name - age - residence - and business —

Ans — My name is James Fletcher - age thirty seven. Residence Middleport Iroquois Co. Ills. business attorney at Law

Qut 2d — are you acquainted with the parties to this suit

Ans — I am

Qut. 3d who are and have been the attorneys for the Complainants in this suit since its commencement

Ans — Chester Kinney - Geo B. Joiner & Myself are the principal attorneys. and have been from the commencement of the suit. Wilson S. Kay has been consulted and was consulted at the commencement of this suit as one of the attorneys and I ~~and~~ recognize him as one of the attorneys in the case. The above named attorneys are all that I know of—

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Int 4 — Has C. F. McNeill the Master in Chancery who granted the order for an injunction in this case to your knowledge acted in any capacity, form or manner as attorney or counsell for complainants in this case?

Ans — He has not to my knowledge —

Int 5 — If said C. F. McNeill had acted as attorney or Counsell for Complainants in this case, would you have known it?

Ans — I believe I should have known it —

To all the foregoing interrogatories and answers thereto the defendants by their attorney N. B. Roff objects —

Subscribed & Sworn to before me this 2d day of September A.D. 1863
Michael Hogle J.P.

James Fletcher

Direct examination closed by complainants —

Direct examination resumed —

George A. Woodford being first duly sworn according to law in answer to the following interrogatories says as follows to wit:

Int 1st — What is your name, age, place of Residence and — business in life? —

Ans. — George A. Woodford, age twenty eight. Place of Residence Middleport Iroquois Co. Ills — my business at present County Clerk of Iroquois Co. Ills.

Int 2d — are you acquainted with the parties to the above entitled suit? —

Ans. — I am —

Int. 3° — You state in your answer to interrogatory number one that you are at present acting County Clerk of Iroquois County Illinois — will you state how long you have acted as County Clerk?

Ans. — Since about december first A.D. 1861.

Int. 4th — Did you help to canvass the returns of a vote taken by the people of Iroquois County, sometime during the month of March A.D. 1863, for the purpose of removing the County Seat of Iroquois County from Middleport to South — Middleport or Stanleys addition, and if so who assisted you in such canvass —

Ans. — I did assist in the Canvass of said return and called to my assistance Messr Michael Hoyle and James B. Steely two of the Justices of the Peace of said County, in the town of Middleport —

Int. 5th — State whether the returns of the votes of the several Election Towns in said County were made to you as such County Clerk before you canvassed the returns as spoken of by you above, and if so how were such returns made?

Ans. — One Poll book and one tally list were returned to me from each town before said vote was canvassed, The most or perhaps all of them were returned by one of the Judges or clerks of the Election, I forget whether they were all sealed or not, most of them were sealed

Int. 6th — Please to reflect a moment, and state whether you do not recollect, that a portion of said returns were not made to you without being sealed up?

Ans. — I think that in rather the March Election or in the

November election previous. The returns from the Town of Papineau formerly Heygandt were returned to me in wraping paper unsealed, I don't remember which Election

Int 7 — did said Hoyle & Steely help you canvass both Elections November & March? —

Ans. — They did —

Int 8th — State whether the votes as cast by the several voters of said County were returned to you, before you canvassed said returns and if so whether you opened and counted the same? —

Ans. — I think some of them were returned and some were not before we canvassed the return we did not count any of the said ballots, were governed wholy by the Pool books & tally lists

Int. 9 — State if you know the number of Soldiers that had enlisted in the army from Iroquois County previous to the said election for the removal of the County seat

Ans. — I do not know how many.

Int. 10 — Have you any means of determining the number of said soldiers by Records in your office or otherwise.

Ans. — I have none of determining all who enlisted

Int 11 — Will you please state the number so far as you can

Ans — I cannot without going to my office

Int 12th — Will you please go to your office and examine and furnish the number as near as you can

The further taking of these depositions adjourned by consent until tomorrow morning 9 o'clock am Sept 3rd 1863.

Michael Hoyle J.P.

Sept 3rd 1863, Nine o'clock am. the further taking of these depositions resumed —

Int 13 "Have you been to your office since the adjournment of the taking of your deposition last evening, and if so what do you find the result of your examination to be relative to the number of Soldiers who were in the Army at the time of said County seat election which belonged to the County of Iroquois.

Ans — I have been to my office and find that about four — hundred and forty three Soldiers from said County were entitled to bounty at the time of said Election; this includes the companies of which Geo C. Herrington Joseph Davis, Abram Irving, E.R. Knight and Wm J. Bridges were Captains, and also of certificates of the Committee appointed by the Board of Supervisors that certain persons were entitled to bounty from said County —

Int 14 — State How many other companies and parts of — companies of Soldiers were raised in said County of Iroquois, which were absent from said county at the time of said County seat election —

Ans — There was a Company raised of which Geo H. Walker was Captain one of which R.K. Andrews was Captain one of which Geo West was Captain, and there was a part of a company raised known as Lucas's Company and I believe other soldiers recruited by A.K. Becket, James P. Martin, R.J. Hannah, H.E. Barston and C.P. Kinney and also by Captain N.B. Pettis. —

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Qut. 15 — Were there any Soldiers went in to the service of the army from said County of Iroquois that are not enumerated by you in the companies and parts of companies spoken of by you above, and if so how many?

Ans — I believe there were others volunteered of which I made no account in the foregoing estimate the exact number of which I have no means of estimating

Qut 16 — The Solders you have spoken of above you speak of as being in the army, will you please state what army you have reference to.

Ans — Volunteers in the Army of the United States of America engaged in the war against the so called Southern Confederacy

Qut. 17 — Please state if you can from all the information you have, what the whole number of Soldiers was, which were in the army of the United States which belonged to the County of Iroquois at the time of said County Seat election?

Ans — I do not know the exact number but from information received from various parties would estimate the number at from one thousand to twelve hundred

Qut. 18 — You state above state in your answer to interrogatory thirteen that about four hundred and forty three Soldiers from Iroquois County were entitled to bounty at the time of said County Seat election. Will you state whether said number of four hundred and forty three, is a matter of record in your office or does said number appear merely from papers filed in your office Please state which

Ans — only from papers deposited in my office —

Qut 19 — How came said papers to be deposited in your office and by what authority were the same deposited there, and who deposited the same there.

Ans — The Board of Supervisors at one of their Special meetings in 1862 appointed a committee to pay bounty to Volunteers offered by said County. The Captains of some of the Companies returned to me a certified list of the members of their Companies upon which said committee, drew an order authorizing me to deliver a bounty order to the amount of $20. to each of said Volunteers mentioned in said list - said Committee did also draw orders authorizing me to deliver a bounty order to other volunteers, who were entitled to bounty from said County, and ~~who~~ when these orders were deposited with me, I would deliver to them or their order their bounty order, and still continue so do do, as fast as said Committees certificates or orders are presented.

Qut 20 — did said Board of Supervisors cause said order spoken of in your answer to interrogatory nineteen to be made a matter of record in your office, if so will you please furnish a copy of said order and make the same a part of your Deposition?

Ans — They did and I hereby present said order marked "A." and make it a part of my deposition

A. July Special Term 1862.

State of Illinois } ss
Iroquois County }

Board of Supervisors of Iroquois County convened in the County clerks office in the Town of Middleport in the County and State aforesaid on Friday the 25th day of July A.D. 1862 in compliance with Call made pursuant to Law.

Present A. G. Willard Chairman

Kendall Strickland	Josiah Davis
John H. Jones	Alvin Harroun
C. L. Hoyle	Chas. H. Wood
E. K. Farmer	Isaac Beyea
John Paul	Thomas Stump
Daniel Fry	Joseph Leonard
J. L. Martin	

Geo. A. Woodford Clerk

Now at this time comes Dr. Blades and presents to the Board for their consideration the following Resolutions, to wit:—

1st Resolved that a tax of twenty five Cents be levied on each One Hundred Dollars of taxable property in the County for the purpose of paying a bounty in addition of the Government bounty to each Volunteer from this County that may hereafter be sworn into the service of the United States and that said tax be and is hereby required to be paid in Treasury Notes or in gold

and Silver or in the Special orders hereby issued
2nd Resolved that a bounty of Twenty Five dollars
be paid to each volunteer who may be hereafter
sworn into the service of the United States in
addition to the bounty already paid by the
Government, Provided that no person shall
receive a bounty from this County who may receive
a bounty from any other County or City of this State
3rd Resolved that the Chairman of this Board
appoint a committee of two persons to pay over
such bounty to each volunteer from this County
as soon as he shall be sworn and accepted in
the service —
4th Resolved that the County Clerk be and he
is hereby required to issue orders on the fund
hereby raised in sums to the amount of Twenty
Dollars which orders shall be respectively
drawn to each volunteer by name; that such
orders shall be delivered over to the Committee
upon their order and that said Committee be and
they are hereby required to take a receipt from
each volunteer at the time such amount of —
Twenty Dollars is paid over to such volunteer, And
that said Committee be and they are hereby required
to report their proceedings herein at each meeting
of this Board hereafter and file all receipts in
the office of the County Clerk —

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On motion of Chas. H. Wood the first Resolution was amended to insert "Twenty" instead of "Twenty five" in first line of said Resolution,
on motion the first Resolution as amended was adopted by the Board —
Kendall Shankland moved the adoption of the second Resolution — Whereupon Chas. H. Wood moved to amend the same by inserting "Twenty" instead of "Twenty five". Second Resolution as amended was adopted by the Board — Ayes - 8 — Nays 5 —

Record of the Vote

Affirmative —	Negative —
John H. Jones,	
E. K. Farmer,	Kendall Shankland
John Paul,	L. L. Hoyle
J. L. Martin,	Daniel Fry
Allen Harrum,	Joseph Davis
C. H. Wood,	Joseph Lenard
Isaac Beyea,	
Thomas Stump,	

On motion the third and fourth Resolutions were adopted by the Board,
Chairman appointed Daniel Fry and Joseph Lenard as the said Committee,

Jur 21 — State whether the Soldiers spoken of by you above were citizens & residents of Iroquois County aforesaid at the time of said County seat election; —

Ans — I suppose most of them were citizens and residents of Iroquois County before they volunteered into the service of the United States whether they lost their residence by such volunteering or not I am not able to state.

Int. 22 — Do you know of any one of said soldiers as spoken of by you above at the time he volunteered in the army of the United States as spoken of by you above, and who was absent at the time said county seat election as spoken of by you above who was not a resident and citizen of said County of Iroquois at the time he volunteered and went into the army of the United States

Ans — I dont know of any who were not residents and citizens of the County at the time they volunteered, there may be some but I dont recollect of any now —

Int 23d — Do you know the number of soldiers recruited in Iroquois by Brocket, Martindale, Hannah, Barston, Kinney & Pettit!

Ans — I do not —

The further taking of these depositions continued by agreement of parties until Friday morning the 11th day of September A.D. 1863 at nine o'clock am

Michael Hoagle J.P.

September 11th 1863, nine o'clock am the parties by their Counsell appearing and the Witness (Geo A. Woodford) not being present, the further taking of these depositions continued until Sept 12th 1863, at nine o'clock am

Sept 12th 1863 nine o'clock am, the further taking of these depositions continued by agreement until Monday the 14th

day of September 1863 at nine oclock am.

Monday Morning Sept 14th 1863. nine oclock am The parties being present by their attorneys the further taking of these depositions resumed.

Interrogatory 24. State whether you caused notices &c of said County seat election to be published in both of the newspapers published in Iroquois County for twenty days or over before said Election;

Ans — I think such publication of notieeses was given in the "Middleport Press" am not positively whether the said notice was published in the "Republican" or not

Int 25th — Did either the proprietors or publishers of said newspapers, refuse to publish to publish said notieces &c.

Ans — not to my knowledge —

Int 26 — State if you know, if the various Town Clerks in the several Towns of Iroquois Co. posted notieeses of said Election in three of the most public places in each of said Towns.

Ans — I do not know whether all of them did or not one or two of said town Clerks returned to me a copy of the notice given with a certificate of the posting of the notice on the back of the same

Int 27 — State if you know whether any citizens of said County in the said several towns posted any of said notieeses;

Ans — I do not —

Int 28 — State in what manner and by whom said notieeses were signed, and whether the signature if any thereon was written or printed;

Ans — The notices of said Election were printed and the signature to about sixty four were printed and about sixty four of said notices had my genuine signature with the County seal attached thereto.

Int 29 — State if you know how many of each kinds of said notices were posted?

Ans — I do not know —

Int 30 — Can you produce copies of said notices; one of each kind —

ans — I am not certain whether I can or not I can tell by going to the office —

Int 31 — Have you been to your office and examined to see if you could find copies of said notices if so state the result of your examination —

Ans — I have I find a copy of one of said notice with my genuine signature & County seal fixed thereto I find no copy of the other notice

Int 32 — will you make that copy a part of your Deposition

Ans — I will and mark it — B —

"B."

Election Notice

State of Illinois. }
Iroquois County. } ss. Public Notice is hereby given that on Tuesday, the 17th day of March, 1863. an Election will be held at the usual place of holding elections in the several Towns in the County and State aforesaid, for the purpose of enabling the People of Iroquois County to vote For the Removal,

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or Against the Removal of the County Seat or Seat of Justice of said County from the town of Middleport to the town of South Middleport, in the County and State aforesaid, which election will be opened at 8 o'clock in the morning, and continue open until 6 o'clock in the afternoon of the same day.

Given under my hand and official Seal, at Middleport, this 14th day of February, 1863,

County Seal

Geo A. Woodford
County Clerk.

Int 33 — Were you Clerk of the Board of Supervisors on and before the 18th day of March 1863,

Ans — I was —

Int 34 — Do you remember of having a request of the one third of the Board of Supervisors served upon you requesting you to call a Special Meeting of said Board to be held on Monday the 23d day of March 1863, at the Court House in the town of Middleport in said County, which notice was dated the 18th day of March 1863. and signed by A. G. Willard, John Paul, K. Shankland J. H. Jones, Isaac Beyea & E. K. Farmer. —

Ans — I recollect that a request for a Special Meeting for the Board of Supervisors was filed with me on or about the 18th day of March 1863, signed by most and perhaps all of the members above mentioned.

Int 35 — Did you in pursuance of such request call a Special meeting of said Board to convene on the 23d day of March 1863,

Ans — I issued circulars to the members of said

Board notifying them of the meeting and delivered at the Press office a notice of said meeting for publication, but believe said notice was not published

Int 36 — Was there not two newspapers published in Iroquois County of general circulation before and at the time of calling such special meeting of said Board;

Ans — There was - but my understanding of the law was that it required publication in one paper only & that I delivered said notice at the office of the Middleport Press before the paper of that week was struck off - The publisher informing me I think that it should be published that week —

Int 37 — Was there at any time previous to this Special meeting any notices published in either of the newspapers published in Iroquois County of said meeting;

Ans — I think not —

The further taking of the deposition of Geo A. Woodford County Clerk (the Board of Supervisors being in Session) by agreement continued to 2 o'clock P.M.

M Hoyle J.P.

Two o'clock P.M. the parties by their Attorneys appear and resume the taking of these depositions.

Int 38 — State if you know whether any person or persons wrote any letter or letters to any Member of the Legislature during last winter requesting them to pass an act to remove the County seat from the town of Middleport to South Middleport and if so who were they that wrote

such letters!

Ans — I do not know of any person writing such letters.

Int 39 — State whether you was ever applied to to sign any such letters

Ans — I was not —

Int 40 — State whether you do or not hold your office in the building occupied as a Court house for Iroquois County and whether you did or did not hold your office in such building on the 17th March 1863 and for three months previous thereto.

Ans — I do & have occupied the same building since about the 1st of August 1862 I think.

Int 41 — State whether there is a bulletin Board nailed up near the door of that building on which public notices are posted!

Ans — There is —

Int 42 I will ask you if at any time previous to the 11th day of February A.D. 1863. was there any notice posted on said bulletin board or on the door of said Court house shewing that application would be made to the General Assembly of the State of Illinois for an act to submit the question to the people of Iroquois County for the removal or relocation of the County seat or seat of Justice of said Iroquois County.

Ans — I think there was no such notice posted on the said Board or door - I never saw it. if posted would have been apt to have notice it —

Int 43 — How often do you estimate that during two months previous to the 11th day of February 1863 you were in the

habit of seeing the said bulletin board and court house door

Ans — Week days was in the habit of passing the doore and by the board from four to ten times a day

Int 44 — State whether you at any time during two months previous to the 11th day of February 1863 observed any notice published in either of the Iroquois County papers or in any other paper in the State, any notice or announcement that application would be made to the General Assembly of the State of Illinois for an act to enable the people of Iroquois County, to vote for or against the removal of the County seat or seat of Justice of said County.

Ans — I did not —

Int 45 — Would you have been likely to have seen any such notice if it had been ~~posted~~ published

Ans — I think I would have seen it if it had been published in either of the County papers, It might have been published in some other paper in the State and I might not have noticed it; —

Int 46 — Can you without going to your office give the proceedings of the Board of Supervisors on the 23d day of March 1863, so far as relates to the removal of the County seat of Iroquois County

Ans — I don't think I can fully

Int 47 — Will you make a transcript of the proceedings of said Board at said Meeting so far as the same relates to their action in in regard to the County seat question and make the same apart of your Deposition

Ans — I will —

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To all of the forgoing interrogations and answers thereto the Defendants by their attorney A.B. Roff Object.

Direct examination closed by complainants

Cross examination by Defendants

Int 1st — Did you when you canvassed the returns of said Election held on the 17th day of March 1863. canvass the same and open and count the votes. Cast at said Election do so as in cases of election of county officers.' —

Ans — I did

Int 2d — In your estimation of the number of soldiers in the army of the United States at the time of said County seat election March 17th 1863. do you intend to be understood that there was at that time absent from the county the number as estimated by you in your answer to interrogatory number seventeen? —

Ans — I mean that about that number had volunteered in the army of the United States. but a part of them. I cant say how many were at home

Int 3d State if some of the number included in your estimate had not died previous to the said 17th day of March 1863 & if so how many? —

Ans — I presume there were a great many dead at that time the exact number he cannot state and have no means of making an estimate, of the number.

Int 4th — State whether there were any minors & if so whether many or few, included in your estimate of the number of Soldiers in the service of the United States & give the number if you can

Ans — There were Minors included in my estimate but how many or how few I cant say

Int 5 — Do you Know how many of the Soldiers you have estimated as having enlisted from Boyds County, were living, and absent from said County on said 17th day of March 63, & also how many of said number, so absent at that time would have been entitled to vote at said Election had they had been home at that time, —

Ans — I do not, I cant tell how many of of the number of legal voters

Cross Examination closed, Direct examination resumed

Int 1st — Do you Know of any persons, that had volunteered in the army of the United States prior to said County Seat Election, who were at home at the time of said Election and if so how many there were and please to name them,

Ans — I Know there were some Soldiers at home at the time, but I cant name many of them nor do I Know how many I recollect Captain Pitts but I cant positively name any others —

To the above interrogatory the Defendants object & the answer thereto.

Subscribed & sworn to before me this 14th day of Sept 1863
M. Hogle J.P.
Woodford as witness claims fees two days $2.00

Geo. A. Woodford

The further taking of these Depositions continued until Sept 15th 1863. at 9 oclock Am.

Michael Hogle J.P.

Sept 15th 1863 nine oclock Am The further taking of these Depositions resumed. the parties by their attorneys present —

N. B. Petts being duly sworn deposeth and says.

Int 1st — what is your name, age, occupation and place of residence —

Ans — N.B. Petts my age is ~~#~~ Twenty eight years I am at this time a merchant — Place of residence Middleport Iroquois Co Ills

Int 2 — Are you acquainted with the parties to the above entitled suit

Ans — I am —

Int 3 — State whether you have been in the Military Service of the United States, since the Commencement of this war to supress the Southern rebellion? and if so when? in what capacity, did you serve in said war

Ans — I have - as Captain of Company C. 51st Illinois Infantry volunteers —

Int 4 — State when and where you raised your Company and what was the number of men in your Company; —

Ans — I raised my company in the fall of 1861. in Iroquois County Illinois There were one hundred and six men in the Company Eighty four of those were recruited in Iroquois County in 1861. in 1862 six additional men in Iroquois Co Ills were recruited making in all ninety men recruited in Iroquois County

Int 5 — Where was said Company on the 17th day of March 1863?

Ans — They were in the army of the Cumberland in Tennessee I think

Int 6 — How many of said men were under twenty one years of age on the 17th day of last March. State if you know;

Ans — I should think out of the ninety there were about seventy

Int 7 — State whether you were acquainted with the men in the several Companies and parts of Companies that were in the army from Iroquois County on the 17th day of last March if not acquainted with all were you

acquainted with a portion and if so what ~~portion~~ proportion

Ans — I am acquainted with some of the men from some of the Companies - I am acquainted with a considerable portion of them.

Qut 2 — State from your knowledge of the different companies — spoken of by you above & the men composing said companies what proportion of all the men in the war from Iroquois Co were under the age of twenty one years on the 17th day of last march!

Ans — I would think one in nine or ten. to all the foregoing interrogatories and answers thereto. objected to by A B Roff attorney for Defendants.

— Direct examination Closed —

Cross examination by Defendants. —

Qut 1st — Do you know how many soldiers who had enlisted in the United States army from Iroquois County previous to the 17th day of March 1863. had died before said day how many had been discharged before said day & how many were in Iroquois County on said day who were entitled to vote

Ans — I dont know —

Qut 2 State when you left the State of Illinois with your Company and how long. and during what period or periods of time you were absent from the State of Illinois. And when you returned

Ans — I left Illinois I think about the 24 day of February 1862 with my company and was absent until dec 14th 1862 leaving my company at Nashville Tenn —

Qut 3 — Do you desire to be understood in your answers to interrogator

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Recrs. where you State, you are are acquainted with a considerable portion of them (refering to soldiers having enlisted from Iroquois County) and in the U.S. Army on the 17th of March last) that you were acquainted with those or any large portion of those who enlisted while you were out of the State of Illinois,

Ans — I Know many of them —

Int 4th How many of those who enlisted from Iroquois County during your absence from the State as aforesaid, were under the age of twenty one years

Ans — I should think about one in nine —

Int 5th — Were any of the Soldiers, who enlisted in the U.S. army from Iroquois County before the 17th day of March 1863, in said said County on said day, if so State as near as you can how many!

Ans — Yes there were, how many I cant tell —

Int 6 — State if you Know how many of the members of your Company from Iroquois County previous to the 17th day of March 1863, had died deserted, or were discharged. State fully & as near as you can —

Ans — I dont Know —

Int 7 — Have you any means of Knowing.

Ans — Yes —

Int 8 — what are those means —

Ans — a company record printed

Int 9 — Will you produce that record & (objected to)

Ans — I will produce it to the Court but not to be Kept by him

Int 10 — Will you read said record for the Court to copy said record or furnish said Court a written copy of said

record as a part of your deposition.

Ans — One thing certain I cant furnish a written copy I expect I can read it

Qut 11th — Will you please read it slowly, that the Court may take a copy.

Ans — I will leave the record with the Court to copy after which to return it to me, it was presented to me and I want to preserve it (The Witness hands the record to the Court) which reads in the words and figures — following to wit: Company G 51st Reg. Ills Volunteers

Regimental Officers.

Colonel G. W. Cumming. Resigned Sept 30th 1862.
Lt. Col. L. P. Bradley Pro Colonel Sept 30th 1862
Major S. B. Raymond Pro Lieut Colonel Sept 30th 1862.

Company Officers.

Commissioned officers.

Captain A. B. Pitts resigned Nov 17th 1862 —
1st Lieut A. M. Sitton Pro Captain Nov 17 — 1862 —
2d Lieut A. Eads Pro. 1st Lieut Nov 17 — 1862

Non Commissioned officers.

Sargents

1st Adam S. Weifield. Pro 2d Lieut Nov 17th 1862
2d Francis M. Bryant " 1st Sergt " " "
3d John H. Ekstrand — detailed as ordnance Sargent,
4th Albert G. Beebe — discharged a Murfreesboro. —
5th Thomas Barnes died of wound at Murfreesboro Jan 5th 1863.

Corporals

1st John Gaffield ----------

2d Wm Carr taken pris. Dec 31st 1862 since reduced to ranks
3d Iren L. Baly pro to 3 Sargent Nov 19th 1862,
4th Benj F. James taken pris Aug 22d 1862 since ex changed
5th Michael B. Hagle died at home March 19th 1862,
6th Asher Sargent Clerk in Regimental Com, since Sept 12th 62,
7th Michael J. Connally discharged aug 22d 1862,
8th Robert A. Tilton, died at Middleport Ills. July 3d 1862.

Musicians

James E. Parell. Peter C. Hoyt. Discharged Dec 5th 1862.

Wagoner.

Samuel Hoffman. absent sick since Dec 10th 1862.

Privates.

Names	Remarks
Adel John	diserted June 30th 1862.
Ash Lorenzo D.	Discharged April 24th 1862
Bishop Wallace	
Burrw James C.	
Burntrager Geo H.	Pro 6th Corporal July 24 1864
Burgess William	
Baly Geo W.	detached service divsn ambulance driver
Camp Frederick N	died from Wounds reed at Stone River
Canady Horace P.	died in Hospital near Farmington Miss
Canady Mathew,	
Chamberlain Augustus A.	died in hospital near Farmington Miss
Crawford Robert F.	
Cross James	discharged Sept 27th 1862.
Curry William,	died in hospital near Farmington Miss
Cuse Joseph,	
Deming Samuel M.	discharged April 26th 1862

Duncan Rufus H.	Wounded at Stone River
Dixon John,	discharged Oct 13th 1862
Eastburn Allen M.	
Edwards Jesse L.	Taken prisoner Dec 31st 1862
Edwards Levi,	died in hospital at Nashville Tenn Mch 2d 62
Freeman Alfred M.	
Flatt David,	
Garrett Benjamin O.	discharged April 24th 1862
Gravel Geo,	
Green Lewis,	Taken prisoner Aug 22d 1862
Hord Geo W.	
Hammond Shubil.	discharged april 24th 1862
Harris Nathaniel R.	died Jan 30th 1862.
Heagy Harvey W.	
Hess Andrew,	discharged april 9th 1862.
Hey John,	
Hill Wallace,	
Hogle Leander,	
Hogle Sylvester	discharged Jan 28th 1862
Hoover Ethan,	
Hoover Harvey W.	deserted
Hoover Michael,	Taken prisoner Aug 22 1862
Huggins Wm H.	detached to Pioneer Corps since Nov 29 1862
Hutsler David,	on detached service as div ambulance driver
Hoglund Isaac,	
Jackson Francis M.	Taken priss. Aug 27th 1862 Since discharged
Johnson Otto,	discharged April 19th 1862
Jackson Henry,	

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Jolly Robert A.	died in Camp near Corinth June 12th 1862
Ketchum Nelson	Taken pris's Aug 22 1862. since Ex changed
Loback Joseph R.	Taken prisner Dec 31st 1862
Lyman Joseph H.	
Lynn Daniel W.	discharged April 24 1862
Mann John,	detailed as regimental ambulance driver
Mann Pleasant R.	"
Mathew Wm	died at Mound City hospital March 25th 1862
Mayfield Erastus D.	detached to Pioneer Corps
McGowen Curtis	
Miller Chas W.	died at Camp at Chicago Ills, Jany 1862
Montgomery Wm,	taken pris's Aug 22d 1862 since Exchanged
Moss Daniel H.	" " " " " " "
Moore Jasper N.	
O'Conner John	absent sick since Feb 18. 1862
Parker Henry C.	discharged April 24 1862
Peck Erwin,	died in hospital at Murphresboro Tenn
Rambo John D.	promoted to 5th Corporal July 25 1862
Restler Wm B.	
Reggen Henry B.	deserted Aug 20th 1862,
Robbins Cornelius	
Rawley Chas W.	died in hospital No 6 Bowling Green Ky
Sallee Philip N.	discharged and Reenlisted in 4th U.S. Cav
Smith Benj F.	det to Powells Scouts, for 3 Corps in Ps Scouts
Smith Edward	
Smith Walter H.	discharged and reinlisted in 4th U.S. Cav
Smith Wm G.	
Smith Calvin R	
Smith Theodore M.	taken pris Aug 22 1862 died at Mem

Sims Alexander,	
Sims Amanuel,	taken pris Aug 22 1862 Since Exchanged
Trotter James H.	
Taylor Dwight D.	died in General hospital at Hendersonville Ky
Wade Oscar,	
Willard Henry L.	
Woolsey Henry L.	diserted from Camp Douglas Chicago Ills
	" " " " " "

Memorandum

Left Chicago Ills. Feb 14th 1862, arrived at Cairo the 15th Crossed the River and established a Camp in Kentucky 26th Started for New Madrid March 6th arrived at New Madrid 9th was in the siege of New Madrid and Island No 10. Started down the river for Fort Pillow April 12th was ordered back via Cairo and Paducah to reinforce Gen Hallock at Corinth; arrived at Hamburg. From April 24th in the battle of Farmington Miss May 9. in the siege of Corinth. Miss. started for Trinity Ala July 21st arrived at Trinity the 28th the company remained there four weeks as rail-road guards. then joined the regiment at Decatur remained there until Sept 5th started for Nashville. From the 5th arrived there the 12th remained there during the blockade moved to Camp Sheridan Dec 10th Started for Murfreesboro the 20th was in the battle of Stone River on the 1st of January 1863, sixteen men from the company under command of Lieuts Eads and Hetfield took one Lieutenant and Eighty five men prisoners, Marched from the battle field to Camp Bradly the 6th started to Eaglesville on a Scout March 4 via Salem, from thence to Franklin via Triune and

Petersburg thence to within four miles of Columbia via Spring Hill and returned to camp the 14th

Mustered into U. S. Service
Dec 24th 1864
By Lieut Christopher U. S. A.
at Chicago Ills.

This last interrogatory and answer thereto objected to by complainants attorneys

Int 12 — Have you compared the Copy of company record taken by the Court, and if so state whether you find it correct or not not —

Ans — I looked over the record while the Court record and found they agree

Int 13 — Is the company record as read to you by the Court a correct statement of the history of said company and if not state wherein it is deficient or in correct!

Ans — There is twelve or thirteen persons more whose names do not appear on this record who were in my company I think — The rest I think is nearly correct

Int 14 — Will you give the names of the twelve or thirteen persons who belonged to your company whose names are not included in said company record, as near as you can!

Ans — I cant remember them all but I will give you a part of them Rufus Lynn, Albert Thayer, Wm J. McDermit. Joseph Hess, Thmas Hogen, is all that I can think of now —

Int 15 — Will you state how many members of your Company from Iroquois County - died before the 17th day of March 1863, and how many were discharged before march 17th 1863, and how many are living and in Iroquois County on the

17th day of March 1863. and how many had diserted before the 17th day of March 1863. please give the number of each so far as you can

Ans — I think about eight had ~~died~~ died. from Iroquois County. and about ten had been discharged two of whome reinlisted at Murfreesboro Tenn in the 4th U. S Cavalry without having had a furlough to come home at all and Three had diserted one of whome was in Iroquois County on the 17th day March 1863. I think about nine men of the whole company were in the county and living on the 17th day of March 1863.

Qust 16 — Will you please state the names of said eight men who were in Iroquois County on the 17 day of March 1863

Ans — James Crow. John J. Dixon. Shuble Hammonds. Andrew Hess. Sylvester Hoyle. Otto Johnson. Henry C. Willard Peter C. Hoyt & N B. Pells

Cross Examination closed.

Direct examination resumed —

Qust 1 — State of the nine soldiers you speak of as being in Iroquois Co on the 17th day of March 1863. Were of the number you spoke of as having been discharged or deserted from your company

Ans — They were ——

Qust 2 — State the names of those you speak of as having deserted from your Company who were in Iroquois County on the 17th day of March 1863.?

Ans — Henry C. Willard. I mean he left our regiment and

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went into another the 45th and has been in the service since, and I understand he was in the Battles of Fort Henry, Fort Donelson and Shiloh and is now in the service. I was obliged to account for his absence by calling him a deserter in my report but I never considered him a deserter from the service,

Qust 3 — Was the said Henry C. Willard of twenty one years age on the 17th day of March 1863,

Ans — according to his own statements he was not —

Qust 4 — State if the said Henry C. Willard voted at said County seat election

Ans — I think he did —

Qust 5 — State whether the said Henry C. Willard had any parents living in Iroquois County on the 17th day of March 1863 and if so who were they —

Ans — One A. G. Willard who claims to be his father lived in Iroquois County at that time —

Qust 6 — State whether you was acquainted with the said A. G. Willard on the 17th day of March last —

Ans — I was —

Qust 7 — State whether you was acquainted with the Board of Supervisors of Iroquois County on the 17th day of last March; and before that time —

Ans — I believe I knew nearly every one of the Members of said Board at that time —

Qust 8 — Who was Chairman of the Board of Supervisors on the 17th day of March 1863 —

Ans — I believe it was A. G. Willard —

Int 9 — State whether the record you spoke of in your cross examination is correct —

Ans — There are twelve or thirteen persons in my company whose names does not appear on the record therefor it is not a correct record of my company

Int 10 — State whether the Record you speak of in your cross Examination is writen or printed. if writen who wrote it — if printed who printed it —

Ans — It is all printed except seven or eight words which are writen, who wrote those seven or eight words I dont Know, who printed the ballance I cant tell,

Int 11 — How long have you had said document which you call a printed record in your possession and when did you first see said record —

Ans — I have had the record in my possession about four days. I first saw it in my Store in Middleport —

Int 12 — State if you Know. how said record came to in your store in Middleport as spoken of by you about —

Ans — a Boy brought it to me from the Post office

Int 13 — State if you Know by whome said record was made

Ans — I dont Know —

Int 14 — State if you Know who sent said record to you;

Ans — I dont, Know ——

To all the foregoing interrogatories of complainants and answers thereto objected to by attorney for Defendants

A.B. Roff

Direct Examination closed by Complainants

Cross Examination resumed by Defendants ——

Qst 1 — Is the Record of your Company as copied by the Court Correct except as you have stated in your answer to questions on the cross examination and in answer to questions on resumption of direct examination and if not correct with those exceptions, then State every particular wherein it is incorrect further than already stated by you, so far as you can —

Ans — I cannot tell whether it is quite correct or not I cannot correct the record further than I have, except by guess work —

Qst 2nd — Will you please take the said Record and examine it carefully and give each name and statement in said record which you find or believe to be incorrect!

objected to

Ans — I am not certain that any of it is incorrect except as stated before —

Qst 3 — Do you Know whether the statements of said record are generaly correct with the exceptions you have already made —

ans — as far as I Know they are ——

Cross Examination closed by Defendants.

Direct examination resumed by Complainants,

Qst 1st — State whether your Company prior to the 17th day of last March Kept a writen record of said company and its proceedings —

Ans — There was such a record Kept —

Qst 2 — How many of said persons spoken of by you above who had belonged to your company, and who were in Boyle County on the 17th day of last March were minors —

Ans — I think Two. Sylvester Hogle & Henry C. Willard

Subscribed and Sworn to
before me this 16th day of
September A.D. 1863.

Michael Hogle J.P.

N. B. Pells

N.B. Pells claims witness fees for two days $2.00

The further taking of this deposition continued until
~~the~~ on Thursday the 24 day of September AD 1863, at nine
oclock am. by agreement of parties

M. Hogle J.P.

Thursday morning nine oclock A.M. 1863. the further
taking of these depositions continued by agreement
of the counsels of the parties until 25th inst at nine oclock

M. Hogle J.P.

Frid 25 sept. the further taking of these depositions
continued indefinitely by consent of the Counsel of
the parties when the witnesses can attend —
The counsel of both parties to have notice
No further witnesses attending, the taking of these
depositions closed —

M. Hogle J.P.

State of Illinois }
County of Douglas } ss

I Michael Hogle a Justice of the
peace in and for said County and by and —
before whome the foregoing depositions were taken
and the above named and foregoing witnesses

were examined. do hereby certify that previous to the commencement of the examination of the said Cornelius F. McNeill. Chester Kinney. James Fletcher George A. Woodford & Clerk & N. B. Pelts as witnesses in the said suit between the said William F. Keady Cyrus B. Barnes & Levis Trump plaintiffs or complainants and the Board of Supervisors of Iroquois County Et. al. Defendants they were duly sworn by me as such Justice of the peace to testify the truth in relation to the matters in controversy between the said William F. Keady. Cyrus B. Barns & Levis Trump complainants and the Board of Supervisors of Iroquois County Et al Complainants so far as they should be interrogated concerning the same — that said depositions were taken at my office in the town of Middleport in the County of Iroquois and State of Illinois at the times therein set forth and that after said depositions were taken by me as aforesaid the interrogatories and answers thereto as written down by me, were read over to the said Witnesses, and thereupon the same were signed and sworn to by the said deponents, Cornelius F. McNeill. Chester Kinney. James Fletcher George A. Woodford & N. B. Pelts. The oaths being administered by me as aforesaid

October 3d 1863

5¢ Revenue stamp

Michael Hogle J.P.

J.P. Fees taking depositions (162.00) words $16.20

10 oaths 5¢ 1.50. Certificate 25 .75

$16.95

Witnesses claiming Fees —

C. F. McNeill	1 day	$1.00
Chester Kinney	"	1.00
James Fletcher	"	1.00
Geo A. Woodford	2 "	2.00
N.B. Pelts	2 "	2.00
		$7.00

$23.95

And on the said 18th day of November AD 1863 there was filed by said Clerk of the Circuit Court in said cause certain Depositions (together with a notice) on the part of Defendants in said cause which read in the words and figures following to wit;

State of Illinois
Iroquois County ss

In the Iroquois County Circuit Court
November Term AD 1863.

Wm F Keady, Cyrus B Barnes and Lewis Troup

vs

The Board of Supervisors of Iroquois County, George A Woodford and George King

Depositions of William W McKee, Charles A Stuck, James, T. S. Irons, William Munson, Wilson S Kay, John Willoughby Edward Rumley, Asa B Roff, Dale Pierce, James Markel Ransom Munson, Matthew Pierce, Henry L Quincy Conrad Secrist, A. G. Smith, L. R. Price, Kendall Shanklin and A. G. Willard residents of Iroquois County and State of Illinois witnesses on the part of the Defendants in the above entitled suit now pending in said Circuit Court aforesaid produced sworn and examined before George. G. Mayo Police Magistrate of Watseka, Iroquois County, State of Illinois, Commencing on the 6th day of November AD 1863 at 10 o'clock A.M. and continuing from day to day at the Office of Roff & Doyle in Watseka in said County taken by virtue

of the annexed notice:

State of Illinois } Iroquois County Circuit Court
Iroquois County } ss Of the November Term AD 1863

William F Keady, Cyprus B Barnes and Lewis Troup

vs

The Board of Supervisors of Iroquois County, George A Woodford & George King

To Complainants Solicitors Fletcher & Kinney their attorneys

Sirs:

Take notice that on the 6th day of November AD 1863 between the hours of 8 oclock A.m and 6 oclock P.m of the same day and continuing from day to day if necessary at the office of Roff & Doyle at Watseka in the County of Iroquois and State of Illinois and before George G. Mays Police Magistrate of the town of Watseka, we shall proceed to take the depositions of E. H. Wood, E. Rumley, K Shankland, A. G. Millard, E. A. Stucko, R. Munson, W. S. Kay and others to be read as evidence on the trial of the above entitled suit, said witnesses being residents of said County of Iroquois

October 26th AD 1863. Randall & Fuller & Roff & Doyle
Attys for Defendants.

Service of a notice of which the within is a true copy is hereby admitted this 26th day of October 1863. Fletcher & Kinney, Complts Solrs

William W. McKee first being duly sworn deposes and says as follows:

Int 1 State your name, age residence and occupation.

Ans My name is William W McKee age 38 years, Watseka Iroquois County Illinois, place of residence — occupation a labouring man

Int 2 Where did you reside during the month of February 1863?

Ans In Watseka (formerly called South Middleport.)

Int 3 State if during the month of February 1863 you posted any notices of an Election to be held in said County.

Ans I did.

Int 4 State what Election was to be held that you posted notices for, and when at what time and where, and how many notices you posted.

Ans The Election for the People of Iroquois County to vote for or against the removal of the County seat — They were posted by me about the 19th or 20th of February 1863 about 23 or 24 days before Election, one on the Reinl School House, one on I think the Washington School House and one on the Kankakee Road this side of the Spring Creek Bridge, all in Iroquois Township and three in all.

Int 5 State if you had any other copies of said notices than those you posted, and if so what did you do with them.

Ans I had three others and gave them same to the town clerk.

Int 6 State what Town clerk, and at what time you delivered said notices.

Ans The town Clerk of Iroquois Township and at the same time I posted the other notices.

Int 7 In what County is Iroquois Town in?

Ans In the County of Iroquois.

Int 8 Can you furnish a copy of notices you posted in Iroquois Town as you have above stated?

Ans Yes Sir:

Int 9 Please furnish a copy of said notice and mark it "A" and make it a part of your Deposition.

Ans This notice marked "A" is a copy of the notices posted by me in Iroquois Town as I have stated and I make it part of my Deposition.

"A"

Election Notice

State of Illinois
Iroquois County ss Public Notice is hereby given that on Tuesday the 17th day of March 1863 an Election will be held at the usual place of holding Elections in the several Towns in the County and State aforesaid, for the purpose of enabling the People of Iroquois County to vote for the Removal, or against the Removal of the County seat or seat of Justice of said County from the town of Middleport to the town of South Middleport, in the County and State aforesaid which Election will be opened at 8 o'clock in the Morning and continue open until 6 o'clock in the afternoon of the same day.

Given under my hand and

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Official Seal

Official seal at Middleport this
14th day of February, 1863.
Geo A Woodford
County Clerk.

Int 10 State whether the places at which you posted said notices in Iroquois Town are Public places and if so to what extent.

Ans I should think they were the most public places.

Direct examination here closed and no appearance on the part of the Plaintiffs. The taking of this Deposition is continued to 9 o'clock A.M. on Saturday the 7th inst to give them the opportunity to Cross-Examine.

Oct 7th 1863. James. Fletcher appeared on part of the Plaintiffs and waived the asking of any Cross interrogatories.

Subscribed and sworn to before me this 7th day of November AD 1863.
Geo. G. Mayo. J.P

W. W. McKee.

5 cent stamp

Charles A Stuck first being duly sworn deposes and says as follows

Int 1 State your name age, residence and Occupation.

Ans My name is Charles A Stuck, age 31 years, place of business Watseka Iroquois County Illinois, and a Carpenter and Joiner by trade.

Int 2 Where did you reside in February 1863.

Ans Watseka, Iroquois County Illinois formerly called South Middleport.

Int 3 Do you know of any Election notices being posted in Iroquois County during the month of February 1863 and if so state how many notices were posted, by whom they were posted, the times and places of posting the same and what Election said notices were for.

Ans I do know of nine notices being posted by myself in said County, the first two in the town of Martinton on the 18th of February 1863, one in the village of Martinton on the Black Smiths Shop, one on Whites School House on same day, also on the same day, three I posted in Wyggant or Pappinow Town, the first ~~of~~ on Switzers School House, the second at a Cross Road in said Town, and the third at the residence and office of P Gendron Justice of the Peace. The next day the 19th day of February 1863 I went to Bever - and posted two in Bever Town, the first at St Mary Village in said Town on a Shoe Makers Shop, One ~~on~~ at the Barn Kirk Crossing. The next day February 20th I posted one on Frys School House in said Town of Bever, on same morning I posted one on a Barn in Buckhorn in Beaver Town, and on my way back of same day I posted one in Martinton Town at Beans Grove - said notices posted by me were for an Election to be held the 17th day of March

1863 for the People of Iroquois County to vote for or against the removal of the County Seat to South Middleport.

Int 4 Where the notices posted by you in the afore mentioned towns, written or printed?

Ans I think all were printed except the signatures of the County Clerk, which I think was written.

Int 5 Will you examine Notice marked "A" attached to the Deposition of William W McKee in this case and state whether the notices posted by you are similar to that, and if not state wherein they differ.

Ans I will, and I see on examination no difference all seeming to be alike.

Int 6 Did you post the various notices spoken of by you in your Deposition as above in private places and if not state what kind of places.

Ans I consider them as the most public places in the several towns I posted ~~it~~ in.

Int 7 Did you furnish any copies of said Election notice to any ~~one~~ other person or persons, if so how many, at what time and to whom?

Ans I furnished three to the town clerk of Papineau on the 18th day of February 1863, and on the 19th three to the Town Clerk of Beaver Town.

Chas. A. Stuck.

Subscribed and sworn to before me this 7th day of November A.D. 1863.

Geo. G. Mayo. J.P.

5 cent Stamp

Continued to the 9th inst at 9 o'clock, A.M.

Monday 9 oclock A.M.

James F. S. Sons being first duly sworn deposes and says as follows:

Int 1 State your name, age. residence and Occupation.

Ans My name is James. F. S. Sons, age 31 years, place of residence Watseka Iroquois Co Illinois, Occupation Carpenter and Joiner.

Int 2 Where did you reside in February 1863.

Ans In South Middleport now called Watseka.

Int 3 State if during the month of February 1863 you posted any notices of an Election to be held in said County.

Ans Yes Sir.

Int 4 State what Election was to be held that you posted notices for, at what time, and where and how many notices you posted?

Ans It was an Election for the People of Iroquois County to vote for or against the removal of the County Seat to South Middleport, time the 14th day of February in Belmont Town, and I posted four notices in all.

Int 5 State if you please the different places in said ~~Town~~ Belmont Town where you posted said notices and the kind of places whether private or public.

Ans The first one near Fairview Chapel, the second one at the end of the lane near Forman Mores house on a post set up for the purpose. The third near the forks of the road near John McConnells, The fourth on the

Cross roads of the Middleport and Sugar Grove, and Texas and Longshore Bridge roads, they are all public places, so much so as any places in the County,

Int 6 State whether those notices were written or printed.

Ans The notices were printed, do not know whether Woodford's name was written or printed.

Int 7 Please examine the copy of a notice annexed to the Deposition of William W McKee in this case and marked "A" and state whether the notices you posted in said Belmont Town were similar.

Ans Just the same with the exception it may be of George Woodfords name being printed.

Subscribed and sworn to before me this 9th day of November A.D. 1863
Geo. G. Mayo J.P.

I. T. S. Inns.

5 cent Stamp

Continued to the 10th inst at 9 o'clock a.m.

9 o'clock A.M. 10th inst. William Munson first being duly sworn deposes and says as follows:

Int 1 State your name, age residence and Occupation.

Ans My name is William Munson, age 31 years, Walsecka Iroquois County Illinois, place of residence, Carpenter & Joiner by trade.

Int 2 Where did you reside in February 1863.

Ans In South Middleport, Iroquois Co Walsecka.

Int 3 State if during the month of February 1863, you know, of any Election notices being posted in Iroquois County and if so state what Election said notices were for, the place where the time when, and by whom posted, and the number posted and whether the same were posted in private places or otherwise?

Ans I do, the notices were for the People of Iroquois County to vote for or against the removal of the County seat to South Middleport. I posted one on Vests Mill in Texas in the town of Middleport. I posted another ½ a mile South of Mr Fry's in same town. I posted another on Havens Grocery in Texas Village, and Concord Town, and posted them on Tuesday the 17th day of February and I consider them the most public places there were in the nabourhood.

Int 4 Please examine the notice attached to William W McKee's deposition in this suit marked "A" and State whether the notices that you posted as above were similar, and if not state wherein they differ

Ans I do not see any difference, but consider them the same.

Subscribed & Sworn to before me Wm Munson
this 10th day of November AD 1863.
George. G. Mayo J. P.

5 cent Stamp

Wilson S Kay being first duly sworn deposes and says as follows;

Int 1 State your name, age, residence and Occupation.

Ans My name is Wilson. S. Kay, Age 32 years, residence Middleport, Iroquois County Illinois, Occupation Attorney at Law.

Int 2 Where did you reside in February 1863.

Ans In Middleport, Iroquois Co Ills.

Int 3 Do you know of any Election notices being posted in Iroquois Co in February 1863 and if so what Election said notices were for and state the place where, the time when and by whom said notices were posted.

Ans Sometime in February 1863 I think, I received at the hands of George A Woodford the Co clerk of Iroquois Co a roll containing notices for an Election for or against the removal of the County seat of Iroquois Co. I posted three copies of the notices which I received from the clerk at three different public places in the town of Middleport. I cant state the exact time when said notices were posted but I do recollect that more than twenty days elapsed between the time of posting and Election.

Int 4 Will you look at a Coppy of an Election notice marked "A" and attached to the Deposition of William W McKee in this case and state if it is similar to those posted by you, and wherein it differs.

Ans The notices which I posted were substantially

and I think literally the same.

W. S. Kay

Subscribed and sworn to before me this 10 day of November AD 1863.

Geo. G. Mayo J.P.

5 cent Stamp

John Hillooghby being first duly sworn deposes and says as follows:

Int 1 State your name age residence and occupation.

Ans My name is John Hillooghby, age 45 yrs, Ashmore Town, Iroquois Co Illinois my place of residence and occupation a Farmer.

Int 2 Where did you reside during the month of February 1863.

Ans In Ashmore.

Int 3 State if during the month of February 1863 you know of any Election notices being posted, for what Election were they, and how many - and whether the same were posted in private or public places. (by whom posted, when, where)

Ans I know the Election was on the 17th of March 1863 and I know I posted them three or four weeks before that time and am satisfied it was in February, and they were for an Election to vote for or against the removal of the County Seat to South Middleport. Mr Fagan handed me the notices in the Stanley House or on the platform, and I posted them the day after. I posted one at the Post Office, one on Krider's Block

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Smith Shop, one on the Bridge near Stidhams and another on the Cross Roads near my house, all these places were in Ash Grove, and the same were posted in the most public places there were in the Town.

Int 4 Please examine the notice marked "A" attached to William W McKees Deposition in this case and State whether the notices you posted as above were similar and if not wherein they differed.

Ans I have examined the notice marked "A" in McKees deposition and do not see any difference both seeming to be alike. I consider them precisely the same.

Subscribed and sworn to before me this 10th day of November AD 1863. George G. Mayo. J.P.

John Willoughby

5 cent Stamp

Edward Rumley being first duly sworn deposes and says as follows:

Int 1 State your name, age, residence and Occupation.

Ans My name is Edward Rumley, age 32 years, Residence Ouarga, Ouarga Town, Iroquois Co, my occupation is a Gun Smith.

Int 2 Where did you reside in February 1863.

Ans I resided where I do now, in Ouarga.

Int 3 State whether you posted any notices for an Election to be held in said County and if so what said Election was

for, when you so posted said notices, where at what place and when said Election was to be held and whether the places you posted said notices were private or public.

Ans I did, they were for an Election to be held to vote for or against the removal of the County Seat to New Middleport. I posted three of them the same day, I received them from the County Clerk and two the following day, and posted four in Owego Village, and one in Del Ray, the said Election was to be held on the 17th day of March 1863 and I consider them the most public places.

Int 4 Please examine a notice marked "A" attached to William W McKee's Deposition in this case and State whether this is similar, if not state wherein they differ to the ones you posted.

Ans They are exactly alike with the Exception that Woodford's name was printed instead of written.

Subscribed and Sworn to before me Edward Rumley
this 10th day of November AD 1863.

Geo. G. Mays J.P.

5 cent Stamp

Asa B Roff being first duly sworn deposes and says as follows:

Int 1 State your name age, residence and occupation.

Ans My name is Asa B Roff, age 45 years, residence Watseka formerly South Middleport, Occupation Attorney at Law.

Int 2 Where did you reside in February 1863.

Ans In South Middleport now called Watseka.

Int 3 Do you know of any Election notices being posted in Iroquois Co in February 1863, and if so what Election said notices were for, and State the place where, the time when, and by whom said notices were posted.

Ans I do know of nine notices being posted in Iroquois County in February 1863, for an Election to be held on the 17th day of March 1863 for or against the removal of the County Seat of Iroquois County - I posted them myself - I posted three of said notices in three of the most public places in the Town of Ashkum Iroquois County, on the 19th day of February 1863. I also posted three copies of said notices in three of the most public places in Chebanse on the 20th of February 1863. I also posted three Copies of said notice in three of the most public places in the town of Gilman on the 20th day of February 1863, and I also furnished three copies of said notices each to the town clerks of Ashkum, Chebanse and Gilman, for them to post on the same days I posted the notices as aforesaid. I cannot state the precise places where I posted said

notices, but I remember distinctly of posting them in the most public places I could find,

Int 4 Please examine a notice marked "A" attached to the Deposition of William W McCabe in this case and State whether that is similar, if not state wherein it differ from the ones you posted,

Ans I have examined and believe it to be a true copy of the notices I posted,

Subscribed and sworn to before me this 10th day of November AD 1863. Asa. B. Roff.

Geo. G. Mayo J. P.

Scent Stamp

Continued to 11th inst at 9 oclock Am

Nov 11th 9 oclock Am

Dale Pierce being first duly sworn deposes and says as follows;

Int 1 State your name. age, residence and occupation.

Ans My name is Dale Pierce, my age is 35 years, my place of residence is Prairie Green Town, Occupation a Farmer.

Int 2 Where did you reside during the month of February AD. 1863.

Ans In Prairie Green Town, Iroquois County, Illinois.

Int 2 Were did you reside Do you know of any Election notice

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being posted in Iroquois Co Ill in February 1863, and if so what Election said notices were for, and state the place where the time when, and by whom said notices were posted.

Ans Yes sir. it was for an Election to be held for the People of Iroquois Co to vote for or against the removal of the County seat to South Middleport. I posted one notice on the La Mont School House, another at the Corners of three ~~rods~~ roads one mile north of said School House, the other I did not post but saw it up after it was posted near Mr Skeelas place and were all posted in Prairie Green Town, Iroquois Co.

Int 4 Will you look at a copy of an Election notice marked "A" and attached to the Deposition of William W McKee in this case, and state if it is similar to those posted by you, and if not wherein they differ.

Ans I think it the same kind of a notice, and do not see any difference, believing both to be alike those I posted.

Int 5 State in what town the above notices were posted and state whether the same were posted in private places or otherwise.

Ans I posted them in Prairie Green Town, Iroquois Co Ill, and were the most public places I could find in said Town.

Int 6 At what time did you post said above mentioned notices.

Ans I posted them the day after Dr Secrist gave them

to me in Midford and know it was more than twenty days before Election.

Dale Pierce.

Subscribed and sworn to before me this 11th day of November AD 1863.

Geo. G. Mayo J.P.

5 cent Stamp

James Markel being first duly sworn deposes and says as follows;

Int 1 State your name age, residence and occupation.

Ans My name is James Markel, age 31 years, place of residence in Watseka formerly South Middleport occupation a Plasterer.

Int 2 Where did you reside in February AD 1863.

Ans In South Middleport now Watseka.

Int 3 State if during the month of February 1863 you posted any notices of an Election to be held in said County.

Ans I did.

Int 4 State what Election was to be held that you posted notices for, at what time and where and how many notices you posted.

Ans It was for an Election for the People of Iroquois Co to vote for or against the removal of the County Seat to South Middleport, and I posted them twenty one days before Election which was held on the 17th day of March 1863, and I posted

them in Cerro Apple Town, one on a School House, in the nabourhood of Asa Williamsons, one on the Bridge across Sugar Creek at the Church, and one on a tree by Thomas Wallaces, Also one on a Gate Post at John Nolans and one on a Gate Post at Asa Williamsons, and five notices in all.

Int 5 State if you please the kind of places whether priate or otherwise where you posted said notices.

Ans I consider them the most public places in the Town.

Int 6 Please examine the coppy of a Notice annexed to the Deposition of William W McKee in this case and marked "A" and State whether the notices you posted in said Cerro Apple Town were similar, if not state wherein they differ.

Ans I cannot see any difference.

Subscribed and sworn before me this 11th day of November AD 1863
Geo. G. Mayo

James Marked

5 cents Stamp

Ranson Munson being first duly sworn deposes and says as follows:

Int 1 State your name, age residence and Occupation.

Ans My name is Ranson Munson, age is 33 years, Hatteka formerly South Middleport is my place of residence, Occupation a Joiner.

Int 2 Where did you reside during the month of February 1863,

Ans In New Middleport, now Watseka, Iroquois Co Ills.

Int 3 Do you know of any Election notices being posted in Iroquois County Ill, in February 1863 and if so what Election said notices were for and State the place where, the time when, and by whom said notices were posted,

Ans I do, it was for an Election to be held to vote for or against the removal of the County seat of Iroquois County to South Middleport. I posted one notice on the Bulletin board in the Court House Hall, one notice in the Stanley Hotel and one notice in Coney's Store, and I posted said notices on or about the 20th day of February 1863,

Int 4 Will you look at a Copy of an Election notice marked "A" and attached to the Deposition of William W McKee in this case and state if it is similar as to those posted by you, and if not wherein they differ,

Ans I have looked at the notice and consider it substantially the same as the ones I posted,

Int 5 State in what town the above notices were posted and State whether the same were posted in private places or otherwise,

Ans They were posted in Middleport Iroquois Co Illinois and I consider them the most public places in said Town,

Subscribed and Sworn to before me this 11th day of November AD 1863,

Geo. G. Mayo

Ransom Munson.

5 cent Stamp

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Continued to the 13th inst at 9 o'clock A.M.

Nov 12th 1863.

Matthew Pierce being first duly sworn deposes and says as follows;

Int 1 State your name, age, residence and occupation.

Ans My name is Matthew Pierce age 38 years. My residence in Milford Iroquois County Illinois and occupation selling Drugs, Groceries &c.

Int 2 Where did you reside during the month of February AD 1863.

Ans In Milford Iroquois County, Illinois.

Int 3 Do you know of any Election notices being posted in Iroquois County Ill during the month of February AD 1863 and if so what Election said notices were for, and State the place where, the time when, and by whom said notices were posted.

Ans Yes I posted one on my store door, and posted the same twenty one days before Election, the same being on the 17th day of March and was an Election for the People of Iroquois County to vote for or against the removal of the County Seat to South Middleport.

Int 4 Will you look a coppy of an Election Notice attached to the Deposition of William W. McKee in this case and marked "A" and State if it is similar to the one you posted, if not wherein it differs.

Ans I have noticed said Coppy and do not see any differ-

ance as far as I can remember.

Int 5 State what town said notice was posted in, and State whether said notice was posted in a private place or otherwise.

Ans In the town of Milford, Iroquois Co and was in a public place.

Subscribed and Sworn to before me Matthew Pierce.
this 12th day of November AD 1863
Geo. G. Mayo J. P.

5 cent Stamp

Continued to Saturday the 14th inst.

Nov 14th 1863.

Henry L Pinney being first duly sworn deposes and says as follows;

Int 1 State your name, age, residence and occupation.

Ans My name is Henry L Pinney age 25 yrs, Watseka formerly South Middleport my place of residence occupation, a Merchant.

Int 2 Where did you reside during the month of February AD 1863.

Ans In South Middleport, Iroquois Co Illinois.

Int 3 Do you know of any Election notices being posted in Iroquois County Illinois in February AD 1863 and if so what Election said notices were for, and state the place where, the time when and by whom said notices were posted.

Ans Yes Sir, I do. It was for an Election to be held on the 17th day of March AD 1863 for the People of Iroquois Co to vote for or against the removal of the County seat to South Middleport. I posted one on a Gate post at the forks of the road by Hyrum Bennetts and one on Mat Pierces Drug Store, and one on the store occupied by Sears & Freeman all in the Town of Milford & County of Iroquois State of Illinois. I posted those three notices on the 18th day of February AD 1863.

Int 4 Will you please look at a Copy of an Election notice marked "A" and attached to the Deposition of William W McKee in this cause, and state if it is similar to those posted by you, and if not wherein they differ.

Ans It is similar in every respect except that the Signature of George W Woodford was printed instead of written.

Int 5 State whether the places you posted said notices were private places or otherwise.

Ans They were I consider them the most public places in the town.

Subscribed and Sworn to before me this 14th day of November AD 1863.

Geo. G. Mayo.

H. L. Pinney

5 cent Stamp

Conrad Secrist being first duly sworn deposes and says;

Int 1 State your name, age, residence and occupation,

Ans My name is Conrad Secrest age 35 yrs residence Watseka formerly South Middleport, Occupation a Druggist.

Int 2 Where did you reside during the month of February AD 1863,

Ans South Middleport.

Int 3 Do you know of any Election notices being posted in Iroquois County Illinois in February AD 1863 and if so what Election said notices were for and state the place where, the time when and by whom said notices were posted.

Ans Yes, for an Election to be held for the removal of the County seat. I saw one on Pierces Store, one on Sears & Freemans Store and the other at the turn of the road by Reynun Bennetts on a Gate post in the town of Milford, the time was about the 18th or 20th of February AD 1863, and by whom posted I do not know, except the one by Reynun Bennetts which I saw Penney put up.

Int 4 State whether you delivered any copies of said notice to any person or persons and if so state when and to whom and for what purpose, and how many you delivered.

Ans Well, I did, about the 18th or 20th of February AD 1863, I delivered three Copies to the Town Clerk of

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Milford Town to I. N. Campbell to be posted and I left other copies for Crab Apple and Prairie Green at Stores in Milford.

Int 5 State whether the notices you said posted in the town of Milford were in private places or otherwise.

Ans I should think they were in as public places as there were in that Town.

Int 6 Will you please look at a Copy of an Election Notice marked "A" and attached to the Deposition of William W. McKee in this case and state if it is similar to those you said posted and if not wherein they differ.

Ans It is similar, only I think Woodfords name was printed instead of written.

Subscribed and Sworn to before me C. Secrest.
this 14th day of November AD 1863,
Geo. G. Mayo J.P. 5 cent Stamp

A. G. Smith being first duly sworn deposes and says as follows:

Int State your name, age residence and Occupation.

Ans My name is A. G. Smith, age 30 years, Residence Watseka Iroquois Co, Ill and occupation Newspaper Publisher.

Int 2 Where did you reside during the month of February AD 1863.

Ans I resided the first part of Febmary in Middleport. About the middle of Febmary I removed from Middleport to South Middleport.

Int 3 What business were you engaged in during the month of Febmary AD 1863.

Ans Publishing the Iroquois Republican.

Int 4 Did you during the month of Febmary or March AD 1863 publish any notice for an Election to be held in said County, and if so for what Election and at what time first inserted, and how long inserted in your paper.

Ans I did for an Election enabling the voters of Iroquois Co Illinois to change the seat of Justice of said County from Middleport to South Middleport, first inserted on the 25th day of Febmary 1863 and inserted three weeks.

Int 5 Can you furnish a copy of said Notice published by you, and if so please do so, and make it a part of your Deposition and mark it "A"

Ans I can here it is marked "A".

" Election Notice. "A"

" State of Illinois, County of Iroquois,

" Public notice is hereby given that on

" Tuesday, the 17th day of March 1863 an election will

" be held at the usual place of holding Elections in the

" several towns in the County and State aforesaid

" for the purpose of enabling the People of Iroquois County

" to vote for the removal, or against the removal, of the

" County Seat, or seat of Justice, of said County, from the
" town of Middleport to the town of South Middleport
" in the County and State aforesaid, which election will
" be opened at 8 o'clock in the Morning and continue
" open until Six o'clock in the afternoon of the
" same day. Given under my hand and
" [G. S.] Official seal at Middleport, this 14th
" day of February A.D. 1863.
"
" George A Woodford
" County Clerk

Int 6 State at what time you moved the office of the Iroquois Republican from Middleport to South Middleport.

Ans During the week ending Saturday February 21st 1863.

Int 7 State when you issued the first number of your paper after you removed to South Middleport.

Ans On the 25th day of February 1863.

The direct examination here closed and James Fletcher Esq propounded the following Cross interrogatories on the part of complainants.

Int 1 Where do you reside now.

Ans In Watseka, Iroquois Co. Illinois.

Int 2 What is your name and age.

Ans Abel. Gale. Smith, and age 30 years.

A. G. Smith

Subscribed & sworn to before me
this 14th day of November A.D. 1863.
Geo. G. Mayo. J.P.

[5 cent Stamp]

I. R. Price being first duly sworn deposes and says as follows;

Int 1 What is your name, age, residence and occupation.

Ans My name is I. R Price, age 22 yrs residence in Ash Grove town, occupation a Farmer.

Int 2 Where did you reside during the month of February AD 1863.

Ans I moved into Ash Grove on the 13th day of February 1863.

Int 3 Do you know of any Election notices being posted in the Month of February 1863, if so for what Election, when and where posted and by whom.

Ans Yes I do. It was for the People of the County to vote for or against the removal of the County seat, and posted them on the 20th February 1863. I posted one ~~on~~ at the Post Office, one on a Black Smiths Shop, and one on a School House all in Ash Grove Town.

Int 4 Please examine a copy of notice marked "A" in the Deposition of William McKee in this case and State whether the notices posted by you were similar if not wherein they differ.

Ans I have noticed the same and can see no difference.

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Int 5 Please state whether the places where you posted said notices were private places or otherwise.

Ans I should think them as public places as there was in the town.

Subscribed & Sworn to before me J. R. Price.
this 14th day of November AD 1863.
Geo. G. Mayo

[2 cent Stamp]

Kendall Shanklin being first duly sworn deposes and says as follows:

Int 1 State your name, age, residence and occupation.

Ans My name is Kendall Shanklin, age 36 years, residence Prairie Green Town, Iroquois Co, occupation a Farmer.

Int 2 Where did you reside during the month of February AD 1863.

Ans In Prairie Green Town, Iroquois County, Ill.

Int 3 State if during the month of February AD. 1863 you posted any notices of an Election to be held in said County and if so State for what Election, when, where, and by whom posted.

Ans Yes sir. I posted two myself. it was for an Election, for the people to vote for or against the removal of the County Seat to South Middleport.

I posted one on the 23d and one on the 24th day of February 1863, and I gave one to Mr Heylands to post and saw it up on the morning of the 25th day of February 1863, and one was posted on a School House, one at the Post Office and one at Mr Shoupler's, all in Prairie Green Town.

Int 4 Please examine an Election notice ~~marked~~ attached to the Deposition of William W McKee in this case and State whether it is similar to those posted by you, if not wherein they differ.

Ans I cannot see any difference.

Int 5 State whether the places where you posted said notices were private places or otherwise.

Ans I consider two of them the most public places in the town and the other not so public.

Subscribed and Sworn to before me K Shankland.
this 14th day of November AD. 1863.

Geo. G. May J.P.

5 cent Stamps

Continued to Monday the 16th inst at 9 A. M.

Nov 16th 1863

A. G. Hillard being first duly sworn deposes and says as follows:

Int 1 State your name age, residence and occupation.

Ans My name is AG Hillard, age 55 yrs, place of residence Sheldon, occupation a Farmer.

Int 2 Where did you reside during the month of February AD 1863.

Ans In Sheldon in Concord Town.

Int 3 State if during the month of February AD 1863 you posted any notices of an Election to be held in Iroquois County, if so state for what Election and when, where and by whom said notices were posted.

Ans Yes sir I did, it was for an Election to be held for the People of ~~the~~ Iroquois County to vote for or against the removal of the County seat, and I put them up I know more than twenty days before the Election which was held on the 17th day of March 1863. I posted two at Sheldon and two at Concord.

Int 4 Please examine a copy of a notice marked "A" and attached to the Deposition of William W. McKee in this case and state whether the

notices posted by you were similar, if not state wherein they differ.

Ans That may be an exact copy as far as I can remember.

Int 5 State whether the places at which you posted said notices are considered private places or otherwise.

Ans I put them up at the most public places in the town.

Subscribed and Sworn to before me A. G. Willard.
this 16th day of November A D 1863.

Geo. G. Mayo J.P.

5 cent Stamp

During the taking of the foregoing Depositions James Fletcher Esqr appeared for Defendants and waved the Cross Examination of Witnesses.

State of Illinois
Iroquois County ss I. George. G. Mayo Police Magistrate of Watseka, Iroquois County Illinois do certify that the foregoing Depositions were taken by me at the time and place mentioned in the Caption thereof. That the said witnesses were first duly sworn and that after each Deposition was written and it was carefully read to the witness whose Deposition was taken

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and was thereupon signed each ~~Deposition~~ witness signing his deposition so taken.

Witness my hand and seal this 16th day of November AD 1863.

Geo. G. Mayo
Police Magistrate

10 cent Stamps

Costs of G. G. Mayo

Issuing 4 Sub	1.00	
Adm 18 Oaths	90	
Tak Deps 800 Wds	8.00	
Certfct	25	
	$10.15	
Constables fees	12.94	
	$23.09	
Stamps	1.00	
	$24.09	

State of Illinois
Iroquois County ss

Iroquois County Circuit Court
Of the November Term AD 1863.

William F Keady, Cyrus R Barnes and Lewis Troup.

vs

Board of Supervisors of Iroquois County
George A Woodford and George King.

Sirs: Take notice

that on the 13th day of November 1863 between the hours of Eight oclock A.M and 8 oclock P.M of said day and continuing from day to day if necessary at the Office of the Circuit Clerk in the County of Douglas and State of Illinois and before the Circuit Clerk of said County of Douglas we shall proceed to take the Deposition of I. N. Tyrell and others of said County to be read in evidence on the trial of the above entitled suit said witnesses being residents of said County of Douglas,.

Yours &c
Randall & Fuller & Roff & Doyle
Attorneys for Defendants,

To Plaintiffs & Kinney & Fletcher
their attorneys
October 26th 1863

We admit due service of a notice of which the within is a copy this 26th day of Oct 1863.
Fletcher & Kinney
Compltts Sols

Interrogatories to be propounded to I. N. Tyrell in Taking his deposition before the Circuit Clerk of Douglas County Illinois, pursuant to notice in the case of William T Keady et al vs the Board of Supervisors of Iroquois County et al.

Int 1 State your name, age and place of residence and occupation.

Int 2 State where you resided in February 1863.

Int 3 State if you know of any notices for an Election being posted in Iroquois County during the month of February 1863 and if so, then state fully how many notices you know of being posted, by whom and the time when and the place where posted, and what town & County they were posted in.

Int 4 If in your answer to Int 3 you state any notices were posted, then state whether the places where they were posted were private places, and if not private, state whether and to what extent they were public places.

Int 5 State, in case you know of any notices having been posted of an Election in Iroquois County what Election said notices were for and state also whether you have a copy of the Election notice spoken of by you in your answers already given in taking this your Deposition and if so will you attach it to your deposition & mark it "B" and make it part of your deposition.

Int 6 State in case you have already stated in answer to the interrogatory 3 that you know of any notices being posted in February 1863, how many days they were posted before the 1st day of March 1863.

Int 7 If you know any thing further than you have stated touching the matters of which you have been interrogated please state it as fully as if you were particularly interrogated therein.

The Deposition of Joseph H Tyrel taken at the Circuit Clerks Office of Douglas County State of Illinois, in the town of Tuscola in said County of Douglas, on the 13th day of November 1863. between the hours of 8 oclock A M and 8 oclock P. M. to be read on the trial of the Cause now pending in the Circuit Court of Iroquois County Illinois, Wherein William A Keady, Cyrus R Barnes and Lewis Troup are plaintiffs and the Board of Supervisors of Iroquois County & George A Woodford & George King are Defendants, said deponant being of lawful age and first duly sworn, on oath deposes and says:

Int 1 State your name, age and place of residence and Occupation.

Answer My name is Joseph H Tyrel my age is 49 years, residence Tuscola Illinois, my occupation is a Carpenter.

Int 2 State where you resided in February 1863.

Answer I resided at South Middleport in Iroquois County Illinois.

Int 3 State if you know of any notices for an Election being posted in Iroquois County during the month of February 1863, and if so, then state fully how many notices you know of being posted, by whom and the time when, and the place where posted, and what town & County they were posted in.

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Answer I posted three Election notices on the 20th day of February 1863 in the town of Lodi in Iroquois County I left three Election notices with the town clerk at Lodi.

Int 4 If in your answer to Inter 3 you state any notices were posted, then state whether the places where they were posted were private places and if not private state whether and to what extent they were public places.

Answer I posted the first notice on the office door of Senator Goddell, and one in front of the Post Office on a board for that purpose and the third notice on the door of a Lumber office, I deemed them the most public places in the town of Lodi.

Int 5 State in case you know of any notices having been posted of an Election in Iroquois County, what Election said notices were for and state also whether you have a copy of the Election notice spoken of you in your answers already given in taking this your deposition, and if so will you attach it to your deposition and mark it "B" and make it part of your deposition.

Answer The Election notices refered to were for the relocation of the Court House in Iroquois County, I have no copy of the notices.

Int 6 State, in case you have already stated in answer to interrogatory 5 that you know of any notices

being posted in February 1863. how many days they were posted before the 1st day of March 1863.

Answer I posted the Notices on the 20 day of February 1863 Eight days before the 1st day of March 1863.

Int'y If you know anything further than you have stated touching the matters of which you have been interrogated please state it as fully as if you were particularly interrogated therein.

Answer I know nothing further than I have stated.

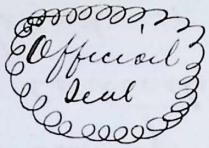
Sworn to and signed before me Joseph H. Tyrell.
this 13th day of November AD 1863.

A. G. Wallace Clerk.

State of Illinois
Douglas County ss

I Andrew G. Wallace Clerk of the Circuit Court of said County do hereby certify that the foregoing deposition of Joseph H Tyrel was sworn to and signed by the deponent before me and in my presence and that the said Deposition was taken by me on the 13th day of November AD 1863. at my office in Tuscola between the hours of 8 oclock A M and 8 oclock P. M of said day.

Given under my hand



and official seal at Tuscola this 13th
day of November AD 1863.

A. G. Wallace clerk

Clerks fees taking Dept $1,50
Depost " 1.00
$2.50

and afterwards to wit. on the 19th day of November AD 1863.
the same being one of the regular days of the November
Term of said Court for the year aforesaid. and said Court
being duly organized and sitting in open Court for the
transaction of business. the following proceedings were
had and entered of Record by said Court. in words
and figures following —

State of Illinois } ss
Iroquois County }

In the Iroquois County Circuit
Court at the November Term AD 1863

William F. Kendy Cyrus B.
Barnes and Lewis Trump Complainants
vs
The Board of Supervisors of the County
of Iroquois County, Temp King, George A.
Woodford and Thomas Emmons

In Equity

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This cause came on to be further heard at this Term of this Court and was argued by James Fletcher & Chester Kinney of Counsel for the Complainants and by S. K. Randall of Counsel for respondents. And thereupon, upon Consideration thereof, it was ordered adjudged and decreed as follows to wit. This Court doth accordingly order that a perpetual injunction be awarded against the said Board of Supervisors of the County of Boyers County and State of Illinois, and their agents servants and attorneys and each and every of them and that the said defendants, and that the said Board of Supervisors are hereby restrained and enjoined from purchasing a site procuring or erecting, or causing to be procured or erected said contemplated Court house, or procuring or erecting or causing to be procured or erected said County offices or erecting or causing to be erected said Common Jail in South Middleport or Stanleys addition thereto or removing the County Records or any part thereof or in any manner removing the County offices or County officers to South Middleport or Stanleys addition thereto or making any order or orders, or contracts in relation to procuring or erecting such Contemplated Court house, County offices or Jail in South Middleport or Stanleys addition thereto, or making any orders or contracts in relation to removing said County Records or County offices and County officers.

or issuing or causing to be issued any orders upon the County Treasurer therefor, or paying out of the County Treasury, any money or monies for such purposes, or in any manner or form removing or attempting to remove the County Seat or Seat of Justice from the Town of Middleport, where it now is located to South Middleport or Stanleys Addition thereto or in any manner purchasing a site or selecting a site for said Court House or other County buildings at South Middleport or Stanleys Addition thereto And the said George A. Woodford County Clerk of said County is hereby restrained and enjoined, from issuing any orders on and to the County Treasurer of said County for any money or monies that may be so ordered by said Board of Supervisors of said County to be expended in and about purchasing a site for said Court House or erecting the same and other County buildings at said South Middleport or Stanleys Addition thereto. And the said George King Treasurer & Collector of said County is hereby restrained & enjoined from paying out of the said County Treasury any money or monies upon any orders issued by said Clerk for such purpose or purposes of purchasing such site, erecting such buildings and removing said offices & officers at or to the town of South Middleport or Stanleys addition thereto — And the said George A. Woodford, George King and Thomas Brennan and each of them, are hereby restrained perpetually, from removing attempting

to remove or causing in any manner the removal of their respective offices or the Records therein belonging, or any part thereof, or in any way or manner holding or attempting to hold and keep their respective offices or either of said offices at or in the town of South Middleport or Stanleys addition thereto and each and every of said defendants are hereby perpetually restrained and enjoined, from in any manner attempting to remove any and all Records fixtures, offices or officers in any manner belonging to said public buildings and or public offices. And the Court doth further order decree that the defendants the said Board of Supervisors of said County pay the costs of this suit,

And afterwards to wit on the 20th day of November AD 1863 the same being one the regular days of said Court for said year - and said Court being then duly organized and sitting as aforesaid,
The following proceedings were had and entered of Record by said Court - in words and figures - as follows, to wit;

State of Illinois
Iroquois County ss - In the Iroquois County Circuit Court at the November Term AD 1863

William F. Ready
Cyrus B. Barnes &
Lewis Tramp —
vs
The Board of Supervisors of
Iroquois County. George A. Woodford
George King and Thomas Timmons

Injunction

This day come the defendants into Court by Randall & Fuller their Solicitors and enter their motion to the Court for an appeal in this cause to the Supreme Court of this State, ordered by the Court that the appeal prayed for be granted and by agreement and consent of the Counsel for the Complainants it is ordered that the filing of an appeal Bond by the Defendants herein be dispensed with and that the appeal be granted without a Bond —

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State of Illinois }
Iroquois County } ss.

I, Thomas Brennan Clerk of the Circuit Court in and for the said County in the State aforesaid do hereby certify that the above and foregoing is a true and complete copy of the proceedings of the Iroquois County Circuit Court in said cause therein entitled wherein William F. Keady, Cyrus B. Barnes and Lewis Troup are Plaintiffs and the Board of Supervisors of Iroquois County et al are defendants, and also a true copy of all the papers filed in said cause forming any part of the Record of said Court in said cause.

In attestation of which I hereunto set my name and the seal of the said Court at office in Middleport this 5th day of February A.D. 1864.

Thomas Brennan
Clerk.

Supreme Court of Illinois
3d Grand Division
April term 1864

The Board of Supervisors of
Boyd's County, George King
George Woodford & Thomas
Brannon — Appellants

vs

William H Healy, Byrnes B
Barnes and Louis Trump — Appellees

Said now comes appellants and says that in the foregoing Record and proceedings there is manifest Error in this to wit,

1 The Court Erred in rendering the decree prayed for by complainants

2 Court Erred in not decreeing a dismissal of the Bill, and for other errors and insufficiences. Therefore appellants pray Judgment of this court thereupon

~~H.S. Ks~~

S. W Randall
Edmund & Blanchard
Sol for Appellants

State of Illinois } s.s.
Third Grand Division } In Supreme Court
April Term 1864

The Board of Supervisors of
Iroquois County being
King George Woodford &
Thomas Penman. } Appellants

vs

William F. Keady Cyrus B. Barns and Lewis Thorp } Joinder in Error
Appellees

And the said William F. Keady Cyrus B. Barns and Lewis Thorp appellees now come & say that there is no error either in the record and proceedings aforesaid & in giving judgment aforesaid, in manner and form as above assigned, and therefore they pray that the said judgment may be affirmed, and that their costs may be adjudged to them &c.

Chester Rumsey &
James Fletcher
Attorneys for Appellees

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The Board of Supervisors
of Sheyenne County
vs
William F. Kemp
et al

Filed April 6th 1864
L. Liland
Clerk