

12264

No. _____

Supreme Court of Illinois

People.

vs.

Bradley, et al.

State of Illinois } S.S.
County of Cook

I was before the Honorable John M. Wilson Judge of the Cook County Court of Common Pleas at a regular term of said Cook County Court of Common Pleas begun and holden at the Court House in the City of Chicago in said County and State on the first Monday being the fourth day of February in the year of our Lord one thousand eight hundred and fifty six and of the Independence of the United States the Eightieth

In witness whereof the Honorable John M. Wilson Judge
Daniel M. Hoyt Prosecuting Attorney
James Andrew Shuff
Walter Kimball, Clerk
Attest

2
Be it remembered that heretofore to wit: on
the seventh day of March in the year of our
Lord one thousand eight hundred and fifty
five came the Plaintiff by Hamworth & Emges
their attorneys, and filed in the office of the
Clerk of the Cook County Court of Common
Pleas Bond for costs, and preceipe for summons
which said Bond and preceipe for summons
are in words and figures as follows to wit: -

The People of the State of } In the Cook County
Illinois for the use of James } Court of Common Pleas
Kelly & Richard C. Blackburn }

²
Cyrus S. Bradley Joel
C. Walter Ira B. Eddy
summons of John M. Hodgson
deceased }

I do hereby enter
myself security for costs in this cause and
acknowledge myself bound to pay or cause
to be paid all costs that may accrue herein
either to the opposite party or any of the officers
of this Court under the laws of this State

Dated July 5 1855 B. C. Welch

The People of the State
of Illinois for the use of
James Kelly & Richard
J. Blackburn

Cyrus S. Bradley
Paul C. Walter &
Ira B. Eddy & others
of John M. Hodgson deced.

In the Cook County
Court of Common Pleas

Debt on Official
Bond

The Clerk of said
Court will issue a summons in the above
entitled cause in debt for the penalty of
the official Bond of said Bradley ten thou-
sand dollars, returnable to the April Term
A. D. 1855

Furness & Burgess
for Plffs

And thereupon on the eighth day of March
in the year last aforesaid, there issued out of
the office of the clerk of said Court, a writ
of summons, which writ with endorsement
thereon is in words and figures as follows to wit

State of Illinois } ss.
County of Cook }

The People of the State of Illi-
nois to the Sheriff of said County =
Greeting =

We command you that you summon
 Cyrus P. Bradley Joel C. Wattu and Ira
 B. Eddy if they shall be found in your
 county, personally to be and appear before
 the Cook County Court of Common Pleas
 of said county on the first day of the next
 term thereof, to be holden at the Court House
 in the City of Chicago in said County on
 the first Monday of April next, to answer
 unto the People of the State of Illinois for
 the use of James Kelly Richard T. Blackburn
 in a plea that they under unto said plain-
 tiffs their debt of Five Thousand Dollars
 on official Bond of said Bradley to the
 damage of the said Plaintiffs as they say
 in the sum of Five Thousand Dollars —

And have you then and there this
 writ with an endorsement thereon in what
 manner you shall have executed the same —

Witness: Walter Kimball Clerk
 of our said Court and the seal
 thereof at the City of Chicago in
 said County this 5th day of March
 A. D. 1855 —

Walter Kimball

"Served by reading to Cyrus P. Bradley & Clerk
 Joel C. Wattu. Ira B. Eddy not found in
 my County. March 21st 1855 James Andrew Shiff"

5
And afterwards to wit; on the fifteenth day
of March in the year eighteen hundred
and fifty five, the Plaintiffs by Farnsworth
& Burges their attorneys filed in the office
of the Clerk of the said Court their Decla-
ration which said declaration is in words
and figures as follows to wit;

State of Illinois
County of Cook ss. In the Cook County
Court of Common Pleas
Of April Term A.D. 1855

The People of the State of Illinois
who sue for the use of James Kelly Richard
& Blackburn by their Attorneys Farnsworth
& Burges come and complain of Cyrus S.
Bradley, Joel C. Walter & Ira B. Eddy sur-
vivors of John M. Hodgson deceased of a
plea that they render unto the People of
the State of Illinois for the use aforesaid
Ten thousand dollars which they owe to
& unjustly detain from them.

For that whereas heretofore to wit;
on the nineteenth day of November in the
year of our Lord one thousand eight hun-
dred and fifty two - at Chicago in said
County (the said Cyrus S. Bradley having
at the general election held on the one day

6
after the first Monday of said month in
the year aforesaid, been duly elected Sheriff
of said County of Cook for the term of two
years then next ensuing, and being about
to qualify himself for & take upon himself
the duties of said office the said defend-
ants with said John H. Hodgson then in
life since deceased made their certain
bond or writing obligatory sealed with
their seals, the date whereof is the day &
year first in this Court mentioned or
copy whereof duly certified under the
seal of said Circuit Court is now shown
to the Court here (the original of which
is now on file of Record in the office of
the Clerk of said Circuit Court the date
whereof is the day & year last aforesaid -
acknowledged themselves to be held and
firmly bound unto the People of the
State of Illinois in the Penal Sum
of Ten thousand dollars lawful money
of the United States of America above
demanded to be paid to the said Plain-
tiffs - And the said Bond was and is
subject to a certain condition then and
written in the words & figures following
to wit: The condition of the above
obligation is such that whereas the above

7
brouden Cyrus S. Bradley has been duly
elected Sheriff of Cook County in said
State of Illinois - And if the said Cyrus
S. Bradley shall faithfully & truly
perform & discharge all the duties
required or to be required of him as Sheriff
of said County of Cook then the above
obligation to be void otherwise to be & rem-
ain in full force & effect - And the said
Plaintiff in fact further say that the
said Bradley having received his commiss-
ion as such Sheriff the with said defendan-
ts Walter & Eddy & the said Hodgson then
in life since deceased having made &
filed said Bond and the same being
duly approved according to law & filed of
record in said Circuit Court, and the said
Bradley thereupon having taken upon
himself the said office of Sheriff of said
Cook County & being & acting as such, and
while so being such Sheriff, afterwards
and during the term for which he was
so elected as aforesaid - to wit: on the
thirtieth day of October in the year
Eighteen hundred and fifty four, a
certain writ of the People of the State of
Illinois commonly called an execution
was sued out of the Cook County Court

1st Ass't

8
of Common Pleas in and for said County under the
seal thereof directed to the Sheriff of said County
whereby he was commanded, that of the good
and Chatter lands and tenements of ~~James~~^{James}
Napier in his County he make the sum of
seven hundred and fifteen dollars which then
lately in the said Court of Common Pleas by
the Judgment & consideration thereof were adju-
dged to the said James Kelly & Richard E.
Blackburn for their damages whereof said Napier
was convicted as also the further sum of forty
dollars and seventy cents for their costs & charges
by them about their suit in that behalf expen-
ded (whereof a fee Bill accompanied said execu-
tion) and that he have those moneys ready to
render to the said Kelly & Blackburn in ninety
days from the date thereof which said writ was
endorsed to collect interest on said Judgment
from 30th day of November A.D. 1854, was tested
in the name of & signed by Walter Kimball
Clerk of said Court, and afterwards to wit on
the 30th day of October at Chicago in said County
came into the hands of said Bradley so then
being such Sheriff as aforesaid & during the
term for which he was so elected as aforesaid
to execute.

And the said Plaintiffs in fact aver
that there was then and there on the day & year

and at the place last aforesaid goods & chattels in said county
liable to levy seizure and sale under said execution of value
sufficient to satisfy the same whereof the said Cyrus P. Bradley
so then being such Sheriff as aforesaid had notice and at then
and there became & was the duty of said Bradley as such
Sheriff to seize levy upon & sell the same or so much
thereof as might be necessary under by virtue of said
execution to satisfy the same - Yet the said Cyrus
P. Bradley thence thence afterwards during the life of
said execution did willfully neglect & refuse to
levy upon seize and sell the same or any part thereof
under said execution to satisfy the same in any
part thereof and hath willfully & neglectfully
allowed said execution to run out and the return
day thereof to pass by without making any such
levy seizure and sale he during all the time aforesaid
well knowing the premises to the great injury & preju-
dice of said Kelly & Blackburn and by means whereof
the said Kelly & Blackburn have lost the monies
mentioned in said execution have sustained loss
& damage to one thousand dollars to wit at Chicago
aforesaid -

D. A. P.

And the said Plaintiffs for assigning a further
breach of the said condition of the said writing obligatory
according to the form of the statute in such case made
and provided says that afterwards and during the term
for which he was so elected Sheriff as aforesaid to wit on
the 30th day of October A.D. 1854 at Chicago in said county

a certain other writ of the people of the State of Illinois commonly called and execution was awarded out of the Cook County Court of Common Pleas in and for said County directed to the Sheriff of said County whereby the said Sheriff was commanded that of the lands and tenements goods and chattles of James Harper in his County he make the sum of seven Hundred and Ninety dollars which lately in the said Court of Common Pleas by the said Kelly & Blackburn were recovered against the said Harper & which by the said Court were adjudged to the said Kelly & Blackburn for their damages & also the further sum of four dollars & seventy cents which were adjudged to the said Kelly & Blackburn for their costs & charges in that behalf expended & whereof a fee bill accompanied said execution whereof the said Harper was convicted as appeared of Record and that he should have the moneys ready to render to the said Plaintiffs Kelly & Blackburn for their damages & cost aforesaid and make return of that writ with an endorsement thereon in what manner he should have executed the same in thirty days from the date thereof which said writ was duly endorsed to collect interest on said judgment from the day of

11
the rendition thereof the 30 day of October A.D. 1854
was tested in the name of & signed by Walter
Kimball then being clerk of said Court and
issued under the seal thereof, and afterward
to wit on the 31st day of October, A.D. 1854 and
during the life time & before the return day thereof
to wit at Chicago aforesaid came into the
hands of said Bradley so then and there being
such Sheriff of said County as aforesaid and
during the term for which he was so elected
as aforesaid to execute —

And the said Plaintiffs in fact further
avow that there was then and there on day &
year & at the place last aforesaid goods and
chattels of said James Harper in said County
liable to levy seizure and sale under said
execution of value sufficient to satisfy the
same, and then and there well known to said
Bradley so being such Sheriff as aforesaid
having said execution in his hands to execute
in full force & not expired and it then and
there became and was the duty of said
Bradley as such Sheriff as aforesaid under
and by virtue of said execution to seize levy
upon and sell the said goods and chattels
in satisfaction of the same — Yet the said
Bradley well knowing the premises wilfully
neglected to levy upon or seize all or any

of said Goods and Chattles rendered by virtue of said execution at any time before the return day thereof and wilfully suffered and allowed the return day of said execution to arrive and elapse without making any such levy upon or seizure of said Goods & Chattles or in any other manner proceeding for the satisfaction thereof - By means whereof the said Kelly & Blackburn have wholly lost and been deprived of the moneys in said writ mentioned & otherwise been greatly injured & prejudiced to a large sum to wit, One thousand dollars to wit at Chicago aforesaid — " —

3^d Asst And the said Plaintiff for assigning a further breach of the said condition of the said bond or writing obligatory according to the form of the statute in such case made and provided says that hitherto to wit on the (30) thirtieth day of October in the year of our Lord one thousand eight hundred and fifty four in vacation in the Cook County Court of Common Pleas at Chicago in said County the said Kelly & Blackburn by the further & other judgment & consideration of said Court recovered against one James Harper upon confession the sum of seven hundred and nineteen dollars - for their damages by them

sustained by reason of the non performance of certain promises & undertakings there lately made by said Harper, and also their costs of said by them in that behalf expended whereof said Harper was convicted as by record & proceedings of said court will appear -

And the said Plaintiffs further say that the said Judgment being in full force and the said damages & costs remaining unpaid and unsatisfied for the obtaining satisfaction thereof the said Kelly & Blackburn on the 30th day of October in the year last aforesaid and during the term for which said Bradley was so elected Sheriff as aforesaid, sued and prosecuted out of said Court under the seal thereof attested in the name of & signed by Walter Kimball then being Clerk thereof at Chicago in said County a certain other writ of the People called a fieri facias directed to the Sheriff of said County of Cook by which said writ the said People commanded the said Sheriff that of the lands and tenements goods and chattels of James Harper in his County he cause to be made the sum of Seven Hundred & nineteen dollars - which James Kelly & Richard S. Blackburn Plaintiffs then lately in the Cook County Court of Common Pleas in said County at Chicago in vacation

on the thirtieth day of October then instant
 returned against the said James Harper and
 which by the said Court was adjudged to the
 said Plaintiffs Kelly & Blackburn for their
 damages — And also the further sum of
 four dollars & seventy cents

which was adjudged to the said Kelly & Bla-
 ckburn for their costs and charges in that
 behalf expended whereof the said Harper
 was convicted as appeared to the said People
 of Record & of which costs & charges a fee bill
 accompanied said execution, and that he should
 have those moneys ready to render to the said
 Kelly & Blackburn for their damages & costs
 aforesaid, and make return of said writ with
 an endorsement thereon in what manner he shoul-
 d have executed the same in ninety days
 from the date thereof which said writ afterw-
 ards and before the delivery of the same to
 the said Sheriff was duly endorsed with a
 direction to collect interest from the said 30 day
 of October A.D. 1854 the day of the rendition
 of said Judgment; and which said writ
 was endorsed afterwards and during the term
 for which said Bradley was elected as aforesaid
 and before the said return day thereof
 and before the first day of December hereinafter
 mentioned to wit on the thirty first day of

15
October A.D. 1854 at Chicago aforesaid was
delivered to the said Cyrus P. Bradley who
then and from thence and until the first
day of December then next was Sheriff of
the said County of Cook to be executed in
due form of law - And although then were
then and afterwards and from thence during
& until & before the said first day of December
(A.D. 1854) then next & before the return of said last
mentioned writ duns goods and chattels of
the said James Harper within the County
of said Cyrus P. Bradley as such Sheriff
as aforesaid whereof the said Cyrus P. Bradley
could and might and ought to have levied
the money so mentioned in the said last men-
tioned writ and directed to be levied and
made as last aforesaid to wit at Chicago aforesaid
& whereof the said Cyrus P. Bradley then
& there had notice, so being Sheriff as aforesaid

Yet the said Cyrus P. Bradley so being
Sheriff of said County as aforesaid not regard-
ing the duty of his office as such Sheriff
but contriving and wrongfully & unjustly
intending to prejudice and aggrieve the
said Kelly and Blackburn in this behalf
and to deprive him of the moneys in the
said last mentioned writ mentioned and
of the means of obtaining the same did

not nor would at any time before the said
 first day of December levy the said money
 last aforesaid or any part thereof but will-
 fully, wholly neglected & refused so to do, by
 means whereof the said Kelly & Blackburn
 have been greatly injured & prejudiced
 and wholly prevented from recovering the
 said money in said last mentioned
 suit directed to be heard and made -

And the term of office of said Cyrus
 S. Bradley having expired and his successor
 James Andrew having been elected &
 qualified to said office ^{in writ} on the 1st day
 of December A.D. 1854 the said Cyrus
 S. Bradley willfully & knowingly then &
 there transferred and delivered to said James
 as such his successor in office aforesaid
 the said execution without levying or seizing
 said goods & chattels, thence or making any
 return thereon to said execution & the said
 James Andrew afterwards & on the 2d day of
 February A.D. 1855 returned said writ to the
 office of said court with his return there to
 of no property found, by means whereof said
 Kelly & Blackburn have sustained damage
 to one thousand Dollars to wit at Chicago
 aforesaid -

4 ass't

And the said Plaintiff for assigning

17
a further breach of the said condition of the said
bond or writing obligatory according to the form
of the statute in such case made and provided
says that here tofore to wit on the thirtieth
day of October in the year of our Lord one
thousand eight hundred and fifty four
in vacation in the Cook County Court of com-
mon Pleas at Chicago in said county the said
Kelly & Blackburn by the further & other Judg-
ment & consideration of said court recovered
against one James Harper the sum of seven
hundred and nineteen dollars for their
damages by them sustained by occasion
of the non performance of certain promises
and undertakings then lately made by said
Harper, and also their costs of suit by them
in that behalf expended whereof said Harper
was convicted as by the record & proceedings
of said Court will appear — And the said
plaintiffs further say that the said Judg-
ment being in full force and the said
Damages & costs remaining unpaid and
unsatisfied for the obtaining satisfaction
thereof the said Kelly & Blackburn on the
thirtieth day of October in the year last
aforesaid sued and prosecuted out of said
Court under the seal thereof tested in
the name of and signed by Walter Kimball

then being Clerk thereof at Chicago in said
 County a certain other writ of the People
 called an execution directed to the Sheriff
 of said County of Cook by which said writ
 the People of the State of Illinois commanded
 the said Sheriff that of the lands and ten-
 ements goods and chattels of James Harper
 in his County he cause to be made the sum
 of seven hundred and Ninety Dollars -
 which James Kelly & Richard Blackburn
 Plaintiffs then lately in the Cook County
 Court of Common Pleas in said County at
 Chicago in vacation on the thirtieth day
 of October then instant returned against
 the said James Harper and which by the
 said Court was adjudged to the said
 Kelly & Blackburn for their damages -
 And also the further sum of four dollars
 and seventy cents which were adjudged
 to the said Plaintiffs Kelly & Blackburn
 for their costs & charges in that behalf
 expended & of which costs and charges a
 fee bill accompanied the said execution
 whereof the said James Harper was compe-
 ted to the said People appeared as Friend -
 And to have those monies ready to
 render to the said Kelly & Blackburn
 for their damages & costs of said and make

return of said writ with an endorsement thereon
 in what manner he should have executed the
 same in ninety days from the date thereof
 which said writ afterwards and before the
 delivery of the same to the said Sheriff was
 duly endorsed with a direction to collect
 interest from the said 30 day of October
 A.D. 1854 the day of the rendition of said
 last mentioned Judgment and which
 said writ so endorsed afterwards and before
 the return thereof to wit: on the 31st day of October
 A.D. 1854 at Chicago aforesaid and during the
 term for which said Bradley was selected
 Sheriff as aforesaid was delivered to the said
 Cyrus S. Bradley who then and from thence
 and until the return thereof was Sheriff of
 the said County of Cook to be executed in due
 form of law - And although there were
 at the issuing of said execution and afterwards
 at the delivery of said execution to said Sher-
 iff as aforesaid and afterwards and before
 the return of the said last mentioned writ
 divers goods and chattles of the said James
 Harper within the bailwick of the said
James Bradley as such Sheriff as aforesaid
 liable to be levied upon & sold under said
 execution whereof the said Cyrus S. Bradley
 as such Sheriff as aforesaid could and might

& ought to have levied the moneys in the said last mentioned writ directed to be levied & made as aforesaid to wit at Chicago aforesaid whereof the said Cyrus P. Bradley so being Sheriff as aforesaid. had notice then and there ———

But the said Cyrus P. Bradley so being Sheriff of the said County not regarding the duty of his office as such Sheriff but contriving & wrongfully & unjustly intending to injure prejudice and aggrieve the said Kelly and Blackburn in this behalf and to deprive them of the moneys so directed to be made & levied in & by the said last mentioned writ and of the means of obtaining the same, did not nor would at any time before the return of the said last mentioned writ levy the moneys last aforesaid or any part thereof, but wilfully wholly neglected and refused so to do.

And after the return of the said writ last mentioned to wit on the 2^d day of February A.D. 1855 at Chicago aforesaid wilfully falsely & deceitfully returned to the said Court the said writ with an endorsement of his return therein that the said James Harper had no property in his County whereon to levy that writ as

by said writ and said return, remaining
 of record in the said Court to wit at Chicago
 aforesaid more fully appears - by means of
 which said premises the said Kelly & Black-
 burn have been and are greatly injured
 and deprived of the means of obtaining
 the said moneys mentioned in the said
 writ and directed to be levied as aforesaid
 & which are still wholly unpaid and have
 entirely lost the same to wit at Chicago
 aforesaid to their injury one Thousand &
 Dollars - to wit at Chicago aforesaid -

By means of which said several prem-
 ises the said Kelly & Blackburn have sust-
 ained damage to the amount of two thou-
 sand dollars - whereby an action hath
 accrued to the People of the State of Illinois
 for the use aforesaid to demand and have
 of and from the said Defendants summs
 & the sum of Ten Thousand dollars above
 demanded - Yet the said defendants
 although often requested so to have have
 not as yet paid the said sum of Ten Thou-
 sand Dollars above demanded or any
 part thereof to the said People of the State
 of Illinois but have hitherto wholly neglec-
 ted & refused and still neglect & refuse so to
 do to their damage two Thousand dollars
 & therefore this writ &c

Harnsworth & Briggs
 for Plffs

And also on the same day and year last
aforesaid there was filed in the office of the
Clerk of said Court a copy of Bond on which
suit is brought, which said Bond is in words and
figures as follows to wit:

Know all men by these presents that we
Cyrus P. Bradley John H. Hodgson Joel C.
Walter and Ira B. Eddy are held and firmly
bound unto the People of the State of Illinois
in the penal sum of Ten Thousand dollars
lawful money of the United States for the pay-
ment of which well and truly to be made we
bind ourselves our heirs executors and adminis-
trators jointly & severally firmly by these presents -

Sealed with our seals and dated this
19th day of November A.D. 1852 -

The condition of the above obligation is such
that whereas the above bounden Cyrus P. Bradley
has been duly elected Sheriff of Cook County
in said State of Illinois - Now if the said Cyrus
P. Bradley shall faithfully & truly perform and
discharge all the duties required or to be requir-
ed of him as Sheriff of said County & also then
the above obligation to be void otherwise to rem-
ain in full force & effect -

Approved by me this 19th Nov 1852

Clerk Cook Co Circuit Court L. D. Howard

Cyrus P. Bradley	
John H. Hodgson	
Joel C. Walter	
Ira B. Eddy	

And afterwards to wit: on the fourth day of April
in the year of our Lord one thousand eight hun-
dred and fifty five, said day being one of the
days of the April term, the following among
other proceedings were had in said cause and
entered of Record to wit:

The People of the State of Illinois vs of James Kelly & Richard S. Blackburn	} Debt
Cyrus I. Bradley Joel C. Walter and Ira B. Eddy	

This day comes the said
defendants by Hoyme & Miller their attorneys and
on their motion it is ordered by consent of plaiti-
ffs. attorneys, that the rule to plead in this
cause be extended twenty days from this day.

And afterwards to wit: On the twenty first day
of April in the year last aforesaid, comes the
Defendants, by Miller & Hoyme their attorneys and
filed in the Office of the Clerk of said Court
their Pleas, Affidavit of merits and Demurres
which said Pleas, Affidavit of merits and
Demurres are in words and figures as follows to wit:

Cyrus S. Bradley & Co
 C. Walter & Ira B. Eddy
 Summons &c

Cook County Court
 Of Common Pleas

^{ads}
 The People of the State of
 Illinois who sue for the
 m &c

1st Plea

And the said defendants by Hoynes & Miller
 their attorneys come & defend the wrong & injury
 where and say actio non. because they say
 that the said supposed writing obligatory is not
 their deed and of this they put themselves upon
 the country —

2^d Plea

And for a further plea in this behalf the said de-
 fendants say actio non because they say that they
 do not owe the said sum of money above deman-
 ded nor any part thereof in manner and form
 as the said plaintiffs have above thereof complaint
 against ~~them~~ them and of this they put them-
 selves upon the country —

3^d Plea

And for a further plea in this behalf as to the
 first second and fourth of the alleged breaches
 of the condition of said Bond in writing obli-
 gatory in said declaration assigned the said

defendants say actio non because they say that no writs of execution issued out of the Cook County Court of Common Pleas in manner and form as the said plaintiffs have in that behalf alleged & of this they put themselves upon the Country —

4th Plea

And for a further plea in that behalf as to the first and second of the alleged breaches of the condition of said Bond or writing obligatory in said declaration assigned — the said defendants say actio non, because they say there were not at the time of the issuing of the said writs of execution to wit on the day and year therein mentioned goods and chattels of the said James Harper in said County liable to levy seizure and sale under said executions of value sufficient to satisfy the same, and of this they put themselves upon the Country —

5th Plea

And for a further plea in that behalf as to the fourth of the alleged breaches of the condition of said Bond or writing obligatory in said declaration assigned — the said defendants say actio non — because they say there were not at the time of the issuing of the said writ of execution therein mentioned, nor at any time before the return day thereof, goods

& chattels of the said James Harper within the Bailiwick of said Bradley liable to be levied upon and sold under said execution whereof the said Bradley could have levied the moneys, as in said writ directed and of this they put themselves upon the country -

6th Plea And for a further Plea on this behalf as to the first second and fourth of the alleged breaches of the condition of said Bond or writing obligatory in said declaration assigned the said defendants say actio non because they say there was not at the time of the delivery of the said several writs of execution to the said Cyrus P. Bradley to wit: on the day and year therein mentioned, nor at any time thereafter, during the continuance of the said several writs or of either of them, and before the return day thereof, any goods or chattels of the said James Harper within the County of Cook liable to be levied upon and sold under said several writs or either of them whereof the said Cyrus P. Bradley could have made the said several sums of Money in said writs mentioned or either of them in any part thereof and this they are ready to verify wherefore they pray Judgment &c

7th Plea

27

And for a further Plea in this behalf as to the first second and fourth of the alleged breaches of the condition of said Bond in said declaration assigned these defendants say oetio Non, because they say that after the delivery of the said several writs therein mentioned to the said Cyrus P. Bradley and long before the return days thereof to wit. on the first day of December A D 1854 the time for which the said Bradley had been elected to the office of Sheriff of Cook County had expired and one James Andrew became and was elected Commissioner and qualified to sit as the Sheriff of said County for the term of two years from the day and year last aforesaid. as the successor of said Bradley. and the said Bradley thereupon to wit on the day and year last aforesaid. and before he had tried said writs of execution or either of them delivered the same to his successor in office the said James Andrew as required by law in such cases to be executed & returned by said Andrew as in said writs commanded & this they are ready to verify wherefore they pray Judgment &c

Harriet & Miller
Deft attys

Cyrus P. Bradley Jail
 to Walter & Ira P. Bradley
 Surmises &c

ads
 The People of the State
 of Illinois who are
 for the use &c

Cook County Court
 of Common Pleas

State of Illinois } ss
 Cook County

Cyrus P. Bradley being
 duly sworn depose and say that he is
 one of the Defendants in the above enti-
 tled cause and that he has a good defence
 to said suit on the merits &c as he verily
 believe —

Cyrus P. Bradley

Subscribed & sworn to
 before me this 21st day
 of April 1855

Walter Kimball

Clerk

Cyrus J. Bradley Esq
 C. Walter & Ira B Eddy
 ads

The People of the State
 of Illinois who are for and

Cook County Court
 of Common Pleas

And the said
 Defendants come and defend the wrong
 & injury where and as to the third alleged
 breach of the conditions of said Bond or
 writing obligatory in said declaration
 assigned these defendants say that the
 same and the matter therein contained in
 manner and form as the same are therein
 stated and set forth, are insufficient in law
 for the Plaintiffs to have or maintain their
 aforesaid action in respect thereto against the
 said defendants and they the said def-
 endants are not bound by law to
 answer the same & this they are ready to
 verify wherefore they pray judgment &c

Moynie & Miller
 Defts Attys

And afterwards to wit; on the first day of October in the year last aforesaid, the Plaintiffs by their attorneys James H. & George filed in the office of the Clerk of said Court their Similitudo to 13. & Pleas Demander to 2, 4, 6 & 7. Pleas & Founders in Demander to 4. Breach - which said Similitudo Demander & Founders are in words & figures as follows to wit;

Cook Com Pleas

The People who sue vs

Bradley et al

Debt on Official Bond

Similitudo 1st Plea

And the said Plaintiffs as to said Plea of of said Defendants by them firstly above pleaded & whereof they have put themselves upon the country do the like &c —

Demander to 3rd Plea

And as to the said Plea by them secondly above pleaded said Plaintiffs say that the same & the matters & things therein pleaded are insufficient in law to bar or preclude the said Plaintiffs & they Demander thereof — whereupon they pray Judgment &c —

And for cause of Summons said Plaintiffs assigns say that the said Defendants thereby plead "Nil debet" to an action

upon a bond or instrument under seal —

3^d

Emm: 1st 3^d Plea

And as to the said Plea by said Defendants thirdly above pleaded & whereof they have put themselves upon the country said Plaintiffs do the like &c

Dem: 1st 4th Plea

And as to the said Plea by said Defendants fourthly above pleaded said plaintiffs say that the same and the matters therein contained are not sufficient in law to bar said Plaintiffs & they demur thereto wherefore they pray judgment &c —

And for cause of Demurrer assign & say that thereby an immaterial issue is tendered — that is whether or not on the day of assuring the writ there was goods & chattels whereas the issue as to time should be whether at the time the writs were delivered the sheriff or at any time thereafter during the life & before the return thereof there was goods & chattels &c —

Emm: 1st 5th

And as to the said Plea by said Defendants fifthly above pleaded & of which they have put themselves upon the country the plaintiffs do the like &c —

Dem^r To 10

And as to the said Plea by said defendants sixthly above pleaded said Plaintiffs say that the same and the matter therein alledged & contained are insufficient in law & they demur thereto wherefore they pray Judgment &c —

And for cause of Demurrer said Plaintiffs say that the said Plea sets up no new facts, contains nothing but denials of allegations in the declaration — yet concludes with a verification, whereas it should conclude to the contrary —

Dem^r To 7 Plea

And as to the said Plea by said Defendants seventhly above pleaded said Plffs say that the same & the matter therein contained are insufficient in law to bar or preclude the said Plaintiffs from having or maintaining their aforesaid action against said Defts & they demur thereto — wherefore they pray Judgment &c &c

Verdict in Dem^r

And as to the Demurrer of said Defendants to the fourth breach of the condition of the said bond assigned in said Declaration they say that said Breach & the matter & things therein assigned and alledged are sufficient in law &c wherefore they pray Judgment &c —

For with & Burgees
for Plffs

And afterwards to wit: on the first day of October
in the year eighteen hundred and fifty five -
said day being one of the days of the Sept-
ember Term of the said Court County Court
of Common Pleas the following among other
proceeding were had in said cause and
entered of Record to wit:

The People of the State of Illinois	} Debt
vs of James Kelly & Richard J. Blackburn	
vs	
Cyrus J. Bradley Joel C. Walter	
J. Ira B. Eddy	

This day came the said
parties by their said attorneys and the Court
after hearing the said plaintiffs demurrer to
said defendants second fourth sixth & seven-
th pleas, being now fully advised in the
premises sustains said Demurrer - and leave
is given to defendant to plead to the third
assignment in said Plaintiffs declaration
and also to amend their sixth Plea -

And the Court after hearing said defen-
dants demurrer to said plaintiffs decla-
ration being now fully advised thereon
sustains said demurrer -

And after words to wit: on the third day of October in the year last aforesaid, the Defendants by their attorneys Hogue & Miller filed in the office of the clerk of said Court their amended Plea, which said amended Plea is in words of figures as follows to wit:

Cyrus P. Bradley
 Joel C. Walter and
 Ira B. Eddy sumors

ads
 The People of the State
 of Illinois who sue for
 the use &c

Cook County Court
 of Common Pleas

And for a further Plea in this behalf as to the first second third and fourth of the alledged breaches of the condition of said Bond waiving obligatory in said Declaration assigned the said defendants say Oetio Non because they say they were not at the time of the delivery of the said several writs of Execution to the said Cyrus P. Bradley to wit on the day and year therein mentioned nor at any time thereafter during the continuance of the said several writs or of either of them and before the return days thereof of any goods or chattels of the said.

James Harper within the County of Cook liable
to be leased upon and sold under said
several writs or either of them. whereof the said
Lynn P. Bradley could have made the
said several sums of money in said writs
mentioned or either of them or any part thereof
and of this they put themselves upon the country
&c

Roynce Miller
Deft. Atty

And the Plaintiffs do the like

Farmworth Bungey
Plffs

And afterwards to wit: on the thirty first day of
March in the year of our Lord one thousand
Eight hundred and fifty six the following
further proceedings were had in said cause
and entered of Record to wit:

The People of the State of Illinois vs of
James Kelly, Richard ~~Blackburn~~

Lynn P. Bradley Joel C. Walcott
Dra B. Eddy

Debt

And now at this day
came the said Plaintiffs by Farmworth Bungey
their attorneys and the said Defendants

by Hynes & Miller their attorneys who, the said
 Defts came and said Plaintiffs withdrew
 the first second fourth breaches assigned
 in their said declaration herein - and thereup-
 on this cause is submitted to the Court for
 trial without the intervention of a Jury on
 an agreed case made by the parties herein
 and the Court after hearing the allegations
 submitted and argument of counsel not
 being now fully advised in the matter takes
 this cause under advisement; -

And afterwards to wit; on the second
 day of April in the year last aforesaid
 said day being one of the days of the Febru-
 ary term the following further proceedings
 were had in said cause and entered of
 Record to wit;

The People of the State of Illinois
 vs James Kelly Richard D. Blackburn

Lynus P. Bradley Joel C. Waller
 & Ora B. Cady

Deft

And now again
 come the said parties by their said attor-
 neys and the Court after due deliberation

being now fully advised in the premises
pursue the issues for the defendants —

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

And the upon said defendants
enter their exceptions herein to the opinion
of the Court and pray an appeal to the
Supreme Court of the State of Illinois
which is allowed by the Court on their
filing appeal Bond with J. J. Garmon
as security in the sum of two hundred
dollars and thirty days time is given
said defendants to file their appeal bond
and bill of Exceptions herein —

And afterwards to wit: on the fourth day
of April in the year last aforesaid; the Defen-
dants by their said attorneys, filed in the
office of the Clerk of said Court, their Bill
of Exceptions which said Bill is in words
and figures as follow to wit:

In the Cook County Court of Common Pleas
 The People of the State of Illinois
 for the use of James Kelly & Richard
 Blackburn —

Debt on
 Official Bond

^{vs}
 Cyrus P. Bradley Joel C. Walter & Ira
 B. Caddy survivors of John H. Hodgson
 deceased

Be it remembered that on the 1st day
 of April A.D. 1856, during the February Term
 of this court this cause came on to be heard
 and was submitted to the Court for trial
 upon an agreed state of facts, each party
 reserving to himself the benefit of all excep-
 tions as to the relevancy & competency of the
 facts therein stated under the issues in the
 cause which statements is as following:

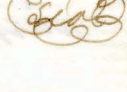
Know all men by these
 presents that we Cyrus P. Bradley John
 H. Hodgson Joel C. Walter and Ira B.
 Caddy are held and firmly bound
 unto the People of the State of Illinois
 in the penal sum of Ten thousand dollars
 lawful money of the United States for the payment of which

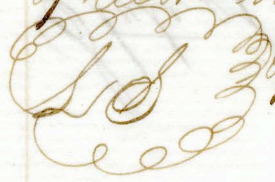
well and truly to be made we bind ourselves
our heirs, executors and administrators jointly
& severally firmly by these presents -

Sealed with our seals and dated this
19. day of November A.D. 1852 -

The condition of the above obligation is
such that whereas the above bounden Cyrus
P. Bradley has been duly elected Sheriff of
Cook County in said State of Illinois -

Now if the said Cyrus P. Bradley shall faith-
fully and truly perform and discharge all
the duties required or to be required of him as
sheriff of said County of Cook then the above
obligation to be void otherwise to be and rem-
ain in force and effect - -

Approved by me this 19 th	Cyrus P. Bradley	
In 1852 L. D. Howard	John H. Hodgson	
Clk. Cook Co Circuit Court	J. C. Walter	
	Wm. R. Eddy	

State of Illinois & C.
County of Cook } J. Lewis D. Howard Clk of the Circuit
Court in & for said County do hereby certify that the within
is a true full & complete copy of the official Record of
Cyrus P. Bradley late Sheriff of said County now remaining
of Record in my office - Witness my hand and the seal
of said Court this day of February A.D. 1856


Lewis D. Howard
Clk

State of Illinois } s.s
County of Cook }

The People of the State of
Illinois to the Sheriff of said County - Greeting

We command you that of the lands and tenements
goods and chattels of James Harper Defendant
in your County, you cause to be made the sum
of seven hundred & nineteen Dollars which
James Kelly Richard J. Blackburn - Plani-
tiffs lately in the Cook County Court of Common
Pleas of said County at Chicago in said County
on the 30th day of October instant in Vacation
recovered against the said Defendant and which
by the said Court was adjudged to the said
Plaintiffs of the Damages -

And also the further sum of Ten Dollars
and seventy cents which were adjudged
to the said Plaintiffs for their costs and
charges in that behalf expended whereof the
said Defendant was convicted as appears to us
of Record - And have you these moneys ready
to render to the said Plaintiffs for their Damages
and costs aforesaid, and make return of said
m't with an endorsement thereon in what
manner you shall have executed the same
in ninety days from the date hereof -

Witness Walter Kimball Clerk
 of our said Court and the seal
 thereof at Chicago in said County
 this 30th day of October A.D. 1854
 Walter Kimball Clerk

Endorsement on above Fi. Fa.

No property found in my County whereon to levy
 this writ. returned no part satisfied. - Summary
 218, 1855 - James Andrew Shuff

Rec^d October 31st 1854, at 10. A.M. By J. A. Horton Deputy

In The Cook County Court of Common Pleas
 The People vs me of
 James Kelly & Richard C. Blackburn
 vs
 Cyrus T. Bradley late Sheriff
 & others his sureties } Debt for
 Official Bond

This case is submitted
 to the Court for trial upon this State of facts
 In the Plaintiff

The recitation in the
 case of said Kelly & Blackburn Plaintiffs
 against James Harper a copy of which
 of the several judgments thereon made
 returned is hereto attached as part hereof

The official bond of said Cyrus P. Bradley as Sheriff of Cook County a certified copy whereof is also hereto attached -

On the first day of November 1854 William J. Bunge Attorney of said Kelly & Blackburn requested John A. Norton a Deputy of said Bradley & then having said Execution in his hands to execute as such deputy Sheriff - to proceed and levy the same on a certain Stock of Boots & Shoes in Chicago in said Cook County, the property of the said James Harper at the time of his death as herein after stated, of which it is admitted there was sufficient to satisfy the Execution -

That the said Norton replied that the execution had not come to the hands of the Sheriff until the day after the death of the party and the Sheriff would not levy it on said Goods (as he was advised by his counsel, Bunge then said the Plaintiffs will on demand the Sheriff if he would levy - fully - to which Norton replied, declining to make the levy -

On the part of the Defence -

The defendant died late on the evening of the same day that Judgment was entered up - upon which said execution was issued Kelly & Blackburn were wholesale leather

merchants doing business in the City of Chicago - The process for the Execution was filed on the evening of the 30 day of October 1854. & returned at ^{about} eight o'clock P.M.

That the said execution was taken from the Clerk's office on the morning of the same day it came to the hands of the Sheriff - about 10 o'clock A.M. of the 31st October 1854 - It is also admitted subject to exception as to its Competency & Admissibility in the case that the seal of the Court was not in fact affixed to the Execution until the morning of the 31st October A.D. 1854 - when the execution was sealed & entered upon the Execution Docket.

Jarvisworth & Hengest
for Plffs

Moynie & Miller for Dfts

The Court after being duly advised in the premises finds the issue upon the plea of Non est factum for the Plaintiffs and as to the other issues joined upon the third Breach assigned find that there were no goods and Chattels of said James Harper liable to be levied upon seized & taken by said Bradley as Sheriff of Cook County.

44 under said execution when the same came
to his hands at any time afterwards, and that
upon the whole record the said defend-
ants are entitled to judgment in their
favor to which decision & finding of
the Court the said Plaintiffs then and there
excepted - and inasmuch as the said matters
do not appear of record they have tendered
this their Bill of Exceptions to the Court
for signing & sealing to become part of the
record in the above entitled cause and
it is done accordingly in open Court this
2^d day of April A.D. 1856 -

John M. Wilson *Co. Secy*

State of Illinois {
County of Cook { J.S.

J. Walter Kimball Clerk of
the Cook County Court of Common Pleas in & for
the County & State aforesaid do hereby Certify that the
foregoing is a full true and correct transcript
of the Record & proceedings had therein in the case
of the People of the State of Illinois who sue for the
use of James Kelly & Richard J. Blackburn vs
Cyrus P. Brady, Jack C. Walter & John B. Eddy
& others &c, as the same appear from the ori-
ginal Papers in said cause and from the Records
of said Court now on file in my office

In Testimony Whereof I have

Herewith Subscribed my name
and affixed the Seal of said Court
at the City of Chicago in said County
this 12th day of May A.D. 1856.

Walter Kimball, Clerk

In the Supreme Court of
the State of Illinois
of July Term A.D. 1856

The People of the State of
Illinois who are for the
use of James Kelly & Richard
J. MacKinnon Officers in error

vs
Cyrus P. Bradley Joel C.
Walter & Ira B. Eddy sur-
vivors or heirs in error

error to Cook
County Court of
Common Pleas.

And now come the said
Plaintiffs by Edmund H. Burgep
their attorneys and say that in the
Record proceedings & judgment aforesaid
there is manifest and material error
appearing of record therein in this

101
Upon the evidence under the is-
sues joined in the cause the court
should have found the issues joined
to the contrary upon the plea to the

thus I make assigned in favour of the
Plaintiffs against the defendants
Upon the evidence under
the issues the court below should have
found for the Plaintiffs against
the defendants -

The court below should have rendered
judgment for the plaintiffs and against
the defendants and not for the defend-
ants against said Plaintiffs

Wherefore & for other errors mate-
rial manifestly appearing of Record
therein they pray that said judg-
ment may be reversed, &c.

Fansworth Hanges
per Pff in error

Public use of
Holly et al

Tratado de

Manuscript

Filed June 11. 1856

L. Leland

Walter H.

Miss. Front Street,
Savannah, Ga.
Md. ex

12364-227

61

The People for use

vs

Bradley et al.

Assessors

61

1856

12264

X