

No. 13993

Supreme Court of Illinois

West

vs.

Little

Pleas of Record in the Circuit Court within
and for the County of Madison in the Case
of Tilghman N West Plaintiff against Josiah
Little Defendant - in Ejectment -

Be it remembered that at the March Term
of the Circuit Court A D 1850. within and for
the County and State aforesaid - So Wit:
on the 25th day of March A D 1850 The Plaintiff
Tilghman, N West aforesaid filed his Declaration
in the above entitled cause - which Declaration
is in words and figures, as follows So wit:

" State of Illinois In the Circuit Court of Madison
Madison County vs County March Term A D 1850

Tilghman N West Plaintiff in this suit complains
of Josiah Little defendant in this suit in
Custody &c For that whereas the said Plaintiff was
on the 1st day of March (1850) in the year of our
Lord One Thousand Eight Hundred and fifty

lawfully seized and possessed in fee simple of
the following described parcels or lots of land
to wit Lots One (1) and Six (6) in Block Forty Two
(42) in Sale addition to Upper Alton in Madison
County and State of Illinois and that being so
possessed of said lots or parcels of land as above
described the said defendant did on the tenth
(10th) day of March in the year of our Lord One
Thousand Eight Hundred and fifty enter into
by force and arms and unlawfully possess
himself of the aforesaid described lots of
land and the improvements, the possession
of which he still unlawfully withholds from
the said Plaintiff to his damage Five Hun-
dred Dollars - Wherefore he brings suit &c
Davis & Edwards
Atty for Plff

Josiah Little
Sir

You will take notice that
the foregoing declaration will be filed
on Monday the 25th day of March present
being the second Monday of the March Term
of the Madison Circuit Court A.D. 1850
that upon filing the same a rule will be
entered requiring you to appear and plead
to such declaration within twenty days
after the entry of such rule and that if
you neglect so to appear and plead a

judgment by default will be entered against you and the plaintiff will recover possession of the premises

J. L. Homan N West
By Davis & Edwards
his attys

State of Illinois
Madison County ss

Leander J Cooper being duly sworn doth depose and say that on the 19th day of March A.D. 1850 he delivered to Josiah Little defendant herein a true and correct copy of the foregoing declaration and the notice thereto appended further saith not

Subscribed and sworn to before me this 25th day of March 1850

L J Cooper

J B Randall
CJP

And afterwards at the March Term of the said Madison Circuit Court A.D. 1850 To wit on the day of March A.D. 1850. An order of said Court was made and entered of record in the above entitled cause. Which order

is in words and figures as follows To wit =

Tilghman & West }
 as } Ejectment
Josiah Little }

It is ordered by the Court that the said Defendant be ruled to plead herein within twenty days

And afterwards - To wit on the 28th day of March AD 1857 Josiah Little Defendant herein filed his plea of Not guilty - which Plea is in words and figures as follows To wit:

Josiah Little }
 vs } Ejectment
Tilghman & West }

And now at this day comes the Defendant Josiah Little and defends the wrong and injury where he says that he is not guilty of unlawfully withholding the premises mentioned in the declaration herein and of this he puts himself upon the Country &c

Wm Martin

Atty for Pless

And afterwards To wit at the August Term of said Madison Circuit Court A.D. 1850. To wit on the 23^d day of August A.D. 1850 Another and further Order of said Court was made and entered of Record - which said Order is in words and figures as follows To wit:

Lilghman & West }
 as }
 Josiah Little } Ejectment

Now at this day comes the Plaintiff by Davis & Edwards, J & D Gillespie his Attorneys And the Defendant by Martin Billings & Parsons his Attorneys And the issue being joined upon the plea of Not Guilty And the parties being ready for trial - a Jury Comes To wit: Henry Peters, J B Andrews, William Spire, Austin Bowler, Joshua Dummagan, Hilman Barber, Henry Hansberger Samuel Hunter, John Ballard, Benjamin M Norman, Scyler Carlton & William White twelve good and lawful Men, who were elected tried and sworn well and truly to try the issue joined herein, and after hearing Evidence and argument of Counsel upon their oaths say "We the Jury find the Defendant entered into possession of the premises described in the declaration under a Contract to purchase an Estate in fee simple of and from the Plaintiff. And that at the

time of the Commencement of this suit he was
and is guilty of unlawfully withholding poss-
ession of the same - Thereupon the Defendant
moves the Court for a new trial for reasons
on file = And the Court being advised in the
premises allows the said Motion, and this
Cause is continued

And afterwards Lovitt on the 23^d day of
August A.D. 1850 at said Term of said
Circuit Court the Defendant Josiah Little
filed a Motion for a new trial herein -
which Motion is in words and figures
as follows Lovitt:

Telkman & West }
 ^{vs} } Ejectment
Josiah Little }

Motion for a new trial in this Cause
for the following reasons

- 1st That the Verdict is against law
- 2nd That the Verdict is against the
Evidence
- 3^d The Verdict is against law & Evidence
- 4 For the reason that the Court refused to
give to the Jury the instructions asked
by the Defendant

5th in giving the instructions asked for
by the Plaintiff

Bellings & Martin
Atty for Deft

And afterwards To wit at the March
Term of said Circuit Court 1857 To wit
on the 12th day of April A.D. 1857
another and further order was made by
and entered of record in said Court
which order is in words and figures as
follows To wit:

Tilghman & West }
as } Ejectment
Josiah Little }

This day comes the Plaintiff
by his Attorney as well as the Defendant
by his Attorney and the parties being ready
for trial a Jury To wit Robert Castiel,
Thomas J. Barnette, William Seeper, Fielding
Woodbridge, James M. Apley, William D.
Davis, Nelson Daniels, Joseph S. Cattrell
Robert Ghism, Benjamin Wood, Alvin
Blcott, & J. Dorsey twelve good and
lawful men who were elected tried
and sworn well and truly to try said issue
and after hearing the evidence and argu-
ment of Counsel, upon their oath say
"We the Jury find the Defendant not

Guilty and thereupon the Plaintiff moves the Court for a new trial at Common Law and the Court being advised of said motion it is considered that the same be overruled and that the defendant recover of and from the Plaintiff his proper costs about his defence made and expended and that he have execution thereon and thereupon the Plaintiff comes and prays an appeal to the Supreme Court of the State of Illinois which is allowed upon his entering into bond in thirty day with Edward M West as security in the penalty of one hundred dollars, Conditioned according to law

And afterwards To wit - on the 16th day of April A.D. 1857. a Bill of Exceptions was filed in the above entitled cause which said Bill is in words and figures as follows To wit:

Lighman H West }
vs } Ejectment
Josiah Little } Fifth March Term of the
County Illinois A.D. 1857 } Circuit Court of Madison

Be it remembered

that on the trial of the above entitled cause
 It was agreed upon by and between the
 parties that the proof of title of the land
 in controversy into Thomas Stanton, (the
 Defendant in the Judgment hereinafter
 stated recovered by the State Bank of
 Illinois and also the grantor in the
 Deed to said Plaintiff) should be dis-
 pensed with until it was divested either
 by the sale under said Judgment or the
 purchase made by Hogan and the Comragans
 to said Plaintiff as the case may be -
 The Plaintiff then produced the deed
 from Stanton to West =

Stanton
 To
 West

This Indenture made this the Eighth day of
 February in the year of our Lord One Thousand
 Eight Hundred and Thirty seven Between
 Thomas Stanton and Catharine Stanton
 his wife of the County of Madison in the
 State of Illinois of the first part, and
 Lilghman West of the County of St. Clair
 and State of Illinois of the second part
 Witness: That the said party of the
 first part for and in consideration of
 One Hundred Dollars to them paid by
 the said party of the second part, the
 receipt whereof is hereby acknowledged

have granted, bargained sold, released and
conveyed and by these presents do grant
bargain sell release and convey to the said
party of the second part, his heirs and assigns
forever, all those certain pieces or parcels of land
situate lying and being in the Salu Addition
to the Town of Upper Alton Madison County
State of Illinois, and known, designated
and described as follows To wit: as Lots
Numbered One (1) and six (6) in Block
number Forty two (42) Lot One aforesaid
fronting sixty three feet on Liberty Street
and running back West nine and a half
rods to an alley - Lot six aforesaid fronting
sixty three feet on Broadway and running
back nine and a half rods East to said
Alley lying immediately west of the first
mentioned lot No. One - both being corner
lots and bounded on the North by Ametic
Street and running in parallel lines
with said street the whole length of both
lots as reference being had to the plat
of said Addition will appear - Together
with all the privileges and appurtenances
to the said land in any wise appertaining
and belonging - To have and to hold the
above granted premises, to the said party
of the second part his heirs and assigns
to their use and behoof forever - And
the said party of the first part for them -

selves, their heirs & assigns do Covenant
 with the said party of the second part
 his heirs and assigns that they lawfully
 seized in fee of the aforesaid prem-
 ises - That they are free from all incum-
 brance - That they the said party of
 the first part ha good right to sell
 and convey the same to the said party
 of the second part as aforesaid - And
 that they will, and their heirs, Executors
 and Administrators shall warrant and
 defend the same to the said party of the
 second part his heirs and assigns against
 the lawful demands of all persons

In testimony whereof the said party
 of the first part have hereunto set
 their hands and seals the day and year
 first above written

signed Sealed and	} Thomas Stanton (Seal)
Delivered in the	
presence of	}
George W Carr	
George Smith	

State of Illinois
 Madison County

Be it remembered that on
 this 14th day of June AD 1843 before me George
 Smith an acting Justice of the Peace
 in and for the County of Madison and

State of Illinois Cam Thomas Stanton
& Katharine his wife personally known
to me to be the real persons whose names
are subscribed to the foregoing deed, and
executed the same, and they acknowledged
that they signed sealed and delivered
said deed freely and voluntarily for
the uses and purposes therein mentioned
and the said Katharine Stanton wife of
the said Thomas Stanton being by me made
acquainted with the contents and effects
of said deed, and by me examined separ-
ate and apart from her said husband
she acknowledged that she executed
said deed and relinquished her right
to dower in the lands and tenements
therein mentioned and set forth freely
and voluntarily, and without compulsion
of her said husband - Given under my
hand and seal at my office in Upper
Alton in said Madison County and
State aforesaid this 14th day of June
A.D. 1843

George Smith J.P. Seal
Madison County

Recorded Oct 16th 1843

which was read to the jury without objec-
tion - Plaintiff further proved by John
Hogan that the Defendant was in posses-
sion of the land described in the declara-

tion - Plaintiffs then rested their case - And
 the Defendant offered in Evidence the Judg-
 ment, Execution, Sale & proceedings thereunder
 in the Case of the State Bank of Illinois
 against Thomas Stanton

The President, Directors
 and Company of the
 State Bank of Illinois

vs

Thomas Stanton

Assumpsit

And now at this day
 come here said Plaintiffs by Cowles & Krum
 their Attorneys as well as the Defendant by
 Davis his Attorney who thereupon by leave
 of Court first had withdrew his plea inter-
 posed herein, and the Defendant saying nothing
 further in bar or preclusion of the Plaintiffs
 action - Therefore it is Ordered that the
 Plaintiffs recover of the Defendant their
 damages occasioned by the non perfor-
 mance of the several promises and under-
 takings on the part of said Defendant,
 but because those damages are unknown
 and it appearing to the Court that this
 suit is brought upon a promissory
 note for the payment of money only,
 it is further Ordered that the Clerk
 assess the same by computing the interest
 on said note - Whereupon the Clerk

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 takings on the part of said Defendant,
 but because those damages are unknown
 and it appearing to the Court that this
 suit is brought upon a promissory
 note for the payment of money only,
 it is further Ordered that the Clerk
 assess the same by computing the interest
 on said note - Whereupon the Clerk

assessed those damages to the sum of Four
Thousand three hundred and twenty-
eight Dollars and thirty three cents -
and made report thereof to the Court -
which being approved it is considered
that the Plaintiffs recover of the
Defendant the sum of Four Thousand
three hundred and twenty eight Dollars
and thirty three cents their damages as
as aforesaid assessed together with their
proper Costs to be taxed and that they
have Execution therefor &c

1

To the Honorable S. Preese associate
Justice of the Supreme Court of Judicature of
the State of Illinois and Presiding Judge of
the second Judicial Circuit, and now sitting
as a court of Chancery in the County of Madison
within and for said District and State.

Humbly Complaining, Your Orator
Thomas Stanton of the County of Madison and
State of Illinois, Respectfully charges and sheweth
unto your Honor that at the September Term of
the Madison Circuit Court in the Year of our
Lord One thousand eight hundred and forty one
The President Directors & Company of the State
Bank of Illinois, whom Your Orator makes
defendant to this his Bill of Complaint,
recovered a judgement by default, (and without
any defence being interposed by Your Orator)
Against your Orator, for the sum of four thou-
sand three hundred and twenty eight dollars
and thirty three cents Damages besides costs of suit,
which judgement was predicated upon a Draft
purporting to be drawn by James Moore on Your
Orator payable to and endorsed by John D. White-
side and accepted by your Orator, and also
endorsed by John Hogan Esq. a copy of which Draft
is hereto annexed marked C. II, and which
your Orator makes an exhibit to this his bill
of Complaint

And your Orator further sheweth and
sheweth unto your Honor and expressly charges

that your Orator had no interest directly or indirectly, in said Draft. Nor had Your Orator at the time of the drawing and accepting said draft by Your Orator or at any time before or since any funds in his hands of the Drawers or Endorsers to pay the whole or any part of said Draft, nor was he indebted either to the said Drawers or endorsers of said Draft or in any way bound to pay the whole or any part of said draft, but that his acceptance of said draft was purely an accommodation acceptance ~~of said Draft~~ for the benefit of James Moore the drawer of said Draft, which facts your Orator expressly charges were well known to the said defendant at the time of the discounting said draft by the said State Bank.

And your Orator further represents unto your Honor and expressly charges that said draft upon which said judgement aforesaid was rendered was dated June the 24th June Domini 1837 payable four months after date to John D. Whitesides for the sum of three thousand five hundred dollars and a copy of which draft is herunto annexed marked C. I.

And your Orator further charges that until within a few days of the sitting of the said Madison Circuit court your Orator supposed and verily believed that he was presented as Endorser of the promissory note herunto annexed marked B. and that having had no interest in either the draft or note he was unable at the time to furnish

his Attorney with the necessary information to enable him to make a defence at Law, the makers of said note being dead and Hogan & Co. the persons interested in said draft and note being absent from the County. That on the trial your Orator was taken completely by surprise and was unable to make a defence at Law for want of information as well as testimony.

And your Orator further represents and sheweth unto your Honor that after the maturity of said draft, to wit, on the 17th day of January A.D. 1838 said draft upon which said judgement was rendered as aforesaid against your Orator was fully paid off and discharged at the Vandalia Branch of the State Bank of Illinois the defendant herein when the same was discounted, by James Moore the drawer and John Hogan & Co the second Endorsers as follows:

The sum of three hundred and fifty dollars was paid in Cash and a note drawn by James Moore and endorsed by your Orator, John Hogan and John D. Whitesides for the sum of thirty one hundred and fifty dollars payable five months after date, which note and Cash together with the interest and discount, which was paid by the said Moore and Hogan & Co. your Orator expressly assigns was received by the said Vandalia Branch of the State Bank of Illinois in full liquidation, payment and discharge of the draft aforesaid upon which the judgement was rendered as aforesaid against your Orator

All which Your Orator is ready and willing to maintain and prove as this Honorable Court shall direct.

And Your Orator further sheweth unto your Honor and expressly charges that said draft was negligently and unintentionally left in the said Vandalia Bank of the State Bank of Illinois by the said Moore and Argan, and that the said defendant well knowing that the said draft upon which the judgement was entered, as aforesaid against Your Orator had been fully cancelled paid off and discharged, and fraudulently intending to injure and oppress Your Orator in the premises unjustly, fraudulently and intentionally caused Your Orator to be sued upon said draft and a judgement to be recovered against your Orator as aforesaid.

And Your Orator further sheweth unto your Honor and expressly charges that the judgement was taken for the full amount of the principal and ^{the} interest due thereon up to day of the date of the rendition of the judgement in the Madison Circuit Court aforesaid and as aforesaid without allowing thereon the sum of three hundred and fifty dollars paid in Cash by the said Moore and Argan & Co at the time of giving the note as aforesaid for thirty one hundred and fifty dollars.

And Your Orator further represents and sheweth unto your Honor and expressly charges that said Note of Thirty one

hundred and fifty dollars a copy of which
 is hereto annexed marked TB, and made an
 exhibit and part of the your Orators Bill
 of Complaint was given in part payment
 and so such accepted by the State Bank of
 Illinois at their Branch in Vandalia of
 the said draft upon which said judgment
~~was~~ rendered as aforesaid and for no other
 or different consideration or purpose what
 ever; and that said State Bank still holds
 said note with the endorsements of your
 Orator thereon together with said John
 Hogan and John D. Whitesides, and claims
 that your Orator is also liable upon
 said note as well as upon the judgment
 rendered against your Orator as aforesaid;

And your Orator further charges that said
 defendant has filed said note for thirty
 one hundred and fifty dollars with the
 judge of Probate of the County of Madison
 and State of Illinois as a claim due and
 owing from the Estate of James Moore
 deceased, the maker of said note and drawer
 of said draft, which note has been allowed
 as a claim due and owing from the Estate
 of James Moore deceased to said State Bank
 while at the same time the said Bank is
 endeavoring to collect the full amount of
 the draft, in payment of which said note
 was given in part, from your Orator by
 virtue of the judgment rendered against
 your Orator as aforesaid.

And your Orator further sheweth unto your Honor and expressly charges that he has been informed by the Executor of the Estate of James Moore deceased, and which information he believes to be true, that said Estate will be enabled to pay the said State Bank the greater part if not the whole of the amount of said note for thirty one hundred and fifty dollars and the interest thereon, which said Bank has proven and had allowed against the Estate as a claim, and that said note was all that was due said ^{State} Bank of Illinois at the day of its date upon said draft and as aforesaid, the residue of the amount of said draft having been paid off in cash but not deducted from the same at the time, nor at any time before or since the judgment was rendered thereon as aforesaid against your Orator

And your Orator further sheweth unto your Honor and expressly charges that he has been advised by his counsel, and which information he verily believes to be true that your Orator is discharged as Endorser ~~as per~~ said note of thirty one hundred and fifty dollars in consequence of the laches of the said State Bank the holder of said note.

And your Orator verily believes that the said Bank well knowing that fact fraudulently and illegally is attempting to collect the payment of the full amount of said note and the interest with the further and additional sum of three

And your Orator further sheweth unto your Honor and expressly charges that he has been informed by the Executor of the Estate of James Moore deceased, and which information he believes to be true, that said Estate will be enabled to pay the said State Bank the greater part if not the whole of the amount of said note for thirty one hundred and fifty dollars and the interest thereon, which said Bank has proven and had allowed against the Estate as a claim, and that said note was all that was due said ^{State} Bank of Illinois at the day of its date upon said draft and as aforesaid, the residue of the amount of said draft having been paid off in cash but not deducted from the same at the time, nor at any time before or since the judgment was rendered thereon as aforesaid against your Orator

And your Orator further sheweth unto your Honor and expressly charges that he has been advised by his counsel, and which information he truly believes to be true that your Orator is discharged as Endorser ~~as per~~ said note of thirty one hundred and fifty dollars in consequence of the laches of the said State Bank the holder of said note.

And your Orator verily believes that the said Bank well knowing that fact fraudulently and illegally is attempting to collect the payment of the full amount of said note and the interest with the further and additional sum of three

hundred and fifty dollars besides interest for nearly four years which was paid in cash as aforesaid to said Bank, out of your Orator by virtue of the judgement recovered against your Orator as aforesaid.

+

And Your Orator further sheweth unto your Honor and expressly charges that the said State Bank of Illinois has caused an Execution commonly called a *Fieri Facias* to be issued against Your Orator upon said judgement and delivered to Andrew Miller Sheriff of the County of Madison whom Your Orator also makes defendant to this his Bill of Complaint, and that the said Andrew Miller acting under the advice and direction of the said State Bank of Illinois is about to levy said Execution upon the property of Your Orator and sell and dispose of the same to satisfy said judgement unjustly, fraudulently and improperly obtained by the said Bank against Your Orator upon the Draft aforesaid which has been fully cancelled and paid off as hereinbefore charged;

All which doings and things of the said State Bank and Andrew Miller are against Equity and good conscience and tend to the manifest injury and oppression of Your Orator in the Premises. In consideration whereof and forasmuch as Your Orator can only have adequate relief in the premises in a Court of Equity where matters of this nature are properly cognizable and relievable,

To the End therefore that the said President
Directors and Company of the State Bank of
Illinois and the said Andrew Miller may
upon their several and respective Corporal
oaths to the best and utmost of their several
and respective knowledge, remembrance, infer-
mation and belief full true direct and per-
fect Answers make to all and singular the
Matters aforesaid and that as fully and
particularly as if the same were here again
repeated and they and each of them distinctly
interrogated thereto; and more especially that
the said President directors and Company of the
State Bank of Illinois may in manner aforesaid
Answer and set forth whether they did
not recover a judgment against your Orator
for the Sum and at the time hereinbefore charged
and set forth, also whether said Judgment was
not obtained by default and without any
defence being interposed by your Orator, and
whether said Judgment was not recovered upon
the draft and upon no other or different cause
of action as hereinbefore set out and whether
the exhibit C. D. hereto annexed is not a
true and perfect copy of ~~the~~ said draft,
if not then set out a copy of the same
Also whether after the maturity of said
draft & wit: on or about the 17th day of
January A. D. 1835 said draft was not fully
paid off and discharged by James Moore the
drawer of said or by John Hogan & Co one of
~~the Endorsers by~~

the Endorsers by substituting for said draft
 the note of thirty one hundred and fifty dollars
 a copy of which is made Exhibit B. and by
 paying the balance in Cash and whether said
 draft was not left in the Vandavia Branch of
 the State Bank of Illinois inadvertently and
 after the same had been paid off and discharged
 as aforesaid; also whether said Bank did not
 recover judgment for the full amount of the
 Draft and interest without deducting the sum
 of three hundred and fifty dollars and interest
 thereon, paid by either the said Moore or Hogan
 & Co. at the time the said note of Thirty one
 hundred and fifty dollars was given, also
 whether the said Bank did not know that
 Your Orator was nothing but an accommo-
 dation acceptor of said Draft without any
 interest in the same either directly or in-
 directly - Also whether the exhibit marked
 B is not a true copy of the note given by
 Moore or Hogan & Co in liquidation and pay-
 ment of said draft pro tanto, and if it is not
 a true copy then set out one, also whether
 the Bank does not hold said note of Thirty one
 hundred and fifty dollars in full force and
 effect against the Estate of James Moore its
 maker as well as against the Endorsers, and
 whether said Bank has not filed and had
 allowed by the Probate Justice of the Peace of
 Madison County against the Estate of James
 Moore said original note as a claim due the
 Bank. Also whether said note of thirty one

hundred and fifty dollars was not made, delivered and accepted by the Vandalia Bank of the State Bank of Illinois for the sole consideration and purpose of taking up said draft and for no other purpose whatever, and whether the proceeds of said note was not applied by the said Vandalia Bank of the State Bank of Illinois towards the liquidation and payment of said draft and for no other purpose whatever, Also whether the Estate of said More is not solvent. Also whether the said State Bank has not caused an Execution to be issued and delivered to Andrew Miller their Co-defendant upon said Judgment with instructions to said Miller to levy the same upon the property of your Orator and sell the same for the payment of said Judgment and costs. And that the said Andrew Miller may in manner of said answer and set forth what as Sheriff of the County of Madison he has not received an Execution issued from the Madison Circuit Court upon the Judgment hereinbefore described, and whether he has not threatened and it was not his intention and design to proceed to levy and collect the amount of said Judgment by virtue of said Execution from the property of your Orator.

Your Orator, the premises considered prays that an Injunction may be granted against the said President Directors & Company of the State Bank of Illinois, as well as against the said Andrew Miller and each

of them their Clerks, deputies, Attorneys, agents, or servants restraining them and each of them from proceeding at Law for the Collection of said Judgement or any part thereof or for from levying said Execution upon the property of Your Orator and selling or offering to sell the same in liquidation of the whole or any part of said judgement in favor of said President Directors & Company of the State Bank of Illinois against Your Orator, or in any other way attempting to enforce the Collection of said judgement against Your Orator until the final hearing of this Your Orators Bill of Complaint or the further order of this Honorable Court, or that Your Orator may have such other or further relief in the premises as the nature and circumstances of this case may require and shall seem meet and agreeable to Equity and good conscience.

May it Please Your Honor to grant unto your Orator not only the most gracious writ of Injunction issuing out of and under the Seal of this Honorable Court to be directed to the said President Directors & Company of the State Bank of Illinois and the said Andrew Miller to restrain them and each of them from proceeding to collect the said judgement at Law against Your Orator as aforesaid; but also the most gracious writ of Subpoena to be directed as aforesaid to the said President Directors

& Company of the State Bank of Illinois as well
as the said Edward Miller thereby commanding
them and each of them at a certain day and under
a certain penalty therein to be named, justly
to be and appear before this Honorable
Court and then and there full the direct and
perfect answer make to all and singular
the premises, and further to stand to perform
and abide such further order, direction, and
decree therein as to your Honor shall seem
meet and proper. And your Obedience shall
ever pray. &c.

State of Illinois
Madison County ss:

Thomas Stanton being duly
sworn deposeth and saith that the
foregoing Bill in Chancery by him subscri-
bed, and the facts therein contained are true
so far as they are stated to be upon the
knowledge of this affiant, and when
upon the information of others he verily
believes them to be true and further
this dependent saith not

Subscribed & Sworn before me, Thomas Stanton
this 30th day of December A.D. 1841 }
+ Samuel S. Bailey J.P. }
(Madison County Mo.)

State of Illinois

On reading and considering the annexed
Bill for an Injunction on the application of

Thomas Stanton, and the Matter and things there contained, I do allow the same. The Clerk of the Madison Circuit will issue a writ of Injunction according to the prayer of the Bill on the said Complainant Thomas Stanton entering into Bond with Peter Whitaker of Madison County and William W. Moore and J. Milton Moore Senr of Monroe County his Sureties in the sum of five thousand dollars conditioned to pay the defendants all such damages as they may sustain by reason of this injunction should the same be dissolved.

Given under my hand as Justice of the Supreme Court of the State of Illinois at Chambers in Springfield in the County of Sangamon, this 25th day of January 1842
 Sidney P. Beebe

Whereas the President Directors and Company of the State Bank of Illinois did at the September Term of A.D. 1841 of the Circuit Court of Madison County State of Illinois recover a judgement against Thomas Stanton for the sum of Four thousand three hundred and twenty eight dollars and thirty three cents and costs of suit upon which judgement an alias Execution was issued dated on the 14th day of January A.D. 1847 and directed to the Sheriff of Madison County to execute and by virtue of said Execution the said Sheriff levied upon the lands hereinafter described and the same were struck off and sold to the President Directors and Company of the State Bank of Illinois at and for the sum of three thousand five hundred dollars the being the highest and best bidder therefor and the time and place of the sale thereof having been duly advertised according to law; Now therefore know all men by this Deed that I Andrew Miller Sheriff of said County of Madison in consideration of the premises have granted conveyed, sold and do hereby convey to the President Directors & Company of the State Bank of Illinois their Successors and assigns the following described Real Estate to wit: Lot No. One (1) Two (2) Six (6) and Seven (7) in Block No. Forty two (42) in Sale addition to Upper Alton, also Lot No.

Four (4) in Block No twenty six (26)
in the City of Alton, Also two acres of
land off the North Side of the South East
quarter of the South west quarter of Sec-
tion No Twenty eight (28) in Township
No Six (6) North Range No nine (9) West
of the third Principal Meridian, also
the North East quarter of the South
East quarter of Section No. thirty (30)
in Township No Six (6) North Range
No. Nine (9) West of the third Principal
Meridian. To have and to hold the
said described premises with all the
appurtenances thereto belonging to the
said President Directors & Company of the
State Bank of Illinois their Successors
and assigns forever. Witness my hand
and Seal this Seventh day of September
A.D. in the Year of our Lord one
thousand eight hundred and forty
nine Andrew Miller Sheriff
Sheriff of Madison County State
of Illinois

State of Illinois
Madison County } ss: Be it remembered
that on this 7th day of September A.D.
1849 before me Mr. Tyler Brown Clerk
of the Circuit Court in and for the County
of Madison and State of Illinois came

Andrew Miller, Sheriff of Madison County Illinois personally known to me to be the real person whose name is subscribed to the foregoing Deed as having executed the same and he acknowledged that he signed sealed and delivered said Deed freely and voluntarily for the uses and purposes therein mentioned, In Testimony whereof

I have hereunto signed my name and affixed the Seal of Court at Edwardsville the Day and year above written
 Geo. E. Wm. T. Brown Clerk
 Received Sept 7th 1849

Trustees State Bank
 To
 Josiah Littell

This Indenture made the thirtieth day of March A.D. 1830 between Uri Manly John Calhoun and Nicholas W. Ridgely Trustees appointed by the Governor of the State of Illinois by virtue of the power vested in him by the second section of an Act of the General Assembly of the State of Illinois entitled an Act for closing the affairs of the State Bank of Illinois approved the 1st day of March A.D. 1849 and Assignees of the President, Directors & Company of the State Bank of Illinois, of the first part and Josiah Littell of the

County of Madison and State of Illinois of the
second part Witnesseth that the said party
of the first part by virtue of the right power
and authority vested in them by their said
appointment as Trustees and by the Act author-
izing said appointment and also by the Deed
of Assignment from the President Directors
& Company of the State Bank of Illinois
and in consideration of the sum of one
thousand and five hundred Dollars do by
these presents grant bargain and sell
and quit claim to the said party of the second
part his heirs and assigns forever certain
tracts or parcels of land lying in the County
of Madison and State of Illinois and disig-
nated and known as follows to wit: Lots
numbered one (1) two (2) six (6) and seven
(7) in a block number forty two (42) in
addition to the town of Upper Alton,
being land belonging to the President Direc-
tors & Company of the State Bank of Illinois
at the expiration of their charter or acqui-
red by the said Trustees in the settlement
of the affairs of the said Bank since the
expiration of the said charter, to have and
to hold the said tract or parcel of land
to the said Josiah Littell his heirs and
assigns forever But the said party of the
first part, sell only such right to said
lands as they are authorized and able to

convey under the provisions of the Act above
referred to they being forbidden by the
tenth section of the act of February 28th
A.D. 1843 - to give any covenant or warranty
of title. In testimony whereof the said
party of the first part have hereunto set
their hands and affixed their seals as
Trustees and Assignees as aforesaid the day
and year first above written

Wm Manly (Seal)
J. Calhoun (Seal)
N. H. Ridgely (Seal)

State of Illinois }
City of Springfield } ss: Be it known that on
the day of the date hereof before me John
C. Sprigg a Notary Public for the City
of Springfield State of aforesaid duly com-
missioned and qualified, came Wm Manly
John Calhoun and Nicholas H. Ridgely
Trustees and Assignees of the State Bank
of Illinois who are personally known
to me to be the persons whose names are
subscribed to the foregoing conveyance
as a party thereto and by whom and in whose
names the same is proposed to be acknowl-
edged, and acknowledged the said con-
veyance to be their voluntary act and
Deed for the purposes therein mention-
ed. In Witness whereof I have
hereunto subscribed my name

not affixed my seal notarial this 20th
day of March A.D. 1890
(Seal) J. C. Sprigg Notary Public
Record April 23rd 1890

The Defendant here rested their case, The Plaintiff then called John Hogan and offered to prove by him that in the year 1835 he purchased the land in dispute from said Stanton by parol and took possession thereof under the purchase and paid for the same and made valuable improvements thereon by the erection of a large dwelling house & that he continued in the notorious possession of the same under a claim of title until 1843 when by arrangement between himself Stanton, & West Stanton made the deed above stated to Plaintiff that afterwards in 1845 the defendant contracted with West through Hogan to purchase the said land with a full knowledge of the judgment against said Stanton, and at a price with reference to said judgment, and that said title entered into possession of said land under said contract of purchase and had continued therein ever since - Also that said title had refused to comply with said contract of purchase but claimed title to the said land by said purchase from the State Bank, to the proving of which the said objected and his objection was sustained by the Court and the said witness was not allowed to testify.

to said facts, to which ruling and decision
of the Court the Plaintiff at the time
excepted -

Plaintiff further offered to prove
by J. M. Kittinger & Irwin B. Randle that said
Defendant had refused to comply with said
Contract of purchase but claimed title to the
land in dispute under said purchase from
said State Bank, which was also objected to
by the Defendant which objection was
sustained by the Court and said witnesses
were not allowed to testify to said facts, to
which decision of the Court excluding said
testimony the Plaintiff at the time excepted

The above was all the testimony given in
the above entitled cause - Whereupon the
Jury found a verdict in favour of Defen-
dant - And the Plaintiff moved for a new
trial for the reasons 1st

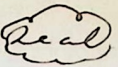
"That the Court had
excluded proper evidence from being given
by the Plaintiff in the cause

2nd

Because the
verdict was contrary to the law and
evidence

Which motion was overruled
by the Court and a new trial denied
To which decision of the Court the Plaintiff

at the time excepted and prayed the Court to sign and seal this his bill of Exceptions and make the same part of the record in this cause, which is done accordingly

W^m H Underwood 

State of Illinois
Madison County

I hereby certify the foregoing Exemplification to contain a full true and perfect copy of the Judgment and proceedings of the Case of Tilghman N West against Josiah Little as the same appear of record and on file in my office - The Execution referred to in bill of Exceptions and Injunction also referred to having been taken out of office by the attorney in said cause

In Testimony whereof I have hereunto signed my name and affixed the seal of the Circuit Court of the County & State aforesaid of which Court I am Clerk

W^m T. Brown
Clerk

Jilghman N West

³
Jorack Kettle

13993

RPR

Filed Jan 15th 1852
\$5 paid