

12334

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

# Supreme Court of Illinois

Pres.& Trustees of the

Town of Princeton

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vs.

Morton

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71641  7

25  
Andrew P. Morton

vs  
The President &c. of  
the Town of Princeton

25

1233

1857





State of Illinois }  
Bureau County ss }

The President & Trustees  
of the Town of Princeton

vs  
Andrew J. Morton      appeal

Be it remembered that on the  
Seventeenth day of August AD 1854. That Martin  
Ballou Esquire an acting justice of the peace within  
and for said County. Came into the office of the  
Clerk of the Circuit Court in and for said County,  
and filed in said Clerk's office the following papers  
in the above entitled Cause, in the word and  
figures following to wit.

Copy of Statement before Levi North Esqr  
Police Magistrate of the Town of Princeton

The President & Trustees }  
of the Town of Princeton } Before Levi North Esqr  
vs } Police Magistrate of said  
Andrew J. Morton } Town.

Suit Brought to recover a penalty  
in the sum of Ten dollars against the defendants for a  
violation of Article 13 of the Ordinances of said Town  
relative to running riding or driving horses in the  
streets alleys or lanes of said Town.

August 11<sup>th</sup> 1854.

J. Porter Jr atty for Town



## Copy of Summons

State of Illinois

Bureau County ss.

The People of the State of Illinois  
To the Town Constable of the Town of Princeton Greeting,

You are hereby commanded to Summon Andrew Jackson Morton, to appear before me at my office in Princeton on the 11<sup>th</sup> day of August AD 1854 at 9 o'clock A.M. to answer to the Complaint of the President and Trustees of the Town of Princeton for a failure to pay them a certain demand not exceeding one hundred dollars, for a violation on the first day of August 1854, of Article 13 of the Ordinance of the Town of Princeton passed June 12 1849, prohibiting running, riding or driving of horses furiously in streets, alleys and lanes of said town, and hereof make due return as the law directs. Given under my hand and seal this 2<sup>d</sup> day of August AD 1854.

Levi North (Seal)

Police Magistrate of the Town  
of Princeton

## Copy of Notice for Jury

State of Illinois

Bureau County ss.

The People of the State of Illinois

To the Town Constable of the Town of Princeton Greeting

We command you to Summon six good and lawful men qualified to serve as jurors, and not exempt from such service by law, and who are not in anywise



related to either the President and Trustees of the  
 Town of Princeton, or Andrew J. Morton, do he and  
 of the said Town of Princeton at the Office of the said Police Magistrate  
 appear before Levi North Police Magistrate, in Princeton  
 to make a jury for the trial of the said A. J. Morton  
 for violation Art 13 of the Ordinance of the Town of  
 Princeton passed June 12 1849. and have you then  
 and there a panel of jurors. and this precept.

Given under my hand and seal of the said Police Magis-  
 trate this 11<sup>th</sup> day of August 1854. Levi North (Seal)  
 Police Magistrate

Copy of Levi Norths Transcript

|                                                                                       |   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|---------------------------------------------------------------------------------------|---|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| The President and Trustees<br>of the Town of Princeton<br>vs<br>Andrew Jackson Morton | } | Suit Brought to recover a<br>penalty for a violation on the<br>first day of August 1854<br>of Article 13 of the ordinance<br>of the Town of Princeton passed June 12 1849. prohibiting<br>running riding or driving horses furiously in streets alley<br>and lanes of said Town Plffs demand \$ 10.00<br>August 11 <sup>th</sup> 1854. Summons Issued to Constable Norton<br>Returnable August 11. 1854 at 9 A.M. which was returned<br>endorsed. Served this 7 <sup>th</sup> day of August 1854 by reading to the<br>within named defendant. W E Norton Town Constable.<br>Subpoena Issued to Const. Norton on behalf of the plaintiffs<br>which was returned Served. Augt. 11 1854. The Plaintiffs<br>appeared by their attorney Porter jr. Deft appeared in<br>person. Subpoena Issued on part of Deft. A Vermin |
|---------------------------------------------------------------------------------------|---|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|



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having been demanded a jury warrant to Court  
Norton. Deft made oath that it is his belief that he  
cannot have an impartial trial before me & thereupon  
delivered the papers in this case to Constable Norton  
to transmit to M. Ballou Esq. the nearest Justice of the Peace  
State of Illinois.

Bureau County } I the Sub. order a police magistrate  
of the Town of Princeton in said County. do hereby the  
above to be a full and perfect copy of the proceedings and  
judgment from my docket in the above Cause

Dated this 11<sup>th</sup> day of August 1854. Levi North

Police Magistrate

Copy of Transcript of M. Ballou's Docket.

The President & Trustees } Deft for a violation of Article  
of the Town of Princeton } 13<sup>th</sup> of the ordinance of the Town of  
Princeton passed June 12<sup>th</sup> 1848

Andrew Jackson Norton } prohibiting the running driving  
or riding horses furiously in the streets, alleys and lanes of  
said Town. Plaintiffs demand \$10,00. Cause certified to  
me from the docket of Levi North Police Justice by said  
Justice. Together with the papers therein on a Change of venue  
taken by defendant this August 11<sup>th</sup> 1854. and by agreement  
of said parties this Cause is set for trial before me & a jury this  
August 11<sup>th</sup> 1854 at 1/2 past twelve O'clock noon. August 11 1854  
the return for a jury heretofore issued by said Justice  
North being now returned. by Court Norton. with the



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following named jurors endorsed them to wit. John Meran  
 Albert White. Anson P. Fish. — Malco. Edward Ewing &  
 Edward Coleman. who were severally sworn to answer questions  
 as to their competency as jurors & who were accepted by the  
 parties & duly sworn & empaneled as a jury in this cause  
 (Zachariah Shugart. Charles S. Boyd. George Coleman. & Clark  
 R. Norton, having also been severally sworn as to their  
 competency as jurors & rejected by the parties heretofore) the  
 parties proceeded to trial. when plaintiff called Z. Shugart  
 & Thompsonstead. & John Gilbert as witnesses who were  
 sworn & examined as witnesses & defendant. called  
 George Coleman who was sworn & examined as a wit-  
 ness. and the cause having been argued by Porter for  
 Plaintiff & Stapp for Defendant. the cause was submitted  
 to the jury who retired to consider of their verdict. and  
 afterwards it being made known to me that said juror  
 Edward Ewing had been taken unwell & wholly unable to  
 further sit as a juror. whereupon said Ewing is discharged  
 whereupon by agreement of the parties they agree that the  
 remaining five jurors may constitute a jury in as full  
 a manner as though the six remained as empaneled.  
 and that said remaining five should they be able to  
 agree upon a verdict may bring in such verdict.  
 said parties waiving all irregularities in so doing.  
 whereupon said five remaining jurors returned and  
 brought in the following verdict to wit. We the jury find  
 for the Plaintiff. and assess the debt at seven dollars  
 Anson P. Fish." the said jurors thereupon being polled



all declared the same to be their verdict, whereupon said jury was discharged. It is therefore considered that said Plaintiffs have and recover of and from said Defendant the said sum of seven dollars & cents, and costs of suit. Taxed at Five dollars and ninety eight and three fourths cents. Exclusive of the jury fees.

August 15<sup>th</sup> 1854, defendant appeared and claimed an appeal herein & filed his appeal Bond with George Robinson as security. which bond is approved & said appeal allowed and all the papers certified together with a transcript hereof up to the Circuit Court of Bureau Co. State of Illinois

Bureau County ss        I do hereby certify that the foregoing is a true and correct Transcript of the judgment and proceedings had before me in the above entitled Cause. as appears from my docket thereof & herewith are all the papers in said Cause. Given under my hand this 15<sup>th</sup> day of August A.D. 1854

Martin Ballou J.P.

### Copy of appeal Bond

We now all men by these presents that we Andrew Jackson Morton, and George Robinson, are held and firmly bound unto the president and Trustees of the Term of Circuit in the Penal sum of Fifty dollars lawful money of the United States. for the payment of which well and truly to be made. we bind ourselves, our heirs and administrators jointly, severally and firmly



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by these presents. Witness our hands and seals. This  
14<sup>th</sup> day of August AD 1854.

The Condition of the above obligation is Such that where  
as the Said The President and Trustees of the Town of  
Princeton did on the Eleventh day of August AD 1854  
before Martin Ballou a Justice of the Peace for the  
County of Bureau aforesaid. recover a judgment  
against the above bounden Andreus Jackson Martin,  
for the Sum of Seven Dollars Debt. and five dol  
lars and ninety eight and three fourths Cent Costs of  
Suit. from which judgment the Said Andreus J  
Martin has taken an appeal to the Circuit Court of  
the County of Bureau aforesaid. and State of Illinois.

Now if the Said Andreus Jackson Martin.  
Shall prosecute his appeal with effect. and shall  
pay whatever judgment may be rendered by the  
Court upon dismissal or trial of Said appeal. Then  
the above obligation to be void. Otherwise to remain  
in full force and effect.

attest

William S. Wilkinson

A. J. Martin (Seal)

Geo Robinson (Seal)

This Bond is Approved  
by me at my office in Princeton  
this 15<sup>th</sup> day of August AD 1854

Martin Ballou J. P.

~~~~~

Filed Aug 11, 1854  
C. W. Fisher  
clerk



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Pleas before the Hon<sup>ble</sup> Edwin S. Leland Judge  
of the Ninth Judicial Circuit Court of the State of  
Illinois at the October Term of Said Circuit Court, begun  
and held at the Court House in Princeton in the  
County of Bureau on Tuesday the Third day of October  
in the year of our Lord One Thousand Eight Hundred  
and fifty four. Present Hon<sup>ble</sup> Edwin S. Leland, Judge

Edward M. Fisher Clerk  
Osmyr Smith Sheriff  
W. H. Mallum Dist Atty.

To wit on the 1<sup>st</sup> day of said Term  
The President & Trustees  
of the Town of Princeton

vs  
Appeal  
Andrew J. Morton

Now Comes the defendant by Taylor  
and Stupp his attorneys and enters his motion herein  
for the dismissal of this Suit, for want of Security for Costs.

To wit on the 2<sup>d</sup> day of said Term  
Now Comes the Plaintiffs by Peters and  
Porter their attorneys, and the defendant comes by  
Taylor & Stupp his attorneys, and after argument of Counsel  
and the Court being fully advised in the premises  
Considers that Said motion to dismiss this Cause be  
overruled



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To wit on the 10<sup>th</sup> day of the TermThe President & Trustees  
of the Town of Princeton

vs

Appeal

Andrew J. Merton

Now comes the Plaintiffs  
by Porter their attorney, and the defendant comes  
by Sayler & Stupp his attorneys, and by the agreement  
of said Parties it is considered by the Court, that this  
Cause be continued to the next Term of this Court,

Held before the Honorable Edwin S. Leland  
Judge of the Ninth Judicial Circuit of the State of  
Illinois, at the Term of said Court, begun and held  
in and for the County of Bureau at Princeton in said  
County on Tuesday the ninth day of January in the  
Year of our Lord one thousand eight hundred and  
fifty five.

Present Hon<sup>ble</sup> Edwin S. Leland Judge

Edward M. Fisher Clerk

Stephen G. Faddock Sheriff

Wm. H. Wallace States atty.

To wit on the 3<sup>d</sup> day of said TermThe President and Trustees  
of the Town of Princeton

vs

Appeal

Andrew J. Merton

Now comes the Plaintiffs by Porter



Their attorney, and the defendant comes by Taylor and Stepp his attorneys, and by the agreement of said parties it is considered by the Court that this cause be continued to the next term of this Court.

Pleas before the Hon<sup>ble</sup> Edwin S. Leland Judge  
of the ninth judicial Circuit of the State of Illinois  
at the term of said Circuit Court begun and held  
in and for the County of Bureau, at Princeton in  
said County, on Tuesday the Twenty Seventh day  
of March in the year of Our Lord One thousand  
Eight hundred and fifty five.

Present Hon<sup>ble</sup> Edwin S. Leland Judge  
Edward S. Edwards Clerk  
Stephen G. Faddock Sheriff  
W. H. S. Wallace States atty

To wit on the 1<sup>st</sup> day of said term  
The President and Trustees  
of the Town of Princeton

vs appeal  
Andrew J. Morton

Now comes the Plaintiffs by  
Poster Their attorney, and the defendant comes by  
Taylor and Stepp his attorneys, and by agreement of  
said parties, it is considered by the Court <sup>that this cause</sup> (It having  
been called for trial be passed.



To wit on the 8<sup>th</sup> day of the Term  
The President and Trustees  
of the Univ of Princeton

vs appeal  
Andrew J. Morton

Now come the plaintiffs by Foster  
and Cook their attorneys and the defendant comes  
by Sayler & Stipp his attorneys, and the Court orders  
that a jury be empaneled to try this cause, and  
there comes a jury of twelve good and lawful men  
To wit James E. Ben. Lewis J. Colton, Richard J. Riley,  
James M. Kimball, Sanderson Castles, Aaron Fisher,  
William Allen, Charles Kenos, Joseph Vanhorn,  
Jeremiah Meritt, Mason Underwood, and John Phillips  
who are duly elected tried and sworn, well and  
truly to try this cause, and a true verdict render  
according to the evidence, and by agreement of said  
parties, said jurors have leave to separate, to meet at the  
opening of Court tomorrow morning.

To wit on the ninth day of said Term  
Now come the parties aforesaid by their attorneys aforesaid  
and the jury empaneled as aforesaid, and the said  
jury upon their oaths say, "We do find the said defend-  
ant guilty as said plaintiffs have alledged, and that  
he do render to the said Plaintiff the sum of seven  
dollars" and the said defendant by his said attorney  
moves the Court for a new trial herein.



To wit on the 11<sup>th</sup> day of said Term  
 The President and Trustees  
 of the Town of Princeton  
 vs  
 appeal

Andrew J. Morton

And now come the parties aforesaid by  
 their attorneys aforesaid, and the Court being fully  
 advised in the premises, considers that said defendant  
 motion for a new trial herein, be overruled. It is  
 further considered by the Court, that the said Plaintiffs  
 have and recover of the said defendant, the said sum of  
 Seven dollars Debt. Together with all their costs &  
 Charges in and about the prosecution of their said suit  
 herein expended, in this Court, and in the Court below  
 and that they have execution therefor,

Copy of Writ Bill of Exceptions

|                          |   |                      |
|--------------------------|---|----------------------|
| The President & Trustees | } | In the Circuit Court |
| of the Town of Princeton |   | of Bureau County     |
| vs                       |   | appeal               |
| Andrew J. Morton         |   | In Debt.             |

Be it Remembered that  
 on the trial of this Cause, at the March Term of the  
 said Circuit Court, A.D. 1855, One James E. Run,  
 was called as a juror to sit on the trial of said  
 Cause, who being duly sworn to testify, touching his  
 qualification as said juror, testified that he was



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then a citizen, property owner, and tax payer within the corporate limits of said town of Princeton, which was all the testimony touching his said qualifications as a juror in said cause whereupon the said defendant by his counsel then and there objected to sitting of said Burr as a juror on the trial of said cause, because of the interest of said Burr, in the event of the suit as shown by his said testimony, whereupon the said court, overruled the objection of the said defendant, and permitted the said Burr, to sit as a juror on the trial of said cause, to which decision of the court the said defendant by his counsel then and there excepted, and the said plaintiffs to maintain this issue on their part, gave in evidence to the said jury the charter of the said town of Princeton which is in the words and figures following to wit,

In force  
Feb 8. 1849. An act to extend the corporate powers of the town of Princeton, in the County of Bureau

Incorporated. Section 1. Be it enacted by the people of the State of Illinois, represented in the general assembly, That Nathan Gray, Arvis S. Chapman, William Martin, William D Chamberlin, and Jacob T. Thompson, he, and they are hereby, constituted a body politic and corporate, to be known by the name of the "President and Trustees of the Town of Princeton" and by that name they and their successors shall be known in law, have perpetual



powers

Succession. sue and be sued. plead and be impleaded. defend and be defended. in Courts of law and Equity and in all matters whatsoever. may grant. purchase. receive. and hold property. real and personal, within said Town. and may lease. sell. and dispose of the same for the benefit of the town. and may do all other acts as natural persons. may have a common seal and change or alter the same at pleasure.

Boundaries

2. All that district of country contained in Section sixteen Township number sixteen north. range number nine. east of the fourth principal meridian. is here by declared to be within the Boundaries of the Town of Princeton.

Trustees

3<sup>d</sup>. The corporate powers and duties of said Town shall be vested in five Trustees. after the term of the present incumbents shall have expired. To wit: on the first Monday of April next. to be chosen and appointed as hereinafter directed. who shall form a board for the transaction of business.

annual

Election

4<sup>th</sup> The members comprising the board of directors shall be elected by ballot annually. on the first Monday of April. by the persons residing in said Town qualified to vote for members of the legislature. to serve one year: they shall be at least twenty one years of age and inhabitants of said Town.



15. 5. The board of Trustees shall appoint their president from their own body, and shall be the judges of the qualifications. Elections, and returns of their own men appoint theirs: a majority shall constitute a board to do business, but a smaller number may adjourn from day to day, their president may compel the attendance of absent members in such manner and under such penalties as the board may provide, they may determine the rules of proceeding, and make such other rules and regulations for their government as to them may seem proper and expedient.

6. The Board of Trustees shall have power to levy and collect taxes upon all the real and personal estate within the Town, not exceeding the one half of one per centum upon the assessed value thereof: to make regulations to secure the general health of the inhabitants, to prevent and remove nuisances: to restrain and prohibit gambling: To regulate and establish markets: to open and keep in repair Streets, avenues, lanes, alleys, drains, and sewers, and to keep the same clear and free from incumbrances: to provide for the prevention and extinguishment of fires: to purchase fire engines or other necessary apparatus and implements for extinguishing fires, and to erect houses for the safe keeping thereof, to inspect and cause to be inspected fire places, Chimneys, stoves and stove pipes, and cause the same to put and kept in safe condition.



and to enter and cause others to enter houses and other buildings for such purposes, at all proper times, to organize and provide for the government and exercise of fire Companies, and hook and ladder Companies, to regulate the storage of gunpowder and other combustible materials, to compel the inhabitants of said town to deposit their ashes in safe places, to prevent and remove obstructions in the streets and side walks, and to prevent injuries thereto, and also to prevent improper and immoderate riding and driving; to restrain the running at large in said billage of Cattle, horses, sheep, and swine, and to erect a pound within said billage appoint a pound master and prescribe his fees and duties to erect pumps and wells in the streets for the convenience for the convenience of the inhabitants; to regulate the police of the town; to regulate the election of town officers, to fix their compensation, to fill vacancies that shall happen in any office from any cause whatever, and to prescribe and ordain suitable fines, penalties, and forfeitures for offences against such by laws, rules, regulations, and ordinances, and the provisions of this act, not exceeding ten dollars for any one offence.

Licences 7. The Board of Trustees shall have power to provide for licensing and taxing Stoves, taverns, groceries, and Auctioneers, and for taxing and regulating theatrical and other Shows and amusements within said Corporation, provided that no licence to retail



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 proviso  
 Spiritous liquors within Said Town shall be granted unless a majority of all the persons voting for trustees at any annual election under this act shall vote in favor of granting such licence: in which case it shall be the duty of said Trustees to grant such licence, when required, to such person or persons, on payment into the treasury of said Town at least twenty five dollars for each and every licence so granted.

8. All moneys for licensing as aforesaid shall be paid into the Town Treasury, and shall be appropriated by the board of Trustees for the public improvement of said Town.

Special Tax 9. Upon the application of the owners of two thirds of the real estate on any streets or parts of a street, it shall be lawful for the board of Trustees to levy and collect a special tax on the owners of the lots on said street or parts of a street, according to their respective fronts, for the purpose of grading and paving the side walks on said street.

10. The board of Trustees shall have power to regulate, grade, pave, and improve the streets, avenues, lanes, alleys, and public squares within the limits of said Town.

Ordinances to 11. All ordinances shall, within ten days after they are  
 be published passed, be published in a newspaper printed in said



18 Town. or posted in three of the most public places thereof.

12. When any real estate in said Town shall have been Redemption Sold by the Authority of the Incorporation thereof, for of Real Estate the non payment of any taxes that may have been levied upon the Same. the Same may be redeemable by the Owner or owners thereof, his, her, or their agent or agents, within two years after the Same shall have been Sold, on paying to the Treasurer of the board of trustees of said Town double the amount of taxes for which the Same was Sold, together with Costs for selling the Same, and all subsequent taxes, with ten per cent interest thereon. But should the said lots or parts of lots so Sold for non payment of taxes aforesaid, not be redeemed within the time specified. then and in that event it shall be the duty of the president of the board of trustees of said town to execute a deed, with a special warranty, signed by the president of said board and countersigned by the clerk thereof, provided that nothing herein contained shall prejudice the rights of infants, lunatics, or fumes Court, but they may in such cases redeem their property so Sold, within two years after their respective disabilities shall be removed.

13. In the Collection of taxes the Collector of said Village shall have the like authority and pro



19 Ceed in the same manner as Collectors of taxes  
of Counties.

14. The officers of said Town in addition to the  
Trustees shall consist of one Clerk, one Street Com-  
missioner, one Treasurer, one Assessor, and one Collector  
of taxes, and such other officers as the trustees  
of said Town may deem necessary for the good of  
said Town.

15. The members of the board of Trustees, and every  
officer of said Corporation, shall, before entering upon  
the duties of his office take an oath or affirmation  
before some judge or justice of the peace, faithfully  
to perform the duties of their said office to the best  
of their ability.

16. The Clerk of said Town shall have the custody  
of the records, Books, maps, and papers delivered to  
him for that purpose, and shall keep an account  
current of the fiscal concerns of the Corporation, in  
such manner as will at all times show the con-  
-dition thereof.

17. It shall be the duty of the trustees, within six  
months after their first Election under this act, to  
employ some competent person to Survey said  
Town according to the original Town plat minutes



or notes made at the time of laying out said town and came stakes or stones to be placed on the corners of each and every block.

18. The general assembly may at any time alter, amend, or repeal this act.

19. This act to be in force from and after its passage. Approved February 8. 1849.

and the said plaintiff further gave in evidence to the said jury the following sections of an ordinance passed by the said Town of Princeton, which are in the words and figures following To wit,

Art. 13. If any person shall run, ride or drive any horse or horses, furiously in any street, alley, or lane of said Town of Princeton, he shall forfeit and pay for every such offence, not less than two nor more than ten dollars.

Art. 21. All fines forfeitures and penalties for the breach of any of the laws, or ordinances of said corporation may be recovered before any justice of the Peace by action of Debt, in the name of the President and trustees of the Town of Princeton, and collected by execution as other judgments of justices of the Peace.

I hereby certify that the foregoing ordinances were published in the Bureau advocate of June 20. 1849.

Mo Ballou Clerk



21 x And the said Plaintiff further gave in evidence to the said jury testimony tending to prove that, on the first day of August, A.D. 1884, the said defendant rode a certain horse furiously along a certain Street of said Town of Princeton within the Corporation limits of said Town, and that said defendant was then and there trotting a race, <sup>therein</sup> with one Withersby. And the said defendant to maintain the issue on his part gave in evidence to the jury testimony tending to prove that, at the time and place mentioned in the plaintiffs' said testimony, he the said defendant did not ride the said horse furiously along the said Street, and was not trotting a race therein with said Withersby, and the defendant moved the said Court to direct the jury. First, unless the jury believe from the evidence that the defendant was riding at a great and dangerous rate of speed, they will find for the defendant.

Second: The object of the law under which the defendant is prosecuted in this suit, is to prevent persons from riding or driving, at a great and dangerous speed through the Streets, and if the jury believe from the evidence, that the speed at which the defendant was riding, was such that he could easily have checked up, or turned to the one side ~~xxxx~~ or the other, if any person, or vehicle had been in the Street, so as not to endanger any one, they should find for the defendant."

Third. It makes no difference in this case what



22 object the defendant had in view, in riding, whether it was for pleasure, or business, to train, whether for man, or to race, if the Speed was not dangerous, they should find for the defendant."

"Fourth, To ride furiously, is to rush with impetuosity, to move with violence, and unless the jury believe from the evidence that the defendant was riding in that manner, they must find for the defendant."

"Fifth, The question for the jury is not, what rate of Speed the Corporation have a right to forbid, but the question in this Case is, did the defendant ride through the Streets of Princeton at a rate of Speed which the Corporation have forbidden, and the Corporation having only forbidden furious riding, unless the jury believe from the evidence, that the defendant did ride furiously, they will find for the defendant."

"Sixth, whether the defendant rode furiously is a question for the jury to determine from the evidence."

"Seventh, It is no violation of the ordinance under which this prosecution is brought, that the defendant trotted his horse through the Streets of Princeton on a race, if the Speed of such trotting was not at a furious Speed, and not such as to endanger persons or their property on the Streets."

"Eighth, The object of the defendant's trotting on the Streets of Princeton has nothing to do with the guilt or innocence of the defendant, the only question for the jury in order to determine the guilt or innocence of the defendant,



is whether such trotting was furious, and such as to endanger persons or property on the Streets of Princeton. The Object or motive of the Defendant in trotting his horse. Can only be considered by the Jury on the question of Debt or amount of fine. They will assess against the defendant. if they should believe from the evidence that such trotting was furious, and calculated to endanger persons or property on the street."

"Ninth. The jury are not to regard the object which the defendant had in view in trotting whether for pleasure or for any thing else, it is the rate of Speed only that is material." The 5<sup>th</sup> and 6<sup>th</sup> of which directions the Said Court gave to the jury, and refused to give the third, Eighth, and Ninth, of Said directions, and refused to give the first, second, fourth, and seventh, as moved for by the Said defendant, and modified them and gave them to the jury as follows to wit. 1<sup>st</sup> Unless the jury believe from the evidence that the defendant was riding at a rate of Speed which might, by reason of its rapidity, have endangered persons or property, they will find for the defendant."

2<sup>d</sup> The object of the law under which the defendant is prosecuted in this Suit, is to prevent persons from riding or driving at a great and dangerous Speed through the Streets. And if the jury believe from the evidence, that the Speed at which the defendant was riding, was such that he could easily have checked up, or turned to the one Side or the other, if any person or vehicle had been



in the Street, and that it could not have endangered persons or property by its rapidity, they should find for the defendant."

4<sup>th</sup> To ride furiously is to rush with impetuosity to move with a rapidity which might endanger persons or property, and unless the jury believe from the evidence that defendant was riding in that manner, they will find for the defendant." And the said Court further directed

the jury on the part of the plaintiffs as follows To wit,

1<sup>st</sup>. The Town Authorities of the Town of Princeton had a right to prohibit riding or driving at any rate of speed which might be dangerous to persons using the streets or their property."

2<sup>d</sup>. If defendant was driving or riding a horse in the Corporation of Princeton, at the time charged at a furious rate, it is a violation of the ordinance read in evidence, and it is not necessary to constitute the offence, that said riding, <sup>or driving</sup> was attended with actual danger to any one - It is sufficient if it was so furious that it might have been dangerous to persons or property by reason of its great rapidity."

3<sup>d</sup>. If the jury find for the plaintiff, they will assess the amount of the penalty as debt, and not more than ten dollars," and not less than two dollars.

4<sup>th</sup>. That it is the province of the jury to determine what constitutes furious driving, taking into consideration all the circumstances shown by the evidence? which were all the directions given by the said Court, to the jury.



2 d<sup>o</sup> To which refusal of the Said Court to give the said third, 8<sup>th</sup> & 9<sup>th</sup> directions moved for by the Said defendant, to the Jury, and the Said refusal of the Said Court to give the said 1<sup>st</sup>, 2<sup>d</sup>, 4<sup>th</sup> & 7<sup>th</sup> directions as moved for by the Said defendant, to the Jury, and the giving to the Said Jury the said 1<sup>st</sup>, 2<sup>d</sup>, 4<sup>th</sup> and 7<sup>th</sup> directions as modified by the Said Court, and the giving the said 1<sup>st</sup>, 2<sup>d</sup> & 3<sup>d</sup> directions on the part of the plaintiffs to the Jury by the Said Court, the Said defendant by his Counsel then and there excepted. And thereupon the Said Jury gave their verdict against the said defendant upon the issue aforesaid. Whereupon the Said defendant by his Counsel moved the Said Court for a new trial, upon the issue aforesaid, by reason of the supposed misdirection of the Court, but the Said Court overruled the said motion, and gave judgment upon the said verdict of the said Jury. Whereupon the Said defendant by his Counsel excepted to the said Opinion of the Said Court in that behalf, and prayed that the Said Court would sign and seal this bill of Exceptions: which is done accordingly.

— C. S. Leland Seal

Judge &c.



State of Illinois  
Bureau County ss. I Edward Mc Fisher Clerk of the  
Circuit Court within and for said  
County, in the State aforesaid, do hereby Certify that  
that the foregoing is a true and complete Transcript  
and Copy of the Record and files, in the foregoing entitled  
Cause, as appears from the record and files in my office  
Also of <sup>so much of</sup> the Charter of said Town of Princeton as is copied  
in said Report bill of exceptions, and also of Art. 13<sup>th</sup>  
& 21. of the Ordinances of said Town of Princeton.

In Testimony whereof I have hereto  
subscribed my name and affixed the seal  
of said Court at Princeton in said County this  
9<sup>th</sup> day of May AD 1856.

Edward Mc Fisher Clerk

Clerks fee

Copy of Record \$6.00

Copy & Seal

35  
\$6.35





50

The President & Trustees  
of the Town of Triniton  
to  
Andrew J. Norton

Copy of Record

Filed May 23, 1856  
L. Seland Clerk

FILED  
1856-1857



STATE OF ILLINOIS,

Supreme Court,

ss.

The People of the State of Illinois,

To the Sheriff of the County of Bureau — 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 Bureau county, before the Judge thereof, between *The President & Trustees of the Town of Princeton*, plaintiffs & *Andrew J. Morton*

defendant, it is said that manifest error hath intervened, to the injury of the said *Morton*

as we are informed by *his* 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 *President & Trustees of the Town of Princeton*

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 *22* Monday in *June* next, to hear the records 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 *President & Trustees* —

notice, together with this writ.

*WITNESS*, the Hon. *Samuel H. Treat*, *Chief Justice* of our said Court, and the Seal thereof, at Ottawa, this *17<sup>th</sup>* day of *December* in the Year of Our Lord One Thousand Eight Hundred and Fifty-five.

*L. Seland*  
Clerk of the Supreme Court.



I have Executed the within writ this 3<sup>rd</sup> day of March 1856  
 by reading the same to Robert S. Templeton President  
 Basil S. Taylor John Elliott Parker Sewell & Jacob  
 Petrow Trustees of the Town of Princeton  
 Stephen F. Laddack  
 Sheriff of Co. Ills  
 By J. C. Ashland, Jr

The Defendant's motion of  
 the Town of Princeton  
 is granted

Summons to Supreme Court  
 June 10. 1856

J. F. Fennell 2.50  
 J. H. Johnson 2.50  
 J. C. Ashland 1.75  
 27.50

Filed March 11. 1856.  
 L. Deland Clerk  
 By J. B. Nicols



The President &  
Trustees of the Town  
of Princeton  
vs.  
Andrew J. Morton

In the Circuit  
Court of Bureau  
County, Illinois  
Judgment in debt  
on Appeal & at  
the March Term A.D. 1855

Issue a Writ of Error to the Clerk  
of said Circuit Court against said  
said President & Trustees of the Town  
of Princeton at the Suit of said  
Andrew J. Morton returnable on the  
first day of the next Term of the Sup  
Court in the 3<sup>d</sup> Court Dist. Also issue  
a Scire Faciens against said Presi  
dent & Trustees at the Suit of said Morton  
To Sherriff of said Bureau Co. for service  
Returnable to said ~~at~~ at some time

Taylor & Shipp Attys  
on pty in Error

To The Clk of the Sup Court of 3<sup>d</sup> Court  
Division - Decr 13. 1855.



501  
Andrew J. Morton  
President of Princeton  
Receipt

Filed Dec. 15, 1858,  
L. Keland Clerk.



State of Illinois. Supreme Court

3<sup>d</sup> Grand Division, Ap'le Term

Andrew J. Morton

1857.

vs.

The President and  
Trustees of the Town  
of Princeton.

Error to Bureau.

Assignment of Errors.

And now comes the said Andrew J. Morton  
plaintiff in error, by Taylor & Stebbins, his  
Attorneys, and says, that in the Record  
and Proceedings aforesaid, there is manifest  
error in this, to wit:

- 1<sup>st</sup> The Court below erred in refusing to give  
the 3<sup>d</sup>, 8<sup>th</sup> & 9<sup>th</sup> Instructions asked by  
the plaintiff in error, to the jury.
- 2<sup>d</sup> The Court erred in refusing to give to the  
jury, the 1<sup>st</sup>, 2<sup>d</sup>, 4<sup>th</sup> & 7<sup>th</sup> Instructions of  
the plaintiff in error, as asked by him,  
and giving to the jury the 1<sup>st</sup>, 2<sup>d</sup>, 4<sup>th</sup>  
3<sup>d</sup> & 7<sup>th</sup> Instructions, as modified by the Court.
- 3<sup>d</sup> The Court erred in giving to the jury the  
2<sup>d</sup> Instruction asked by the Defendant  
in error.
- 4<sup>th</sup> The Court erred in overruling the motion  
of the plaintiff in error for a new trial.

Wherefore the plaintiff in error prays that  
said judgment may be reversed.

Taylor & Stebbins,

Attys. pro p'ty in error.



And the left say that in the record  
proceedings above and this is no error  
B. C. C. C.  
for left in sum

Dr.  
Superior Court  
3d Grand Division

Andrew J. Martin

vs.  
The President &  
Trustees of Manhattan

Assignment of errors.

Filed April 30 1887  
at New York  
B. C. C. C.

Taylor & Stephens  
Attys. pro plaintiff  
in error.



Andrew J. Morton  
53  
The Trustees of The Town  
of Princeton

Error to Bureau

The Pltff in Error complains of the first three Instructions given in behalf of the Pltff below.

The Pltff has not pointed out any error to either of said instructions and they seem to me each to be correct.

It is alleged that the Court erred in refusing to give the 3<sup>d</sup>, 8<sup>th</sup> + 9<sup>th</sup> Instructions asked by the Deft below ~~each~~ each present the same proposition - and if given to the jury would have tended to mislead them.

The object which the Deft had in view may have been very important in determining the question as to whether the riding was furious, if as was alleged, the Pltff was riding a race through the streets of Princeton to test the relative speed of horses it was a circumstance proper to be taken into examination by the jury in determining the character of the riding.

It is insisted that the Court ought to have given the 1<sup>st</sup>, 2<sup>d</sup>, 4<sup>th</sup> + 7<sup>th</sup> Instructions



as asked, and in giving them as modified.

It seems to me very plain that the instructions as modified present the law as it is.

I desire to call the attention of the court to the fact that the 7<sup>th</sup> instruction as modified is not embraced in the Record nor in the Abstract so that this Court cannot see that the court below erred in modifying it.

But the conclusive answer to all these assignments of error is this

The record does not profess to set out the whole of the evidence and this Court cannot see whether the instructions were applicable to the evidence or not.

For instance there may have been an ordinance in evidence forbidding racing in the streets of Princeton.

This Court cannot say that such an ordinance was not in evidence hence they cannot say that the 3<sup>d</sup> 7<sup>th</sup> 8<sup>th</sup> & 9<sup>th</sup> instructions asked for by Dft below ought to have been given.

Huber v Shields 2 Scam 350-

Bugmaster v Cool 12 Ill - 76-

Webster v Enfield 5 Helm. 302-

Thompson v Schuyler 3 Helm. 272-

Armstrong v Cooley 5 Helm. 512-

Pitman v Saly 5 Helm. 186-

Bunning Etal v McKinney 4 Scam 60-



particularly the two last cases -

Bobbooby  
of course for  
Dept in Error -



Andrew Morton  
for  
The Trustees of the  
Town of Princeton  
Argument  
Book