

Territory of Illinois
Crawford County

In the Circuit Court
of said County

Thomas Gice (Plff) vs
James Caldwell Def^t

Trespas on the

Be it Remembered that

On the 1st day of July A.D. 1817 came
the Plff aforesaid by his Counsel Thomas
C. Brown and filed against the said
Defendant the following Declaration
(to wit)

Thomas Gice complains of James Caldwell being
in the custody of the Sheriff of Crawford
County of a plea of Trespas on the
Case, For that whereas he the said
Thomas Gice now is a good, true, faithful
and honest citizen of the Illinois Territory
and Crawford County and of the United States
of America and as such from the time of his
nativity, hitherto has behaved and demeaned
himself, and during all that time has

(2)

borne and been held and esteemed, reputed
and taken to be a man of good name fame
Credit reputation and conversation among all
his neighbors and others the good citizens of the
County and Territory aforesaid, and has hitherto
lived and continued ^{free} clear, innocent and wholly
unsuspected of and from all kind of perjury
perjury and false swearing and every other
such heinous crime, and by reason thereof
gained the good will and esteem of all his
neighbors and other good citizens of this County
and Territory &c - And whereas the said
Thomas Gice by reason of his good name
and reputation, at the time of speaking
and publishing the several false malicious
and scandalous words herein after mentioned

And the said Thomas Gice before the spe-
aking of the several false feigned scandal-
ous & slanderous words of him the said
Thomas Gice by him the said James Barrow
to wit. On the day of - In the year One
Thousand Eight hundred and fifteen
was summoned to appear before Thomas
Kennedy Esquire a Justice of the peace and
legally authorized to administer oaths and
legally appointed and commissioned by the
Governor of Illinois Territory in & for the
County of Edwards and of the said Territory
to testify and say the truth of and concerning
a certain matter herein depending before the
said

Justice of the peace wherein the said James
Caldwell was Plaintiff against James Fouger
Defendant before said Justice as aforesaid, and
the aforesaid Thomas Glee then and there was
sworn regularly and legally by the said
Justice, and then and there took his corporate
oath in the said matter of controversy as afore
said and to a material point in said suit

Yet the said James Caldwell, well knowing
the premises and greatly envying the happy state
and condition of the said Thomas Glee, and
contriving and maliciously, intending not
only to hurt degrade, damnify and injure
him the said Thomas Glee in his good
name, fame, credit, and reputation,
but also wrongfully to subject him the said
Thomas Glee to the pains and penalties
of the laws & statutes of this Territory made
and provided and provided against
any persons who commit wilful and corrupt
perjury, afterward to wit on the first
day of June in the year of Our Lord
One Thousand eight hundred and seven
teen at the County of Crawford aforesaid
and within the jurisdiction of this court
In a certain discourse ^{which} with the said James
Caldwell then and there had with divers
worthy citizens of this county & Territory and
of the United States of America, of and
concerning the said Thomas Glee and of
his having been sworn by & before the
said

32

313

30

(4)

Justice of the peace as in and concerning the
said cause. So depending before the said Justice
of the peace, between the said James Baldwee
Plff and James Fouger Defendant, And the
said James Baldwee then and there openly Pub-
licly, falsely, and maliciously said related
and with a loud voice published these false
feigned, scandalous and approbrious English
words following, of the said Thomas Gile
in the presence and hearing of those (that
is to say) he (meaning the said Thomas Gile)
has sworn a lie and I, meaning the said
James Baldwee can prove it, and any of you
that please may go and see him to." And
afterwards to wit on the same day and year
aforesaid, at the County of Bradford &c aforesaid.
In a certain other discourse which the said James
Baldwee then and there had, with divers other
worthy Citizens of this County and Territory &c
aforesaid of and concerning the said Thomas
Gile and of his having been sworn by and
before the said Justice of the peace &c as
aforesaid in and concerning the said cause
So depending before the said Justice of the
peace &c between the said James Baldwee
Plaintiff and James Fouger Defendant and
in the same conversation the said James
Baldwee then and there openly Public-
ly, falsely, and maliciously said related
and with a loud voice published these
false feigned, scandalous and approbrious
English words following of the said
Thomas Gile

In the presence and hearing of those
 Citizens (that is to say) "Gill" (meaning the
 said Thomas Gill) who has sworn a lie and, me-
 aning the said James Baldwelle can prove it
 and you may go and see him so, any of
 you that wants to" and after words to wit on
 the same next day of June in the Year of our
 Lord One thousand eight hundred and
 Seventeen at the County of Crawford aforesaid
 and within the Jurisdiction of this Court
 aforesaid in a certain other discourse which
 the said James Baldwelle then and there had
 with divers other worthy Citizens of this County
 & Territory aforesaid of and concerning
 the said Thomas Gill and of his having
 been sworn before the said Justice of the
 Peace &c. ^{of the said James Baldwelle then & there} openly, publicly, falsely and
 maliciously, said & related & with a loud
 voice published these other false & untrue
 scandalous and approbrious English
 words following of the said Thomas Gill
 in the presence & hearing of those citizens
 aforesaid (that is to say) he (meaning the
 said Thomas Gill) is perjured, and afterwards
 to wit on the same day & Year aforesaid
 at the County of Crawford aforesaid &c
 within the Jurisdiction of this Court in a
 certain other discourse which he the said
 James Baldwelle then and there had with
 divers other worthy Citizens of this County
 and Territory aforesaid of and concer-
 ning the said Thomas Gill & of his having

(1)

been sworn before the said Justice of the Peace & as aforesaid, he the said James Caldwell then and there openly & publicly & falsely and maliciously said & related and with a loud voice published these & other false feigned scandalous and approbatory English words following of the said Thomas Gile in the presence and hearing of those Citizens aforesaid that is to say he (meaning the said Thomas Gile) has sworn a lie before Squire Renne - do meaning the Justice afo. - By reason of speaking and publishing of which said several false feigned, scandalous and approbatory English words the said Thomas Gile is very much prejudiced hurt and damaged in his good name, fame credit and reputation and is fallen into public scandal and infamy amongst his neighbors, and other good and faithful citizens of this county & Territory & as aforesaid in so much that divers of those neighbors as aforesaid to whom the innocence and integrity of the said Thomas Gile were unknown have always from the time of speaking and publishing of the said several words, vehemently suspected the said Thomas Gile to be a man who had committed perjury and on that account have always from thence hither to wholly refused and still do daily more and more refuse to have any commerce or discourse with him

or have any thing to do with him as before
they were. accustomed to have and the said
Thomas Gill says that he has sustained
damages to the value of Ten thousand
dollars and hereof he brings this suit
John Doe & Plagues of
Richard Roe 3 Prosecution
Thomas, C. Browne 29

And on the same 1st day of July the
Plaintiff by his counsel aforesaid, came
and filed out of the clerk's office
of the Circuit Court for Crawford County
aforesaid their certain writ in the nature
of a summons against the said def.
James Caldwell. Which is in these
words and figures, to wit.

The United States of America
to the Sheriff of Crawford County Greeting
You are hereby commanded to summon James
Caldwell to appear before the Judge of our
Crawford Circuit Court at the house of Edward
Stullow on the first day of our next September
Term To answer Thomas Gill in a plea of
Trespas on the case Damage Ten thousand
dollars and have then here this writ. Witness Edward
Stullow Clerk of the County Court of Crawford
County this 1st day of July 1817 & of the
American Independence the forty first
Edward Stullow Clerk

(8)

And now at this time to wit. at a
Circuit Court held for the said County
of Crawford at the house of Edward
Stullong on Monday the 15th day of
September 1817. Before Thomas Louez
Esquire This Suit was continued until
the next Term in an Order as fol-
lowing to wit

Thomas Gice Plff  I base
versus
James Baldree Deft 

This day came the par-
ties by their Attornies, and by Consent
this Cause is continued till the next
Term of this Court, at the Defendants Costs
And either Party may take depose-
tions in any State by giving the opposit
Party Twenty days notice of the time &
place of taking such depositions
which is to be taken without Dedimus
& before any Magistrate

Wm. G. W. W.

At which time to wit at a circuit
Court held for said County at the court
house in Palestine on Monday the
27th day of September 1819 Before the
Honorable Thomas C. Brown. This
suit was continued until the next Term
in an order as follows to wit,

Thomas Gile Plff
vs
James Caldwell Def

T. Case

Ordered that this cause
be continued till the next Term of this court

And now at this time to wit at a
Circuit Court held for the said County
at the courthouse in Palestine on Mon-
day the 24th day of April 1821

Before the Honorable William Wilson
The Defendant by his counsel filed
two pleas (as is named here after in the Record)
as follows to wit,

Caldwell
and
Gile

And the said
Defendant comes
and defends the wrong and injury

when and says that the Plaintiff his action
against him to have and maintain
ought not. Because he says he is not
guilty in manner and form as the Plff
against him in his declaration hath
alleged and of this he puts him upon
upon the Country &c

& the Plff doth the like Hubbard 22

And the said Defendant for further
plea in this behalf, by leave of the
Court for that purpose first had
and obtained saith that he spoke
the words in the Plff declaration
set out as he lawfully might &c
he says they were true and this
he ready to verify wherefore &c
M Lean

And the said Plaintiff for replica-
tion to the plea of the said Defendant
only above pleaded, says that he
ought not to be barred of his action
aforesaid by any thing by the s. deft
only above pleaded because he says
that the s. deft spoke the s. words of
his own wrong, and not for the cause
above by him set out, and this he prooves
may be enquired of by the Country &c
Hubbard
And the Def likewise
Ans M Lean

Monday ²⁴ April Term 1820

(17)

Thomas Grier Peff }
versus } T Case
James Caldwelle Deft }

This day the parties came into Court by their counsellors & the deff. filed two ^{papers}, one of not guilty, the other of justification, and the Peff. Counsel his replication, whereupon came a Jury to wit. Isaac Harris, John Hill, David C. Cahoy, John Dunlap, Joseph Waver, Joseph Richardson, Aaron Bace, John Hunt, James Walls, Saml. Lindley, Richard Eaton & John Moore

Court adjourned

Tuesday 25

Thomas Grier Peff }
versus } T Case
James Caldwelle Deft }

The Jurymen who were empannelled in this case yesterday appeared and took their Seats, & on motion being made by the defendants Counsel on points of evidence, and argument had both for & against the motion, & the opinion of the court, which sustains the motion. The Peff. Counsel suffered a non suit to be entered against him. It is therefore considered by the court that the deff. recover his costs by him about his suit in this behalf expensed & the peff. in moneys &c to which opinion of the court on said point of evidence the Peff. by his counsel filed a Bill of exceptions which was signed by the Judge

which is hereunto annexed

State of Illinois 3
Crawford County 3

I Edward H. Piper Clerk
of the Circuit Court of Crawford County
aforesaid, do hereby certify that the foregoing
pages contain a true and perfect
Transcript of the Record and pro-
ceedings of the foregoing case as has
been proceeded upon in said Court.

Seal

Interimony whereof I have
hereby subscribed my name
and affixed (my private Seal
Seal no. Circuit Court Seal being
provided) this 15th day of June
1820

Edward H. Piper

Transcript

29 sheets \$4.35

Certificate & Seal 75
\$5.10

Thomas Hill vs In the Crawford Circuit
against the Court of the April A.D. 1820
James Caldwell

Be it remembered that in the trial of this
cause the plaintiff introduced James Kennedy
a Justice of the Peace at the time the said
James Caldwell is charged ^{in the Declaration} with having spo-
ken the word, to prove that an oath was
administered to the said Thomas Hill as
averred in the same Declaration. That the
said Witness (Kennedy) testified that there
was before him the trial mentioned in
the Declaration, and that he the said
Kennedy administered to the said Hill
what he thought and believed to be a legal
oath. On being questioned by defendant's
attorney he said that he believed Hill by
lifting up his hand, and that the testimony
of the Holy Evangelists was not offered to
him to swear by and that he was not
asked how he took his oath and that he
had no doubt about the trial, which
oath he administered to the said Hill
(the plaintiff herein). Kennedy repeated
it to the best of his remembrance. ~~That~~
~~attorney then offered to the~~ ^{attorney} ~~that~~ ^{is} ~~is~~ ^{is} ~~is~~
not in the word or agreeably to the form
prescribed in the Law then in force
in the Territory of Illinois. The plaintiff
then was about to introduce other evi-
dence to support the other averments &
counts in the Declaration. When the testi-
mony of his attorney objected that the testimony
of the ~~testimony of the~~ witness (Kennedy)

did not prove that a legal oath as
averred in the declaration had been
proved to have been administered to
Hill - which objection or motion was
sustained by the Court to which the
opinion of the Court the plaintiff by
his attorney excepted and prayed
the Court to sign and seal this Bill
of Exceptions and make it a part
of the record in this cause

Wm. W. Adams L. D.

Hill
vs. Bill of Exceptions
Caldwells

Caldwells
vs. Hill
Bill

(12)

The testimony of the witness (Hume) did not prove that a legal oath as sworn in the declaration had been proved to have been administered to Gill. which objection on motion was sustained by the Court. I the plaintiff by his attorney accepts and prays the Court to sign and seal this Bill of Exceptions and make it a part of the record in this case -

Wm. Wilson

Polestone May 16. 1820

To the Clerk of the Supreme Court -
Where the above is a true copy of a Bill of Exceptions in the Case where State. You are requested to send down a writ of Error to the Clerk of the Superior Court. Court to send you up the records of in said Court at your next term in July. please to attend to this immediately and oblige -

W. Wetwell attorney
for plaintiff

Thomas Gill } in the Graceford Circuit
Against } of the April Term 1820.

James Caldwell } Be it Remembered that in the trial
of this Cause the plaintiff introduced James Kennedy
a Justice of the peace at the time the said
James Caldwell is charged in the declaration with
having spoken the words, to prove that an
Oath was administered to the said Thomas Gill as
covered in the same declaration, that the said
Witness (Kennedy) testified that there was before
him the trial mentioned in the declaration and
that he the said Kennedy administered to the said
Gill what he thought and believed to be a
Legal Oath, on being questioned by the defendant's
Attorney, he said that he believed Gill Swore
by placing his hand and that the testimony
of the Holy Evangelists was not offered to
him to swear by, and that he was not as-
sured he took his Oath, and that he had
no Bible about the trial, which Oath so ad-
ministered to the said Gill (the plaintiff herein) as
Kennedy repeats. As to the best of his Remem-
berance it is adjudged not in the words or agree-
able to the form prescribed in the Law then in force
in the Territory of Illinois. The plaintiff then
was about to introduce other Evidence, to suppo-
rt the other averments & Counts in the declaration
when the defendant by his Attorney objected that

and says now
aforesaid, as also in giving the Judgment aforesaid
there is manifest error in this to wit, that by the word
aforesaid it appears Judgment of non suit was given
and rendered against the said Gill whereas by the law
of the land a Judgment ought to have been given
for him. There is also error in this, to wit, that the Court
below erred in considering the oath administered by
the Justice of the Peace as not a legal oath and one
in which perjury could be committed.

made to the witness as not proper, a legal oath to
have been administered. And the said Gill prays
that for the errors aforesaid, as also for other errors
appearing in the record and proceedings aforesaid
the said Judgment of non suit in the Court below
may be reversed and altogether taken for naught.

Sturrod Blackwell Atty for
Thos. Gill -

And the Plff by his atty and says that there is no
error as above averred, and prays that the judgment
below be affirmed.

McLean & Hall
attys for Caldwell

Thos. Green
or
A. P. Caldwell
Transcript
J. H. Harkins

now known

12

Palestine Hl
May 19

paid
1.8 $\frac{1}{2}$

May 17
New York
J. J. Daniel
Samuel Shubac Long

To the Clerk of the
Supreme Court
Washington

Sal. g. Lenoiz

Good Day

2000

18

Supreme Court

Thomas Gill S

vs
James Caldwell S

(Bill of Exception)

Filed June 10. 1820