

13769

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

Supreme Court of Illinois

Tallmadge

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vs.

Bergerson et al

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71641  7

In the Supreme Court.

Northern Division  
of Illinois.

For June Term at Ottawa, 1855

A writ of error for Isaac Dalmadge, plaintiffs in error, directed to the clerk of the Circuit Court for the county of Winnebago, commanding him to send up the record and proceedings in a certain cause lately depending in the said Circuit Court, on the equity side hereof, wherein the said Isaac Dalmadge was complainant, and Alexander Ferguson, Isabella Taylor, <sup>George Taylor</sup> Elizabeth Primrose, William Primrose, Aspet Porter, George Porter, David Chalmers, William Littlejohn, George Yeates, Robert Latta, Peter Williamson, Alexander Smith, Charles Chalmers, Nathaniel Ferguson, Alexander Coulston, Robert Smith, James Montgomery, Eliza A. Kirk, William Ralston, <sup>James & Dennis</sup> William Primrose, and the unknown heirs and devisees of James Duncan deceased, were defendants; the same defendants being also defendants in error; the said writ of error to be made returnable the first day of the next term.

Francis Barnard Solicitor  
for said Dalmadge.

A writ of scire facias to hear errors in the same cause, directed to the sheriff of the county of Winnebago.

Francis Barnard Solicitor, &c.

In the Illinois Supreme Court.

Winnebago  
County, ss. }

Asa Dallmadge, of Franklin, in the county of De  
Kalb and state of Illinois, being duly sworn, upon  
his oath says, that Alexander Ferguson, against whom  
with others, he is about to sue out a writ of error, was  
gone to Scotland at the last time this deponent heard of  
him, and had not returned, as this deponent has been  
informed and believes to be true, so that process on the  
said writ could not be served upon him; that none  
of the other defendants in the said proposed writ of  
error, specified in the annexed preceipe therefor, except  
Robert Smith, James Montgomery, Elisha A. Kirk, Wil-  
liam Ralston, and James E. Dennis, reside in this  
state, so that process upon the said writ cannot be  
served upon such defendants; according to the best infor-  
mation and belief of this deponent. And this depo-  
nent further says, that he has no knowledge what-  
soever of the heirs and devisees of James Duncan, men-  
tioned in the said preceipe, nor of the residence of  
the defendant George Daylor; that the place of residence  
of the said Alexander Ferguson is Lockport, in the county  
of ~~La Salle~~ <sup>Will</sup>, in this state; that the said other defendants  
above named, reside in the county of Winnebago; that  
according to the best of this deponent's knowledge, the de-  
fendants Elisabeth Primrose and William Primrose lately  
resided at Harrisburgh, in the state of Pennsylvania;  
the defendants Elphat Porter and George Porter lately resid-  
ed at Cairnwhelp, Merdounshire, Scotland; the defendant  
~~Defendant~~ David Chalmers lately resided at Westburn, Scot-  
land; the defendants William Littlejohn, George Yeates,  
Robert Latta, Peter Williamson, Alexander Forbester,

Charles Chalmers and Nathaniel Farquhar, lately re-  
sided in Aberdeen, Scotland; the defendant Alexander  
Smith lately resided at Glenallan, Scotland; <sup>and</sup> the defend-  
ant Isabella Taylor lately resided in Aberdeenshire, Scot-  
land; and this deponent says, that the defendant Thom-  
as Primrose resides at Saint Louis, in the state of Mis-  
souri, and he has been informed, and has no doubt  
is true. And this deponent further says, that the state-  
ments above set forth, comprise all his knowledge of the  
residence of the defendants to the said writ of error,  
and that most of that knowledge is derived from the  
papers in question in the cause in which the said  
writ of error is sued out.

Sworn to & subscribed

Wm Tallmadge

before me this 11<sup>th</sup> day of  
April A.D. 1855

Wm H. Spafford, Clerk of said County  
County Court Court State of Illinois & the  
said Court by my hand & official

Supreme Court.

Asa Dalmadge

v.

Alexander Ferguson,  
 Isabella Taylor,  
 George Taylor,  
 Elizabeth Pinrose,  
 William Pinrose,  
 Elipha Porter,  
 George Porter,  
 David Chalmers,  
 William Littlejohn,  
 George Yeates,  
 Robert Latta,  
 Peter Williamson,  
 Alexander Smith,  
 Charles Chalmers,  
 Nathaniel Barclay,  
 Alexander Forrester,  
 Robert Smith,  
 James Montgomery,  
 Elisha A. Kirk,  
 William Rolston,  
 James L. Dennis,  
 Thomas Pinrose, and the  
 unknown heirs and devisees  
 of James Duncan, deceased.

1876

1857

Proceipe for Writ of Error  
to Warrumburra

Filed April 14, 1857  
L. Seland Clk.

Barwick

STATE OF ILLINOIS, }  
Supreme Court. }

The People of the State of Illinois,

To the Sheriff of the County of *Winnebago* 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 *Winnebago* - county, before the

Judge thereof, between *Asa Tallmadge, Complainant - and Alexander Ferguson, Isabella Taylor, George Taylor, Elizabeth Primrose, William Primrose, Elspet Porter, George Porter, David Chalmers, William Littlejohn, George Geates, Robert Catto, Peter Williamson, Alexander Smith, Charles Chalmers, Nathaniel Haymahr, Alexander Fortutor, Robert Smith, James Cloutgomery, Elisha St. Kirk, William Ralston, James E. Dennis, Thomas Primrose, & the unknown heirs & devisees of James Duncan deceased*

Defendants, it is said that manifest error hath intervened, to the injury of the said *Asa Tallmadge*

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 *Defendants*

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 *2<sup>nd</sup>* 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 *Defendants* notice, together with this writ.

*John J. Eaton*  
Witness, the Hon. ~~SWEN H. TRENT~~, Chief Justice of our said Court, and the seal thereof, at Ottawa, this *14<sup>th</sup>* day of *April* in the year of our Lord one thousand eight hundred and fifty *five*.

*L. Keland* Clerk of the Supreme Court.

8 ~~34~~ ~~10~~  
Supreme Court.

vs. Pakenadge

v.

Alexander Ferguson  
and others

Done facias.

Filed June 27, 1855.  
L. Leland Clerk.

Burnap.

Rockford, 11 April, 1855.

L. Seland, Esq.,  
Clerk Sup. Court,  
Ottawa.

Dear Sir,

I received to-day your notice for publication in Miller vs. Davidson. It came however too late. I had been obliged to draw a notice myself, and it was inserted in the Rockford Republican, of which I send you a copy, before yours came to hand.

I inclose you a praecipe for a writ of error in Dalmadge vs. Ferguson and others, and an affidavit for the publication of a notice. The notice we have given to-day, as you will see by the paper above mentioned as sent to you, there being no time to get a praecipe for the advertisement from yourself.

Inclosed also is \$5.00.

Yours truly,

Francis Burnap..