

13757

No. _____

Supreme Court of Illinois

Matteson

vs.

Wadsworth et al.

71641  7

50

J. C. Matheron jur.

vs

E. S. Wadsworth et al.

1856

~~1856~~

1577

1856

STATE OF ILLINOIS,
LaSalle County

} SS.

THE PEOPLE OF THE STATE OF ILLINOIS,
TO THE SHERIFF OF ~~LA SALLE~~ ^{Cook} COUNTY,—GREETING:

WE COMMAND YOU THAT YOU SUMMON *Elisha S. Wadsworth - Thomas Dyer*
Francis C. Sherman - Hugh J. Dickey and Mark Skinner

if *they* shall be found in your County, personally to be and appear before the ~~Circuit~~ ^{Supreme} Court of said ~~County~~ ^{State} on the
first day of the next term thereof, to be holden at the Court House in Ottawa, in said County, on the ~~second~~ ^{of LaSalle}

Monday day of *June* next, to answer unto *Doel A. Clatteron, Governor*
of the State of Illinois & successor in office of *Augustus C. French*
late Governor of said state, *provo ones* for the use of the People of the State of Illinois
in a plea of *Covenants Broken*

to the damage of the said plaintiff as he says, in the sum of *five hundred thousand*

Dollars. And have you then and there this writ, with an endorsement thereon, in
what manner you execute the same.

Witness John Dean Catron Chief Justice

~~Witness, JOHN F. NASH, Clerk~~ of our said Court, and the seal thereof, at Ottawa,

this *fourth* day of *May* A. D. 1855—

S. Seland, Clerk

131 Joel A. Chatterton
J. W. C.
Elisha S. Wadsworth et al.

Summons -

I served this process
by reading the same to
J in the presence &
hearing of _____
~~and by reading to the~~
within named Elisha
S. Wadsworth, Thomas
Dyer, Francis L. Sherman
and Hugh J. Dickey
May 7th 1855 the
within named Mark
Skinner not found
in my County

A Service 200
21 Miles 105
1 Return 70
3,75-

James Andrew Sheriff
Cook County
By J. W. C. vs

May 9, 1855
J. W. C.

In the Supreme Court of the State of
Illinois Third Grand division of the
Same term A.D. 1855

Jos. A. Matteson Governor of the State of
Illinois and successor in office of
Augustus C. French late Governor of said
State plaintiff in this suit who sues
for the use of the People of the State of
Illinois, Complainants of Elisha S. Madsworth
Thomas Dyer Francis C. Sherman Hugh J.
Wichy and Mark Skinner defendants
summoned to a plea of breach of covenant
for that whereas the said defendants on the
29th day of April A.D. 1848 to wit at the State
aforesaid executed and delivered to Augustus
C. French who was then & there Governor of
the said State of Illinois their writing obligatory
by them subscribed and sealed with their
seals which writing obligatory is now here
shown to the Court and is in substance as
follows

Whereas his excellency Augustus C. French
Governor of the State of Illinois has designated
and appointed Elisha Madsworth of the
City of New York in the State of New York agent
of the State of Illinois for the payment of interest
upon the State debt. Now therefore know all men

by these presents that we Elisha S. Wadsworth
Thomas Dyer Francis C. Sherman Hugh F.
Wickley & Mark Skinner all of the city of
Chicago in the County of Cook & State of Illinois
do for ourselves our heirs executors administrators
and assigns agree to and with the Gov-
ernor of the State of Illinois & his successors
in office to be held and to become securities
for the above named Julius Wadsworth to the
People of the State of Illinois that all monies
placed by the authority of the State of Illinois
in the hands of his said Agent Julius Wadsworth
shall at all times be applied and paid out
and fully accounted for to the People of the State
of Illinois through her legally authorized
agent or agents in such manner as the
present Governor may direct or as may be
hereafter directed by any Governor or agent
or other officer of said State of Illinois empowered
or authorized by law to control or direct in relation
thereto, In witness whereof we have hereunto set our
hands and seals this 22nd day of April A.D. one
thousand eight hundred and forty eight

E. S. Wadsworth

Thomas Dyer

Francis C. Sherman

Hugh F. Wickley

Mark Skinner

And the plaintiff avers that after the execution
and delivery of the aforesaid writing obligatory
by said defendants to wit on the first day
of October AD 1854, ^{to wit at the State of Illinois} a large sum of money ~~was~~
to wit the sum of three hundred thousand
dollars was placed in the hands of said
Julius Wadsworth as the agent of said State
of Illinois for the payment of interest
upon the State debt, by authority of the
State of Illinois (viz) by the direction of Joel
A. Matteson who was then and there Governor
of said State of Illinois duly elected and qualified
and authorized by law to control and direct
in that behalf, which said sum of money
was then and there received by said Julius
Wadsworth as agent of said State as aforesaid
which said sum of money was then and
there the money of the said State of Illinois
and was then and there a part of the re-
venue of ^{the} State of Illinois viz a part of the
interest fund, belonging to the State of
Illinois and provided for in an act entitled
an act to provide for paying a portion of the
interest on the State debt approved March
1st AD 1845 And the plaintiff avers that ~~afterwards~~
~~and while~~ the aforesaid sum of money was
placed in the hands of said Julius Wadsworth
& received by him as aforesaid for the purpose of being used

in paying a portion of the interest upon
the debt of said State according to the
provisions of the said act of the Legislature
and afterwards while said sum of money
remained in the hands of said Julius
Wadsworth as agent of the said State as
aforesaid for the purpose aforesaid to wit
on the 1st day of December AD 1854 to wit
at the state aforesaid the plaintiff who
was then and there Governor of the state
of Illinois as aforesaid and authorized
by law to control and direct in that
behalf directed the said Julius Wadsworth
to pay apply and pay over on the first day
of January AD 1855 or as soon thereafter as
the same should be demanded at the
place of business of said Julius Wad-
sworth in New York by the persons entitled
thereunto said sum of money or so much
thereof as should be necessary for that
purpose. to pay to the persons entitled
thereunto fifteen dollars interest upon
each one thousand dollars of the debt of
said state for which canal bonds or internal
improvement bonds of said state had
been issued by said state (except the
bonds which had been hypothecated to
McAlister and Stetkins)

And the plaintiff avers that the said Julius
Wadsworth on the said first day of January
A.D. 1855 to wit at the state of said disregarding
his duty in that behalf absolutely refused to apply
said last mentioned sum of money or any por-
tion thereof to the payment of the interest of
said ~~and then~~ and then and there wrongfully
appropriated and converted the said sum
of money to his own private use so that
the same could not be paid upon the interest
due from said state as aforesaid although the
said sum of money had not before that
time been withdrawn from the hands of
said Julius Wadsworth by said state of Illinois
or any authorized agent of said state or paid
out by the authority of said state or for the
benefit of said state but then and there was
in the hands of said Wadsworth as agent
of the ^{said} state as aforesaid for the purposes aforesaid
And the plaintiff further avers that, ^{no portion of} the aforesaid
sum of money so placed in the hands of
the said Julius Wadsworth as agent of the
^{said} state as aforesaid by the authority aforesaid
has ~~never~~ been applied or paid out by
said Wadsworth ^{for} the payment of the
interest due from said state, or paid out
by the direction of any officer or agent of said
state, ^{empowered or authorized by law to receive or disburse the same} or under the authority of said state

and that no portion of said sum was ever
accounted for ^{to} the People of said State by said
Wadsworth. And the plaintiff avers that
afterwards to wit on the 10th day of February
the plaintiff who was ^{& ever since kept him and still is} then & there, Governor
of the State of Illinois as aforesaid did
direct and require the said Julius Wadsworth
to account to the People of the State of
Illinois for the money belonging to said
State so as aforesaid, ^{please} in the hands of said
Wadsworth as agent of said State, and to pay
the said sum of money to Mr. Esgood who
was then and there designated ^{and appointed} by the plaintiffs
to receive the said sum of money of and
from the said Wadsworth for and ^{on} behalf of
the said State of Illinois, And the plaintiff
in fact says that the said Julius Wadsworth
did not nor would account to the People
of the said State of Illinois for the said sum
of money or any part thereof but so to do
neglective & refuse and both ever since
neglective and refuse, and that the said
Julius Wadsworth did not nor would
pay the said sum of money to said Mr.
Esgood or to any other ^{authorize to receive the same} person, on behalf of
said State but so to do ~~to~~ wholly neglective
& refuse & still doth neglect & refuse
equal of which the said defendants then & there had notice
, nor have the said defendants or either of them

A.D. 1855-

though often requested so to do paid the said sum of money or any portion thereof to the State of Illinois or to any authorized officer or agent of said State

2 Count And for that whereas heretofore to wit on the 29th day of April A.D. 1848 at the State aforesaid said defendants made signed and sealed their certain other writing, allegatory of that date (which writing allegatory sealed with the seals of said defendants is now here shown to the court) and delivered the same to Augustus Le French who was then & there the Governor of the State of Illinois duly elected and qualified, by which writing allegatory said defendants after reciting that Augustus Le French (then) Governor of the State of Illinois had designated and appointed Julius Wadsworth of the city of New York in the State of New York agent of the said State of Illinois for the payment ^{of interest} upon the State debt due agree to and with the Governor of the State of Illinois and his successors in office to be held and to become securities for the above named Julius Wadsworth to the People of the State of Illinois that all monies placed by authority of the State of

Illinois in the hands of her said Agent Julius
Wadsworth should at all times be applied
and paid out and fully accounted for to the
People of the State of Illinois through her legally
authorized Agent or Agents in such manner as
the then Governor should direct or as should
thereafter be directed by any Governor agent
or other officer of said State empowered or
authorized by law to control or direct ⁱⁿ relations
thereto as by said writing obligatory reference being
thereto made will more fully and at large appear.
And Plaintiff avers that afterwards to wit
on the ^{first} ~~1st~~ day of ^{January} ~~February~~ AD 1855 at New York
to wit at the State of New York there was a large
sum of money to wit the sum of three hundred
thousand dollars in the hands of said Julius
Wadsworth, which was then and there the money
of the said State of Illinois and a part of the
revenue of said State viz a part of the Interest
Fund of the said State of Illinois provided for
in and by an act of the Legislature of said State en-
titled an act to provide for paying a portion
of the interest on the state debt, ⁺ approved
March 1st AD 1845, which said sum of money here
before that time at New York to wit at the State
aforesaid been placed in the hands of said
Julius Wadsworth as Agent of said State of
Illinois by authority of the State of Illinois viz

by the direction of the plaintiff who was
then and there and always since has been and
still is Governor of the State of Illinois duly
elected and qualified and authorized by
law to direct in that behalf, and which
said sum of money had been placed in the
hands of said Julius Wadsworth as aforesaid
as Agent of said State as aforesaid to be by
him as such Agent applied and paid out
in pursuance of said act of said Legislature
or to be accounted for fully to the State of
Illinois, and said sum of money was received
by said Julius Wadsworth when the same
was placed in his hands as aforesaid as
the agent of said State and for the purpose
aforesaid And the the plaintiff avers that
while said sum of money was in the
hands of said Julius Wadsworth as aforesaid
for the purpose aforesaid to wit on the day
and Year aforesaid ^{at the State aforesaid} the plaintiff then and
then being Governor as aforesaid and fully
authorized by law to direct in that behalf did
then and there require of said Julius Wad-
sworth that he should account fully to the
People of the State of Illinois through Wm
Asgood who was then and there an agent
legally designated & appointed by the plaintiff
to receive such accounting on behalf ^{of said State} of said State

and that he said Julius Wadsworth should pay
over the sum of money aforesaid as in his hands
as aforesaid and belonging to said State as
aforesaid to said Wm. C. Boyd who was then
and there duly designated and appointed
by the plaintiff to receive said sum of money
for and on behalf of the said State of Illinois
of all which said Julius Wadsworth then and
there had notice, Yet the said plaintiff in
fact says that said Julius Wadsworth did not
nor would so account to the said People of
the State of Illinois and did not nor would
so pay over said large sum of money to said
Wm. C. Boyd, ^{for any other person authorized to receive the same for said State} or any part thereof but then and there
utterly refused so to do and has ever refused
to do so and still does neglect and
refuse so to do

And so the said plaintiff says
that all monies placed by authority of the State
of Illinois in the hands of her said Agent
Julius Wadsworth hath not been at all
times applied and paid out and fully
accounted for to the People of the State of Illinois
in any manner directed by any Governor or Agent
or other officers of said State of Illinois and pro-
vided by law to direct relative thereto and so plaintiff
says that defendants have not kept and
performed their said covenants but have

broken the same

And plaintiff further avers that said defendants have not nor has any one of them or any one for them paid to the plaintiff or to said State of Illinois or any authorized ~~office~~ agent or officer thereof said sum of money or any part thereof and so to do have ever neglected & refused

And plaintiff avers that by reason of the breach of the covenants of said defendants in both the above counts assigned the plaintiff has sustained damage in the sum of five hundred thousand dollars and therefore brings his suit

Dickey & Wallace

Attorneys

atty for pliffs

For a copy of the ~~same~~ averting allegatory declaration on plaintiffs request to the copy given in first count of the declaration, which is a copy of the averting allegatory declaration on

50
Joel A. Matheron
Governor &c for
The use of People
&c
vs

Elihu S. Walworth
et al

Declaration

Filed May 29th 1854.
S. Ireland Ck.