

Pleas at the Courthouse in the
town of Edwardsville before John
Reynolds one of the Justices of the
Supreme Court of the State of Illi-
nois preceding in the first Judicial
Circuit on the nineteenth day of
April in the year of our Lord
one thousand eight hundred and
twenty two -

Be it remembered that here to fore
to wit, on the 28th day of March 1822
John Waggoner by Theophilus W. Smith
his attorney filed in Clerk's office of
the Circuit Court of Madison County
his Declaration against Augustus
Collins and Susan Collins which De-
claration is in the words and figures
following to wit, "State of Illinois
Madison Circuit Court April Term 1822
Madison County vs John Waggoner
plaintiff in this suit complains of
Augustus Collins and Susan Collins
in custody &c of a plea of trespass;
For that the said Defendants on the

Court

27
X
first day of November in the year
one thousand Eight hundred and Twenty
one in the County aforesaid and
within the Jurisdiction of this Court
with force and arms, broke and entered
the close of the said plaintiff, situate
and being in the County aforesaid,
and then and there made a great
noise and disturbance for a long
space of time to wit, for the space
of Six hours, and seized and ^{took and} commanded
divers persons to seize and take of
the said plaintiff's divers goods and
chattels to wit, Six cows, Six Horses,
Six oxen, and Twenty sheep, then
and there found and being and of great
value, to wit, of the value of Two
hundred Dollars and carried away
the same, and converted and disposed
thereof to their own use, by means
of which said several premises, the
said plaintiff and his family were
during all the time aforesaid greatly
disturbed and annoyed, in the
peaceable possession, of the said

close; and the said plaintiff
 was during all that time hindered
 and prevented from carrying on and
 transacting therein his lawful and
 necessary affairs and business, to wit
 at the Township & County aforesaid,
 and other wrongs to the said plaintiff
 then and there did, against the
 peace of the people of the State aforesaid
 and to the damage of the said
 plaintiff of Five thousand Dollars
 and therefore he brings suit &c

J. W. Smith Atty for p^lff^t and
 Afterwards to wit At a Circuit Court
 held for Madison County on the 9th
 day of April 1822 The Defendants by
 their attorney file their plea in
 the words and figures following to wit

Plain^{tiff} "And the said depts come and defend
^{in bar} of the wrong and injury when &c and
 say the p^lff his action aforesaid ought
 not to have & maintain against them
 because they say that before committing
 the trespass in the declaration

supposed to have been committed
to wit on the 20th day of October 1821
they the said Defendants recovered a
Judgment against the said P^{ff} for \$332
besides costs of suit being \$1,50 which Judg-
ment was rendered by one David
Boore then & still being a Justice of
the peace for the County of Madison
and for a cause of action of which
he the said Justice had cognizance
and Jurisdiction and that on the
20th day of Oct^r 1821 the said Boore
acting as such Justice issued an execution
on said Judgment directed to any
Constable of Madison County, whereby
any such constable was commanded
that he should levy the said sums of
money of the goods & chattles of the
plaintiff - which execution came to
the hands of one Isaac McMahar
then a constable of said Madison
County by virtue of which, and
before the return day thereof and
for the purpose of levying the same
upon the goods & chattles of the

5
+ Pltff entered upon his close and
then & there and under the direc-
tions of them the said defendants
took & carried away as the property
of the said pltff divers goods
towit, one yoke of steers also other
goods & chattles for the purpose
aforesaid, which entering upon &
carrying away as aforesaid are the
trespass complained of in the plaintiffs
declaration & of no other are they guilty
all which they are ready to verify
wherefore &c To Stand for Deft

52
53
Replication of the month and year aforesaid
the Plaintiff by his attorney filed
his replication to the Defendants
plea towit, "And the said Plaintiff
as to the plea of the said Defendant
by them above pleaded saith, that
he by reason of any thing, by the said
defendants in their said plea alledge
ought not to be barred from having
or maintaining his aforesaid action

[8-3]

thereof against them the said defend-
ants because that the cause of action
on which the Judgment in said plea
named was given arose before the
first of May 1821 he says that there
was no endorsement on the said Execution

+ in the said plea mentioned as is requir-
ed in and by the Twenty seventh
Section of the Act of the Legislature
of the State of Illinois entitled, an
Act establishing the State Bank of
~~Illinois~~ Illinois" and that he the said plain-

tiff did on the said twentieth day
of November 1821 and at other times
& before the said Trespass was com-
mitted tender to the said Isaac
McMahan the Constable in the

+ said plea named, the full amount
of the said execution & then & there
offered to pay to the said Isaac
McMahan the full amount thereof
in the notes of the said Bank
or to replevy the same for three
years, as by law he might do, all of

argument of
Carter

which the said Isaac McMahon,
refused to accept, permit or suffer,
& whereupon the said Defendant
committed the Trespass as in the
Declaration is alleged, and this
he is ready to verify wherefore
cc Smith for pptt" At a Ci-
vil Court held on the 12th day of
the month and year aforesaid
the Defendant filed the following
~~Defendant's~~ rejoinder to the plain-
tiff's replication to wit, and said
Defendant for rejoinder the plaintiff's
replication says the plaintiff ought
not to have or maintain his said
action on account of any thing
in said replication alleged
because he says that the said
replication & the matter and
things therein contained are
entirely insufficient in law
for the said Plaintiff to maintain

72
Deduction
to
replication

his action & this Defendant hath
no necessity nor is he bound by law
to make further reply thereto
wherefore &c he prays Judge
Stan & Kane for "Def't"

And afterwards to wit, at a Circuit
Court held on the nineteenth
day of the month and year last
aforesaid. The Defendants Demurer
to the plaintiffs replication being
argued and the Court being suffi-
ciently advised of the issue of law
arising on the Defendants Demurer
are of the opinion that the law
is for the plaintiff. It is therefore
considered by the Court that judg-
ment be entered for the plaintiff
upon the Demurer.

The costs in this case are Eleven
Dollars and fifty two cents.

State of Illinois }
Madison County } Oct

Joseph Conway clerk of the

a
Circuit Court in and for the afore
said County of Madison Do certify
that the foregoing transcript contains a
true and perfect history of the whole
of the proceedings had in the case
of John Waggoner against Augustus
Collins and Anson Collins as fully
and completely as the same remains
on file in my office. In Testimony
whereof I have hereunto set
my hand and affixed the
seal of the said Court
at Edwardsville this 19th
day of October 1822 and
of the Independence of
the United States the
47th Joseph Conway

9c
Price of complete record \$3.24
Certificate & seal 75
Joseph Conway clk \$3.99

Supreme Court

Augustus Collins &
Anson Collins -
vs.

December term 1822

John Waggoner

And now at this term that is to say
 at the December term one thousand eight hundred
 and twenty two, come the said plaintiffs in
 error by H. Starr their counsel, and say that in
 the record and proceedings aforesaid and also in
 giving the Judgment aforesaid, there is manifest error
 in this to wit, that said Judgment was given in
 the court below for the defendant in error and against
 the said plaintiffs in error, whereas by the laws of the
 land the said Judgment ought to have been given
 by the court for the said plaintiffs in error and against
 the said defendant in error - there is error also
 in this to wit, that the court below erred in sus-
 taining the demurrer of the defendant in error
 of the plaintiffs to the replication of the defendant
 in error, for which error and also for other errors
 appearing in the record and proceedings aforesaid
 the said plaintiffs in error pray that said Judgment
 may be reversed and altogether taken for naught.

H. Starr for plffs
in Error

Order in Error

T. W. Smith
for Deft.
in Error

Supreme Court
Augustus Collins
Anson Collins -

vs.
John Waggoner

Filed Dec. 22d
1822

State of Illinois, &c.

THE PEOPLE OF THE STATE OF ILLINOIS
TO *Joseph Conway* Esq. CLERK OF THE CIRCUIT COURT FOR THE COUNTY
OF *Madison* GREETING:

BECAUSE in the record and proceedings, as also in the rendition
of the judgment of a plea which was in the Circuit Court of *Madison*
county, before the Judge thereof, between *John Waggoner*
plaintiff
and *Augustus Collins & Anson Collins*
defendants, it is said manifest
error hath intervened to the injury of the aforesaid *Defendants* as we are informed by *their*
complaint, and we being willing that error (if any there be) should be corrected in due form and
manner, and that justice be done to the parties aforesaid, command you that if judgment thereof
be given, you distinctly and openly without delay, send to our Justices of our Supreme Court
the record and proceedings of the plea aforesaid, with all things touching the same, under your
seal, so that we may have the same before our Justices aforesaid at *Vandalia* in the county
of *Layton* on the *second Monday* ~~next~~ *Dec. Inst* next, that the record
and proceedings, being inspected, we may cause to be done them. to correct the error, what of
right ought to be done according to law.

Witness, James M. Duncan, Clerk of our said court *and the*
Seal thereof at *Vandalia*
this *9th* day of *December* in the year of our
Lord one thousand eight hundred and *22* and of our
~~Independence the~~

J M Duncan

Extd Dec. 3. 1822
J. M. Dumas

②

90 page

136. do

144. do

17 page

98. - do.