

No. 1034

Supreme Court of Illinois

~~Choiston~~ (Christian) County Comm.

vs.

Marvillions
Marvillions Eastham

(379)  7

Pleas before the Circuit Court
of Sangamon County Begun
and held at the Court House in
the Town of Springfield on the
day of November A D 1840.

Present the Honorable Samuel
A Just Judge of the 8th Judicial
Circuit of the State of Illinois

Be it remembered that heretofore to wit on the
20th day of June A D 1840 there was filed with the
Clerk of the Circuit Court of Sangamon County a petition
in the And ana figures following to wit

"State of Illinois of the July Term of the Sangamon
County Circuit Court between Alexander & Co
"Gavin Patton Thomas P Chapman

& Peter Porter County Commissioners of
Dane County (formerly so called now
Christian County) for the use of said
Dane County (now Christian

vs

Marcus Eastman, John Taylor
Robert Allen & Richard H Barnell

Ofumpet
Damages \$5000

The Clerk of the Sangamon Circuit Court
will issue summons to the defendants as above directed
to the Sheriff of Sangamon County and returnable
to the next term of said Court

June 20th 1840

Jas C Cushing atty for
Plffs

Afterward do not on the day and date last aforesaid

a summons issued in the word and figures following
to wit

" The People of the State of Illinois
To the Sheriff of Sangamon County Greeting
You are hereby commanded to summon Marshall
Eastman, John Taylor, Robert Allen & Richard F.
Barnett to be and appear before the Circuit Court
of Sangamon County on the first day of the next
to be holden at Springfield on the second Monday in
the month of July next to answer to Gairn Walston,
Thomas P. Chapman & Peter Porter County Commissioners
of Dan County (formerly & called New Christian County)
for the use of said Dan County (now Christian) for
an action of trespass. Damages Five Thousand
Dollars And have you there and show this writ

Sealed
in

Witness William Butler Clerk of our
said Court at Springfield this 20th
day of June AD 1840

William Butler Clerk

Which summons was afterward returned by the Sheriff
with the following endorsement there on to wit

" Executed Jan 24 1840 on John Taylor
& Robert Allen by reading the return the others
not found. Sum so Jan 12th Ret 12th \$125
G. Collier Shff s.b

Afterward to wit on the 26th day of June AD 1840
there was filed in the Clerk's office of the Circuit
Court of Sangamon County a declaration in the
word and figures following to wit

[illegible]

firmly so called land near Churruar) on the West
half of the North East quarter of Section Twenty
Seven in Township Thirteen north of Range two
West of the Third principal meridian By means
whereof and by force of the Statute in such made and
promised the said defendants then and then to wit
on the day and year last aforesaid in the County
of Sangamon and within the jurisdiction aforesaid
became liable to pay to the said Plaintiff the said
sum of money in the said promissory note specified
according to the tenor and effect thereof and being
so liable the said defendants under the said names
and styles in commandment thereof afterwards to wit on
the day and year first aforesaid in the County of Sangamon
and within the jurisdiction aforesaid undertook and
then and there faithfully promised the said Plaintiff
to pay unto the said sums of money in the said prom-
issory note specified according to the tenor and effect
thereof.

2

And also for that whereas the said defendants
under the said names and styles heretofore to wit
on the third day of June in the year of our Lord one
thousand eight hundred and thirty were to wit in the
County of Sangamon and within the jurisdiction
aforesaid made their certain ^{other} promissory note in
writing bearing date the day and year last aforesaid
and thereby then and there promised to pay all or
either of them on demand to the County Comptroller
of Dane County and their Successors in office for the
use of said County (meaning thereby the County of Dane
firmly so called land near Churruar) the sum of
Two Hundred dollars bearing twelve per cent interest
from the date for value Received ^{him} in commandment

of the location of the County Seat of said County (meaning
 thing the County of Dane formerly so called but now
 Chertow) on the West half of the North East quarter
 of Section twenty seven in Township Thirteen North of Range
 two West of Third principal meridian. By means whereof
 and by force of the Statute in such case made and
 provided the said defendants then and there to wit
 on the day and year last aforesaid in the County
 of Sangamon and within the Jurisdiction aforesaid
 became liable to pay to the said Plaintiff County
 Commissioners as in the first clause first specified
 the said sum of money in the said last mentioned
 promissory note specified according to the tenor and
 effect thereof and being so liable the said defendants
 under the said name and style in consideration
 thereof afterwards to wit on the day and year last
 aforesaid in the County of Sangamon and within the
 jurisdiction aforesaid remained and then and there
 promised the said plaintiff to pay them the said
 sum of money in the said last mentioned promissory
 note specified according to the tenor and effect thereof

3 And also for that whereas the said defen-
 -dants under the said name and style here to fore
 to wit on the third day of June in the year of our Lord
 one thousand eight hundred and thirty nine to wit
 in the County of Sangamon and within the jurisdiction
 of this Court made their certain other promissory note
 in writing bearing date the day and year last aforesaid
 and then and there promised to pay all or
 either of them or demands to the County Commissioners
 of Dane County and their Successors in office for the
 use of said County (meaning thing the County of Dane

formerly so called but now Christian) the sum of five hundred dollars bearing twelve percent interest from the date for value received being in consideration of the location of the County Seal of said County, (meaning then the County of Dane formerly so called but now Christian) on the West half of the North East quarter of Section Twenty Seven in Township Thirteen North of Range Two West of Third principal meridian. By means thereof and by force of the Statute in such case made and provided the said defendants then and there to wit on the day and year last aforesaid in the County of Sangamon and within the Jurisdiction aforesaid became liable to pay to the said plaintiff County Commissioners as in the first County Court specified the said sum of money in the said last mentioned promissory note specified according to the tenor and effect thereof said being so liable the said defendants under the said names and style in consideration thereof afterward to wit on the day and year last aforesaid in ^{the} County of Sangamon and within the Jurisdiction aforesaid undertook and then and there faithfully promised the said plaintiff to pay them the said sum of money in the said last mentioned promissory note specified according to the tenor and effect thereof.

4 And also for that whereas the said defendants under the said names and style hitherto to wit on the this day of June in the year of our Lord one thousand eight hundred and thirty nine to wit in the County of Sangamon and within the Jurisdiction of this Court made this certain other promissory note in writing bearing date the day and year last aforesaid and therein then and there promised to pay all or either of them or among to the County Commissioners

of Dan County, and then Successors in office for
the use of said County (meaning thereby the County of
Dan formerly so called but now Christian) the
Sum of Five Hundred Dollars bearing twelve per
cent interest from the date for value received being
in consideration of the location of the County Seat of
said County (meaning thereby the County the County
of Dan formerly so called but now Christian) on
the West half of the North East quarter of Section
twenty four in Township Thirtieth North of Range two
West of Tenth principal meridian. By means taking
and by force of the Statute in such case made and
pursued the said defendants then and there to
pay on the day and year last aforesaid in the
County of Sangamon and within the jurisdiction
aforesaid became liable to pay to the said plaintiff
County Commissioners as in the first bond first
specified the said sum of money in the said last
mentioned promissory note specified according to
the tenor and effect, thereof and being so liable
the said defendants under the said names and
styles in consideration thereof afterwards to wit
on the day and year last aforesaid in the County
of Sangamon and within the jurisdiction aforesaid
said defendants and then and there faithfully
promised the said plaintiff to pay them the said
sum of money in the said last mentioned promissory
note specified according to the tenor and effect thereof

5 And also for that whereas the said defendants
under the said names and styles then to pay to wit
on the third day of June in the year of our Lord
one thousand eight hundred and thirty seven
to wit in the County of Sangamon and within

the presentation aforesaid made this certain this
promissory note in writing bearing date the day and
year last aforesaid and there then and there promised
to pay all or either of them on demand to the County
Commissaries of Dane County and this success in offer
for the use of said County (meaning thing the County of
Dane formerly so called late now Christian) the sum
of five hundred dollars bearing twelve per cent interest
from the date for value received being in consideration
of the location of the County seat of said County (meaning
thing the County of Dane formerly so called late now Christian)
on the West half of the North East quarter of Section
Twenty Seven in Township Thirteen North of Range Two
West of Third Principal meridian. By means whereof
and by force of the Statute in such case made and
provided the said defendants then and there to wit on
the day and year last aforesaid in the County of Sangamon
and within the presentation aforesaid became liable to
pay to the said plaintiff County Commissaries as in
the first Count first specified the said sum of money
in the said last mentioned promissory note specified
according to the tenor and effect thereof and being so
liable the said defendants under the said names and
styles in consideration thereof afterwards to wit on the
day and year last aforesaid undertook and then and
there promised the said plaintiff in the County of
Sangamon and within the presentation aforesaid to
pay them the said sum of money in the said last men-
tioned promissory note specified according to the tenor
and effect thereof

6 And also for that whereas the said defendants under
the said names and styles heretofore to wit on the third
day of June in the year of our Lord one thousand eight

hundred and thirty nine to wit in the County of Sangamon
 and within the jurisdiction aforesaid made their certain
 promissory note in writing bearing date the day
 and year last aforesaid and thereby then and then promise
 to pay all or either of them on demand to the County
 Commissioners of Dane County and their successors in office
 for the use of said County (meaning thereby the County of
 Dane formerly so called the new settlement) the sum of
 Five Hundred dollars bearing twelve per cent interest
 from the date for value received being in consideration
 of the location of the County seat of said County (meaning
 thereby the County of Dane formerly so called the new settlement)
 on the West half of the North East quarter of Section
 twenty seven in Township Thirteen North of Range Two
 West of Third Principal meridian By means whereof
 and by force of the Statute in such case made and
 provided the said defendants then and then to wit
 on the day and year last aforesaid in the County of
 Sangamon and within the jurisdiction aforesaid became
 liable to pay to the said plaintiff County Commissioners
 as in the first County Court specified the said sum of
 money in the said last mentioned promissory note spec-
 ified according to the tenor and effect thereof and being
 so liable the said defendants under the said names and
 styles in consideration thereof afterwards to wit on the day
 and year last aforesaid in the County of Sangamon
 and within the jurisdiction aforesaid undertook
 and then and then faithfully promised the said plain-
 tiff to pay them the said sum of money in the said
 last mentioned promissory note specified according to
 the tenor and effect thereof

And also for that whereas the said defendants
 under the said names and styles afterwards to wit

on the first day of June in the year of our Lord one thousand eight hundred and forty in the County of Sangamon and within the Jurisdiction aforesaid are indebted to the said plaintiff as County Commissioners as aforesaid in the first Court first specified and at the time therein mentioned of Christian County formerly called Dan County but the name of which County was changed from Dan to Christian by virtue of an act entitled "an act to change the name of the County of Dan to that of Christian" enacted by the People of the State of Illinois represented in the Senate assembly and approved the first day of February in the year of our Lord one thousand eight hundred and forty) and in force the day and year last aforesaid) in the further sum of Four thousand dollars in consideration of the location of the County Seat of said Christian County (so called instead of Dan County by virtue of the act in this Court first referred to) on the West half of the North East quarter of Section twenty seven in Township thirteen north of Range Two West of their principal meridian

And being so indebted they the said defendants in consideration thereof afterwards to wit on the same day and year in this Court first aforesaid in the County of Sangamon and within the Jurisdiction of this Court undertook and then and then faithfully promised the said plaintiff as County Commissioners as in the first Court first specified and at the time therein mentioned to pay them the said sum of money in this Court once - on or when they the said defendants should be thereunto afterwards required

And also for that whereas the said defendants under the said names and style afterwards

to wit on the first day of June in the year of our
Lord one thousand eight hundred and forty in the
County of Saragum and within the jurisdiction
of this Court now indebted to the said plaintiffs
as County Commissioners of Christian County at the
times in the first count first specified (formerly
called Dan County, but the name of which County
was changed from Dan to Christian by virtue
of an act passed to in the last count) in the further
sum of Four thousand Dollars for money by the
said plaintiffs before that time lent and advanced
to and paid laid out and expended for the
said defendants and at their special instance
and request and also in the further sum
of Four thousand dollars for other money by the
said defendants before that time had and received
to and for the use of the said plaintiff County Com-
missioners as in the first count first specified and
also in the further sum of Four thousand dollars
for interest upon and for the forbearance of
their large sums of money before that time due
and owing from the said defendants to the said
plaintiffs County Commissioners as in the first count
first specified and by them the said plaintiffs or
affirmance of record to the said defendants for divers
long spaces of time before then elapsed at the
last special instance and request of the said defen-
dants And being so indebted they the said
defendants in continuation thereof afterwards
being on the same day and year in this Court
first affirmed in County of Saragum (and within
the jurisdiction of this Court aforesaid) and there
and then faithfully furnished the said plaintiffs

County Commissioners in the first term after a
fine specified to pay them the said several sums of
money in this writ mentioned when they the said
defendants should be then and afterwards requested.

Nevertheless the said defendants although often
afterwards requested to do hath not yet paid
to the said plaintiff County Commissioners in the first term
fine specified the said sums of money or any part
of them or any part thereof but the same or any part
thereof to them as yet to pay the said defendants have
heretofore wholly neglected and refused and still do
neglect and refuse to pay the same.

To the Damage of the said plaintiff County
Commissioners in the first term fine specified
of Ten thousand dollars and therefore they being
therein sent 96

J. C. C. C. C.
Att'y for Plff

\$500. He or either of us promises to pay on demand
to the County Commissioners of Dane County and their
successors in office for the use of said County the
sum of Five hundred dollars bearing twelve per cent
interest from the date for value rec'd being in
confirmation of the location of the County Seat of said
County on the West half of the North East quarter
of section twenty seven in Township thirteen north
of Range two West of Third principal meridian
Gim. and on hand and date June 3^d 1837.

(Signed)

M. Eastman
John Taylor

Robert Allen
 Rich^d H. Barrett per
 M. Eastman

\$500. We a either of us promise to pay on demand
 to the County Commissioners of Dane County and their
 Successors in office for the use of said County the sum
 of Five hundred dollars bearing Twelve per cent interest
 from the date for value recd being in consideration
 of the location of the County Seat of said County on West
 half of North East quarter of Section Twenty Seven in
 Township Thirteen north of Range Two West of Third
 Principal Meridian

Given under our hands and seals June 3^d 1837.
 (Signed)

M. Eastman
 John Taylor
 Robert Allen
 Rich^d H. Barrett per
 M. Eastman

\$500. We a either of us promise to pay on demand
 to the County Commissioners of Dane County and their Successors
 in office for the use of said County the sum of Five
 hundred dollars bearing Twelve per cent interest from
 the date for value recd being in consideration of the
 location of the County Seat of said County on the West
 half of the North East quarter of Section Twenty Seven
 in Township Thirteen north of Range Two West of
 Third Principal Meridian.

Given under our hands and seals June 3^d 1837.
 (Signed)

M. Eastman
 John Taylor
 Robert Allen
 Rich^d H. Barrett per
 M. Eastman.

\$500. We a either of us promise to pay on demand to
the County Commissioners of Dam County and their
Successors in office for the use of said county the sum
of Five Hundred dollars being twelve per cent interest
from the date for value received being in commemoration
of the location of the County seat of said County on the
West half of the North East quarter of Section twenty
Seven in Township thirteen North of Range two
West of Third Principal Meridian

Given under our hands and seals June 3rd 1839

Signed

M Eastman

John Taylor

Robert Allen

Rich^d F Boutilier for

M Eastman

\$500. We a either of us promise to pay on demand
to the County Commissioners of Dam County and their
Successors in office for use of said County the sum
of Five Hundred dollars being twelve per cent interest
from the date for value received being in commemoration of the
location of the County seat of said County on the West half
of the North East quarter of Section twenty Seven in
Township thirteen North of Range two West of Third
Principal Meridian

Given under our hands and seals June 3rd 1839

Signed

M Eastman

John Taylor

Robert Allen

Rich^d F Boutilier for

M Eastman

\$500. We a either of us promise to pay on demand

to the County Commissioners of said County and their
 Successors in office for use of said County the sum of
 Five Hundred dollars being twelve percent interest
 from the date for value recd being an acknowledgment
 of the location of the County Seal of said County on
 the West half of the North East quarter of Section twenty
 seven in Township thirteen north of Range two
 West of Third Principal meridian. Given
 under our hand and seals June 3^d 1837.

(Signed)

Mr Eastman

John Taylor

Robert Allen

Rich^d H. Barrett for

Mr Eastman

Afterwards to wit at the July Term 1840 of the
 Circuit Court of said County Before the Judge of said Court
 the following order was made to wit

"The County Commissioners Plaintiff
 of Christian County
 against
 Robert Allen & others Defendants

This day came the defendants by their attorney
 and filed their Dismissal to the Plaintiff's Declaration
 herein

Afterwards to wit at the term of the Court of said County
 Before the Judge of said Court the following order
 was made to wit

The County Commissioners Plaintiff
of Christian County
against
Maudlin Eastham & others Defendants

This day came the parties appeared by their
attorneys. And the Court being now sufficiently advised
upon the defendants Demurrer to the Plaintiffs declaration
Ordnance that said Demurrer be sustained thereupon
on motion of the Plaintiff leave is granted them to
amend their declaration herein and the cause is
continued until the next term of this Court.

Afterward to wit at the November Term of the
senior Court of said County for the year 1840 before
the Judge of said Court the following case was made
to wit

"County Commissioners Christian County Plaintiff
vs
Maudlin Eastham & others Defendants

This day came the defendants by their
attorneys and filed their plea herein.

"Porter & others who sue as County
Commissioners of said County
vs
Christian County

Robert Allen & John Taylor
implicated with Eastham & others

1st 2nd 3rd Pleas withdrawn

4 And for further plea in this behalf the Defendants say plaintiff acts now because they say that said notes in Plaintiff's declaration mentioned were executed to procure the location of the County Seat of Don County on the West half of the North East quarter of Section Twenty Seven in Township Thirteen North of Range Two West of the Third principal meridian and for no other purpose consideration and that the County Seat of Don County now was located on said West half of the North East quarter of Section Twenty Seven in Township Thirteen North Range ^{Two} West of the Third principal meridian and so they say the consideration of said notes has wholly failed and this they are ready to verify wherefore they pray

Douglas & Logan per

5 And for further plea in this behalf the Defendants say the plaintiff acts now because that the notes in plaintiff's declaration mentioned were executed in consideration of the location of the County Seat of Don County on the West half of the North East quarter of Section Twenty Seven in Township Thirteen North Range Two West of the Third principal meridian and the Defendants further say that neither of said defendants nor Marshall Cortham nor Richard H. Barnt was the owner jointly or severally of the whole or any part of said tract of land nor were said notes executed for or on behalf of the owner of said land and so they say that said notes were executed without any valuable consideration and this they are ready to verify wherefore they

This day came the parties by their attorneys and the
defendants withdrew their Pleas No 1, 2 & 3. and issue
is joined upon the fourth & 6th pleas and the
Plaintiff files their Demurrer to Defendants 5th plea
and the defendants then join in theirs and the
matter of law arising on said Demurrer being heard

It is ordered by the Court that said Demurrer be overruled
and the plaintiff saying nothing further in support
of their action. It is ordered that the same be done

And by an agreement an appeal to the
Supreme Court is granted to the Plaintiff with-
out the giving of security.

State of Illinois 255
Sangamon County 3

I William Butler Clerk of the
Circuit Court of Sangamon do hereby certify that the
 foregoing pages contain a true and perfect copy
of the Record and proceedings of the cause therein named
as fully as the same remains on file and of Record
in my office

In Testimony whereof I have hereunto
subscribed my name and affixed
the seal of said Court at Springfield
this 30th day of November AD 1845.

William Butler Clerk

Supplement
Commissioners of
Christian County,
R. Allen & J. T. Allen
Marshall E. Latham
and others

Appeal
from Sangamon

Record &c

Filed Decr
14, 1840 -
Indiana

Supreme Court } December Term 1840
State of Illinois }

Gavin Ralston, Thomas P. Chapman &
Peter Porter, County Commissioners of } Appellants
Dane County (formerly so called, now }
Christian County) for the use of said }
Dane County (now Christian) } Assignment
of Errors
vs }
Marvellous Eastham John Taylor } Appellees
Robert Allen & Richard J. Barrett }

And the said Appellants for assigning
Errors in the Record and Proceedings aforesaid and in the
giving of the Judgment aforesaid say there is manifest
Error in this to wit

By the Record it appears that there
were six Pleas filed to the Plaintiff's Declaration. To
the fifth Plea the Plaintiff demurred. The Demurrer
was overruled by the Court and this the Plaintiff assigns
for Error, for that the said Demurrer ought to have been
sustained by the Court.

Strong & Conkling Attys for Appellts

And the said Appellees say that in the record
and Judgment of the Court below in this
cause there is no such error as the appel-
lants have alleged wherefore they pray
that said Judgment be affirmed,
Logan for Appellees

Supreme Court
Commissioners of Christian
County vs

Marvillous Eastland, et al.

Strong & Conkling
Att^{ys} for Appellants

Assignment of Errors

Jones

Filed Dec. 16/1841

J. M. Duncan.
clerk.

10324

County Commissioners of
Christian Co (formerly Dane
Castham^{rs} and others

This was an action of assumpsit
brought on six promissory notes
of the following form

We or either of us promise to pay on demand to the County
Commissioners of Dane County and their successors in office for
the use of said County, the sum of five hundred dollars, bearing
twelve per cent interest, from the date for value received & being
in consideration of the location of the County Seat of said County
on the west half of the north east quarter of section twenty seven
in Township thirteen north of range two west of third principal
meridian June 3, 1839 M. Castham & others

To this declaration there were six pleas

The fifth plea states the fact that the notes were given in
consideration of the location of the County Seat of said County on
the Tract of Land mentioned in said notes, but the defendants
further say that neither of said defendants, nor Shawdlows,
Castham nor Richard T. Barrett was the owner jointly or severally
of the whole or any part of said Tract of Land nor were said
notes executed for or on behalf of the owner of said Land
And so they say that said notes were executed without any
valuable consideration &c

To this plea the plaintiffs demurred and the Court
overruled the demurrer which plaintiffs assign for error

Supreme Court

County Court of Christian Co

vs

A. Eastman & others

Abstract &
Brief

Strong & Conkling

Attorneys

Filed Jan'y 11. 1841

Jas. M. Duncan, Clerk.