

13633

No. _____

Supreme Court of Illinois

Craig

vs.

Douglas

STATE OF ILLINOIS,
SUPREME COURT,
Third Grand Division.

No. 159

*Craig
vs
Deeplas*

13633

Impressed

State of Ohio's

Supreme Court
April Term A.D. 1862

Alexander Daynes
& Alfred M. Craig

Samuel P. Whiting

} Error from Knox County

The hereby enter the appearance of the Defendant in Error Samuel P. Whiting to this suit in the Supreme Court & waive the issuing thereof of a writ.

Tyler & Sanford

Attys for Defendant

154
Douglas
H. M. Brown

Wm. P. Whitney

Entry of Appearance of Def't

Filed April 10. 1862
L. Leland
Clerk

State of Maine

Supreme Court

L. Douglas April 7th 1862
& Alfred M. Craig

Samuel P. Huntington }

Recd a copy
of Abstract in this
Cause

April 7th 1862

Gyler & Sanford

Allys for diff
in Error

159.

Douglas Craig
✓
Samuel P. Whitey
Sept. 1847
Abstract.

10

State of Illinois }
Knox County } 12

Pleas before the Honorable John S. Thompson, Judge of the Tenth Judicial Circuit of the State of Illinois at a Court, began and held at the Court House in the City of Knoxville, on the Fourth Monday of September in the year of our Lord one thousand Eight Hundred and fifty nine, it being the Twenty Sixth day of September in the Year aforesaid.

Present:

Honorably John S. Thompson, Judge,
James H. Stewart, States atty.
Cephas Arms, Clerk
Andrew Thomson, Sheriff.

Wherein, among other things, the following entry was made, at said Term viz:

" Oct. 8th 1859.
" Seaman Douglas, Plaintiff
" Alfred W. Craig, Defendant
" vs.
" Samuel P. Whiting Plaintiff

" This day came the
" Plaintiffs, and filed their Declaration, notice, and proof of service of Process

And, also, at said Term, was the following entry made, viz:

" October 10th 1859
 " Leander Douglass
 " Alfred M. Craig, and
 " Samuel P. Whiting } Ejectment

" This day, came the
 " Plaintiffs, and their attorney, and, and
 " on their motion, it is ordered by the Court
 " that the said Defendant be required to
 " plead to the Plaintiffs Declaration, filed
 " herein, within twenty days from the date
 " hereof, and in case of failure so to do, Judgment
 " will be rendered, against him by Default,
 " and the Plaintiffs will recover of the Defendant,
 " the possession of the premises, by the Plaintiff
 " in his Declaration, mentioned and described.

Copy of Declaration.

" State of Illinois }
 " Knox County } S. Knox Circuit Court
 " September Term A.D. 1859
 " Leander Douglass & Alfred M. Craig,
 " who are Citizens of the State of Illinois,
 " per se, attorneys, complain of Samuel
 " P. Whiting, who is a Citizen of the State of
 " Illinois & Knox Co. in a plea of Trespass
 " and Ejectment.

For that whereas, heretofore, to-wit:
 on the 15th day of September in the year
 Eighteen Hundred and Fifty nine, (A.D. 1859)
 at and within the County of Knox, and
 State of Illinois, the said Plaintiffs, were
 possessed, as of their own demense, in fee
 simple of a certain tract or parcel of land
 with the appurtenances, situate in the County
 of Knox, in the ^{5th} State of Illinois, and described
 as follows, to-wit:

The South East Quarter of Section
 No. nine (9) in Township Thirteen (13)
 North, Range Three (3) East, of the 14th
 Principal Meridian in Knox County Illinois -
 which said premises exceed in value
 the sum of Five Hundred Dollars, and which
 the said Plaintiff claim - in fee simple -

and the said Plaintiffs being possessed
 thereof, the said Defendant, afterwards, to-wit:
 on the same day and year last aforesaid
 entered the said premises, and ejected the
 the said Plaintiff therefrom, and from the
 time last aforesaid, have unlawfully
 withheld, and does now unlawfully with-
 hold from the said Plaintiff, the possession
 thereof, to the damage of the said Plaintiffs
 of the sum of Five Hundred Dollars, and
 therefore he bring suit, etc.

Douglas & Craig
 Attys for Resp

To Samuel P. Whiting.

The above named Defendant,
You are hereby notified that the Dec-
laration, with a copy of which you are now
herewith served, and to which this notice
is attached, will be filed in the Circuit
Court of Knox County, Illinois on the 12th
day of the September Term A.D. 1859, and
that upon filing the same a rule will be en-
tered requiring you to appear and plead to the
said Declaration within Twenty Days, after
the entry of said Rule, and that if you neglect
so to appear and plead, a judgment by De-
fault will be entered against you, and the
Plaintiff will recover possession of the premises
specified in said Declaration -

Dated this 4th day of October
A.D. 1859 -

Rouglas & Francis
Attys for Plaintiff

State of Illinois

Knox County, vs. Carter R. Key, being
duly sworn, deposes & says, he served a
true copy of this Declaration & notice
on Samuel P. Whiting on the 4th day of
October A.D. 1859. That said Samuel
P. Whiting was at the time in possession
of said Land, C. R. Key,

Subscribed, & sworn to before
me, the clerk of the Circuit Court in &
for the Co. of Knox, this 4th day of October
1859. Cephas Annis, Clk

Recd for service & copy \$1.00, mileage \$1.00 - \$2.00

5 Copy of Deft's Plea.

State of Illinois (Knox Circuit Court.
Knox County 1st Sept. Term, A.D. 1859

Leander Douglass
& Alfred M. Craig
v. Samuel P. Pitting Ejectment

And the said Deft, by Tyler & Sanford his attorneys comes and defends the force & injury, when he, and says that he is not guilty of the said supposed Trespass and Ejectment, above said to his charge, of any part thereof in manner & form as the said Deft's have above thereof complained against him complained against him, and of this he puts him self, upon the Country &c.

Tyler & Sanford,
Attys for Deft

"Deft's do like

"N. M. Craig"
Filed Oct. 31, 1859

C. Ann. Clerk

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Copy of Record of Judgment, Rendered
February Term A. D. 1861.

Feb. 22. 1861

Leander Douglass
And A. W. Craig
vs.
Samuel P. Whiting

Ejectment

This day came
the parties, and their attorneys, and issues
being joined, for trial, put themselves
upon the Court, and the Court having heard
the evidence, and being advised in the prem-
ises, finds the Defendant guilty of unlawfully
withholding the possession of the premises
described in said Plaintiffs Declaration
and that the Plaintiffs are entitled to a
title in fee simple, to said premises, and
possession thereof, and assess the Plaintiffs
Damages at one cent.

Therefore it is considered by the
Court, that the Plaintiffs recover of the
Defendant the sum of One cent, the
amount of his Damages assessed as afo-
said. And it is further ordered, ad-
judged and decreed by the Court, that
the Plaintiffs recover of and from the
Defendant, possession of the premises
by them in their Declaration mentioned
and described, and that the same be
vested in them, as an indefeasible estate

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in fee simple, and it is further ordered
by the Court that a Writ of Possession
issued Herein for the recovery of the same
and that the Plaintiffs recover of the
Defendant their costs by them in this
suit expended, and may have Execution
therefor -"

Copy of Order Entered Feb. 7, 1861.

"Ordered by the Court that all
Suits pending, not otherwise disposed
of, be continued until the next Term
of this Court."

Same order entered at
June Term 1858.

Oct. 2, 1861. Motion by Defendant for Continuance
Copy of Stipulation

"Alexander Douglass
and Am. Craig vs. Samuel P. Whiting
Knox Circuit Court,
Oct. 7, 1861 -"

It is stipulated by the Plaintiffs in this
Cause, that on the Trial of this cause
they will & do rely solely on title
derived from a judgment & Execution
against the Defendant in favor of

8
Isaac Armstrong, and that they will
not offer any other title in the Trial,
Judgment was Apr. 7, 1857 of Knox
Circuit Court.

Douglas & Craig
vs Person in
"Filed Oct. 16, 1801
J. H. Lewis Clerk
Gen. Writter"

Copy of Judgment, Received Sept. 7, 1801
under date of "Oct. 16, 1801"

Isaac Armstrong
vs
Samuel P. Hitting

Exigent

This Suit coming
on for hearing on Defendants' motion for
continuance on file, and the Court being
advised in the premises. It is ordered that
said motion be overruled, on stipulation
of record, by the Plaintiffs, that they will
offer in evidence on the trial of this cause,
only a title derived from a judgment and
Execution against said Defendant, and
a Sheriff's Sale and Deed thereof.

And now issues being joined, the
parties waived a jury, and for trial put
themselves on the Court, and the Court,
having heard the Evidence, and being

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advised in the premises, finds the Defendant "Not Guilty" of unlawfully withholding the premises by said Plaintiffs in their declaration mentioned, and described, Whereupon came the Plaintiffs and moved the Court for a new trial, and in answer of Judgment, Herewith; and the Court having heard said motion, it is ordered that the same be overruled.

Therefore it is considered by the Court, that the Defendant, recover of the Plaintiffs his costs by him in this suit expended, and may have Execution therefor - and on motion of Plaintiffs it is ordered that Plaintiffs have leave to file Bill of Exceptions within thirty days from the date hereof -

Copy of Bill of Exceptions

"State of Illinois }
Knox County } vs. Knox Circuit Court
September Term A.D. 1861.

Leander Douglass
Alfred M. Lewis

vs.
Samuel P. Whiting

Defendant.

Be it Remembered, that at the September Term of said Court, A.D. 1861. held at the Court House in & for the said County and State, this Cause came on to be tried before the Court, a jury having been waived by Plaintiffs

and Defendant.

To maintain the issues on the part of Plaintiffs they offered in evidence, and read, a Record of a Judgment, rendered in Knox Circuit Court, in favor of Isaac Armstrong, vs. Samuel P. Whiting, to wit:

"April Term A.D. 1857"

In the Circuit Court of Knox County, Tenn.

Isaac Armstrong,

Plaintiff states that he holds a note on the Defendant, S. P. Whiting in substance as follows: "Galesburg Ill. January 14, 1850,

"One day after date I for value received promise to pay to Isaac Armstrong or bearer three hundred, Twenty four 50/100 Dollars \$324.20 S. P. Whiting"

Yet the said Debt remains unpaid, wherefore he prays judgment for his Debt and Damages for the detention of the same together with his costs.

Boyd & Boggs
attys for P's

Copy of Note,

"Galesburg Ill. January 14, 1850

"One day after, I for value received promise to pay to Isaac Armstrong or bearer three hundred, Twenty Four 50/100 Dollars \$324.20 S. P. Whiting."

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~~Indorsements on note~~

~~Received on the within One Hundred and forty Dollars. Mch. 2/54. \$140~~

~~Received on the within \$140
July 10th~~

~~"The above is a true copy
of a Petition, filed in this case in my
Office.~~

~~C. Amos, Clerk~~

~~Filing.~~

~~"Summons for Debt~~

~~Filed April 14, 1857~~

~~C. Amos, Clerk~~

~~Copy of Return, on Summons.~~

~~Served on the within named
S. P. Whiting, by reading the same to him,
this 8th day of April A.D. 1857.~~

~~C. W. Cook, Sheriff~~

~~Of Knox Co.~~

~~In J. S. Sawyer, Deft.~~

~~Copy of Judgment.~~

~~Isaac Armstrong April 24, 1857~~

~~vs. Debt.~~

~~Samuel P. Whiting~~

~~This day came the
Plaintiff, and his attorney, and the Defen-
dant having been three times solemnly
called, came not, nor any person for
him to defend this Suit, but made de-
fault, thereupon it is considered by the
Court, that the Plaintiff recover of the
Defendant~~

the amount of his Debt in his declaration mentioned, together with his damages, and as those damages are unknown to the Court, it is ordered that the Clerk assess the same and the Clerk having assessed the ^{same} reported the damages at the sum of Fourteen Dollars and Fifty one cents. Therefore it is considered by the Court that the Plaintiff have and receive of the said Defendant the sum of One Hundred & Seventy four ⁵⁰/₁₀₀ Dollars and Costs, the amount of his Debt, and the sum of Fourteen Dollars and fifty one cents, his Damages, as assessed by the Clerk as aforesaid together with his Costs by him in this Suit expended, and may have Execution therefor.

Defendant objected to the said Judgment being read in Evidence.

Objection overruled by the Court, and the Judgment read in Evidence.

Plaintiff then offered in Evidence an Execution & fee bill, and the Returns on the same, which were in the words & figures as follows -

"The People of the State
of Illinois

P. the Sheriff of Knox County,

Greeting -

We Command you that of the Goods
and Chattels, Lands and Tenements,

of - - - - - in your

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County. You make or cause to be made the sum of One Hundred & Seventy four Dollars and Fifty cents Debt. — And Fourteen Dollars and Fifty One cents Damages, which on the 24th day of April A.D. 1857 Isaac Armstrong recovered, ^{in the circuit Court of said County} against the said Samuel P. Whiting with legal interest thereon from said date, until paid; and also the further sum of thirteen Dollars and Fifteen Cents, which were adjudged to the said Isaac Armstrong by said Court for his costs and charges in that behalf expended, whereof the said Whiting stands convicted, as appears to us of Record — and that you have the said sum of money, interest and costs, at the Clerk's Office of our said Court at Knoxville within ninety days of the date hereof, to render unto the said Armstrong, or such other person as shall be entitled thereto, and have you then and then this writ —

Witness Cephas Arms
 Clerk of our said ⁱⁿ Court at Knoxville
 this 21st day of November A.D. 1857
 the seal of said Court being hereunto
 affixed

That

Cephas Arms
 Clerk

Copy of Fee Bills. attached to Execution.

State of Illinois
Knox County Jss. Knox Circuit Court
April Term A.D. 1857.

Isaac Armstrong
v. S. P. Whiting } In Debt.
Defendants Costs,
Clerks fees C. Anns. Clerk.

Ent. Default 30: writ & Ent. Bill cost 30: copy 25. - 75
copy & seal, 35 - 35

\$ 1.10

alias for Bill 40 - Bill cost 30. copy 25 -
copy & seal, 35 -

1.30

Hooket fee

\$ 2.40
1.35

\$ 3.75

I Cephus Anns clerk of the Circuit Court of Knox County aforesaid, do hereby certify, that the above Bill of Defendants Costs and charges in the above entitled cause is truly copied from my Cost Hooket.

Witness Anns clerk and the seal of said Court at Knoxville this 21 day of November A.D. 1857

C. Anns. Clerk

State of Illinois
Knox County Jss. The People
of the State of Illinois

To the Sheriff of said

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Writ of

County: We Command You, that if, the above Fee Bill, amounting to the Sum of \$ 3.65. shall not be paid upon being by You demanded, You cause the same to be levied of the Goods and Chattels Lands and Tenements of the said Samuel R. Whiting, in your County, according to the Statute in such case made and provided and make return of this writ, within thirty days, as the law directs, with an Endorsement thereon in what manner you shall have executed the same.

Witness Cephas Arms, Clerk
of our said Circuit Court and the seal
thereof at Knoxville, this 21 day of
November A.D. 1857.

Cephas Arms Clerk

State of Illinois,
Knox County }^{ss.} Knox Circuit Court,
April Term A.D. 1857.

Isaac Armstrong }
vs. } In Debt.
Saml. Whiting }

Plaintiff's Costs,
Clerk's fees, C. Arms, Clerk
File 4 papers 20; Rec. Feb 10-500, Sum. 35,
Ent. Apr. 15 - Ent. Dec. for Defant 20 - Ent. order
assen 20; do & Report 20 - Ent. J. Feb. 25 - Ent. order
for Cr 20 - 200. do & file J. Feb. 45; docket 10;
enter & file return 15; Ent. Feb. 15; Bill Copy 30;

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Copy 25: cert. & seal 35- \$ 3.60
 220. alias Ex. & file process 45 Dec. 10.
 Ent. file Sheriff's Return 15- Bill cost, 31
 Copy 25: cert. & seal 35, \$ 1.60

Est. Extra Sheriff, for
 Service, Return & Mulige on Sum. 1.60

Call on former De. \$ 6.80
 6.35
 \$ 13.15

State of Illinois
 Knox County Geo. J. Co. Arms, Clerk of the
 Circuit Court, within and
 for said County, do hereby certify, that the above
 Bill of Plaintiff's Costs and Charges in the
 above entitled cause, is truly copied from
 my Cost Account, and is included in an
 Execution herewith issued against said
 Defendants. Witness, G. Arms, Clerk
 and the Seal of our said Court at Knoxville
 this 21 day of November A.D. 1857.
 Cephas Arms
 Clerk

Indorsement on back of Execution -
 Knox Circuit Court.

Isaac Armstrong
 N. W. Keelt.
 Saml. P. Bliting

This writ calls for 189.07
 Plaintiff's Costs 13.15
 Defendant's Fee Bill 3.05
 Total \$ 205.81

17 Judgment rendered April 24, 1857
alias P. T. W., issued Nov. 21, 1857
Return day Feb. 21, 1858.

Laying O., \$11.50
Advertising Property .35
20 miles travel 2.00
Commission on \$ 6.10
Certificate of Purchase .50
Recd. Certificate of Pur. 50
Return Execution "

Adv. 3.00 \$12.95

Filed May 23, A.D. 1858

B. & Boggs, Attys - " J. Adams clerk

Copy of Return on Execution.

State of Illinois
Knox County, ss. Received this Execution
this 24th day of November
A.D. 1857. A.D. 1857, at 10 o'clock A.M.,
and by virtue of the same I did on the 24th
day of November A.D. 1857. Levy on the fol-
lowing Real Estate, to-wit: The South East
Quarter of Section Nine (9) in Township
Thirteen North of Range Three East, and
after due notice thereof being given, the above
Real Estate was offered at public sale
and struck off to Plaintiff - therefore
I herewith return the same, satisfied
in full.

G. W. Luke
Sheriff

The Defendant objected to reading of said Execution & writ, & return thereon, in Evidence - Objection overruled & papers read - Defendants excepted -

The Plaintiff's then offered in Evidence, ^{and read,} a deed, from the Sheriff of Knox County to Isaac Armstrong, which was in the words & figures as follows:

"Whereas, Isaac Armstrong did at the April Term A.D. 1857 of the Circuit Court for the County of Knox, and State of Illinois, receive a judgment against Samuel P. Whiting for the sum of One Hundred and Eighty Nine Dollars and one cent, and Costs of suit; upon which judgment an Execution was issued dated on the 21st day of November, A.D. 1857 directed to George W. Coker, the then Sheriff of Knox County to execute -

and by virtue of said Execution the said George W. Coker then Sheriff of Knox County Illinois levied upon the lands hereinafter described, and the same were struck off and sold to Isaac Armstrong he being the highest and best bidder therefor, and the time and place of the sale thereof having been duly advertised, according to Law;

Now therefore, know all by

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this Deed, that I, Andrew Thompson Sheriff of Said County of Knox in consideration of the premises, have granted bargained and sold, and do hereby convey to the said Isaac Armstrong, his heirs and assigns the following described tract of land -

The South East Quarter of Section Nine (9) in Township Thirteen (13) North, Range Three (3) East of the 4th Principal Meridian - in the County of Knox and State of Illinois.

To have and to hold the said described premises with all the appurtenances thereto belonging to the said Isaac Armstrong, his heirs and assigns forever.

Witness my hand and seal this 18th day of March in the year of our Lord, one thousand Eight hundred and fifty nine -

Andrew Thompson Esq.
Sheriff of Knox County
Illinois

State of Illinois) ss. J. Cephas Arms,
Knox County) clerk of the Circuit Court in and
for said County and State do hereby
certify, that this day personally appeared before me, Andrew Thompson, whose name appears signed to the foregoing deed of conveyance, and who is per-

truly known to me, to be the identical
 person whose name is subscribed to said
 deed, ^{and acknowledged that he had executed the same} as having executed the same, as his
 voluntary act and deed, for the uses and
 purposes therein expressed -

Given under my hand
 and Official Seal, this 13th day of
 May, A.D. 1859.

Great Seal

Cephas Arms
 Clerk

"State of Tennessee
 Knox County 3rd No. 28111 -
 I, Cephas Arms, clerk
 of the Circuit Court, and Ex. Officer's
 Recorder, within and for the said County
 of Knox, and State aforesaid, do hereby
 certify, that the within and foregoing
 instrument of writing was filed for re-
 cord on the 13th day of August A.D.
 1859 at 5. P.M. and duly Recorded
 in Volume 44 of Deeds on page 432.

In testimony whereof I have
 hereunto set my hand and affixed the
 Seal of said Court at Knoxville this 13th
 day of August A.D. 1859

Great Seal

Cephas Arms Clerk
 By A.K. Taylor Dep - "

To the reading of said deed in evidence
 Defendant then and there objected
 and Excepted -

Plaintiff's next offered in Evidence read a deed from Isaac Armstrong & wife to Plaintiff, which said deed was in the words & figures as follows:

"This indenture made this First day of August in the Year of our Lord, one thousand eight hundred and fifty nine, between Isaac Armstrong and Mary Armstrong his wife, of the first part, and Leander Douglass & Alfred M. Craig, of Knoxville Illinois, of the second part, Witnesses;

That the said party of the first part, for and in consideration of the sum of Two thousand and Sixty Dollars, lawful money of the United to him in hand paid by the said parties of the second part, at or before the executing and delivery of these presents, the receipt of which is hereby acknowledged, have remised, released, sold and forever quit claimed, and by these presents do remise, release, sell and forever quit claim, unto the said parties of the second part, and to their heirs and assigns, Forever, all, of the

South East Quarter of Section No. Nine (9) in Township Thirteen (13) north Range Three (3) East of the 14th Principal Meridian in Knox County Illinois -

To have and to hold the said premises as above described, with the privileges and appurtenances, therunto belonging, to the parties of the second their heirs and assigns

forever-

In testimony whereof the said Isaac Armstrong and Mary his wife, have hereunto set their hands and seals the day and year just above written -

Signed, Sealed and of Isaac Armstrong ~~and~~
delivered in presence of Mary Armstrong ~~and~~

State of Illinois }
County of Knox } Levi Massie, a Justice
of the Peace of said County

do certify that on this day personally appeared before me, Isaac Armstrong & Mary Armstrong, whose names appears signed to the foregoing Deed of Conveyance, and who are personally known to me to be the identical persons, whose names are subscribed in said Deed, as having executed the same, and acknowledged that they had executed the same as their voluntary act and deed for the uses and purposes therein expressed -

And Mary Armstrong, wife of the said Isaac Armstrong, having been by me made acquainted with the contents of said deed, and being by me examined separate and apart from her said husband, acknowledged that she had executed the same, and had relinquished her dower to the premises therein conveyed voluntarily, freely and without any compulsion of her said husband, and does not wish to retract,

Given under my hand and private seal
this first day of August, Eighteen Hundred and
and fifty nine.

Levi Massie J. P. ~~and~~

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State of Illinois
Knox County J. S.

(No. 2812)

I Cephas Arms, Clerk
of the Circuit Court and Ex Officio Rec-
order, within and for the said County of Knox
and State aforesaid, do hereby certify that
the within and foregoing Instrument of Writing
was filed for Record on the 13th day of
August A.D. 1859, at 5 o'clock P.M. and
duly recorded in Volume 44, of Records
on page 432.

In testimony whereof I have,
hereto set my hand and affixed the
Seal of said Court, at Knoxville, this 13th
day of August A.D. 1859.

Chas

Cephas Arms, Clerk
By H. K. Taylor Depy.

In the reading of said deed,
in Evidence, the Defendant, then
and there objected and excepted.

Plaintiff's next called as a witness
Cephas Arms, who after being duly sworn
testified as follows: that the Execution &
fee Fee Bill, read in evidence, was issued
upon the Judgment read in Evidence,
that he was, at the date of the Fee Bill
& Execution, Clerk of the Court.

The Defendant to maintain the issue on his part, offered in Evidence, and read in Evidence the Summons, and the return thereon & the Petition thereto attached, in the following words:

State of Illinois ss. The People of the
Knox County of the State of Illinois,
To the Sheriff of Knox County Greeting-

We Command You to Summon Samuel P. Whiting, if he may be found in your County, to appear before the Circuit Court of said County of Knox, at the next Term thereof, to be holden at the Court House in Knoxville on the third Monday of the month of April instant next, to answer unto Isaac Armstrong, in a Plea, that he render unto the said Armstrong the sum of three hundred and twenty four & 30/100 Dollars, which he owes, and unjustly detains from the said Armstrong, his damage of said Three Hundred & Twenty four & 30/100 Dollars, and make return of this writ, with an endorsement of the time and manner of serving the same, on or before the first day of the Term of said Court, to be held as aforesaid.

Witness Cephas Arms, Clerk of an said Court, and the seal thereof, at Knoxville this 10th day of April A.D. 1857.
Cephas Arms Clerk

[Handwritten signature]

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Copy of Petition, attached to summons
in the Circuit Court of Knox County
3 April Term A.D. 1857

Isaac Armstrong, Plaintiff,

States that he holds a note on the Defendant
S. P. Whiting in substance as follows;

"Galesburg Ill. January 14th 1856
One day after date, I, for value received promise
to pay to Isaac Armstrong or bearer, Three
Hundred Twenty Four ⁵⁰/₁₀₀ Dollars
\$ 324.⁵⁰"

S. P. Whiting

Yet the said debt remains unpaid
wherefore he prays judgment for his debt, and
damages for the detention of the same, to-
gether with his costs.

Boyd V. Boggs
attor for Puff

Copy of note.

"Galesburg Ill. January 14th 1856
One day after date, I, for value received
promise to pay to Isaac Armstrong or
bearer, Three Hundred and Twenty four
⁵⁰/₁₀₀ Dollars
S. P. Whiting

Indorsements on note,

Received on the within, One
Hundred and Forty Dollars March 2/54 \$ 140.

Received on the within \$ 10. July 10th

The above is a true copy of a Petition
filed in this case in my office,

L. Arms, Clerk

Copy of Return on Summons.

"Served on the within S.P. Whiting by reading the same to him, this 8th day of April A.D. 1857."

J. W. Duke, Sheriff

of Knox Co.

In, L. O. Conger Rept."

Filed in back of copy of Petition, attached to Summons

Summons, for Rept.

Filed April 14, 1857

C. Arms etc.

"The Defendant then called Cephas Arms, as a Witness, who testified that he was the clerk of this Court, when the said Summons above named, was issued, & when the aforesaid Judgment, was rendered, and that the said Summons & Petition thereto attached, were all the papers filed in the cause, wherein said Judgment was recovered

That he remembered it, from the fact, that the proceeding was novel to him -

The Proof of service of the Declaration in this Suit, was by Affidavit, endorsed on the back of the declaration which was put in Evidence to show that Defendant was in possession of the land sued for, at the commencement of this Suit, and is in the following words -

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State of Illinois ss.

Knox County,

Carte R. Key
 being duly sworn, de-
 poses & says he served a true copy
 of this Declaration & Notice on Samuel
 P. Whiting, on the 4th day of October
 A. D. 1857, that said Samuel P. Whiting
 was at the time in possession of said
 land.

C. R. Key -
 Sworn & Subscribed before me, the
 Clerk of the Circuit Court in & for
 the Co. of Knox, this 4th day of Oct,
 1857. Cephas Arms. Clerk

The foregoing is all the proof
 offered in evidence on the trial of this
 cause, and thereupon the said cause
 was submitted to the Court, and the Court
 thereupon then and there, found the issues
 in said cause in favor of the Defendant
 and against the Plaintiffs, and then
 upon then and there the Plaintiffs moved
 for a new trial Trial in said cause,
 & the Court then & there overruled said
 motion, and the Plaintiffs then retired,
 to the decision of said Court, in
 overruling said motion for a new
 Trial, then and there objected & Except-
 ed, and thereupon the Court ren-
 dered Judgment for the Defendant,
 to which decision of the Court, in
 rendering said Judgment, the

Plaintiff's clerk and then excepted -
That the matter aforesaid
might be made a matter of Record,
I, the Judge of said Court have caused
to be signed and Sealed this Bill of
Exceptions. Given under my hand
and Seal this 12th day of Novem-
ber 1861.

L. B. Lawrence *Clk*

Filing on Bill of Exceptions.

"Filed November 14th 1861."

"J. H. Lewis, Clerk"

State of Illinois
Knox County *ss.* vs. John H. Lewis,
Clerk of the Circuit
Court in and for said County. do hereby
certify that the foregoing is a true and
complete copy of the Record and pro-
ceedings in the case of Alexander Douglas
and Alfred M. Craig, against Samuel
P. Whiting, in Ejectment, as the same
appears from the files and Records
of my Office.

In testimony whereof I
have hereunto set my hand
and affixed the seal of said
Court, at Knoxville, this 24th
day of March A.D. 1862.

By John H. Lewis, Clerk
By J. Wilfong Deputy



Fee \$6.95

29

Paid for this Record from Douglas
Hraig six dollars & 50 cents,
By J. H. Lewis Clk
By J. M. Pleas Klep

And now come the said Lewis
Douglas & Hraig by
Manning Douglas Hraig their
Attorneys and assign the following
in Causes of Error upon
this Record:

- 1st The Court erred in putting
the issues in said Cause for
the Defendant against the
Plaintiffs
- 2^d The Court erred in refusing
a new trial to the Plain-
tiffs.
- 3^d The Court erred in rendering
a judgment against the
Plaintiffs & in favor of the
Defendant upon the issues
& ^{proof} said Cause.

Manning Douglas Hraig
Atty for Plaintiffs in Error

Supreme Court of the State of Illinois
April Term A.D. 1842

The Clerk

It in Error Comes And Says that there
in Dr Rich Errors in said Record
as the said Office in Error have
assigned and pray that the said
Judgment may be affirmed
Almon Tyle
Atty for Dr. v.
in Error

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April 10, 1862
Alexander Douglas

James P. Whitney
Record

Filed April 10, 1862
L. Leland
Clerk