

Jefferson County Circuit Court
Case Files - Civil
June 1864

Box 15 Folder 37

Bell, William H.

1/5.

Cowan, John Epps

Injunction

Enjoin cutting of timber on or instituting
any action for possession of 844 acres,
Surveys 2005, 2009 on Mississippi River; change
of venue to St. Louis County

Know all men by these Presents, that
We William H. Bell as Principal, Basil H.
Alexander and Charles Coleman as Execu-
tives, all of the County of St. Louis Missouri,
are held and firmly bound unto John Epps
Cowan of the County of Jefferson Missouri,
in the sum of one thousand Dollars lawful Mon-
ey of the United, for the payment whereof well
and truly to be made we bind ourselves, our
Heirs Executors and Administrators, firmly, by
these Presents -

Sealed with our Seals - Dated April 15th 1864 -
Whereas the said William H. Bell is about to
apply for a Writ of Injunction against the said
John Epps Cowan, to be issued out of the Circuit
Court of Jefferson County, to restrain the commis-
sion of certain trespasses as set forth in the
Petition upon which the same is prayed, in a
suit wherein the said William H. Bell is plain-
tiff and the said John Epps Cowan is Defendant,
in the Circuit Court of Jefferson County -

Now therefore, if the said William H. Bell
Plaintiff, will abide the decision which
may be made thereon, and pay all sums
of money, damages and costs, that shall
be adjudged against him, if the Injunction
shall be dissolved, then the above obli-
gation, to be void, otherwise to be and
remain in full force and virtue -

In Witness whereof We have hereunto
set our hands and Seals the day and
year first above written -
In presence of -

}

Wm. Bell - Seal
B. W. Alexander Seal
Charles S. Coleman Seal

I approve of the sufficiency of the foregoing
Bond & of the security therein -

Jas. W. Owens Judge of the 9th
Judicial Circuit Missouri

Filed April 23rd 1864

Edw. J. McCreary

Reland

To John Epps Cowan.

Sir.

You will please take notice, that on the 13th day of April A.D. 1864, at the hour of 12 o'clock M, or as soon thereafter as Counsel can be heard, at the Court House in the Town of Union in the County of Franklin State of Missouri, an application will be made by me to the Circuit Court then & there^{to be} held to grant an order for an Injunction against you, to prohibit you from committing Trespasses upon certain Lands situate in Little Rock Township, Jefferson County, in the State of Missouri and known as Surveys Nos 2003 and 2008 situate in said Township, and particularly described in a Petition wherein William H. Bell is Plaintiff and you are Defendant, in the Circuit Court of Jefferson County Mo., which will be then & there presented, and upon which such order will be asked, or for such other or further order as to said Court may seem proper in the premises.

Yours &c

April 4th 1864-

C. D. Coleman
Atty for Wm H. Bell

State of Missouri
County of St Louis:

Wm. P. Wheeler being by me
duly sworn deposes & says, that he served a notice,
of which the within is a true copy, upon John Epps
on the 4th day of April A.D. 1864.
however, by delivering the same to him at his
residence in Jefferson County Mo.

Wm. P. Wheeler

In witness whereof I have hereunto set my
hand and affixed my seal of office at the
City of St Louis this 5th day of April A.D. 1864,

Norman J. Robinson

Notary Public

St Louis Mo

Mo.

Filed April 23^d 1864

Elias J. Honey

William H. Bell
Plff

vs

John Epps Cowan
Def.

In the Circuit Court
of Jefferson County Mo.
June Term 1864-

Jefferson County vs:
The

Plaintiff states and shows unto the Court, that he is the owner in fee Simple of the Lands and premises hereinafter described, situate, lying and being in the said County of Jefferson and State of Missouri, to wit: Survey No 2005, fronting on the Mississippi River confirmed to David Wise under Francis Leclair, containing two hundred and forty acres, equal to two hundred and four $\frac{1}{10}$ acres; and Survey No 2009, confirmed to William Smirl containing Six hundred and forty and all being in Township No 42 Range No 6 of said County of Missouri; the Plaintiff further states, that he has been such owner of the entire interest in all of said premises, since the 30th day of May, A.D. 1849, and of the whole interest in all of said premises except two eighth parts ~~of~~ of the South half of said Survey No 2005, since long prior thereto, and that this Plaintiff and those under and from whom he claims said premises have been in the actual, exclusive and notorious possession thereof for the period of about thirty years last past, except as hereinafter stated and set forth;

and that this Plaintiff is now in the actual possession of said entire premises except as hereinafter also set forth, that prior to and returnable at the October Term of this Court A.D. 1858, an action for the Partition of said Survey No 2005, and of the South East corner of said Survey No 2009, was, at the instance and by the instigation of the Defendant, & for his alleged benefit, commenced in this Court against this Defendant in the name of Adaline Spore and others, being No 36 of said October Term 1858 in this Court, as by reference to the Papers & Records in said cause will more fully and at large appear, and to all of which the Plaintiff prays leave to refer for greater certainty, if it shall be necessary for him so to do; that said action has never been brought to trial, and has never, to the knowledge or belief of this Plaintiff been in readiness for trial on the behalf of said Plaintiffs; that said action, as also another one hereinafter described, in relation to the same premises, has been, on motion for a change of venue therein, on the part of the Plaintiffs therein, ordered to be transferred for trial, to the Circuit Court of St. Louis County, but the transcripts thereof have never been filed in the St. Louis Circuit Court to the knowledge or belief of this Plaintiff.

that such applications for a change of
venue in said causes were so made and
determined, at the June Term of this Court
A.D. 1863, and that the said Superior Circuit
Court is now engaged in holding a Second
Term thereof, begun since the order granting
such change of venue was so made in said
causes; that various amendments have
been made in the Petitions of the Plain-
tiffs in said causes, in changes of Parties
and otherwise, all of which will appear
by reference to the Papers therein; that at
the November Term of this Court for the
year A.D. 1860, an action for the recovery of
the possession of the same premises so sought
to be partitioned, as aforesaid, was commen-
ced in this Court against this Plaintiff &
one Lewis K. Waters, by the said Adeline
Spore and others, and in which action
the said Defendant is named as Plaintiff
and during the pendency of said Partition
proceedings; that such last mentioned ac-
tion was so begun and has been prosecuted
as far as the same has been prosecuted, at
the instance, and for the alleged benefit of,
the Defendant in this action; that this
action has never been, in readiness for
trial, on the behalf of the Plaintiffs therein,
to the knowledge or belief of this Plaintiff

and an order has been granted by this Court, ordering a change of venue in said action to the Circuit Court of St. Louis County, which order was so made at the June Term of this Court A.D. 1863, but the papers therein, or a transcript thereof have not and has not been filed in the said St. Louis Circuit Court, to the knowledge or belief of this Plaintiff; that there has also been one action of Unlawful Detainer been prosecuted to a final judgment in this Court, on the behalf of this Plaintiff against the said Defendant, for occupation of the premises herein before described, and another action of a like nature in favor of this Plaintiff against some person whose name is not now recollected but who entered under, and defended said action, at the instance and for the benefit of the Defendant herein, also for a portion of the premises above described, in which a final judgment was rendered in this Court, in both of which actions such judgments were rendered in favor of this Plaintiff, as by reference to the record and proceedings therein, and both of which this Plaintiff prays leave to refer for greater certainty if it shall be necessary for him so to do; that another action is now pende-

being undetermined in this Court by this Plaintiff against the Defendant for the alleged unlawful detraction of a portion of said premises so as above described, And various other actions of trespass in relation to said premises have been begun by the said Defendant against a person then in the possession of a portion of ~~the~~ premises belonging to this Plaintiff adjoining the premises above described, ~~and by~~ as a Tenant of Plaintiff, and having a general charge of and Supervision over the premises above described, as also by said Tenant against this Defendant, all of which were terminated by the death of said Tenant, as this Plaintiff is informed and believes; that the said Defendant has been and still is, as Plaintiff is informed and truly believes, at various periods of time, engaged in cutting upon, and hauling from said premises wood and timber, by himself and his Servants and employees, within & during the last three or four years, and has, during said period of time cut and carried away from said premises a large quantity of wood and timber, to wit: Several hundred cords of wood, and Several thousand feet of timber of great value, to wit: of the value of ~~the~~ ^{the} thousand dollars or over;

that said Defendant has had one or more small patches of said premises enclosed, at various times, by a temporary fence of poles, and has cultivated a small patch of Strawberries thereon; that, at times, he has claimed to be in the possession of a portion of said premises, and at other times, when prosecuted for the recovery of the possession of the same would deny that he ever had or claimed to have the possession of any portion thereof; that the various trespasses and constant encroachments of the Defendant upon the premises of the Plaintiffs as above described, will render it necessary for the said Plaintiff to commence various other actions against the Defendant in relation to said premises and for trespasses committed thereon, and for the unlawful entry upon and unlawful detraction of certain portions thereof, unless the said Defendant shall be restrained by an order or injunction issuing out of and under the Seal of this Honorable Court, restraining him from entering upon, trespassing upon or detaining possession of said premises or any part thereof until a final determination of such Partition and Ejectment proceedings, or until said Defendant shall have, in some other

manure, only some other means estab-
lished his right to enter upon and hold the pos-
session of said premises or some part thereof;
that the said Defendant is wholly and
entirely insolvent and no damages for
the trespasses and injuries committed by
him can be recovered of or from him by
legal proceedings; that the said Defen-
dant gives out and threatens, and has
given out and threatened, that he would
and will continue to thus trespass upon
and hold possession of said premises, and
will procure from the proceeds of such
trespasses, the necessary means to
carry on and defray the expenses of
such various litigation; that this Plain-
tiff is entirely responsible and solvent for
any and all damages which the said
Defendant can sustain, providing he
shall be entitled to recover all that he
and his co-plaintiffs claim in such pro-
ceedings in Partition and Ejectment, in-
dependent of the premises in question;
that all of the actings and doings of the
said Defendant in the premises are against
equity and good conscience, and are done
and committed, in a manner, not only
with a view of shielding himself from lia-
bility and punishment, but also for the

purpose of harassing and oppressing
your Petitioner, and without any rea-
sonable, probable, or justifiable cause
or causes whatever, that your Petitioner
is wholly and entirely remediless in the
premises at and by the course of the
Common Law, and can only be relieved
in Equity, where such matters are properly
cognizable and can be redressed.

In tender consideration of the premises,
and inasmuch as your Petitioner cannot
obtain full and adequate relief and redress
at at by the course of the Common Law, he
humbly prays this Honorable Court, to grant
him an order of Injunction out of & under
the Seal of this Court, whereby and by which
the Defendant shall be restrained and
prohibited from entering upon the said
premises or any part thereof, and from cutting ^{upon}
or carrying away any wood or timber from
said premises or any part thereof, and from
committing any other trespasses upon said
premises or any part thereof; and also from
commencing any actions or proceedings
in relation to said premises or any part there-
of against this Plaintiff or any person or
persons holding or occupying the same or
any part or parts thereof under this Plaintiff
until the final determination of such

Proceedings in Partition and Ejectment,
hereinbefore set forth and referred to, and
until the final determination of this
action, or such other time, as to the Court
shall or may seem proper in the premises;
and that this Plaintiff may have a Decree
and Judgment of this Court, quieting his
title in and to, and his possession of said
premises and every part thereof, and that
he may have such other and further
Decree, Judgment and relief in the prem-
ises as the nature of the case shall or
may require, and to the Court shall
or may seem proper -

C. Coleman
Plffs atty.

St. Louis County ss:

William H. Bell Plaintiff.

makes oath and says, that he believes the
foregoing Petition and the matters therein
as stated to be true -

W. H. Bell

Sworn & Subscribed before
me this 11th day of February
A.D. 1864 at my office -

Norman Hogan
Notary Public
St. Louis Co Mo

William H. Bell

vs

John Epps Cowan

Before the Circuit Court of
Franklin County April 15th 1864

It appearing satisfactorily
that reasonable notice in writing has

been given to the above within named defendant -

It is ordered that upon the filing of the within Petition
and upon filing the Bond hereto annexed, that an
order or writ of Injunction be issued out of and under
the Seal of the Clerk of the Circuit Court of Frank-
lin County, in accordance with the Prayer of
the within Petition, and such clerk is directed
to issue such Injunction.

Saml M. Morris Judge of
9th Judicial Circuit
of Missouri

William H. Bell

vs }
John E. Cowan

John E. Cowan

Filed April 23rd 1864

Edw. J. Horney
Clerk

1620

State of Missouri }
County of Jefferson }

In the Jefferson County
Circuit Court.

In Vacation April 23rd 1864

William H. Bell Plaintiff

against

John E. Cowan Defendant }

The State of Missouri

To the Sheriff of
the County of Jefferson, Greeting:

Whereas, the above named Plaintiff
William H. Bell, has this day, filed in
the office of the undersigned Clerk of
said Court, an order from the Judge
thereof, and his petition and Bond
for a restraining order or writ of
Injunction against the said defend-
ant, John E. Cowan; and his servants
and employees;

You are hereby comman-
ded that you give notice to the said
John E. Cowan, his servants and
employees; that he and they are hereby
ordered, restrained and enjoined,
from entering onto or upon, cutting
and carrying away from Survey
No 2003, fronting on the Mississippi

Rever, confirmed to David Wise under
Frances Le Barge, containing two hun-
dred ^{and forty} acres equal to two hundred and
four ⁴⁰⁰ acres: And Survey No 2009
confirmed to William Smith, containing
six hundred and forty acres, all in
Township No 42. Range No 6 East in
said County, any wood timber or other
appurtenances thereunto belonging or
upon any part or parts thereof
And also from commencing any
action or proceeding in relation to
said premises or any part thereof
against the Plaintiff or any person or
persons holding or occupying the
same or any part thereof under this
plaintiff. until further orders had and
obtained from the Court at their peril
You are further commanded that you
return this writ to our said Court house
on the first day of the next term thereof
to be begun and held on the second Mon-
day after ~~the~~ fourth Monday in May
next, and that you certify how you
execute this writ

In Witness whereof I have
herein set my hand and
affixed the Seal of said



Court at office in Hillsboro this
23 day of April A D 1864
Elias J Honey Clerk
Circuit Court



The State of Missouri, } ss.
COUNTY OF JEFFERSON.

To the Sheriff of the County of Jefferson---Greeting:

We command you, that you summon *John Epps Conner*

if he be found in your County, that he
be and appear before the Hon. Judge of our Circuit Court, on the first day
of the next term thereof, to be begun and held at the town of Hillsboro, within
and for the County of Jefferson, on the second Monday after the fourth
Monday of *May* next, then and there to answer unto
William H. Bell

upon *his* original petition, a copy whereof is hereunto annexed and ac-
companies this writ, and have you then there this writ.

Witness, ELIAS F. HONEY, Clerk of our said Circuit
Court, with the seal thereof hereunto affixed, at office
in Hillsboro, this *Twenty third*
day of *April* A. D. 1864

Elias F. Honey
Clerk Circuit Court.



TO JEFFERSON CIRCUIT COURT

Quare Saml, 1864

William H. Bell

vs. } Summoners

John E. Corcoran

J B Dowerd Sheriff \$1.00

I. Executed this writ at the County of Jefferson
State of Missouri on the 13th day of May 1864 on
John E. Corcoran by Delivering to him a
true copy of this writ and annexed petition
as furnished me by the Clerk.

James B Dowerd Sheriff

William H. Bell plaintiff } In the Circuit Court
vs. } of Jefferson County
John Epes Cowan defendant }

The defendant for answer to plaintiff ^{and the matters as therein stated} petition denies that the plaintiff is the owner in fee simple of the land described in his petition as Survey No. 2005 containing two hundred and forty arpents equal to two hundred and four $\frac{1}{100}$ Acres; the defendant also denies that plaintiff is the owner of Survey No. 2009 containing six hundred and forty acres, in township No. 42 Range No. 6 East in Jefferson County. And defendant denies that the ~~plaintiff~~ ^{plaintiff} ~~defendant~~ has been the owner of said land as stated by him since the 30th day of May 1849. with the exception of $\frac{1}{8}$ parts of the South half of survey No. 2005. The Defendant also denies that the plaintiff has been in the actual exclusive possession of the said lands for the period of thirty years.

It is true that the defendant commenced a suit against Bell and others ^{and another suit for the possession of said land} for partition, as stated by ^{plaintiff} him; it is also true that the venue of said suits ^{for partition} was changed by him; it is also true that the suit brought for the possession of the land was upon the application of the defendant removed to St. Louis County and that changes have been made in the parties to the suit. But the defendant says that the said suits and actions so brought and removed

were brought upon titles which he, was advised
by Counsel were good in law; it is also true
that there have ~~also~~ been ~~an~~ actions of unlawful
detainer brought and prosecuted as stated by plain-
tiff and it is also true that another action, is pending
of unlawful detainer as stated by plaintiff; defend-
ant admits that he brought an action of trespass
as stated by plaintiff, but denies that he brought more
than one ~~trespass~~ ^{suit}.

The defendant denies that he has cut
wood in such quantities as plaintiff has alleged
though he admits that ^{he} has cut some wood upon
the land in question; but defendant denies that he
was at the time ~~at the time~~ of the commencement
of this suit cutting timber or wood on the said
land or removing any timber or wood from the
said land. Defendant says that he had not
been cutting wood or timber upon the said land
for months before the commencement of this suit
nor did he intend nor does he intend to threaten
to cut wood or timber upon the said land or com-
mit any other kind of waste upon the said
land; and he denies that the wood so admitted
to have been cut by him as aforesaid was worth
the sum of One thousand dollars or any such
sum.

The Defendant admits that he
has enclosed a small portion of said lands
and has occupied and possessed the same;
but he says he did so under claim of right and
title to the said land.

Defendant says it is not true that when actions were prosecuted against him, "he would deny that he ever had or claimed to have the possession of any portion thereof" And the defendant denies that any acts of his in relation to the said land ^{or made} make it necessary for the said plaintiff "to commence various other actions against the defendant in relation to the said premises and for trespasses committed thereon and for unlawful entry upon and unlawful detainer of certain portions thereof, unless restrained by an order or injunction. And defendant denies that it is necessary or was necessary at any time to issue an injunction to restrain him from committing trespasses or waste upon said lands or any part of them; and defendant says that the order for an injunction made by this Court in this cause was improvidently improperly and illegally made, and that the same ought to be dissolved. And he prays that the same may be dissolved, and that damages may be adjudged to him according to Law: And having fully answered the matters in the Plaintiffs petition material proper and necessary to be answered as he is advised by Counsel he prays that the said order and writ of injunction made and issued against him may be dissolved, and he also prays that the Court may be pleased upon the dissolution of the injunction

to assess and adjudge to him damages and costs sustained and incurred by him by reason of the improvident and wrongful prosecution of the plaintiffs pretended right to restrain him the defendant from the doing of acts which there was no evidence to show the Court he was about to do.

Davis & Coans.

Sols for deft.

Jefferson County }
State of Missouri }

John Epes Cowan the above named defendant makes oath and says that he believes the foregoing answer and the matters as therein stated are true.

Sworn to and subscribed }
before me this 7th day of }
June AD 1864.

J. Epes Cowan

E. F. Honey clerk

per J. Ed. Walker D.C.

William A. Cole

Es

John E. Howard

Sept answer

Sept June 7th 1864

To J. H. Honey Colto

Answer to Howard
Colto. for Sept

PROVOST MARSHAL'S OFFICE,
FIRST DISTRICT OF MISSOURI.

St. Louis, Aug. 27th 1864

Sir

I have received the enclosed application, with your note, and if agreeable to you, I will be glad to have the case referred outwards -
to this County -

Very Respectfully

C. D. Coleman

Hon

J. M. Owen

William H. Bell } In the Circuit Court
vs } of Jefferson County State
John C. Cowan } of Missouri.

To the Honorable James M. Owens Judge of
the Circuit Court of Jefferson County.

Your petitioner John C. Cowan
the defendant in the above entitled cause, respect-
fully represents that he has good reason to believe
and does believe and so charges the fact to be, that
the judge of said Circuit Court of Jefferson County
is prejudiced in favor of the plaintiff, and
against this petitioner in this cause; and that
your petitioner believes, that he cannot have a
fair trial, of said cause, before said James M.
Owens judge as aforesaid, and therefore prays
a change of venue of the above entitled cause
as by Statute in such case is made and provided

Lewis & Evans

Attys for deft.

State of Missouri }
County of St. Louis } ss.

John C. Cowan the above
named petitioner makes oath and says that he
believes the foregoing petition and the matters and
facts as therein stated are true.

Sworn to and subscribed before me

This 27 day of August AD 1864.

Isaac Thornburgh Clk

J. E. Brown

In testimony whereof I here set my hand and
affix seal of Circuit Court at office in City of St
Louis the date last above written

Isaac Thornburgh Clk



Willam H Bell Plffs } In the Circuit Court
y } Jefferson County Mo.
John E Cowan Dft.

Application for a change
of venue,

at Chambers, Washington Mo.

The defendant in the above entitled cause
Leaving this day presented to me a petition
setting forth the cause of his application
for change of venue and annexed
thereto an affidavit to the truth of the
petition and reasonable notice having
been given the adverse party.

It is therefore ordered, that a change
of venue in the above cause be awarded
to the Circuit Court of St Louis County
Missouri

Given under my hand this 1st day
Sept 1864

John M. O'Leary Judge of the
9th Circuit Mo.

Filed Sept 5th 1864
Edward S. Moorey
Clerk

House changed to Glouce County
Deer Creek Court. by order of the judge
Sept. 1st 1864.

Cash Honey Creek
\$13 seven shillings

6.00
2.00

\$8.00