

Sweep Through History

“Your Day in Court: Bleeding Kansas Style”

Script

Bailiff: All rise! (*Everyone stands.*) The 3rd United States Judicial District Court is now in session, the Honorable Judge Joseph Williams presiding. (*Judge Williams enters and sits.*)

Judge: You may be seated. (*Everyone sits.*) The clerk will now swear in the jury.

Clerk: (*Stand.*) Will the members of the jury please stand and raise your right hands? (*Jury stands and all raise right hands.*) Do you swear you will reach a fair verdict based only upon what you hear in court today?

Jury: We will.

Clerk: You may be seated. (*Return to seat. Jury sits.*)

Judge: Mr. Southwood is suing Mr. Stone for (1) trespass of land claimed to be owned by Mr. Southwood and (2) violation of the rebellion act. Are the attorneys ready?

Attorneys: We are, Your Honor.

Judge: The plaintiff will make an opening statement.

Pl. Attorney: (*Stand and address jury.*) Good day, members of the jury. I serve as attorney for Mr. Southwood. The evidence will show that Mr. Southwood was forced out of his home by Mr. Stone. By doing so, the defendant is guilty of trespass of Mr. Southwood’s property and guilty of the rebellion act.

Def. Attorney: (*Stand and address jury.*) Good morning, gentlemen, your honor. I intend to prove to you that my client, Mr. Stone was compelled to leave his home in September 1856, due to the Clarke raid and after crossing into Missouri he was forced by border ruffians to sign a bill of sale for his property. In June 1857, Mr. Stone, returning to his claim, found it in use by a pro-slavery preacher named Mr. Southwood. Mr. Southwood stated he purchased the land from Mr. Jobe, a

distant relative. Mr. Stone, in order to contest this illegal seizure of his property, put up another house for his residence.

Judge: At this time, the plaintiff will call the first witness.

Pl. Attorney: (*Rise.*) The plaintiff calls Mr. Southwood.

Bailiff: Mr. Southwood to the stand. (*Mr. Southwood comes forward to witness stand.*)

Clerk: (*Stand.*) Raise your right hand. (*Mr. Southwood raises his right hand.*) Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Southwood: I do. (*Clerk sits. Mr. Southwood sits in witness stand.*)

Pl. Attorney: Please tell the jury your story, Mr. Southwood.

Mr. Southwood: In early Spring, I purchased land from Mr. Jobe. After buying the land, I moved into a house that was on the property and planted crops. In June, Mr. Stone and his family moved onto my property saying that he was the owner and that he was forced to move last fall. I figured that the law is on my side, and I let him live on my land until the courts decide in my favor.

Pl. Attorney: Tell us how you were forced off your property.

Mr. Southwood: After Mrs. Stone and my wife got into a little fight down by the well, I was notified by an illegal court called the “squatters’ court” that I had to leave my farm in just a few days. This “squatters’ court” claims they are unable to get true justice in the regular courts, especially in Fort Scott. Fearing for me and my family’s lives, we left our land.

Pl. Attorney: And what about your property now?

Mr. Southwood: I hear that Mr. Stone, with the help of his friends, moved into the house I was living in.

Pl. Attorney: Thank you, Mr. Southwood. (*Sit.*)

Judge: Does the defense wish to cross-examine the witness?

Def. Attorney: (Stand.) Mr. Southwood, are you a pro-slavery man or a free-state man?

Mr. Southwood: Pro-slavery.

Def. Attorney: Please tell us in more detail about the fight between your wife and Mrs. Stone?

Mr. Southwood: We both shared one well and my wife and Mrs. Stone were getting water at the same time and got into a fight.

Def. Attorney: Do you deny that your wife attacked Mrs. Stone while at this water well and knocked her down with a handspike, and dangerously beat her?

Mr. Southwood: No.

Def. Attorney: I have no further questions. (Sit.)

Judge: The witness may step down. (Mr. Southwood steps down.) Does the plaintiff wish to call another witness?

Pl. Attorney: (Stand.) The plaintiff calls George Clarke.

Bailiff: George Clarke to the stand. (Mr. Clarke approaches the witness stand.)

Clerk: (Stand.) Raise your right hand. (Mr. Clarke raises his right hand.) Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Clarke: I do. (Clerk sits. Mr. Clarke takes the witness stand.)

Pl. Attorney: What is your occupation?

Mr. Clarke: I am register of the United States Land Office at Fort Scott. I have held that job since March 1857. I also used to be an Indian agent.

Pl. Attorney: What is your knowledge of the disputed property?

Mr. Clarke: I believe that Mr. Stone signed an order for the sale of his land.

Pl. Attorney: Please inform the court of territorial land laws pertaining to this case.

Mr. Clarke: My understanding is that Mr. Stone was gone from the land he claims for over six months, which, by law, means he lost any rights to that land.

Pl. Attorney: Do you have records of any title of land filed by Mr. Stone?

Mr. Clarke: No, sir.

Pl. Attorney: Thank you, Mr. Clarke. (Sit.)

Judge: Does the defense wish to cross-examine this witness?

Def. Attorney: (Stand.) Have you ever made a raid north of Fort Scott and drove off some free-state farmers?

Mr. Clarke: Yes, sir.

Def. Attorney: Will you explain to the court why you did this?

Mr. Clarke: What right does Mr. Stone and other free-staters have to dictate their free-state views when the government of Kansas Territory has already voted for slavery? We drove off these free-staters because we believe that they were and still are a threat to the established territorial government. Because of the free-state actions, United States troops have been sent to Fort Scott to keep them in check and to protect the citizens of Fort Scott.

Def. Attorney: Do you have records of any title of land filed by Mr. Southwood?

Mr. Clarke: No, sir.

Def. Attorney: So your belief is that the current territorial government is legal?

Mr. Clarke: I do.

Def. Attorney: Are you aware of the legality of the current territorial government being debated because of possible illegal voting from non-residents of Missouri?

Mr. Clarke: I am, but...

Def. Attorney: I have no further questions. (*Sit.*)

Judge: The witness may step down. (*Mr. Clarke steps down.*) Does the plaintiff wish to call another witness?

Pl. Attorney: (*Stand.*) The plaintiff calls John Little.

Bailiff: John Little to the stand. (*Mr. Little approaches the witness stand.*)

Clerk: (*Stand.*) Raise your right hand. (*Mr. Little raises his right hand.*) Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Little: I do. (*Clerk sits. Mr. Little takes the witness stand.*)

Pl. Attorney: What is your job?

Mr. Little: I serve as deputy marshal of Bourbon County.

Pl. Attorney: Mr. Stone is here in court today for two different charges. We all know that he is charged with trespass on Mr. Southwood's property. The court needs to decide for this charge who actually has property rights for the claim. The other charge is for the rebellion act. Please explain what this is.

Mr. Little: The rebellion act was passed by the territorial legislature in February of this year. It makes it a crime for two or more people to get together for the purpose of resisting enforcement of the law.

Pl. Attorney: Knowing the intent of this law, do you feel Mr. Stone is guilty of the rebellion act?

Mr. Little: Mr. Stone and his friends forced Mr. Southwood to remove himself from the land they were jointly sharing. Mr. Stone is a member of a group of free-state men called the "Squatters Court". Therefore, I believe Mr. Stone is guilty of the rebellion act.

Pl. Attorney: Please explain to the jury what the Squatters Court is.

Mr. Little: The Squatters Court is an illegal organization resisting officers of the law. They have committed crimes against the laws of our territory, have driven men from their farms, and have arrested others and have tried them at an illegal court.

Pl. Attorney: Mr. Stone left his property in September 1856 and did not return until June 1857. What are the laws on property claims?

Mr. Little: I believe he loses any rights to any land claimed because he was gone for 9 months from this property.

Pl. Attorney: Thank you, Mr. Little. (*Sit.*)

Judge: Does the defense wish to cross-examine this witness?

Def. Attorney: (*Stand.*) Mr. Little, are you a pro-slavery man or a free-state man?

Mr. Little: Pro-slavery.

Def. Attorney: Do you know why the Squatters Court was formed?

Mr. Little: I've heard that the free-staters of that Court don't feel they get a fair trial here at Fort Scott.

Def. Attorney: And why is that?

Mr. Little: I'm not sure...

Def. Attorney: Could it be because most all of the court cases in Fort Scott favor the pro-slavery citizens?

Mr. Little: I don't know...

Def. Attorney: Thank you, Mr. Little. I have no further questions. (*Sit.*)

Judge: The witness may step down. (*John Little steps down.*) Does the plaintiff wish to call another witness?

Pl. Attorney: The plaintiff has no further witnesses. We rest our case.

Judge: Very well. The defendant will call their first witness.

Def. Attorney: (*Stand.*) The defendant calls William Stone

Bailiff: William Stone to the stand. (*Mr. Stone approaches the witness stand.*)

Clerk: (*Stand.*) Raise your right hand. (*Mr. Stone raises his right hand.*) Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Stone: I do. (*Clerk sits. Mr. Stone takes the witness stand.*)

Def. Attorney: When did you move to Kansas Territory?

Mr. Stone: I settled in Kansas in early 1856. I was forced to leave in September of that year. I returned to my property of June of this year.

Def. Attorney: (*Stand.*) You were forced to leave in September? Can you please tell why and where you went?

Mr. Stone: In September, I was forced to leave my home due to the George Clarke raid. After leaving Kansas Territory, about four miles into Missouri, a party of men stopped me and made me sign a bill of sale for my claim, crops, and property left over in Kansas. I signed it over to Mr. Jobe.

Def. Attorney: Are you aware that Mr. Jobe is related to Mr. Southwood?

Mr. Stone: That's what I hear. I believe that Mr. Southwood bought my land from Mr. Jobe and would only pay him for it if I didn't return.

Def. Attorney: Go on...

Mr. Stone: Since there were more of them than me and fearing for my family's lives, I signed away all I owned in Kansas. It wasn't fair so once things had cooled off, I planned on going back to my land with my family.

Def. Attorney: And when did you return?

Mr. Stone: June of this year. When I returned to my claim, I found it was being used by a pro-slavery preacher, Mr. Southwood.

When I returned, Mr. Southwood was using my house so about sixty of my friends and I built a new house on my land.

Def. Attorney: Do you feel you are guilty of trespass?

Mr. Stone: No. I was forced to sell my land after me and my family was threatened.

Def. Attorney: I have no further questions. (*Sit.*)

Judge: Does the plaintiff wish to cross-examine this witness?

Pl. Attorney: Mr. Stone, do you agree with Mr. Little's statement that you were gone for 9 months from the property in question?

Mr. Stone: About that. But I was forced...

Pl. Attorney: Thank you, Mr. Stone. (*Sit.*)

Judge: The witness may step down. (*Mr. Stone steps down.*) Does the defendant wish to call another witness?

Def. Attorney: The defendant has no further witnesses, Your Honor. We rest our case.

Judge: Very well. We shall now hear closing arguments.

Pl. Attorney: (*Stand and address jury.*) Members of the jury, as we have heard, Mr. Southwood was driven off his land by the so-called Squatters Court of which Mr. Stone is a member. Mr. Stone and about 60 of these his friends forced Mr. Southwood to leave his property, which he purchased from Mr. Jobe.

The plaintiff asks that you find Mr. Stone **GUILTY** of trespass on Mr. Southwood's land. After all, he was gone from that property for 9 months which is giving up his land claim. Mr. Southwood also asks you to find Mr. Stone **GUILTY** of the rebellion act since these members of the Squatters Court threatened Mr. Southwood and his family which was forced to come to Fort Scott for legal justice in court. Thank you. (*Sit.*)

Judge: The defendant will now give closing statements.

Def. Attorney: *(Stand and address jury.)* Mr. Stone was forced to move from his property. You heard testimony today from Mr. Clarke, register of the Land Office in Fort Scott, and the same man who led pro-slavery people in their quest to remove Mr. Stone and other free-staters from Kansas. If the rebellion act was in the books in 1856, wouldn't Mr. Clarke be found guilty of the rebellion act? Surely, it should have been against the law to drive a man off his own property just because of his political beliefs. I hope that you will keep this in consideration when reaching a verdict. Mr. Stone only returned to his property after he felt it was safe to do so. Is this trespass? Or is this sound judgment?

And being charged guilty of the rebellion act? This act is a false attempt by the pro-slavery territorial government to keep down free-staters. I am sure it will soon be repealed. I ask you to find Mr. Stone **NOT GUILTY** of trespass and **NOT GUILTY** of the rebellion act. Thank you. *(Sit.)*

Judge: Members of the jury, the plaintiff, Mr. Southwood, is suing Mr. Stone, the defendant on two different charges. It is your duty to decide whether Mr. Stone is **GUILTY** or **NOT GUILTY** of trespass and whether Mr. Stone is **GUILTY** or **NOT GUILTY** of violating of the rebellion act.

Narrator: At this time in a real trial, the Bailiff would lead the jury out of the courtroom to a private room where they would discuss the evidence. The Bailiff would stand outside until they agree on a verdict, then lead the jury back to the courtroom.

However, we want everyone to see the jury deliberation process so this jury will remain in the courtroom. **Let's listen quietly so as not to disturb the deliberation.**

(Jury deliberates. Bailiff stands near the jury to prevent possible jury tampering.)

Judge: Has the jury reached a verdict?

Foreperson: *(Stand.)* Yes, Your Honor, we have.

Clerk: The defendant will please rise. *(Mr. Southwood and Mr. Stone stand and face the jury.)*

Foreperson: We, the jury, find the defendant, Mr. Stone, of the charge of trespass, **GUILTY / NOT GUILTY**.

We, the jury, find the defendant, Mr. Stone, of the charge of violation of the rebellion act, **GUILTY / NOT GUILTY**.

*(If both are **not guilty**, skip to **CONTINUE HERE**.)*

*(**READ THIS IF EITHER VERDICT IS GUILTY**.)*

Judge: Mr. Stone has been found **GUILTY / NOT GUILTY** of trespass.

Mr. Stone has been found **GUILTY / NOT GUILTY** of the rebellion act.

This court is adjourned. *(Strike gavel twice.)*