

14001

No.

Supreme Court of Illinois

Christopher

vs.

Cheney

John Christopher Senior impleaded with
James H. Christopher and Jacob Christopher
vs

3 Error to Jersey County Circuit Court
Prentiss D. Cheney

State of Illinois, County of Jersey, ss
James H. Christopher

of lawful age being sworn in due
form of law on oath says, that he
personally knows William H. Anderson
and Oliver P. Powell who are proposed
by the plaintiff in the cause above
entitled as plaintiffs securities on
the bond required of plaintiff in said
cause on his application for a
supersedeas in said cause, that
said Anderson and Powell are
residents of said County of Jersey,
that ^{said} William H. Anderson is the
owner of real estate in said County
of Jersey to the amount of ten
thousand dollars or more and
above all incumbrances, and over
and above the amount exempted
by law from execution, which said
real estate consists of the following
lots and land situate within the
City of Jerseyville in said
^{Corporate limits of the}

County. viz: One Town Lot containing three acres of ground, with a large and commodious dwelling house, out buildings and Barn, and with fruit and ornamented trees and shrubbery - One Town Lot containing three acres of ground, in a good state of culture, adjoining above described first lot - And Thirty five acres of ground adjoining said two above described Lots, and being improved and in high state of cultivation - besides which ~~personal~~ real estate the said Anderson is the owner of Five thousand dollars worth of personal property more or less consisting of notes secured in part by Cords, and various other personally -

And that the said Oliver P. Powell is the owner of real estate in said County to the amount of Thirty thousand dollars or more and above all incumbrances and more and above the amount exempted by law from execution, which said lands consists of well improved farm lands, besides which real estate the said

County. viz: One Town Lot containing three acres of ground, with a large and commodious dwelling house, out buildings and Barn, and with fruit and ornamented trees and shrubbery - One Town Lot containing three acres of ground, in a good state of culture, adjoining above described first lot - And Thirty five acres of ground adjoining said two above described Lots, and being improved and in high state of cultivation - besides which ~~personal~~ real estate the said Anderson is the owner of Five thousand dollars worth of personal property more or less consisting of notes secured in part by cards, and various other personalty -

And that the said Oliver P. Powell is the owner of real estate in said County to the amount of Thirty thousand dollars or more and above all incumbrances and more and above the amount exempted by law from execution, which said lands consists of well improved farm lands, besides which real estate the said

Rodell is the owner of unincumbered
personal property ~~to the~~ to the
amount of eight thousand
dollars, and further this affidavit says
not

Jos. H. Christophe

Subscribed and sworn to before me this 28th
day of June A.D. 1871 as Minister my
hand and official Seal

N. C. Bayley Clerk



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John Christopher Ser
impleaded &c

or

~~Procurator D. Cheney~~

Affidavit

HILBERT

July

3

1871

R. A. D. WILBANKS

Clk

Refiled 4 June 1871

RAD Wilbanks

llb

**In the Supreme Court of the State of Illinois,
Southern Grand Division.**

JOHN CHRISTOPHER, Sen., Impleaded.&c.. } *June term, A. D.,*
PRENTISS D. CHENEY, } *1872.*

In pleading a failure of consideration, the rules require no greater accuracy than in any other defence. If the consideration is stated, and the manner of its failure, that is sufficient.

Taylor vs. Sprinkle, Breese 1.

Cornelius vs. Vanorsdall, Breese 5.

and numerous other decisions.

The defence of failure of consideration is given by Statute and the Court is to give it an equitable construction.

Gross Statutes, Ed. 1868, page 460, Sec. 10.

The defence attempted, is set up in three pleas substantially the same in their facts, and if either of them present a good defence, the Court should have overruled the demurrer.

Stacy vs. Baker, 1. Scammon, 417.

The note was not admissible in evidence, either under the special or common counts.

It was not admissible under the special count, because the whole of the contract was not set forth.

It was not admissible under the common counts, because the evidence did not show the execution of the note. The testimony was, "that the signatures to the note were the genuine signatures of the parties signing the same." Admitting that to be true, it does not appear who "the parties signing the same" were.

W. R. WELCH, and PALMER & PITMAN,

for Plaintiff in Error.

John Christopher Sumner
Duplicate de d r
01

Frederic D. Conway

Brief of Puffin Eri

14001

FILED
JULY 3
1871
A. A. O. WILBANKS
Clk.