

No. 14642

Supreme Court of Illinois

^E
Mar~~X~~

vs.

^F
Kup~~X~~er

STATE OF ILLINOIS,
SUPREME COURT,
THIRD GRAND DIVISION.

No. 180

J. W. Middleton & Co., Stationers, 96 Lake St.

And now comes the appeal by Seland &
Blanchard his attorney & says there is no error in
their records. Seland & Blanchard

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State of Illinois }
La Salle County } ss Pleas before the Honorable
Madison E. Hollister the
Judge of the ninth Judicial Circuit of the
State of Illinois, and the Presiding Judge
of the La Salle County Circuit Court at a term
of said court commenced and held at the court
house in Ottawa in said County on Monday the
2^d day of February A. D. 1863, the same being
the first Monday in said month of February
and of the Independence of the United States
of America the Eighty Seventh.

Present The Honorable Madison E. Hollister Presiding Judge
Absalom G. Stone Clerk
William R. Milligan Sheriff
David P. Jones State Attorney.

Be it remembered that on the 27th day of
January A. D. 1863. there were filed in the office
of the Clerk of our said Circuit Court, in a certain
cause wherein Hermann Kupper was plaintiff and
Nicholas ~~more~~ was defendant (the venue of said cause having
been changed from the County Court of said County to
our said Circuit Court) six certain papers of
the files & records of said County Court, which are
numbered in red ink in the margin & numbered from 1 to 6
generally set out in the words and figures
following to wit;

P. 2
(No. 1.)

(Precipice)

"State of Illinois }
La Salle County } County Court of said County
September term A. D. 1861.

Norman Kupfer

Nicholas Mare

} Assumpsit
Damages \$500.

The clerk of said Court
will please issue Summons in the above entitled
Cause.

Leland & Leland
attys for & off. "

(Declaration)

(No. 2.)

"State of Illinois }
La Salle County } County Court of said County
September A. D. 1861.

Nicholas Mare the defendant in this Suit
was Summoned to Answer Norman Kupfer the
plaintiff in this Suit of a plea of trespass on the case
upon promises - & thereupon said plaintiff by
Leland & Leland his attorneys complains for
that whereas the said defendant on the sixteenth
day of May A. D. 1861 at Peru Ill, to wit, at
said County, made his certain bill of exchange
in the words & figures following:

"Exche for \$305²¹ Peru Ill May 16th 1861
No 14476. At Sight of this my first of

3,
exchange (second unpaid) pay to the order of
R. G. Parks Esq, three Hundred & five & $\frac{21}{100}$ dolls
in funds current to-day value received and
charge to account of
A. Hoffmann & Gelpcke } Mick Marc "
Chicago Ills. }

and then & there delivered Said bill of exchange
to Rollin G. Parks to whom or to whose order
the same was therein made payable by the name
& description of R. G. Parks Esq - and thereby
the Said defendant then & there requested Francis
A. Hoffmann & Otto Gelpcke co-partners in business
under the name style & firm of Hoffmann & Gelpcke
by their Said joint name of Hoffmann & Gelpcke
to pay at sight of Said bill of exchange to the
order of Said Rollin G. Parks the Sum of three
Hundred and five dollars and twenty one cents
in funds current on the day of the date of Said
bill of Exchange, for value received - And the said
Rollin G. Parks, after the making & delivery
of Said bill of Exchange as aforesaid & before
the payment of Said Sum of money therein
specified any part thereof, to wit, on the
day & year aforesaid, to wit at Said County,
induced Said bill of Exchange to Said place
as follows: - "Pay H. Kupper Esq or order
R. G. Parks "

by which said indorsement he the said Rollin
G. Parks then & there ordered & caused the said

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Sum of money in Said bill of exchange specified
to be paid to said Plaintiff & then & there deliver
said bill of exchange so endorsed to said Plaintiff
And said Plaintiff avers, that afterwards, to wit,
on the twenty Second day of May A.D. 1861
to wit, at Chicago in Said State & at the
office of said firm of Hoffmann & Gelpcke
in said Chicago the said bill of exchange was
presented & shown to said firm of Hoffmann
& Gelpcke for payment thereof, & the said firm
of Hoffmann & Gelpcke were then & there requested
to pay said Sum of money therein specified
according to the tenor & effect of said bill of
Exchange - but that the said firm of Hoffmann
& Gelpcke did not pay, nor would, at the said
time when said bill of Exchange was so
presented and shown to them for payment
thereof as aforesaid or at any time before or after-
wards pay the same or any part thereof accor-
ding to the tenor & effect of said bill of Exchange
but then & there wholly neglected & refused to do
any of all which said several premises the said
defendant afterwards, to wit, on the day & year
last aforesaid, to wit, at said La Salle County
had notice: By means whereof the said defendant
then & there became liable to pay said Plaintiff
said Sum of money in said bill of Exchange
specified when & where the said defendant, should

5- He thereunto afterwards requested; & being so liable
the Said defendant, in consideration thereof, af-
terwards, to wit, on the day & year last aforesaid
to wit, at Said La Salle County, undertook &
then & there faithfully, promised Said Plaintiff
to pay him Said Sum of money in Said bill of
exchange specified when the Said defendant
should be thereunto afterwards requested - and
although afterwards, to wit, on the day & year
last aforesaid, Said defendant was duly re-
quested to pay the same, yet he refused & still
refuses to pay the same or any part thereof &
the same remains unpaid -

And also for that whereas the Said defendant
heretofore, to wit, on the fifteenth day of July A.D.
1861, to wit at Said La Salle County, was further
indebted to Said Plaintiff in a large Sum of
money, to wit, in the Sum of Five Hundred
dollars, for money heretofore lent & advanced
by Said Plaintiff to Said defendant at the
special request of Said defendant - & being so
indebted, in consideration thereof, the Said
defendant afterwards, to wit, on the day & year
last aforesaid, to wit, at Said County, under-
took & then & there promised Said Plaintiff
to pay him Said Sum of money when he should
be thereunto afterwards requested - and although
afterwards, to wit, on the Sixteenth day of July
A.D. 1861 Said defendant requested to

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pay the same, yet he refused & still refuses
to pay the same or any part thereof & the
same remains wholly unpaid - all of which
is to the damage of said Plaintiff of Five
hundred dollars & therefore he brings his suit
Leland & Leland

Plff's attys.

The original bill of Exchange above declared
upon (& a copy of which is contained in the
Special Count) will be offered in Evidence
under each Count of the foregoing narr.
L & L.

(Summons)

(No 3.)

"The People of the State of Illinois, To the Sheriff of our
County of La Salle, greeting. We Command you
that you Summon Nicolas Marc of his Shall
be found in your County, personally to be and appear
in our La Salle County Court, before our Judge thereof
on the first day of the next term of said Court, to be
held at the Court House in Ottawa, on the first Mon-
day in September next, at ten o'clock in the forenoon
there and there to answer unto Hermann Krupper
his plea of assumpsit to his damage of Five
hundred dollars. And have you then and
thus this writ, and the manner in which you
shall have executed the same.

In witness whereof, we have caused
the Seal of our said Court to be

Writs affixed and attested by Philo Lindley
our Clerk thereof at Ottawa, this 22nd day of July
1861

Recd
Ecc

Philo Lindley Clerk
Frank J. Crawford Deputy

(Enclosure on Summons)

Served by reading this writ to Nicholas Marc
this 22nd day of July 1861.

Deci Ser + ret 60
16 miles 80
\$1.40

Filed Sept 2. 1861.

Philo Lindley Clerk
F. J. Crawford Deputy

G. S. Waterman Shff. R

(Demurrer & Plea)

"

La Salle County Court

September Term A.D. 1861.

Nicholas Marc

vs

Nermann Kupper

Shff.

And now comes the Said defend-
ant by G. S. Oldridge his atty + defends + when
re & says that the first Count in Said Plffs declara-
tion is insufficient in law to be answered unto and
that he is ready to verify + wherefore he prays
judgment &c.

And as to the Second + other counts in Said
declaration the Said defendant says he did
not assume or promise in manner as the

Said Plaintiff hath therein alleged that he
put himself upon the Country &c.

G. S. Eldridge Defts atty.

And the Defts doth the like

Leland + Leland for Deff.

(No 5.)

(Copy of record from Co. Court)

"La Salle County Court September Term 1861.
State of Illinois
La Salle County ss. Record of the Proceedings, orders,
Judgments and Decrees held and
taken in and before the County Court in and for
the County of La Salle and State of Illinois
at a regular term thereof commenced and held
at the Court House in Ottawa on Monday the
Second day of September in the year of our
Lords one thousand Eight Hundred and Sixty
one and of the Independence of the United
States of America the Eighty Sixth.

Court met pursuant to law,
Present: Hon John C. Champlin Judge
Philo Lindley Clerk
En L. Waterman Sheriff:

It is remembered that on the 12th day of September
A.D. 1861, the same being one of the days of the

9. days of the September Term of Said Court, the following proceedings were had and entered of record in Said Court in the words and figures following to wit;

Herman Kipfer
vs
Nicholas Maro

Assumpsit

This day comes the defendant by George S. Eldridge his attorney and files his demurrer to the first count of Plaintiff's declaration herein whereupon comes the Plaintiff by Leland and Leland his attorneys and after hearing the arguments of counsel Said demurrer is sustained by the Court.

And on Saturday the 14th day of September 1861, the same being one of the days of Said term of Said Court, the following order was entered of records.

"
It is ordered that all causes not otherwise disposed of stand continued."

December 1861.

Presiding	D. Kimball Leland	Judge
	Samuel W. Raymond	Clerk
	Eni L. Waterman	Sherriff

10
Be it remembered that on Saturday the 14th day of
December 1861. the same being one of the days of
the December Term of said Court, the following
order was entered of records.

It is ordered that
all causes not otherwise disposed of stand continued.

March Term 1862

Pursuant Same as at the December Term 1861.

Be it remembered that on Friday the 7th day of March
1862 the same being one of the days of the March Term
of said Court for the year 1862. the following
proceedings were had and entered of records
in the words and figures following to-wit;

Hermann Kuepfer

Defendant.

Nicholas Marc

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This day comes the Plaintiff
C. S. Leland his attorney and the defendant by
C. S. Elledge his attorney and a not pro
appeared in the Court and the plaintiff
and is by his declaration.

It is therefore considered and ordered
by the Court that said Defendant have judg-
ment against said Plaintiff for his costs herein
and that he have Execution therefor.

December Term 1862.

Present Now	D. Kimball Leland	Judge
	S. H. Raymond	Clerk
	Wm R. Mulligan	Sheriff.

It is remembered that on Monday the first day of December 1862. The same being one of the days of the December Term 1862. of said Court an order was Entered of record in the words and figures following

Norman Kupper of
is vs 2 Defendants
Nicholas Kane

This day it is ordered by the Court that the Venue herein be transferred to the Circuit Court of La Salle County, State of Illinois, the Judges of this Court having been of Counsel in this Cause.

State of Illinois, I Samuel W. Raymond Clerk of the County of La Salle County do hereby certify the above and foregoing to be a full record of the proceedings in the above entitled Cause.

Witness my hand and the Seal of said Court
the 27th day of January A.D. 1863.

S. H. Raymond Clerk

W. S. Easton Deputy

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(Certified Copy of Judgment in Supreme Court filed
in Circuit Court Nov 20. 1862 & in Circuit Court of LaSalle
County May 27. 1863)

(No. 6.)

" At a Supreme court, Begun and held at
Ottawa, on Tuesday, the 22nd day of April in the
year of our Lord one thousand Eight Hundred and
Sixty-two within and for the third Grand
Division of the State of Illinois:

Present, the Honorable John D. Caton Chief Justice

" " Sidney Breese Associate Justice

" " Pinkney H. Walker Associate Justice

Monday May 26th 1862.

Herman Kupfer

"

Appellant in Error

Nicholas Marc 3 County Court.

On this day came again
the said parties, and the Court having diligently
examined and inspected, as well the record and proceedings
aforesaid, as the matters and things therein assigned
in error, and being now sufficiently advised
and concerning the premises, are of opinion
that in the record and proceedings aforesaid, and
in the rendition of the Judgment aforesaid, there
is manifest error; Therefore, it is considered
by the Court that, for that error, and others in
the Record and proceedings aforesaid, the Judgment

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of the County Court in this behalf rendered, be reversed, annulled, set aside, and wholly for nothing esteemed, and that this cause be remanded to the County Court for such other and further proceedings as to law and justice shall appertain.

And it is further considered by the Court, that the said appellant recover of and from the said appellee his costs by him in this behalf expended and that he have execution therefor.

I Lorenzo Leland, Clerk of the Supreme Court of the State of Illinois, do hereby Certify that the foregoing is a true copy of the final order of the Supreme Court in the above entitled Cause, of record in my office.

In Testimony whereof, I have set my hand and affixed the seal of the said Supreme Court at Ottawa, this 20th day of November in the year of our Lord one thousand Eight hundred and Sixty Two.

L. Leland

Clerk of the Supreme Court

By J. B. Rice Deputy.

Be it remembered that on Tuesday February 3, 1863. The Court being one of the days of the February Term of said Court for said year an order was entered of record in said Cause, as follows to wit,

German Kupfer 3 Assumpsit.

Nicholas Moore 3 By agreement of parties is continued.

Filed November 20. 1862
S. H. Raymond Clerk

H. L. Leland

14 La Salle County Circuit Court June Term 1863

State of Illinois }
La Salle County } Pleas before the Honorable
Madison E. Hollister the Judge
of the Ninth Judicial Circuit of the State of Illinois
and the Presiding Judge of the La Salle
County Circuit Court at a term of said court
commenced and held at the Court House in
Ottawa in said County on Monday the Eighth
day of June A.D. 1863, the same being the second
Monday in said month of June and of the
year of the Independence of the United States
of America the Eighty Seventh.

Present The Honorable Madison E. Hollister
Presiding Judge

Abraham B. Moore Clerk

David P. Mills State Attorney.

Wm R. Milligan Sheriff.

Be it remembered that on the 9th day of June
1863. being one of the day of said June Term of
said Court the defendant by his counsel filed
pleas herein which are in the words & figures following
to wit;

"State of Illinois } In the Circuit Court in and
La Salle County } for said county June Term
A.D. 1863.

15,

Nicholas Marc

and

Herman Kupfer

And now comes the said
defendant by G. S. Eldridge
his attorney and defends
as to the first count in said

Plaintiff's declaration, and says that he did
not assume & promise in manner &c as in said first count
alleged and of this he puts himself upon the country &c

And for a further plea in this behalf the said
defendant as to the first count of said Declaration says
actio non because he says, that the words "funds
current" in the said Instrument in writing in said
first count mentioned, had a local signification
at the place where said Instrument was drawn, to wit at
Chicago in this State & generally throughout the State of Illinois among Ban-
kers and business men and was so generally
& ~~universally~~ understood to mean such Bank
notes of Banks in the State of Illinois as were
then in general circulation in the State of
Illinois, and which were then greatly below
par or their nominal value in gold and silver
and fluctuating in value from day to day all of
which was well known to the said Plaintiff
at the time of the receipt of said Instrument by
him, and understood by the drawer drawers
and payee of said Bill of Exchange at the time
of the making thereof, and

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was not in fact payable in lawful money and
and the said defendant is ready to verify & when
prays Judgment &c.

3 And a further plea in this behalf to said
first count, the said Defendant says acts now
because he says that at the time of the drawing
of the said draft or instrument was not in fact
in writing in said first count mentioned, the said
defendant had on deposit with the said firm
of Hoffman & Gelpcke the drawees thereof funds
sufficient to pay the same, but that interme-
diate the time of the drawing of said draft and
its presentation by the holder thereof to the payees
thereof at Chicago aforesaid for payment the said
payees failed in making payment and
became insolvent and in consequence of the want
of diligence of the holder of said draft in the pre-
sentation thereof to the said payees thereof for pay-
ment the said money so deposited with the said
payees of said draft for the payment thereof
became & was utterly lost to said Defendant
and this he is ready to verify wherefore he
prays Judgment &c.

G. S. Eldridge
vs. J. S. Sully -

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Be it remembered that on the 11th day of June
A.D. 1863 the same being one of the days of
the June Term of said Court for said year the
Plaintiff by his counsel filed in said Cause his
replication; to said defendants' ^(marked thus in book - Replication to 2^d plea) plea, which
replication is in the words & figures following
to wit;

"State of Illinois }
La Salle County } And Circuit Court
thereof to June Term
1863.

Norman Kupper
of
Nicholas Kupper } And now comes the
said defendant by Leland &
Blanchard his attorneys and says precludi non, because
he says that intermediate the time of drawing said
draft and its presentation by the Soldier thereof
to the payee thereof at Chicago for payment the
said payee did not fail in business or suspend
payment, nor was the money deposited by the defendant
(Kupper) so deposited, with the payee lost to said defen-
dant in consequence of the want of diligence of the
holder of said draft in the presentation thereof to the
payee, and this Plaintiff prays may be
adjudged of by the court.

Leland & Blanchard

18
Be it remembered that on the 11th day of June
1863, the same being one of the days of the
June Term of Said Court for Said year the plff
by his counsel filed in said Cause his demur-
to said defendants 3^d plea, which demur-
is in the words & figures following; viz;

"State of Illinois
La Salle County & And Circuit Court thereof
10 June Term 1863.

Nicholas Moore
as Demurrer.

Herman Krupfer And now comes
the said Plaintiff by Leland
& Blanchard the attorneys for the
said plea of the said defendant the
above pleaded is insufficient in law to bar the
Plaintiffs action and that he is not bound by law
to answer the same wherefore he prays judgment
Leland & Blanchard
attorneys. "

Be it remembered that on Thursday June 11th 1863
the same being one of the days of the June Term
of Said Court for Said year certain proceedings
were had in said Cause, and extent of record
in the words & figures following to wit;

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Herman Kupper
vs
Nicholas Mare

Assumpsit

This day the plaintiff
comes by Leland & Blanchard
his attorneys and the defendant by G. S. Eldridge
his attorney and after hearing the arguments of
counsel the Court sustains the plaintiffs demand
to the defendants second plea, to which decision
of the Court the defendant by his counsel abides.
It is therefore considered by the Court that judgment
be entered herein against the defendant on said second
plea.

Be it remembered that on the 18th of
June 1863. the same being one of the days of the said
June Term of the Court for the year 1863,
certain proceedings were had in said Cause and
entered of record in the words and figures following
to wit;

Herman Kupper
vs
Nicholas Mare

Assumpsit

This day the
plaintiff comes by Leland
& Blanchard his attorneys and the defendant
by G. S. Eldridge his attorneys and by agreement
of parties a jury is waived and this Cause is
submitted to the Court for trial; And after
hearing the testimony the Court gives the verdict

for the plaintiff and assess the damages at three hundred and forty one dollars and Eighty one cents.

Defendants attorney moves the Court for a new trial; which motion is overruled by the Court.

It is therefore considered by the Court that the plaintiff have and recover of the defendant the said sum of Three hundred and forty one dollars and eighty one cents for his damages also his costs and Charges by him herein expended and that he have execution therefor.

Defendants counsel now pray an appeal herein to the Supreme Court which is granted upon condition that the defendant within twenty days after the adjournment of this Court give an appeal bond payable to the plaintiff in the sum of Eight hundred dollars and the said bond to be approved by the Clerk of said Court - Bill of exceptions to be filed in the same time.

Be it further remembered that on the 23^d day of June AD 1863. the defendant files his certain bill of exceptions herein, in the words & figures following, to wit;

La Salle County Circuit Court
June Term AD 1863
Herman Kuyfer vs Nicholas Marc.

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Do it remembered that this cause came on to be heard
 tried upon the issues therein on the 18th day of
 June A.D. 1863, the same being one of the days of
 Said Term of Said Court & thereupon the same was
 by the agreement of parties submitted to the Court
 for Trial without a Jury, and that Plaintiff to
 maintain the issue on his part offered in Evidence
 an Instrument in writing or Bill of Exchange
 Set out in the first Count of the declaration in
 this Cause & the certificate of protest attached
 thereto, in the words and figures following —

("Exhibit A")

Exch^d for \$300-²¹ / 100th 1861
 No. 14476.
 my First of Exchange (unpaid)
 Pay to the order of R. G. Parks Esq. Three
 Hundred & five \$100 dolls in funds current to day
 Value received and charge to account of
 Hoffmann & Gelbocke Mel Marc
 Chicago Ills. "

(Enclosed on back)

" Pay H. Kupper Esq
 or order
 R. G. Parks "

County of Cook City of Chicago 3rd Do it known, That on
 May 21st 1861 this Twenty Second day of

Lord one thousand eight hundred and twenty one
 Alexander Siller, Notary Public, duly commissioned
 and sworn, and residing in the city of Chicago, in
 said County and State, at the request of Hoffmann
 & Gelpcke, did with the original draft which is
 attached hereto to the office of Hoffmann & Gelpcke
 and demanded Payment thereof which was refused
 in funds current with all banks.

Whereupon, I the Said Notary, at the request
 aforesaid, did protest, and by these presents do
 Solemnly protest, as well against the maker of
 said dft the endorser thereof, as all others whom
 it doth or may concern, for Exchange, re-exchange
 and all costs, charges, damages and interest, al-
 ready incurred, by reason of the non Payment of
 the Said dft. I the Said Notary
 do hereby certify, that on the 1st day of the year
 above written due notice of the foregoing Protest
 was put in the Post Office at Chicago, as follows:

Notice for Hoffmann & Gelpcke Chicago Ill

" for H. Baze Penn Ill

" for R. G. Parks

" for W. H. Kufes

W. H. Kufes Chicago Ill,

Each of the above named places being the ^{reported} ~~expected~~ place
 of residence of the persons to whom this notice was directed.
 In testimony whereof I have hereunto set my hand, affixed my official
 Seal, the day and year above written.

Alexander Siller Notary Public

to the reading of which Bill of Exchange in Evidence the deft by his Counsel then and there objected for the following reason that it appeared from the Endorsements upon the back of Said Instrument in writing or Bill of Exchange that the legal title thereto was not in the Plaintiff as alleged in the declaration - which endorsements upon the back thereof were respectively in the words following viz:

Pay H. Kupper & or over

R. J. Parks

Pay H. Warblocke or over H. Kupper

Whereupon the Plaintiff then and there struck out Said last Endorsement, to which the deft by his Counsel then and there objected & whereupon the Court permitted Said Plaintiff's counsel to strike out Said last endorsements and to which decision of the Court the Defendant by his counsel then and there excepted and whereupon the said Bill of exchange or instrument in writing was permitted by the Court to be read in Evidence in connection with the Statement of Alexander Siller taken in pursuance of the Stipulation aforesaid thereto & subject to the terms of Said Stipulation the deft by his Counsel in due time objecting to the reading in Evidence of Said Bill of exchange or Instrument in writing (just mentioned) & Statement of Said Siller for the further reason that the Said Statement of Said

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Siller showed an illegal & improper demands
of payment of said Bill of Exchange or Instru-
ment in writing, and that the defendant could
not be made liable upon such demands,
which said objection was also overruled
by the Court, and to the decision of the Court
overruling the same the deft by his counsel
in due time then and there excepted, and which
said Statement of Said Alexander Siller and
the Stipulation appended thereto are in the
words and figures following

Kupper } Alexander Siller being duly sworn
is } says that he resides in Chicago & is
Marc } a notary public in said City as
Such, on the 20th day of May
A.D. 1861 he presented the Bill of Exchange
in question in this suit to Hoffmann & Gelpcke
at their Banking House in Chicago & was instructed
by the Plaintiff agent to & did demand payment
thereof in such Bank notes as were received as
current by the Merchants Savings Loan & Trust
Company at Chicago & payment thereof was
offered in Illinois Bank notes current at most
Banks in Chicago at the drawing of this Bill
which the holder refused to accept whereupon
defendant protested said Bill for non-pay-
ment & due notice of non payment thereof was

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Sent to N. Ware the drawer thereof at Peru
Ill by mail on the same day. I have been
a Banker in Chicago for upwards of Seven
years in that business. it was universally understood
among Bankers & business men in Chicago that
Bill drawer payable in Current funds, or in
Currency meant Illinois Bank notes received
by the Banks at Chicago at par by all the
Banks then Except said State & Trust Company
that on the 18th of May 1861, Illinois Bank notes
through the action of the Rail Road Company
ceased to be a circulating medium except some
Six Banks of this State which continued
to be taken by the Banks at par & were
and were considered worth seventy to seventy
five cents in a dollar at the time
this Bill was drawn up to the time it was pre-
sented if the Bill was drawn on the 16th of
May.

Alexander C. Miller

The above may be used as evidence subject
to objection to its competency in the same way as though
it was stated by the witness on oath in the stand

Leland & Leland

for Diff.

G. S. Clamage

depts. atty.

This was all the Evidence in the case and
 whereupon the Court after hearing the arguments
 of Counsel, found the issues for the Plaintiff
 and assessed his damages at Three hundred
 and Forty one Dollars & Eighty one cents, to which
 finding & decision of the Court the Deft by his
 Counsel then & there excepted. and thereupon
 the Defendant by his Counsel entered a motion
 for a new trial, which said motion was then
 and there overruled & to the decision of
 the Court overruling said motion for a new
 Trial the Defendant by his Counsel then &
 there excepted & requested that this Bill of
 Exceptions might be Signed & Sealed by the
 Judge of said Court which was done by him in
 Court this 23^d day of July A.D. 1863 the same
 being one of the days of said Term of said
 Court.

M. C. Hollister J. (Seal)

Be it Reminded that on the 6th day of July
 A.D. 1863, the defendant filed his certain
 appeal bond herein in the words and
 figures following to wit;

I know all men by these presents that we Nicholas
 Ware and Frederick Hertel both of the County

27 of Cook in the State of Illinois are held and
jointly bound unto Norman Kupper in the several
sum of Eight Thousand dollars lawful money
of the United States of America, for the pay-
ment of which we bind ourselves our heirs
executors and administrators jointly and severally
jointly by this presents Sealed with our Seals
and dated this thirtieth day of June 1863.

The condition of this obligation is such
that whereas the said Norman Kupper lately
to wit on the 18th day of June A.D. 1863. recovered
a judgment against the said Nicholas
Marc in the Circuit Court of the County
of La Salle in Illinois to wit for the sum
of Three Thousand four hundred and
eighty one cents damages and Twenty four
dollars and fifty five cents costs

And therefore the said Nicholas Marc
having prayed and appeal from said judgment
in accordance with Statute, The condition of this
obligation is such, that if the said Nicholas
Marc shall pay or cause to be paid the said
judgment costs interest and damages in case said
judgment shall be affirmed and prosecute
his said appeal with effect then this obligation
to be void otherwise to remain in full force and
Effect. In witness whereof we have hereunto set our hands
and seals the day and year first above written.

W. S. Revenue
Stamp 50 cts

Nicholas Marc
J. K. Kupper

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State of Illinois } Frederick Hertel whose name
Cook County } appears to the above appear
Bonds being first duly sworn
doth depose and say that he resides in the city
of Chicago in said county and that he is
worth at least (3000) Three Thousand dollars
over and above all just debts and liabilities
and exclusive of all property exempt from
levy and sale upon execution.

Frederick Hertel

Subscribed & Sworn to before me this 30th day
of June A.D. 1863.

R. Schlofer

Notary Public

The foregoing bond approved by

State of Illinois }
La Salle County } I Charles J. Moore
Clerk of the Circuit Court
in and for said county do hereby certify that
that the above and foregoing is a true full
and complete copy of the papers on file
and of the record of proceedings had in
the foregoing Exhilar Cause.



Witness my hand and the seal
of said Court at Ottawa this
13th day of April A.D. 1864

A. B. Moore Clerk

C. H. Hook Deputy

#6. The Court Erred in Refusing Plaintiffs Leave to Replead please

Supreme Court of the State of Illinois
Nicholas Moore } Mad Hand Division
Appellant } April Term 1864
Heermann Kupper }
Appellee }

Now comes
the said Appellant by G. S. Edgell
and says that in the Record and
proceedings aforesaid that in
giving judgment as aforesaid
there is manifest error to wit,
1. The Court erred in permitting
the instrument set out in the first
Count to be read in evidence
2. The Court erred in permitting
the plea to be set out on the trial
the endorsement on the back thereof
3. The Court erred in permitting the
said statement of Alexander
Teller to be read in evidence
4. The Court erred in finding
and giving judgment for the plea
5. The Court erred in overruling
the motion for a new trial &
6. The judgment is contrary to
the law and the evidence

Wherefore the Appellant prays that
said judgment may be reversed and
G. S. Edgell atty for Appellant G. S. Edgell atty for Appellant

And now comes the Appeller by Leland &
Blanchard his Atty & says that there is no
error in this record

Leland & Blanchard
for Appeller

1850

Nicholas

67

W. S. M. H. H. H.

W. S. M. H. H. H.
19th Sept. 26. 1864.
Leland
C. H.

Filed April 28 1864
L. Leland
Blanchard

Edw. D. H. H. H.
F. H. H. H. H.