

No. 12955

Supreme Court of Illinois

Thompson

vs.

Turner

71641  7

In the Supreme Court.

JOHN N. TURNER,.....Defendant in Error, }
vs.
 ROBERT B. COLEMAN and }
 AUGUSTUS W. THOMPSON, } Plaintiffs in Error.

Points and Authorities of Defendant in Error.

The facts in this case all substantially appear from the abstract of the Plaintiffs in Error.

That the Plaintiff filed his *precipue* for summons, laying damages at \$600, and on the same day filed his declaration, laying damages at the same sum; that summons issued laying damages at \$100, and was served on both Defendants; that they made default, and judgment was rendered against them for \$428 20.

As assigned, the first error is, that the Plaintiff below recovered more damages than claimed or laid in the summons.

This is true; and we are not aware that it is in conflict with any rule now enforced by courts of law.

The rule is well established that the Plaintiff shall recover no more damages than laid in the declaration; and those, and those alone, limit the Plaintiffs' right of recovery; no where is the rule stated any broader. (Stephens' Pleading, 428; 1 Chitty's Pleading, 339.)

- 2 Although not so stated, yet, in fact, the first error assigned amounts to setting up a variance, in the damages laid, between the writ and declaration.

This the Plaintiffs in error cannot do. It was matter in abatement merely, and they should have taken advantage of it as such in the Court below at the proper time; and, having neglected so to do, they cannot have advantage of it upon a writ of error. [Cruikshank vs. Brown, 5 Gilman 77; Pierce vs. Lamb, Breese 298; Chirac vs. Rinucker, 11 Wheaton 302; Mumford vs. Stocker, 1 Cowen 601; Bacon's Abridgement (Tit. Abatment); Div's "I." and "K."]

- From the authorities it is clear that no advantage could be taken of this variance, after verdict; and the seventh section of the statute of amendments jeofails would seem to be decisive of the objection after verdict; and the eleventh section of the same statute puts judgments by default upon the same footing; as respects lack of form in the process and like defects.

- 4 "A man shall never assign that for error which he might have pleaded in abatement; for it shall be accounted his folly to neglect the time of taking that exception." [Bacon's Abridgement; Tit. Error, Division "K."]

- 5 The writ in this case, if defective, is not void, but simply voidable by reason of the variance: the variance being in form only; and if the variance be in form only, it must be plead in abatement, or taken advantage of by motion. But where the variance is in substance, it may be taken advantage of by motion in arrest of judgment or by writ of error.

"If a writ be brought to the damage £40, and the Plaintiff declares *ad damnum* £200, and the verdict give £30, this is no error after verdict, for the writ is not abated *de facto*, but only abateably by plea." [Bacon's Abridgment; Title Abatement, Division "K." See Com. Digest Plender, Div. (C. 15) last clause.]

6 If the error first assigned is not well taken, it would seem, certainly, that the second and third can not be, as the third is but a part of the first, and the second immaterial if the first error is not good. Still we claim that the leave to amend was properly granted, because it was apparent from an inspection of the *precipae* filed and declaration, that the amount of damages laid in the writ was a mere error of the Clerk; and that the Court not only had power, but it was the duty of the Court to permit the amendment, under the second section of the statute of amendments and jeofails.

And it would seem that this Court, upon appeal or writ of error, would have power to correct the record in this behalf, the variance being entirely the fault of the Clerk as shown by the *precipae* filed, and again his fault that he did not amend the summons in pursuance of the order of the Court. [§ 3 of Statute of Amendments and Jeofails.]

7 The first section of our Practice Act declares that the first process shall be a summons, (in cases where bail is not required); and also declares what the requisites of that process shall be; and the law being silent upon the subject of damages, it would seem that the damages were no essential part of the summons; and indeed if the Legislature had intended that the "*ac etiam*" clause should form a necessary part of the summons, (no bail being required), it hardly seems that they would have omitted that in enumerating the requisites of the summons.

8 The old process of summons against a corporation, was used as early as any process by that name, and in the forms given for that, there was no *ac etiam* clause. [Yates' Pleading, page 648.]

9 The form of summons as required by the English Uniformity act—2 Wil. 4, chap. 39—has no *ac etiam* clause; nor are any damages laid in the writ. [1 Chitty's Pleading, page 708; 11 American edition.]

LATHROP & BROWN, for Defendant in Error.

103 56

In Supreme Court.

aff^d

John N. Lurner

vs.

Robert B. Colerom
vs.
Augustus W. Thompson

Points and Authorities
for Deft. in error
Filed April 28, 1839
L. Seland
Clerk

IN SUPREME COURT.

THOMPSON & COLEMAN, PLFFF'S IN ERROR,

VS.

JOHN N. TURNER, DEF'T IN ERROR.

PLFF'S POINTS AND AUTHORITIES.

The points relied upon by the Plff's in Error, to reverse the judgment in this case appear in the assignment of errors.

A judgment by default, the def'ts below not appearing, could not be rendered for a greater amount than that claimed in the summons.—[Graham's Practice, 216.

The office of the summons is to notify the def't what the claim against him is, as well as the time and place when he is to answer; and, if he does not appear, it is error to render judgment against him for a greater amount than the summons notifies him that the pl'ff claims.

If the defendants below had appeared, the pl'ff. might have amended his summons by the *præcipe*; but, there being no appearance, the order allowing an amendment of the summons was improper without notice to the def'ts; and, in addition, the record shows that the amendment was not made.

J. L. LOOP, ATT'Y FOR PLFF'S.

103 56

Coleman et al
vs

Turner

Points and
argument
for plaintiff in error

State of Illinois: In Supreme Court.

Augustus W Thompson	{	Plff in Error
Robert Coleman		
vs		
John A Turner	{	Def in Error

It is hereby agreed between the parties to this suit, that the same be submitted, upon written brief & arguments.

April 25. 1859.

J. L. Loo W, atty
for plffs. in error

Seth W. Brown
for def in error

IN SUPREME COURT.

THOMPSON & COLEMAN, PLFF'S IN ERROR,
VS.

JOHN N. TURNER, DEF'T IN ERROR.

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J. L. LOOP, ATT'Y FOR PLFF'S.

STATE OF ILLINOIS, } ss. The People of the State of Illinois,
SUPREME COURT,

To the Sheriff of the County of Winnebago

Greeting :

Because, In the record and proceedings, and also in the rendition of the judgment of a plea which was in the County Court of Winnebago County, before the Judge thereof, between John N. Turner

plaintiff, and Augustus W. Thomson & Robert B. Coleman

defendants, it is said that manifest error hath intervened, to the injury of the said

Defendants

as we are informed by their complaint, the record and proceedings of which said judgment we have caused to be brought into our Supreme Court of the State of Illinois, at Ottawa, before the Justices thereof, to correct the errors in the same, in due form and manner, according to law. Therefore, We Command You, That by good and lawful men of your County, you give notice to the said

John N. Turner

that he be and appear before the Justices of our said Supreme Court, at the next term of said Court, to be holden at Ottawa, in said State, on the first Tuesday after the third Monday in April next, to hear the records and proceedings aforesaid, and the errors assigned, if he shall see fit; and further to do and receive what said Court shall order in this behalf; and have you then there the names of those by whom you shall give the said John N. Turner

notice, together with this writ.

Witness, The Hon. JOHN D. CATON, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this 27th day of September in the Year of Our Lord One Thousand Eight Hundred and Fifty-eight.

H. Leland
Clerk of the Supreme Court.
by J. B. Rice Deputy

103

Augustus W. Thomson
& Robert B. Coleman
vs
John N. Turner

~~Superior~~
Sci' fee

Served the within
writ by reading the same
to John A. Turner Melham
Sathrop Atty for John
N. Turner this 1 day
of November 1858
Said Turner not
a resident of My County

Saml. J. Chua
S. J. B.

Serve	60¢
Print	10
Rt	<u>10</u>
	80

Filed & Pl. 19. 1859
L. Leland Clk.



State of Illinois 31
Winnebago County. This day come Thomas
Hance, Edson P. Albee, & Edwin M. Luther and
being duly sworn depose and say that they
and each of them are worth more than the
sum of seven hundred dollars
Subscribed and sworn
to before me this 27th day
of August A.D. 1858

Thos Hance
Edson. P. Albee
Edwin M. Luther



A. S. Van Dyke
N.P.

A. W. Thomson
103

Filed Sept 27 1834
L. Deane
Clerk



Know all Men by These Presents, That We Augustus W
Thompson and Robert W. Coleman
as principal, and Thomas Hance, Edson P. Albee & Edwin M. Luther
as security, are held and firmly bound unto John F. Turner

in the
penal sum of Seven hundred dollars good
and lawful money of the United States, for the payment of which, well and truly to be made, the said
We Thomas Hance, Edson P. Albee & Edwin M. Luther

bind ourselves & our heirs, executors, and administrators, jointly, severally, and firmly by
these Presents.

Witness, our hands & seals

this 27th day of August A. D. 1858

The Condition of the above Obligation is such, That, whereas, the above named
John F. Turner
did, at the June Term of the Circuit Court,
held in and for the County of Winnebago in the State of Illinois, A. D. 1858, recover a
judgment against the above bounden Augustus W. Thompson, Robert W. Coleman

for the sum of four hundred & twenty eight dollars & twenty
cents & costs of suit
Thompson & Robert W. Coleman
to reverse which said judgment, the said Augustus W.
have sued out a Writ of
Error from the Supreme Court, within and for the Third Grand Division of said State. Now if the said
Augustus W. Thompson & Robert W. Coleman
shall duly prosecute said Writ of Error, and pay, or cause to be paid, all judgments, costs, interest and
damages which the said Supreme Court shall adjudge against them & pay or cause to be paid
said judgment in case the same shall be affirmed and abide the order and judgment of said
Supreme Court in this behalf, then this obligation is to be void, otherwise to remain in full force and effect.

Witnessed in presence of Augustus W. Thompson (SEAL)
A. S. [unclear] Robert W. Coleman (SEAL)
Thos Hance (SEAL)
Edson P. Albee (SEAL)
Edwin M. Luther (SEAL)

108
Augustus W. Thomson
et al

by
John N. Turner

Superior Board

Filed September 28th 1838
L. Deland
clerk

STATE OF ILLINOIS,
SUPREME COURT,

} ss. The People of the State of Illinois,

To the Clerk of the County Court for the County of Winnebago Greeting:

Because, In the record and proceedings, as also in the rendition of the judgment of a plea which was in the County Court of Winnebago County, before the Judge thereof, between John N. Turner

plaintiff, and Augustus W. Thomson & Robert B. Coleman

defendants, it is said manifest error hath intervened, to the injury of the aforesaid Defendants

as we are informed by their complaint and we being willing that error should be corrected, if any there be, in due form and manner, and that justice be done to the parties aforesaid, command you that if judgment thereof be given, you distinctly and openly, without delay, send to our Justices of the Supreme Court the record and proceedings of the plaint aforesaid, with all things touching the same, under your seal, so that we may have the same before our Justices aforesaid at Ottawa, in the County of La Salle, on the first Tuesday after the third Monday in April next, that the record and proceedings, being inspected, we may cause to be done therein, to correct the error, what of right ought to be done according to law.

Witness, The Hon. John D. Caton, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this 27th day of September in the Year of Our Lord one thousand eight hundred and fifty-eight.

J. D. Caton

Clerk of the Supreme Court.

by J. D. Rice Secy

103
Augustus W. Thomson
et al vs
John W. Turner
Writ of Error

This writ of error is made
a supersedeas and as
such should be obeyed
by all concerned.

L. Leland Clk
by J. D. Miller Deputy

Filed: September 27, 1858
L. Leland
Clk



STATE OF ILLINOIS---SUPREME COURT.

AUGUSTUS W. THOMPSON AND ROBERT COLEMAN, *Plffs in Error*
VS.

JOHN N. TURNER. *Def. in Error*

ERROR TO WINNEBAGO COUNTY COURT.

This was an action of assumpsit. The PRAECIFE was filed on the 26th May 1858, praying a summons in damages \$600.

On the same day a summons was issued, "to the damage of the said plaintiff as he says one hundred dollars." The declaration was filed on the 26th May, containing a special count on a promissory note for \$400, and also the common counts—AD DAMNUM \$600.

The summons was served on both defendants, on the 27th of May.

The defendants did not appear.

Their default was taken on the 8th of June, and damages assessed by the Clerk at \$428.20, for which judgment was rendered. At the same term, on the 16th of June, on motion of the plaintiff leave was granted to amend the summons; but it was not amended.

The errors assigned are that the Court erred in rendering judgment against the defendants below for a greater sum than was claimed in the summons.

That the Court erred in making the order granting leave to amend the summons without notice to the defendants below.

And that the Court erred in rendering judgment in said cause.

J. L. LOOP, ATT'Y FOR PL'FFS IN ERROR

Page of Record - 2
Dec. 5
78
9

Thompson Coleman

25.

John V. Turner

Abstract

STATE OF ILLINOIS

WILLIAM AND JENNIFER COLEMAN

James H. Y. Yoon.

REPORT TO THE UNITED STATES COURT

And that the Government in rendering aid in such cases

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Рисунки

~~STATE OF ILLINOIS SUPREME COURT.~~

AUGUSTUS W. THOMPSON AND ROBERT COLEMAN, *Pls in Error*
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~~J. L. LOOP, ATT'Y FOR PL'FFS IN ERROR~~

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2
Dec. 5
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9

J. N. Turner

Abstract

show that the Court erred in concluding that the attorney-client privilege applied to the telephone conversation.

3-9 Just the same, we will not be able to ensure the the identity paper for the 1990-91 season.

11.18.18
Stam
Coll

02
P.R.

You &

John H. Johnson, Jr. President

On the basis of a preliminary examination, it was decided to use the following procedure for the analysis of the data:

[illegible]

THE UNIVERSITY OF CHICAGO

[illegible][illegible]

The History of the County of York

STATE OF ILLINOIS, }
Clerk's Office of the Supreme Court. } ss.

I Hereby Certify, That a Writ of Error hath issued from this
Office for the Reversal of a Judgment obtained by John
N. Turner

against Augustus W. Thomson and
Robert B. Coleman

in the County
Court of Winnebago County, at
the June Term, in the year of our Lord one thousand
eight hundred and fifty eight in a certain action of
Assumpsit which Writ of Error is to
operate as a Supersedeas, and as such is to be obeyed by all concerned.

Given under my hand, and the Seal of
the said Supreme Court, at Ottawa,
this 27th day of September
in the year of our Lord one thousand
eight hundred and fifty eight.

S. Deland

Clerk of the Supreme Court.
by J. B. Rice Deputy

Augustus W. Thomson¹⁰³
& others vs

John N. Turner

Superseas

Served by Reading
to the Clerk of the County
Court on W. Gathro's
Atty for John N. Turner
this 1 day of Nov 1838
S. J. Church
Sh

Servic 100
Wage 10
Ret 110
12

Filed Apr. 19. 1859.
L. Leland Clk.

In the Supreme Court of the State of
Illinois - Third Grand
Division

Augustus W. Thompson &
Robert B. Coleman

Plaintiffs in Error,

vs.
John N. Turner,
Defendant in Error

}
}
} Assignment of
Errors.
}

And now Comd
the said plaintiffs in error, by J. L.
Loop, their Attorney and Say, that in
the record and proceedings aforesaid,
and also in giving the judgment aforesaid,
there is manifest Error, in this to-wit,

- 1st. That the summons and declaration
do not correspond in the amount of
damages claimed; the summons being
for \$100, and the declaration claiming \$600.

- 2nd. That there was no sufficient return
of service of the summons upon the
plaintiffs in error, and for that reason
the Court Erred in rendering judgment
against them by default.

- 3rd. That the Court Erred in rendering judgment
by default against the plaintiffs in
error for \$428.20, when the summons
was for \$100.

4th. There was also in this, to wit, that after the taking of the default of the plaintiffs in Error and rendering Judgment upon such default for said sum of \$428.20, the Court, on motion of the Defendant in Error, made an order authorizing the amendment of the said Summons.

And the said plaintiffs in Error pray that the Judgment aforesaid, for the Errors aforesaid and other Errors in the record and proceedings aforesaid may be reversed, annulled and altogether held for nothing, and that they may be restored to all things which they have lost by occasion of the said Judgment &c.

J. L. Looper
Atty for plffs in Error

In Supreme Court.

John A Turner. left in error
add

Augustus W Thompson } left in error.
Robert B Coleman }

And now comes the said defendant
in error John A Turner, at this the April
Term of the Supreme Court of the State of
Illinois by Sathrop Brown his attorney
and says that there is no error either
in the record and proceedings aforesaid
or in giving the judgment aforesaid,
And he prays that this Hon Court may
proceed to examine or will the record
and proceedings aforesaid as the matter
aforesaid ~~has~~ above assigned for error.
And that the judgment aforesaid in
form aforesaid given may in all things
be affirmed &c

Sathrop Brown
Atty for left in error.

In Supreme Court

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John M. Turner

and

Augustus W. Thompson
or Robert B. Coleman

Jointly in Error

Filed April 28, 1859
L. Leland
clerk

Edith M. Brown

1
In the Winnebago County Court.

Pleas before the Honorable
Anson S. Miller, Judge of the
Winnebago County Court at a
regular term thereof begun and
helden at the Court House in the
City of Rockford, in the County
of Winnebago and State of Illinois
on the first Monday of June,
in the year of our Lord one
thousand eight hundred and
fifty eight.

No 143

John S. Turner

vs
Augustus W. Thomson

Robert B. Coleman

Assumpsit

On the twenty sixth day of May
A.D. 1858. Said John S. Turner
by Lathrop and Brown his
Attorneys, filed with the Clerk
of this Court, a precipe for a
Summons which is in the
words and figures following
to wit

2

Winnebago County Court June Term AD 1838

John St. Turner
vs

Augustus W. Thomson &

Robert B. Coleman

Assumpsit

Damage \$600.00

Wm. Stulin Esq

Clerk of Win. County Court.

Please issue a
Summons in the above entitled
Cause, returnable the first day
of the Term. damage and Cause
of action as above.

May 26 1838

Lathrop & Brown
Jfs Attorneys

Afterwards, and on the same
day, to wit on the twenty-sixth day
of May AD 1838, a summons was
duly issued out of said
Court in the words and figures
following to wit,

State of Illinois

Winnebago County

ss

The People of the
State of Illinois to the Sheriff of
said County - Greeting.

We Command
you that you summon Augustus
W. Thomson and Robert B. Coleman

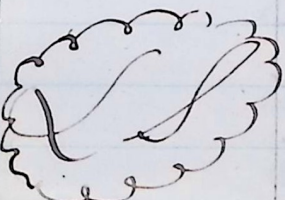
3.

if they shall be found in your County. personally to be and appear before the County Court of said County of Winnebago. on the first day of the next term thereof, to be holden at the Court House in Rockford, in said Winnebago County, on the first Monday of June AD 1838. in a plea of Assumpsit to the damage of the said Plaintiff as he says in the sum of one hundred dollars, and have you then and there this writ. with an endorsement thereon in what manner you shall have executed the same.

Witness William Hulst Clerk of our said Court, and the Seal thereof, at Rockford aforesaid. This twenty sixth day of May AD 1838

William Hulst Clerk

Afterwards to wit. on the twenty seventh day of May AD 1838 the said Summons was duly served on the said defendants as appears by the return endorsed thereon which is in the words and figures following to wit:



4

Winnebago County Court.

John St. Turner

vs

A. M. Thomson

R. B. Coleman

State of Illinois }
Winnebago County }

I duly served
the within by reading the same
to the within named defendants
Augustus M. Thomson. Robert B.
Coleman the 27th day of May
1838. As I am therein Commanded,

S. J. Church

By Wm. Eastwright

Deft Sheriff

Fees Service 1

Mileage 150

Return 10

\$2.60

On the said Twenty sixth
day of May AD 1838 the said
plaintiff by Lathrop & Brown
his Attorneys. filed a declaration
in the said Cause, in the said
Court which is in the words
and figures following to wit,

STATE OF ILLINOIS, } ss.
Winnebago County,

The Winnebago County Court

June Term, 1858

John A. Turner plaintiff in this
Suit by Lathrop & Braun his attorneys
Complains of Augustus W. Thomson and
Robert B. Coleman Defendants in this suit
who have been summoned &c. — — —

of a plea of Trespass on the case upon promises: FOR THAT WHEREAS the said Defendant heretofore, to wit, on the
fourth day of April in the year of our Lord one thousand
eight hundred and fifty seven at Chicago to wit: at the County of Winnebago
and State of Illinois, made their certain Promissory Note in writing, bearing date a certain
day and year therein mentioned, to wit: the day and year last aforesaid, and then and there delivered the said Note to
the plaintiff by which said Note the said Defendant
under the name and style of A. W. Thomson
and R. B. Coleman then and there promised to pay
to the order of the said plaintiff four
under name and style of

hundred dollars, twelve months after
the date thereof at Spafford, Clark
& Ellis Rockford Illinois, with six
per cent interest per annum for
value received, which period has
long since elapsed.

And the said Defendant then and there, in consideration of the premises, promised to pay the amount of the said Note to
the Plaintiff, according to the tenor and effect thereof.

AND FOR THAT WHEREAS, also, the Defendant, on the first day of June
in the year of our Lord one thousand eight hundred and fifty eight in the County aforesaid,
indebted to the Plaintiff in the sum of six hundred Dollars, for the price
and value of goods and chattels then and there sold and delivered by the Plaintiff to the Defendant at their request;
and in six hundred Dollars for the price and value of work then
done and materials for the same provided by the Plaintiff for the Defendant at their request; and in
six hundred Dollars for money then and there lent by the Plaintiff to the
Defendant at their request; and in six hundred Dollars
for money then and there paid by the Plaintiff for the use of said Defendant at their request; and in
six hundred Dollars for money then and there received by the Defendant
for the use of the Plaintiff; and in six hundred Dollars for so
much money then and there found to be due from the Defendant to the Plaintiff on an account then and there stated
between them; and whereas the Defendant afterwards, to wit, on the day and year last aforesaid, in the County aforesaid,
in consideration of the premises, respectively promised to pay the said several (last mentioned) moneys respectively to the
Plaintiff on request; yet they have disregarded their promise, and have not paid any of the said moneys,
or any part thereof, to the damage of said Plaintiff of six hundred Dollars,
and thereupon said Plaintiff bring suit, &c.

Lathrop & Braun Attorney for Plaintiff.

Augustus W. Thomsan
& Robert B. Coleman To John St. Turner

Dr

To Goods sold and delivered,	- - -	\$ 600.
Work, Labor and Materials,	- - -	600.
Money lent,	- - -	600.
Money paid, &c.,	- - -	600.
Money had and received,	- - -	600.
Due on Settlement,	- - -	600.

Copy of note upon which suit
is brought

\$400.

Chicago April 4th 1857

Twelve months after date I promise
to pay to the order of John St. Turner
four hundred dollars. at Spafford
Clark & Ellis Rockford, Ills. with
6 per ct interest per annum value
received

A. W. Thomsan
R. B. Coleman

7
United States of America
State of Illinois
County of Winnebago } J.P.

At a regular
term of the County Court of
said County of Winnebago
begun and holden at the Court
House in the City of Rockford
in said County of Winnebago
on Monday the seventh day of
June in the year of our Lord
one thousand eight hundred
and fifty eight being the first
Monday of said month.

Present

The Honorable Anson S. Miller
Judge
William Hulie Clerk
Samuel I. Church Sheriff

Attest
Wm Hulie Clerk

No 143

In the Matter of

John T. Turner

vs
Augustus W. Thompson
Robert B. Coleman

} Assumpsit

This day comes the
said Plaintiff by Lathrop & Brown

his Attorneys, and the said defendants being three times solemnly called Come not, nor comes any one for them, or for either of them but they make default herein. It is therefore considered and ordered by the Court that said Plaintiff have judgment by default for his damages herein.

And it appearing to the Court that this suit is brought upon an instrument of writing for the payment of money only, and that the damages of said Plaintiff in this case rest in computation. It is therefore ordered by the Court that the Clerk Assess compute and report the said damages.

Whereupon the Clerk proceeded to make the Assessment and Computation aforesaid and reported to the Court the sum of (\$428.30) four hundred and twenty eight 29 dollars as the amount of ~~for~~ the Plaintiffs damages herein which Assessment and Computation upon examination by the Court appearing to be just and correct: it by the Court approved and allowed. It is therefore considered

9 by the Court that the said Plaintiff have and recover of the said Defendants the said sum of ($\$428\frac{20}{100}$) four hundred and twenty eight $\frac{20}{100}$ dollars being the amount of the damages assessed and computed as aforesaid, together with his costs and charges herein expended and that he has execution therefor against the said Defendants.

Winnebago County Court June 16
AD 1838.

No 143 John A. Turner

vs
Augustus W. Thomson
Robert B. Coleman

} Assumpsit

On motion of Plaintiffs
Attorney leave is given to amend
the summons herein.

State of Illinois
Winnebago County } ss.

I William
Stulen Clerk of the County
Court, for said County do
Certify that the foregoing is a full
and true copy and transcript

of the above entitled Cause, and
 of all papers and records in
 said Cause, taken from the
 files and records of said
 Court in my office remaining,
 which transcript includes such
 matters as are called for by the
 precept of the Attorney of the
 party calling for said
 transcript.

Given under my
 hand and the Seal of
 said Court at my office
 in Rockford this
 Eleventh day of August
 A.D. 1838.
 William Hulin, Clerk

Let a supersedeas issue - Bond
 Seven hundred dollars with Edward P. Allen
 & Edwin M. Luther Sureties.

J. D. Carow

103
 Supr. Court.

Hampson & Coleman

Plffs in Error

vs.

Edw. M. Luther

Record & Return
 of Error.

Filed September 22. 1838
 L. Delaney
 Clerk

L. Delaney for Plffs.