

No. 13387

Supreme Court of Illinois

Mix

vs.

People

STATE OF ILLINOIS,
SUPREME COURT,
Third Grand Division.

13 P.D.

No. 260.

*Met
vs People
1861.*

13387

Supreme Court of the State of Illinois
April Term A.D. 1861

Henry A. Mix }
vs. } Appeal from Ogle
The People &c }

Points of Authority for Deft. in error

The Judge who took the recognizance
had full power so to do

Scots Stat. 414 Sec. 206

The 3^d Plea ^{presents} ~~is~~ an immaterial
issue

The 6th Plea is also bad. The fact
that the party indicted was in
surrender at the time of the forfeiture
is not a valid defence - even
conceded but that the principal
might have been surrendered
after the forfeiture, & before
judgement on the scire facias
Crim. Code Sec. 196

It is not true as assumed by counsel
for plffs that judgment was
rendered before the demurrers to
the 3^d & 4th amended pleas was
disposed of. Record page 19

D. P. Jones
State Attorney

Henry A. Allen¹³ 1861

as
The People

Depts. Points &
Authorities

Filed May 8-1861

L. Leland
Clerk

Supreme Court of the State of Illinois
April Term AD, 1861

Henry A. Mix vs.
The People &c. } Appeal from Ogle

Points & Authorities for Deft.

The Judge who took the recognizance
had fully power so to do
Scatig Stat. § 414 Sec. 206

The 3^d plea presents an immaterial
issue

The 6th plea is also bad. The fact
that the party indicted was in duress
at the time of the forfeiture, is not
a valid defense - non constat
but that the principal might
have been surrendered after the
forfeiture & before judgment
in the *de iure jactis*
Comm. Code Sec. 196

It is not true, as assumed by
Counsel for plff, that judgment
was rendered before the de iure

to the 3^d & 4th amended pleas
was disposed of,

Record page 19

D. J. Jones

State Atty

13 P.D.

Henry A. May
vs.
The People

Depts. Tontoy
Authrocting

Filed May 8-1861

L. Leland
Clerk

Supreme Court of the State of Illinois
April Term A.D. 1861

Henry A. Mix }
vs. } Appeal from Ogle
The People &c }

Printz & Associates for Debt

The judge who took the recognizance
had full power so to do

Seate's Stat. § 416 Sec 206

The 3^d plea presents an immaterial
issue

The 6th plea is also bad. The fact
that the party indicted was in duress
at the time of the forfeiture, is not
a valid defence - non constat but
that the principal might have
been surrendered after the forfeiture
& before the judgement on the
scire facias. Crim. Code Sec 186

It is not true as assumed
by counsel for pleff that

judgement was rendered before
the 3d & 4th amended pleas
was disposed of. Recd page 19
D. J. Jones
State Atty.

13 P.D.

Henry A. May
no.

How People see

Lyfts, Prints &
Authorities

Filed May 8th 1861-

L. Leland

Clark

Supreme Court of the State of Illinois
April Term A.D., 1861

Henry A. Ellis vs } Appeal from
The People &c } Ogle

Depts. Courts & Authorities

The Judge who took the recognizance
had full power so to do
Scatter Stat. p 414 Sec. 206

The 3^d plea presents an immaterial issue

The 6th plea is also bad. The
fact that the party indicted was
in duress at the time of the forfeiture
is not a valid defence - nor
constat but that the principal
might have been surrendered
after the forfeiture & before
judgement on the scire facias
Crim. Code Sec 196

It is not true as assumed

by consent for J. H. H. that
judgment was rendered
before the demurrer to the 3^d
& 4th amended pleas was
disposed of. Record p 19

J. P. Jones
State Atty

13 P.D.

Henry A. King
vs.

The People vs

Deft. Points
& Authorities

Filed May 8-1861

L. G. Leard
Clerk

STATE OF ILLINOIS—SUPREME COURT,
THIRD GRAND DIVISION—APRIL TERM, 1851.

PEOPLE,
vs.
HENRY A. MIX.

Appeal from Ogle.

P 1 Default of A. B. Fuller. indicted for passing counterfeit money,
and Henry A. Mix his security.

3,4.&5.6. Writ of *Sci. Fa.*

8 Motion to quash. Writ sustained.

9,13 Alias Writ of *Sci. Fa.*

10 Amended *Sci. Fa.*, alleges that on September 30th, 1858, A. B. Fuller being confined in jail of Ogle County, under an Indictment for passing counterfeit money, found at June Term, 1858 of Ogle County Circuit Court, filed in said Court, June 12th, 1858. Fuller and Mix on the 13th day of September, 1858, appeared before V. Eustace, Judge of the 22d Circuit, and executed a Recognisance as follows:

STATE OF ILLINOIS, {
22D JUDICIAL COURT. }

Be it remembered, that on the 13th day of September, A. D., eighteen hundred and fifty-eight, Azariah B. Fuller and Henry A. Mix, personally came before J. V. Eustace, Judge of the Twenty-second Circuit of said State, and severally and respectively acknowledged themselves to owe and be indebted to the People of the State of Illinois, in the sum of five hundred dollars to be levied of their respective Goods and Chattels, Lands and Tenements to the use of said People, if default shall be made in the condition following, to-wit: The condition of this Recognisance is such that if the said Azariah B. Fuller shall personally be and appear before the Circuit Court of the County of Ogle, on the first day of the next Term thereof, to be holden at the Court House, in the town of Oregon, to answer to an indictment preferred against him by the Grand Jury of said County, for the crime of passing counterfeit money,

and do and receive what shall by the said Court be then and there enjoined upon him, and shall not depart the Court without leave, then this recognisance to be void, otherwise to be and remain in full force and virtue.

In testimony whereof, they have hereunto set their hands and seals the day and year first above written.

AZARIAH B. FULLER, [SEAL.]

H. A. MIX, [SEAL.]

11 *Sci. Fa.*, alleges that Eustace had authority to take and approve the Recognisance; that the Recognisance was filed in said Circuit Court, September 20th, 1858, that Oct. 4th, 1858, at a Term of the Court, Fuller was called, and defaulted and recognisance forfeited.

14 Motion to quash *Sci. Fa.* overruled.

15 1st. Plea by Mix. *Nul tiel* Record.

16 2d Plea—That there was no judgment of forfeiture.

3d Plea—That at the Recognisance was entered into, Fuller was confined in the jail of Ogle County, by virtue of a *Capias* issued by the Clerk of said Court upon the Indictment mentioned in the *Sci. Fa.*, and that upon the back of the Writ was an Indictment requiring the Sheriff to take bail in the sum of \$500.

17 4th Plea—That at the time, and before the Recognisance was entered into, Fuller was not in the County of Ogle, but was in the County of Lee, and was unlawfully imprisoned and restrained of his liberty by F. G. Petrie, Sheriff of Lee County, without any process of Law, and that to procure his discharge from said imprisonment, he entered into said Recognisance.

5th Plea—That there was no such Indictment against Fuller. Rejoinder.

6th Plea—That at the time defendant, Mix, was called upon by said Recognisance to surrender said Fuller, said Fuller was imprisoned in the County jail of Carroll County, Ills., at the suit of the People to answer to a charge of having passed counterfeit money, by means of which the said People, plaintiffs, in this case absolutely prevented defendant from surrendering the body of said Fuller according to the terms of said Recognisance.

18 Demurrer to 3d, 4th, and 6th Pleas.

19 Demurrer sustained, and leave to amend 3d and 4th Pleas.

- 21 4th Plea amended, alleges, that at the time of making and entering the Recognisance, Fuller was restrained of his liberty and imprisoned by F. G. Petrie, without any legal authority whatever, and said Fuller and defendant entered into said Recognisance for the sole purpose of releasing said Fuller from said unlawful imprisonment.
- 22 Demurrer to 4th amended Plea. That Demurer was never disposed of.
- 23 Jury called.
- 24 VERDICT.—We, the Jurors in this case, find the issue for the People as against the defendant, Henry A. Mix, and find for the People the sum of \$500, defendants, being the amount due on the Recognisance.

Motion in arrest of Judgment and for a new trial. Overruled. Judgment.

BILL OF EXCEPTIONS.

- 25 Recognisance as above set out, read in evidence. Objection and exception.
- 26 Indictment found by the Grand Jury of Ogle County against Fuller, June Term, 1858.
- 29 Motion for a new trial, overruled, and exception.

31 ERRORS ASSIGNED.

1st. The Court erred in overruling the motion to quash the writ of *Scire Facias*.

2d. The Court erred in sustaining the demurrer to the 3d and 6th Pleas severally.

3d. The Court erred in trying the cause with the issue on the amended plea undetermined.

4th. The Court erred in rendering the Judgment aforesaid in manner and form aforesaid, and he prays that the Judgment be reversed.

POINTS.

I.—The *Scire Facias* was not sufficient. Judge Eustace had no right to take the Recognisance at that time.

Scates Statutes, P. 625, Sec. 30.

“ “ “ 405, Sec. 175.

“ “ “ 412, Sec. 202.

No offence is described in the *Scire Facias*.

II.—The third Plea was good.

Scates Statutes, 405, Sec. 115.

III.—The 6th plea was good. It was a sufficient answer that the defendant could not be surrendered because he was confined in prison at the suit of Plaintiff, it is an excuse if the surrender be impossible by the act of God or of the law.

Mather vs. the People 12, Ills. 9.

Co. Litt 206.

IV.—The Court should have disposed of the demurrer to the 4th amended Plea before rendering judgment.

Bradshaw vs. Hallett, 4 Scam. 53.

Wetter vs. McNeil, 3 Scam 434.

McKinney vs. May 1, Scam. 534.

Nye vs. Wright, 2 Scam. 222.

Stedman vs. Watson 5, Gilm 249.

Moore vs. Little 11, Ill. 549.

GLOVER, COOK & CAMPBELL, for Appellee.

STOYER, COOK & GILBERT for ydfero

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STOYER

State of Illinois } Supreme Court - Chief
3rd Grand Division
April Term AD 1859

Henry A. Mix

vs

The People &c

And now come
the said People and
say, that there is no
Error, nor manner of Error, in
said record and proceedings
nor in giving judgment
as aforesaid. Wherefore they
Jury, that the said judgment
may, in all things be affirmed
and that they recover their
costs in this behalf - &c.

By W B Woodruff
D States Atty

No 10

Thy
as
The People &c

finder in error

Filed April 22, 1859.
L. Deland
Clerk

STATE OF ILLINOIS—SUPREME COURT,

THIRD GRAND DIVISION—APRIL TERM, 1861.

PEOPLE,
vs.
HENRY A. MIX.

Appeal from Ogle.

P 1 Default of A. B. Fuller, indicted for passing counterfeit money,
and Henry A. Mix his security.

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8 Motion to quash. Writ sustained.

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STATE OF ILLINOIS, }
22D JUDICIAL COURT. }

Be it remembered, that on the 13th day of September, A. D., eighteen hundred and fifty-eight, Azariah B. Fuller and Henry A. Mix, personally came before J. V. Eustace, Judge of the Twenty-second Circuit of said State, and severally and respectively acknowledged themselves to owe and be indebted to the People of the State of Illinois, in the sum of five hundred dollars to be levied of their respective Goods and Chattels, Lands and Tenements to the use of said People, if default shall be made in the condition following, to-wit: The condition of this Recognisance is such that if the said Azariah B. Fuller shall personally be and appear before the Circuit Court of the County of Ogle, on the first day of the next Term thereof, to be holden at the Court House, in the town of Oregon, to answer to an indictment preferred against him by the Grand Jury of said County, for the crime of passing counterfeit money,

and do and receive what shall by the said Court be then and there enjoined upon him, and shall not depart the Court without leave, then this recognisance to be void, otherwise to be and remain in full force and virtue.

In testimony whereof, they have hereunto set their hands and seals the day and year first above written.

AZARIAH B. FULLER, [SEAL.]

H. A. MIX, [SEAL.]

11 *Sci. Fa.*, alleges that Eustace had authority to take and approve the Recognisance; that the Recognisance was filed in said Circuit Court, September 20th, 1858, that Oct. 4th, 1858, at a Term of the Court, Fuller was called, and defaulted and recognisance forfeited.

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- 23 Jury called.
- 24 VERDICT.—We, the Jurors in this case, find the issue for the People as against the defendant, Henry A. Mix, and find for the People the sum of \$500, defendants, being the amount due on the Recognisance.

Motion in arrest of Judgment and for a new trial. Overruled. Judgment.

BILL OF EXCEPTIONS.

- 25 Recognisance as above set out, read in evidence. Objection and exception.
- 26 Indictment found by the Grand Jury of Ogle County against Fuller, June Term, 1858.
- 29 Motion for a new trial, overruled, and exception.

ERRORS ASSIGNED.

- 31
- 1st. The Court erred in overruling the motion to quash the writ of *Scire Facias*.
- 2d. The Court erred in sustaining the demurrer to the 3d and 6th Pleas severally.
- 3d. The Court erred in trying the cause with the issue on the amended plea undetermined.
- 4th. The Court erred in rendering the Judgment aforesaid in manner and form aforesaid, and he prays that the Judgment be reversed.

POINTS.

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Nye vs. Wright, 2 Scam. 222.

Stedman vs. Watson 5, Gilm 249.

Moore vs. Little 11, Ill. 549.

GLOVER, COOK & CAMPBELL, for Appellee.

13 RD,

Henry A. Ship
and
The People

Alfreda Point

Filed May 8 - 1861

L. Leland
Leland

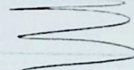
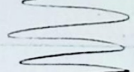
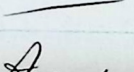
State of Illinois 
Ogle County ss 

Be it remembered that
there are remaning among the records and
files of the Office of the Clerk of the Circuit
Court of Ogle County Illinois in a certain cause
in said Court wherein The people of the state
of Illinois are plaintiffs and Azariah B
Fuller and Henry A Mix are defendants there
appears a certain Order entered at the November
Term of the Ogle County Circuit Court A D
1858 which said Order is in the words and figures
following to wit

October Term A D 1858.

Oct 16th 1858

"a"

People of the State of Illinois 
vs 
Azariah B Fuller 


Indictment for
passing counterfeit money

And now on this day
comes the said people by Burchell States Attorney
and thereupon the said defendant Azariah B
Fuller being three times solemnly called comes not
but makes default to appear to answer to the indict-
ment herein And thereupon it appearing to the
Court that Azariah B. Fuller did heretofore omit
on the 13th day of September A D 1858 enter into a

2
Recognizance with Henry A Mif as his ~~surety~~
in the sum of Five hundred Dollars conditioned
that if the said Defendant Azariah B Fuller
should personally be and appear before this
Court on the first day of the ^{June} term thereof
to answer to the Indictment herein then the said
recognizance to be void otherwise to be and remain
in full force and effect virtue; Now the said
Henry A Mif being three times solemnly called
to produce the body of the said defendant Azariah
B Fuller fails so to do it is therefore considered
by the Court that the said recognizance be
taken and considered as forfeited and that the
said people of the state of Illinois do have
and recover of the said Azariah B Fuller
~~the~~ the said sum of Five hundred Dollars
and of the said Henry A Mif the said sum
of Five hundred Dollars according to the force
form and effect of the said recognizance and
that they be summoned by process of Sancti-
Faciās to show cause if any they have why
execution shall not issue therefor

And afterwards to wit at the March
Term AD 1859 of the Eagle County Circuit Court
there appears upon the records of said Court
an Order which said Order is in the words
and figures following to wit-

March Term AD 1859

April 8th 1859

3

People of the State of Illinois vs Levi Farias on Replevin
 vs
 Azariah B Fuller &
 Henry A Mix

It is Ordered by the Court that this cause be continued for service

And afterwards to wit on the 19th day of May AD 1859 the following process was issued in said cause which said process was in the words and figures following to wit

State of Illinois vs The People of the State
 Ogle County ss vs of Illinois
 To the Sheriff of said county greeting

Whereas heretofore to wit on the thirteenth day of September in the year of Our Lord One thousand Eight hundred and fifty Eight one Azarias B Fuller being on said confined in the Ogle County jail duly imprisoned and kept in custody under an indictment for passing counterfeit Money found by the Grand Jury duly chosen and sworn of and for the County of Ogle at the June Term AD 1858 of the Ogle County Circuit Court duly returned into said Court by the said Grand Jury on the 12th day of June AD 1858 said 12th day of June being one of the days of the said June Term of the Ogle County Circuit Court and duly filed and made a matter of record

4

in said Court And whereas the said Azariah B. Fuller being so in jail under the charge aforesaid by virtue of the proceedings aforesaid being desirous of having his body released from the said ~~from~~ ~~the said~~ confinement as aforesaid he the said Azariah B Fuller and Henry A Mif appeared before the Hon John V Eastace Judge of the 22^d Judicial Circuit and did then and there to wit on the Thirteenth day of September in the year of Our Lord One thousand Eight hundred and fifty Eight make execute and deliver to the People of the State of Illinois a certain Bond or recognizance under their hands and seals the said Azariah B Fuller under the name and style of Azariah B Fuller and the said Henry A Mif under the name and ~~style~~ style of H. A. Mif and which said Bond or Recognizance is in the words and figures following that is to say

State of Illinois Be it remembered that on the 22^d Judicial Circuit thirteenth ~~thirteenth~~ day of September A D Eight hundred and fifty Eight Azariah B Fuller and Henry A Mif personally came before J V Eastace Judge of the Twenty Second Circuit of said State and severally and respectively acknowledged themselves to owe and be indebted to the People of the State of Illinois in the sum of Two hundred Dollars to be paid of their respective Goods and chattels lands and tenements to the use of said People if default shall be made in the condition following to wit The condition of this recognizance is shall

and the said Hon John V Eastace before whom the said Recognizance was taken and acknowledged delivered the said recognizance to the clerk of the Circuit Court in and for the County of Ogle on the twentieth day of September in the year of Our Lord One thousand Eight hundred and fifty Eight ~~and~~ ~~and~~ ~~and~~ and the said Recognizance was on the said Twentieth day of September in the year of Our Lord One thousand Eight Hundred and fifty Eight filed in the Office of the said clerk of the said Circuit Court and became a matter of Record in the said Circuit Court in and for the said County of Ogle aforesaid And whereas at the October Term of said Circuit Court in and for said County of Ogle begun and holden in the Court house in the Town of Oregon in the said County of Ogle aforesaid on the first Monday of October to wit on the fourth day of October AD 1858 in the year of Our Lord One thousand Eight hundred and fifty Eight came the People by their Attorney and the said ^{Defendant} Azariah B. Fuller being three times solemnly called came not but made default and the said Henry A Mix was then and there called to produce the body of the said Azariah B Fuller but he failed so to do and therefore at the said October Term of the Ogle County Circuit Court it was there and there ordered and adjudged by the Court that the said Recognizance be taken and considered as forfeited and owing to the said People which said judgment of forfeiture was then and there by the Order of said Court at the

6 October Term aforesaid of said Court duly entered of Record in said Court and the default of the said Azariah B. Fuller and Henry A. Mix was by the Order of said Court then and there entered of Record in said Court all of which appear from the Records of our said Court and whereas the said sum of Five hundred dollars the penalty in the Recognizance mentioned has not been paid by the said Azariah B. Fuller or the said Henry A. Mix

We therefore command you that you make known to the said Azariah B. Fuller and the said Henry A. Mix if they are to be found in your County that they are required to be and appear before our said Court of said County of Ogle on the first day of the next special Term thereof to be begun and holden at the Court house in Oregon in said County on the third Monday of September AD 1859 to show cause if any they have why execution should not be issued against them for aforesaid sum of Five hundred dollars the penalty in said Recognizance as aforesaid and have you then and there this writ

Witness Mortimer W. Smith
clerk of said Court and the seal thereof this 19th day of May AD 1859 at his Office in Oregon in said County and State

Mortimer W. Smith Clerk

On the back of said Scire Facias appears the following endorsement

I duly served the writ on the within named
Henry A Mix by reading the same in his presence
and hearing and by delivering to him a true and exact
copy of the same this 3^d day of June A D 1859
J. G. Petrie

Sheriff

Filed June 11th 1859
M Smith clk

And afterwards to wit at the June
Term of the Ogle County Circuit Court A D 1859
there appears upon the records of said court ~~the~~
an Order which is in the words and figures following
to wit-

June Term A D 1859

June 13th 1859

People of the State Illinois

vs

Azanah B Fuller Geo
Henry A Mix

Levi Travis on
Recognizance

And now on this day comes
the said People by Burchell States Attorney
and on their motion it is Ordered that a rule
be entered on the Defendant Mix to plead herein
to morrow morning

AD And afterwards to wit at the ~~June~~ Term
1859 of the Ogle County Circuit Court there appears
upon the records of said court an order which is

8. in the words and figures following to wit

June Term A D 1859

June 14th 1859

People of the State of Illinois

vs

Azanah B. Fuller Ed

Henry A. Mix

Sceri Facias on Recognition

And now on this day comes the said Defendants by Heaton their attorney and enter their Motion to quash the writ of Sceri Facias issued herein for the reason that it appears not to have been issued under the seal of this Court and thereupon come the said People by Burchell States Attorney and the Motion comes up for hearing after argument of counsel and the Court being fully advised in the premises it is Ordered that said Motion be sustained and the said writ of Sceri Facias be quashed

And afterwards to wit on the 6th day of September A D 1859 the following process was issued in said cause which is in the words and figures following to wit

State of Illinois
County of Ogle

The People of the state
Illinois;— To The Sheriff of
said County Greeting,

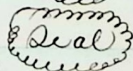
to wit: on the thirtieth day of September in the year of Our Lord One thousand Eight-hundred and fifty Eight one Sarah B. Fuller being on said day confined in the Ogle County Jail duly imprisoned and kept in custody under an indictment for passing counterfeit money found by the Grand Jury, duly chosen selected and sworn in and for the County of Ogle at the June Term AD 1858 of the Ogle County Circuit Court duly returned into said Court by the said Grand Jury on the 12th day of June AD 1858 said 12th day of June being one of the days of the said June Term of the Ogle County Circuit Court and duly filed and made a matter of Record in said Court

And whereas the said Azariah B Fuller
being so in jail under the charge ^{as} aforesaid by virtue
of a writ of Habeas Corpus of having his body released from the said imprisonment as aforesaid
he the said Azariah B. Fuller and Henry
A. Mix appeared before the Hon John, V.
Eustace Judge of the 22nd Judicial Circuit
and did then and there to wit on the thirteenth day
of September in the year of Our Lord One
thousand Eight hundred an fifty Eight
make Execute and deliver to the People of the
State of Illinois a certain Bond or Recogniz-
ance under their hands and seals the said
Azariah B Fuller under the name and style
of Azariah B Fuller and the said Henry
A. Mix under the name and ^{style of} H. A. Mix and
which said Bond or Recognizance is in the words

5
10 and figures following that is to say

State of Illinois
22nd Judicial Circuit

Be it remembered that on the thirteenth day of September A.D. Eighteen hundred and fifty eight Azariah B Fuller and Henry A. Mif personally came before J. V. Eastace Judge of the County Second Circuit of said State and severally and respectively acknowledged themselves to one and be indebted to the People of the State of Illinois in the sum of Five hundred Dollars to be levied of their respective Goods and chattels lands and tenements to the use of said People if default shall be made in the condition following to wit: The condition of this Recognizance is such that if the said Azariah B. Fuller shall personally be and appear before the Circuit Court of the County of Ogle on the first day of the next term thereof to be begun holden at the Court house in the Town of Oregon to answer to an Indictment preferred against him by the Grand Jury of said County for the crime of passing counterfeit money and do and receive what shall by the said Court be then and there enjoined upon him and shall not depart the Court without leave then this Recognizance to be void otherwise to be and remain in full force and virtue. In testimony whereof they ^{have} hereunto set their hands and seals the day and year first above written.

Azariah B. Fuller 
H. A. Mif 

J. John V. Eastace. Judge of the 22nd Judicial Circuit in said State do certify that the foregoing Recognizance was taken and approved by me this thirteenth day of September A.D. 1858 John V. Eastace
Judge 22nd Jud Cir

Which said Recognizance was taken and approved at and within the said Tenth Second Judicial Circuit to wit. at and within the County of Ogle aforesaid the said County of Ogle being then and there one of the Counties comprised in the said Tenth Second Judicial Circuit by the Hon John V. Eustace then and there presiding Judge of the said Tenth Second Judicial ^{Circuit} the said John V. Eustace Judge as aforesaid having then and there Lawfull authority to certify take and approve the said Recognizance and the said the Hon John V. Eustace before whom the said Recognizance was taken and acknowledged delivered the said Recognizance to the clerk of the Circuit Court in and for the County of Ogle on the Twentieth day of September in the year of Our Lord One thousand Eight hundred and fifty Eight and the said Recognizance was on the said Twentieth day of September in the year of Our Lord One thousand Eight hundred and fifty Eight filed in the Office of the said Clerk of the said Circuit Court ^{and became a matter of record in the said Circuit Court} in and for the said County of Ogle aforesaid: And whereas at the October Term of said Circuit Court in and for said County of Ogle begun and holden in the Court House in the Towne of Oregon in the said County of Ogle aforesaid on the first Monday of October to wit on the fourth day of October A.D. 1858 in the year of Our Lord One thousand Eight hundred and fifty Eight came the People by their Attorney and the said Defendant Azariah B. Fuller being three times Sol emly called came not but made default and the said Henry A. Mix was then and there called to produce the body of the said Azariah

B. Fuller but he failed so to do and thereupon at the said October Term of the Ogle County Circuit Court, it was then and there ordered and adjudged by the Court that the said Recognizance be taken and considered as forfeited and owing to the said People which said judgment of Forfeiture was then and there by the Order of said Court at the October Term aforesaid, of said Court, duly entered of Record in said Court and the Default of the said Azariah B Fuller and Henry A. Mix was by the Order of said Court ^{then and there} entered of Record in said Court All of which appears from the Records of our said said Court. And whereas the said sum of Five Hundred Dollars the penalty in the Recognizance mentioned has not been paid by the said Azariah B Fuller or the said Henry A. Mix.

We therefore command you that you make known to the said Azariah B Fuller and the said Henry A. Mix if they are to be found in your County that they are required to be and appear before our said ^{court} Court of said County of Ogle on the first day of the next a special Term thereof to be begun and holden at the Court House in Oregon in said County on the third Monday of September A D 1859 to show cause if any they have why execution shall not be issued against them for the aforesaid sum of Five Hundred Dollars the penalty in said Recognizance as aforesaid and have you then and there this Omit

Witness Mortimer W. Smith Clerk of said Court and the seal thereof this 6th day of September A D 1859 at his Office in Oregon in said County and State

Mortimer W. Smith Clerk

Upon the back of said writ of Scin Facias appears an indorsement which is in the words and figures following to wit

I duly served the within on the within named Henry A Mix By Reading the same in his presence and hearing and by delivering to him a true copy and correct copy of the same
This 8th day of September 1859
J. G. Petrie
Shff

Filed Sept 20th 1859
M. S. Smith clk

State of Illinois
Ogle County ss The within named Azariah B Fuller not being found in my county this 15th day of September 1859
J. G. Petrie, Shff

And afterwards to wit at the November Term A D 1859 of the Ogle County there appears upon the Records of said Court an order in said Cause which Order is in the words and following to wit

November Term A D 1859 Nov 8th A D 1859

The People of the State of Illinois Scin Facias on Recognizance
Azariah B Fuller ^{vs}
Henry A Mix And now on this day come the said People by Burchell States Attorney and on their motion it ordered that the said Defendant Mix be held to plead by Friday morning next

And afterward to wit at the same term of the
Ogle County Circuit Court November Term AD 1859
there appears the following Order in said cause
which Order is in the words and figures following
to wit

November Term AD 1859

November 16th 1859

The People of the State of Illinois	vs	Sciri Facias on
Aganah B Fuller &c		Recognizance
Henry A Mix		

This day comes the said
People by Burchell States attorney and the
said Defendants come by Mix & Heaton their
attorneys And the said Defendants enter their
Motion to quash the Sciri Facias herein and
after argument of counsel and the Court being
fully advised in the premises. It is ordered
that the said Motion be Overruled and therefore
on motion of said Plaintiff It is Ordered that
the Defendant be ruled to plead herein by
Friday morning next

And after wards ~~and~~ yet of the said November
Term AD 1859 the said Defendant Mix files
his Answer to the Sciri Facias in said cause
which said Answer is in the words and figures
following to wit

14 State of Illinois == Ogle County Circuit Court of
Ogle County ss == the November Term A D 1859

Azanah B Fuller +

Henry A Mix

vs

Sciri Facias

The People + v

And the said defendant Mix by Attorney
his attorney comes and defends the wrong + injury where + and says
that the said Sciri Facias filed herein + the matters +
things therein contained are not sufficient in Law
for the said People to have and maintain their
said action against him + this he is ready to verify wherefore
he prays Judgment + v

And for Cause of Demur. the said
Defendant States and Shoves that said recognizance was
entered into while said Fuller was ⁱⁿ jail to answer to an
Indictment then pending against him but does not
show by whom said sum of Five hundred Dollars
was fixed whether by a committing Judge or Magistrate
or by the Court after the coming in of the
indictment

~~That~~ ^{when or} that it does not show by what authority
said Fuller was committed to jail + does not show
any jurisdiction in the Judge to take said recogni-
zance nor that it was entered into in the County of
Ogle except under Vitalist + does not show when it
became a matter of Record in Court

Filed Nov 17th 1859

W W Araton for Mix

M W Smith clk

By H J Smith sp

And afterwards to wit at the same November Term
A D 1859 of the Ogle County Circuit Court there appears
the following Order in said Cause which is in the
words and figures following to wit

November Term A D 1859 ^{Monday} November 21st A D 1859

People of the State of Illinois vs Scen Facas on
 Azariah B Fuller ^{Ed} Reco gnizance
 Henry A. Mif

This day come the said People by Burchell States Attorney and the said Defendants come by Mif ^{Ed} Heaton their attorneys and now comes on to be heard the Defendants demur to the writ of Scen Facas herein and after argument of counsel and consideration by the Court It is Ordered that said Motion be overuled Whereupon on motion of said Defendant Scen is given leave to plead herein to morrow morning

And afterward ~~about~~ yet of the said November Term A D 1859 the Defendant Mif files in said cause his pleas which are in the words ^{Ed} follows following to wit

State of Illinois vs Cyle County Circuit Court
 Cyle County vs Of the November Term A D 1859

The People of the State of Illinois vs Scen Facas
 Fuller & Henry A Mif

And the said Defendant Mif by Heaton his attorney comes and defends the wrong & injury wherein and says action now because he says that there is no such record

as in and by said Scire Facias is supposed and of this he puts himself upon the Country

- And the Plaintiff doth the like Burchell atty
2 And for further plea in this behalf said defendant says actio non because he says there is no such Judgment of forfeiture and as in and by said Scire Facias is supposed and of this he puts himself upon the Country

And the Plaintiff doth the like Burchell atty

- 3 And for further plea in this behalf said defendant says actio non because he says that at said time when & the said Azariah B Fuller was in the custody & held in prison by the Sheriff of the County of Ogle under and by virtue of writ of Capias ad Respondendum issue out of the Office of the Clerk of said Ogle County Circuit Court ^{directed and} and delivered to said Sheriff commanding him to take the body of him the said Azariah B. Fuller and him to ~~keep~~ ^{safely} keep to answer to the said Indictment so found against him as in said Scire Facias is alleged and upon the back of which said writ was an endorsement duly entered by said Clerk in pursuance of an order of said Ogle County Circuit Court demanding and requiring said Sheriff to take bail for the appearance of said Azariah B Fuller to answer to said Indictment in said sum of Five hundred Dollars the said Sheriff then and there by virtue of said writ having full power and authority to take and approve said bail and this, the said Defendant is ready to verify or wherefore he prays judgment

And for further plea in this behalf said defendant

17-

4

Defendant -

says actio non because he says that said, Azanoh B. Fuller at the said time when he was not in jail in said County of Ogle as in and by said writ of Scire Facias is supposed but was in the County of Lee and not in the County of Ogle and was there and there held and imprisoned by One Frederick G. Petrie who was there and there holding and restraining said Defendant ^{Fuller} of his Liberty without any process of Law whatever authorizing or empowering him to hold restrain said Fuller of his Liberty and imprison in said County of Lee # did there and there to obtain his discharge from said imprisonment enter into said recognizance with this defendant Mif as his security at and within said County of Lee and not in said County of Ogle as and by said writ of scire Facias is supposed + this the said defendant is ready to verify wherefore he prays judgment &c

and being so illegally restrained of his Liberty and imprisoned in said County of Lee

And for further plea said defendant says actio non because he says there was no such indictment of Record pending in said Court as by said Scire Facias is alleged + of this he puts himself upon the County

And the plaintiff doth the like Burchell vty

for People

And for further plea in this behalf said defendant says actio non because he says that at the said September Term of the said Ogle County Circuit Court and on the day where in by said Scire Facias it is alleged that said Defendant Azanoh B. Fuller was called to answer to said indictment according to the form force and effect of his said Recognizance the said Azanoh B. Fuller was in custody and in prison in the County of Carroll in ^{now} State of Illinois then & there held and confined in prison at the suit of the same people of the

State of Illinois to an award to a charge of having passed
Counterfeit Money by which said arrest and imprisonment
by the Authority of the said People of the State of Illinois
said Fuller the defendant was by the the said People the
said plaintiff herein hindered and prevented from summing
him the the said Fuller upon his ^{own} Recognizance or
by the term there of he was required. & this he is ready
to verify wherefore he prays Judgment &c

Attorney for
Def M^y

"Filed Nov 21 1859"

"W^m Smith clk"

Scm L

And afterwards to wit - yet of the said November Term
the said People of the said State of Illinois file
a demur to said plea which is in the words and
figures following to wit

State of Illinois ss Cyle County Court Court
Cyle County ss November Term A^d 1859

The People of the State of Illinois

vs
Azariah B Fuller &
Henry A M^y

Scm Facies

Now comes the said People
by Burchell States Attorney & demurs to the third
fourth and sixth plea filed herein by the said
defendants Henry A M^y and say that the same
and all the matters and things in the said plea
averred set fourth and alleged or either of them

9
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are not sufficient in law to be or under the said
People in their said Scin. Facias herein where the
said People pray Judgment &c

Burchell
States Attorney

And, afterwards to wit at the same term November
Term A.D. 1859 there appears on the Records of the
said November Term an Order which is in the
words and figures following to wit

November Term A.D. 1859, ^{Tuesday} November 22nd 1859

People of the State of Illinois

vs
Granah B Fuller &c

Henry A Mif

Scin. Facias pro, Recognizer

This day coming the said People
by Burchell States attorney, and the said Defendant
Henry A Mif comes in person and by Heaton his
attorney and now comes on to be heard the Plaintiff's
demur to the third fourth and sixth Pleas of
the said defendant and after argument of counsel
and consideration by the Court it is Ordered that said demur
be sustained. And thereupon the said Defendant
enters his motion for leave to amend his third and
fourth Pleas herein and the Court being fully
advised in the premises it is Ordered that said
motion be sustained and the said Pleas be filed
instantly. And now the said Plaintiff enters their
demur to the said amended Pleas of the said Defendant
and after argument of counsel and consideration by the

Court it is Ordered that said demur be sustained

And at the said November Term AD 1859 the said Defendant Mix files his amended plea in said cause in said Ogle County Circuit Court while said plea is in the words and figures following to wit

Ogle County Circuit Court
Nov Term AD 1859

The People of the State of Illinois

vs
Azariah B. Fuller Ed
Henry A. Mix

Seni Francis

And the stated defendant by Mix by his aforesaid attorney comes and file and amended fourth plea by leave of court here first had and obtained says acts now because he says that ~~he says~~ that the said Azariah B. Fuller at that time when so of the making & entering into said recognizance in said Seni Francis mentioned was in the custody & held in prison by the Sheriff of the County of Ogle under and by virtue of a writ of ~~Seni Francis~~ Seni Francis Ad respondendum issued out of the Office of the clerk of said Court directed to the Sheriff of said County to execute by which said writ the said Sheriff was then and there commanded to arrest the said Fuller and him safely to keep to answer ^{the} said indictment mentioned in said Seni Francis mentioned at the present but the next November term of said Court upon which said indictment was

was endorsed by said clerk in pursuance of the order of said Court an order that said defendant be held to bail to answer to said indictment in the said sum of Five hundred dollars by virtue whereof and by force of the Statute in such case made and provided the said Sheriff had authority and right to let the said defendant Guller to bail and the said Defendant avers that said Sheriff so having arrested & holding in custody the said Guller had the sole and only right and legal authority to take said recognizance and the said Judge of 22^d Judicial Circuit in the State of Illinois then and there had no right or authority to take said recognizance in manner and form as in said Sciri. Facias is alleged yet the said Judge did then and there proceed to take and approve said recognizance while the said Guller was so as aforesaid in the custody of the said Sheriff by virtue of the writ aforesaid which is in the ~~code book~~ ^{code book} by same recognizance in said Sciri. Facias mentioned & without this that the said recognizance was taken & entered into as in said Sciri. Facias is alleged & this he is ready to verify ^{wherefore} ~~whereupon~~ he prays judgment &c

W W Heaton for deft
Mif

Filed Nov 22 1859

M W Smith clk

By A J Smith Dep

And at the said November Term of the said Ogle County Circuit Court the said Defendant Mif files this further amended plea in this cause which is in the words and figures to wit

Ogle County Circuit Court
of the Northern Term 1859

The People of the State of Illinois

vs
Azariah B. Fuller &c
Henry A. Mix

vs John J. Galt's

And the said defendant Henry A. Mix by Heaton his attorney comes & defends the wrong and injury where and for this fourth amendment plea in this behalf by leave of the court first here first had and obtained says acts now because he says that said defendant Azariah B. Fuller at the time of the making & entering into the said recognizance in said John J. Galt's mentioned was held & restrained of his liberty & imprisoned by one Frederick G. Petrie at and within the County of Lee and not within the County of Ogle said Frederick G. Petrie then and there not having any lawful authority to so hold imprisonment and restrain the said Fuller of his liberty either by virtue of any warrant writ capias mittimus or writ of Habas corpus or other lawful authority whatsoever authorizing such restraint and imprisonment and the said Azariah B. Fuller being there and desirous of being released and discharged from said alleged ^{imprisonment} did then and there to wit at and within said Lee County and not in said County of Ogle for the sole only purpose of being so released and set at liberty did to go due with the defendant Mix as his security enter into said recognizance in said writ of ~~comprovis~~ set forth without this

that said recognizance was made + entered into
in manner + form or for the ~~purpose~~ use and
purpose in said writ of Scire Facias stated
+ set and this the said defendant is ready
to verify wherefore he prays Judgment &c
W W Heaton

Filed Nov 22nd 1859 ~~~~~
M W Smith clk ~~~~~
By H J Smith Dep ~~~~~
Atty for deft Mij

And afterwards to wit at the said November Term
AD 1859 of the Cyle County Circuit Court the said
Plaintiffs files their demur to said Pleas which
demur is in the words and figures following to
wit

State of Illinois ~~~~~ Of the November Term
Cyle County ss ~~~~~ of the County Circuit Court
A D 1859

The People ~~~~~
vs ~~~~~
Azariah B Fuller + ~~~~~ Scire Facias
Henry A Mij ~~~~~

And now comes the said People
by Burchell, ~~State~~ Attorney, and demurs
to the third and fourth Pleas amended
and filed herein by the said Defendant
Mij and says that the matters and things
in said third and fourth Pleas as
amended are not sufficient in Law to
safe or hinder the said Plaintiff in their
action herein and that they are not

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bound by the Law to answer the same wherefore they pray judgment &c

And for cause of special demer the plaintiffs would set down the follo ones 1st because said pleas are inconsistent 2^d the Conclusion informal and bad in this that they conclude ~~with~~ a remission instead of to the Country.

Burchell

States Atty

Filed Nov 22^d 1859

MW Smith clk

And afterwards to wit at the March Term AD 1860 of the Ogle County Circuit there appears the following Order in said Cause which said Order is in the words & figures following to wit.

March Term AD 1860 Saturday March 24th 1860

The People of State of Illinois

vs
Azariah B. Fuller &c
Henry A. May

Scire Facias on
Recognizance

And now on this day comes the said People by Burchell States Attorney and the said Defendant May comes in person & by Heaton his attorney and issue having been joined as to the said Defendant May now to try the same ~~case~~ before the Jurors of a Jury good & Lawfull Men to wit William Gayer Thomas James. James Gills Nathaniel Beebe. Y. P. Mcfamily

D. C. Jemes James Holman William Snoderi
James M Clayton Hugh Red Daniel Rohrbach
who being duly elected tried and sworn after hearing
the Evidence the arguments of Counsel and the
instructions of the Court retire to consider their
Verdict and afterwards return into Court and
render the following verdict To wit: We the Jurors
in this case find the issue for the people as
against the Defendant Henry A. Mix and find
for the people the sum of Five hundred Dollars
Dett being the amount due on ^{the} said Recognizance

And now the ^{said} Defendant Mix enters his
Motion in amist of Judgment and for a new trial
herein and the said motion coming on to be heard
after argument of Counsel and consideration by the
Court It is Ordered the same be Overruled It is
therefore considered that the said People have and recover
of the said Defendant Henry A. Mix the said sum
of Five hundred ^{Dollars} Dett found by the Jury as aforesaid
to gether with their costs in this behalf expended
and that they have execution therefor

(And afterwards to wit at the same time the said defendant
Mix filed his Bill of exceptions in said cause which is in the words ^{and}
figures following to wit)

State of Illinois

Ogle County ss

Circuit Court of said County of
the March Term A D 1860

People of the State of Illinois

vs

Azariah B. Fuller &c

Henry A. Mix

Scire Facias on Recognizance

Be it remembered that on the
trial of the above entitled cause suit the Plaintiff

25 in order to sustain the issue in their behalf introduced the following Evidence to the introduction of which the said defendant Henry A. Mix excepted
1st Recognizance ~~which~~ ~~is~~

(Which said Recognizance ~~is~~ in the words and figures following to wit)

State of Illinois ^{Wm^{ss}}
22^d Judicial Circuit Be it remembered that on the thirtieth day of September A.D. Eighteen Hundred and fifty Eight Azariah B. Fuller and Henry A. Mix personally appeared before J. V. Eustace Judge of the Second Circuit of said ~~day~~ State and severally and respectively acknowledged themselves to owe and be indebted to the people of the State of Illinois in the sum of Five hundred Dollars to be lien of their respective Goods and chattels lands and tenements to the use of the said People if default shall be made in the condition following to wit

The condition of this Recognizance is such that if the said Azariah B. Fuller shall personally be and appear before the Circuit Court of the County of Ogle on the first day of the next ~~year~~ ^{year} term then of to be holden at the Court House in the Town of Oregon to answer to an indictment preferred against him by the Grand Jury of said County for the crime of passing counterfeit Money and do and receive what shall by the said Court be then and there enjoined upon him and shall not depart the Court without leave then this Recognizance to be void otherwise to be and remain in full force and Virtue I Testimony Whereof they have hereunto set their hands and Seals ~~that~~ ^{year} day and first above written

Azariah B. Fuller
H. A. Mix

Seal
Seal

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Jo John V. Eustace Judge of the 22nd Judicial
Circuit in ^{State} do hereby certify that the foregoing Recogni-
zance was taken and approved ^{by me} this thirtieth day of
September A.D. 1858

John V Eustace Judge 22nd Judicial
Filed Sept 20, 1858
M W Smith Clerk

2^d Bill of Indictment

which said Indictment is in the words and
figures following to wit-

State of Illinois }
Ogle County }
}

Of the June Term
of the Ogle County
Circuit Court in
the year of our Lord
one thousand Eight-
hundred and fifty Eight

The Grand Jurors ^{chosen} Selected and
sworn in and for the County of
Ogle in the name and by the authority
of the people of the State of Illinois upon
their oaths present that Azariah B
Guller late of the County of Ogle aforesaid
on the twenty ninth day of May in
the year of our Lord one thousand
Eight hundred and fifty Eight at and
and within the County of Ogle aforesaid
felonously did utter and pass as true
and genuine a ~~counterfeit~~ certain forged
and counterfeit Bank note the tenor
of which said forged and counterfeited Bank

Note is as follows to wit-

"Five The President-Directors & Co of Massachusetts
 The Hadley Falls Bank "A."
 Will pay Five Dollars to the Bearer on Demand
 Five No 1960
 Cha^s W Ranlet (cashr Holyoke 1 May 1856
Rufus L Woods, Pres

He the said Azariah B. Fuller then and there well knowing the said Bank note to be false forged and counterfeited with intent to defraud one George Wheeler contrary to the form of the Statute in such cases made and provided and against the peace and dignity of the same People of the state of Illinois

And the Grand jurors aforesaid upon their Oaths aforesaid do further present that Azariah B. Fuller late of the County of Ogle aforesaid on the twenty ninth day of May in the year of Our Lord one thousand eight hundred and fifty Eight at and within the County of Ogle aforesaid unlawfully and feloniously did have in his possession and custody with intent to utter and pass the same as true and genuine a certain false forged and counterfeited Bank Bill purporting to have been issued by the President-Directors & Co of the Hadley Falls Bank in the State of Massachusetts with the intention to defraud the said President-Directors & Co of the said Hadley Falls Bank which said false forged and counterfeited Bank Bill is in the words and figures following to wit

"Five The President-Directors & Co of the Hadley Falls Bank
 "B." will pay Five Dollars to the Bearer on Demand Massachusetts 5"

28 Holyoke 1 May 1856
Jm Chas W Ranlet, Cashr,

No 1960 A
Refus D Wood, Presr,

He the said Azariah B Fuller then and there
well knowing the said Bank bill to be false forged
and counterfeit-contrary to the form of the Statute
in such cases made and provided and against
the peace and dignity of the same people of the
State of Mass

R le Burchell

Notary atty

Upon the Back of said Indictment appears the
following endorsements to wit-

"A True Bill"

"J D Sturison"

"Foreman of Grand Jury"

"Witnesses"

"George W. Cooper"

"Bail \$500"

"J Newstan"

"Judge"

"Filed June 12 1858"

"M W Smith"

Clerk"

28 3^d Judgement Rendered at October Term AD
1858. See Order on 1st Page marked "A"

Which exceptions were overruled by the Court
and said evidence admitted

And the said Cause having been submitted to
the jury who retire and soon after bring into Court
a verdict in the words and figures following to wit

The People

vs
Azariah Fuller & Recognizant
Henry A. Meis

That the jury in this Cause find
the issues for the People as against the Defendant
Henry A. Meis and find for the People the
sum of Five hundred dollars Debt being the
Amount due on the said Recognizance

J. P. McLeanly
Thomas James
Wm. Snodden
N. W. Beebe
Daniel Ettinger
Hugh Red
Daniel Rohback
D. C. Jemiss
Wm. C. Guyer
J. H. Holman
J. M. Clayton
James Gillis

Filed March 24 1860

M. W. Smith clk

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And that the foregoing was all the evidence offered in this cause

And thereupon the defendant Mif comes and enters his motion in arrest of judgment and for a new trial which motion being heard & considered by the court is overruled — to which ~~making~~ the defendant then and there excepted and prays that the same maybe made and become a matter of record in this court

Which is done

John C. Estace
Judge

And afterwards to wit at the March Term A.D. 1860 there appears upon the records of the Ogle County Circuit Court an order in said cause which is in the words and figures following to wit

March Term A.D. 1860 Thursday March 29th 1860

The People of the State of Illinois

vs.
Abram B. Fuller Esq
Henry A. Mif

Scen' Facias on
Recognizance

And now on this day comes the said Defendant Henry A. Mif in person and ^{his} attorney and prays an appeal of this cause to the supreme court and it is ordered by the court that said appeal be awarded on his filing his bond ^{hereby} with Pyam Jacobs or James V. Hale as ~~scen'is~~ ^{sureties} in the sum of one thousand dollars within twenty days from this date

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Know all men by these presents that we
 Henry A Mix as principal and
 as security are held and firmly
 bound unto the People of the State of Illinois
 in the penal sum of One Thousand dollars
 Lawfull Money of the United States for the payment
 of which well and truly to be made we bind ourselves
 our heirs executors administrators jointly severally
 and firmly by these presents
 Witness our hands and
 seals this 16th day of April A D 1860

The condition of the above
 obligation is such that whereas the People of
 the State of Illinois did at the Last term of the
 Ogle Circuit Court began and holden at Oregon
 in said County of Ogle in the State of Illinois
 on the third Monday of March A D 1860 render
 a certain judgement on a certain recognizance
 of baile against the above bounden Henry A
 Mix for the sum of Five hundred dollars
 debt from which said judgement the said
 Mix has prayed an appeal to the supreme Court
 of the State of Illinois

Now therefore if the said above
 bounden Henry A. Mix shall well and truly
 prosecute his said appeal and shall pay the
 judgement costs interest and damages in case
 said judgement shall be affirmed then this obligation
 to be void otherwise to remain in full force and effect
 Witness

Wm Smith

Henry A Mix
 Ozone facts



"Filed April 16 1860"

"Wm Smith clk."

State of Illinois
Ogle County ss

I Frederick L. Petrie

Clerk of the Circuit Court in and for said County in the State aforesaid do hereby certify that the foregoing is a full true & complete transcript of the records & files of a certain cause lately pending in said Court in which the people of the State of Illinois were plaintiffs & Aganish B Fuller & Henry A. Mix were defendants and the whole thereof



In testimony whereof I have hereunto set my hand and affixed the seal of said Court at my Office in Oregon this 12th day of March A.D. 1861

F L Petrie Clerk
By B F Shute Depty

And now comes the appellant and says that in the record & proceedings aforesaid there is manifest error in this to wit

- 1st The Court erred in overruling the motion to quash the writ of sequefacias
- 2^d The Court erred in sustaining the demurrer to the 3^d & 4th pleas secondly
- 3^d The Court erred in trying the cause with the ^{issue on} ~~the~~ amended plea ~~in~~ ^{inter}mittent

4th The court erred in rendering the
Judgment adverse in manner of
opinion & the prayer that the decree
be reversed

B. G. Leach ~~deputy~~
for appellant

The

~~Agassiz to Mellet~~
Henry A. May 1861
no 13 P.D.

The People.

Record &c

Filed April 18, 1861

L. Leland

Black