

No. **12059**

Supreme Court of Illinois

Newlan

vs.

Pres. & Trustees of Aurora

71641  7

Hoane 1922
Thos. Newlan
vs.
Pres. & Trs. of Aurora

22

12059

Supra notes attached
\$5100-

Refused

853

Clerks Office of Kaw County
Circuit Court Genoa June 30th 1852

Be it remembered that there was filed in
Office of the Clerk of Kaw County, Circuit Court
on the 13th day of August AD 1851 a Bond
of which the following is a true copy to wit

The President and Trustees of the Town of Aurora	}	Before William R. Parker Justice of the Peace
Thomas Newlan		

We Luke Gater and
H. S. Kingsbury do enter ourselves security for
Certs in this Court, and acknowledge ourselves
bound to pay or cause to be paid all Certs, which
may accrue in this action either to the opposite
party or to any of the Officers of this Court in
pursuance of the Law of this State

Dated July 11th AD 1851 Luke Gater
Approved by me July 11th 1851 H. S. Kingsbury
Wm R Parker

Afterward, to wit on the same day aforesaid
there was filed with said Clerk a Summons
of which the following is a true copy to wit.
State of Illinois } The People of the State
Kaw County ss } of Illinois to Samuel
Lucas Town Constable
or to any Constables of said County

Greeting
You are hereby commanded to summon
Thomas Newlan to appear before me at
my Office in Aurora on the 16th day of July
AD 1851 at 9^o AM to answer the President
and Trustees of the Town of Aurora in a Plea

of debt in a sum not exceeding one
Hundred Dollars for violation of an Ordinance
thereof being Section Thirty, Three and passed
June 13th 1851 by said President & Trustees
of said Corp. and make due return thereof
according to Law

Given under my hand
and seal this 11th day of July A.D. 1851
Wm R. Parker J.P.

Served the within Summons upon the said
Thomas Howland by reading the same to him
July 12th 1851 J. W. 30 et.

I Suce. Town Const.
Afterward, to wit on the same day there was
filed in said Clerk's Office a declaration of
which the following is a true copy to wit
The President and Trustees)
of the Town of Aurora) Justice Const

Thomas Howland
The Plaintiff declares
Against the said defendant for a violation
of an Ordinance of the Corporation of the Town
of Aurora, Section 33^d passed by the President
and Trustees of June 13th 1851 to the damage
said President and Trustees, thereof not exceeding
one Hundred Dollars.

Defendants plead, mul-
til Corporation and not Guilty and further
pleads that the Corporation have ^{no} power to pass an
Ordinance of the kind upon which they declare.

Afterward, to wit on the same day there was filed

in said Clerk's Office a Transcript of which
the following is a true Copy to wit:

The President and Trustees
of the Town of Arrara

Thomas Newlan

} New County, in
Justice Court before
Wm. R. Parker July
11th 1851, Plaintiff

having filed Security for Costs. Summons issued
returnable July 16th 1851 at 9^o A.M. Return-
ed served by mailing to the defendant Thomas
Newlan July 12th 1851 by Samuel Luce Town
Constable for 30 Cts. July 16th 1851 9^o A.M.
Court called, Plaintiff answered and declared
against defendant in an action of debt for
violating Section 33^d of an Ordinance of said
Town of Arrara passed June 13th 1851
dictation on file Marked A - Defendant
moved to quash the Summons for want of the
Jurisdiction of the Court, Motion overruled.

The defendant then Pleaded, That said Corporation
Not Guilty, and further that the Corporation
have no power to pass an Ordinance of the
kind declared upon. Defendant asked
for Verdict. Issued same and put same in
the hand of J. T. Barrie Const., who returned
the same with the following parryl of men
who were sworn to try the Cause: Oliver Hawley
Joseph Fister, A. S. Curtis, H. Bayley, J. H.
Thompson, Stephen Fuller; A. B. Fuller. Stephen
Lowe was sworn as Witness in the Cause by
the Plaintiff; After hearing the proofs and
allegations and arguments of Counsel. The
Court retired and Charge of J. T. Barrie Const.
who was duly sworn to take Charge of the Jury

After deliberation the Jury returned into Court with a verdict that they ^{find the} defendant guilty and assess the fine at Five Dollars for which sum the Court rendered Judgment and the Cts. of this Court as taxed below to wit \$3.57 for which Pltff had execution with security for Cts. 25 13 oaths 75

Sum^d 18³/₄ out for the 50

Sub 18³ Rec Sum^d 30

Rev. Jury 38 Six M^o 50

Sum^d 25 Wt for 50

\$ 3.57

Defendant paid Jury \$1.50 B. B. McArthur claimed Witness fee - July 27th 1851 defendant filed his Bond for Appeal which was approved by me. fee for writing of Appeal & Transcript 50 cts

and afterward, to wit on the same day there was filed in said Clerk's Office a Bond of which the following is a true copy to wit

" Know all men by these presents that we Thomas Cowlan John Haskins of the County of Kane and State of Illinois are held and firmly bound unto the President and Trustees of the Town of Aurora in the penal sum of Seventeen Dollars Current Money of the United States, for the payment of which well and truly to be made, we bind ourselves our heirs executors and administrators jointly, severally and firmly by these presents. Witness our hands and seal, this 29th day of July AD 1851

The Condition of the above

Obligation is such that whereas the said
 Board of Trustees did on the 16th day of July
 AD 1851 before William R. Parker a Justice
 of the Peace in and for said County, recover
 a judgment against said Thomas Arnold
 for the sum of Five Dollars, Cents, from
 which said Judgment of the said Justice, the
 said Thomas Arnold has taken an appeal
 to the Circuit Court of said County. Now if the
 said Thomas Arnold shall procure his appeal
 with effect, and shall pay the said debt and
 all costs, and when the said Judgment shall
 be affirmed on the trial of said appeal in the
 said Circuit Court, and shall pay and satisfy
 whatever Judgment may be rendered on the
 dismissal or trial of the said Appeal ~~in the~~
 appeal in the said Circuit Court, then the
 above obligation to be void, otherwise
 to remain in full force and virtue

Approved by me at my
 Office in Aurora this
 22^d day of July, AD 1851
 Wm R. Parker

Thomas Arnold TS
 Starkinson TS

State of Illinois }
 Hamilton County ss }

I William R Parker
 a Justice of the Peace in and for the County
 and State aforesaid do hereby Certify the above
 to be a full and perfect Copy of the preceding
 and Judgment from my docket. in the above
 entitled case. Dated August-9th 1851
 Wm R. Parker J.P.

Afterward, to wit on the 20th of November
AD 1851 it being one of the days of the Soc.
Term of Kane County Circuit Court. 1851 the
following among other proceedings were
had to wit

Trustees of the Town of Aurora 114 Thomas Newlan	}	Appeal This day came the defendant & moves to dismiss this suit for want of Jurisdiction, the Court being fully advised on this the same.
---	---	--

And afterward, to wit on the 22^d day of Nov.
1851 the defendant filed in the Clerk's Office
of Kane County Circuit Court, a Bill of exceptions
of which the following is a true copy to wit,

The President & Trustees of the Town of Aurora Thomas Newlan	}	Appeal Be it remembered that the Motion her- etofore made to dismiss
--	---	---

- the appeal herein for the following reasons to wit
- 1st That the Magistrate had no jurisdiction of the
subject matter of this suit
 - 2^d That the President and Trustees of the Town of
Aurora had no jurisdiction, power or authority
to pass the ordinance, upon which this suit is
brought
 - 3^d That the said ordinance are void because
inconsistent with the Law and Constitution
of the State of Illinois
 - 4th That the summons demanded, not exceeding

one Hundred ^{Dollars}, instead of Five Dollars.
the extent of the fine that can be imposed
by the ^{said} Corporation
5th That the ordinance of said Corporation are
void and unconstitutional.

Came on this
day to be heard, and after hearing the arguments
of Counsel, the Court overruled said Motion, and
thereupon decided the ordinance legal and
Constitutional to which opinion of the Court
in overruling the defendants Motion, the
defendants by his Counsel excepts, which
and prays the Court to sign this his Bill of
exceptions, which is done in Open Court this
20th day of November AD 1852.

Mark Skinner

Judge Cook & Com Pleas
held by Esq. Haul Court

Afterwards to sit on 13th day of May AD 1852
it being one of the days of Kane County Circuit
Court, 1852 the following arriving other proceedings
we had to sit

President and Trustees
of the Town of Aurora } Appeal

Thomas Howland } This day came the
plaintiffs by Montague
their Attorney, and the defendants by Day his
Attorney, also came, and on Motion of the plaintiff
it is ordered by the Court that a Jury come whomever
came a Jury of good and lawful men to wit
Geo Thompson Silas H Curtis
James Todd John Gugg
Sylvester Richardson Amos W Moore

Stephen Hark Afford Herington
Simon R M Kinley Julius Alexander
Edwin Clark Symon German

being severally elected tried and sworn also
Clerk, and after hearing the evidence, retired
under charge of an Officer of the Court to
consider of their verdict, subsequently returned
into Court, and for a verdict upon their
oaths say that we the Jury find the ^{defendant} ~~plaintiff~~ in
favor of the plaintiff and find their Debt to be Five Dollars,
Thompson comes the defendant by Day, and
moves for a new trial,

and afterward, to wit on the 22^d day of
May AD 1852 it being one of the days of
the aforesaid Term of Hamilton County Circuit Court
the following among other proceedings were
had to wit;

21 President and Trustees
of the Town of Aurora } Appeals
Thomas Newlan } This day comes on
to be heard the defend-
ant's Motion therefore

entered herein for a new trial, the Court being
fully advised overrules the same; it is therefore
considered by the Court, that the plaintiffs have
and recover from the defendant, the sum of
Five Dollars, and their Costs in this suit expended
and have execution therefor to which the defen-
dant by his Counsel excepted.

and afterward to wit 19th day of May 1852
there was filed in the Clerk's Office of Hamilton County
Circuit Court a Bill of exceptions of which
the following is a true copy to wit,

The President and Trustees
of the Town of Aurora

Thomas Newlan

Be it remembered
that on the trial
of the above entitled Cause, the plaintiff called
Milton Swarthout who being first duly sworn
stated that he was the Clerk of the for the
plaintiff, and had the records of the Corpor-
ation in his possession; that he had been
Clerk for the plaintiff, for three or four years
months past past, and that the Record, then
produced were the Original records & proceedings
of the board of Trustees of said Town.

Fuller a
Witness for the plaintiff, also being sworn stated
that he was the Clerk for the President & Trustees
of said Town in 1851, and that the Records
as testified to by the above ~~xxxxxx~~ Witness
Swarthout was the Records of the President &
Trustees of said Town and that in Jan¹⁰ day
of 1851 while he was Clerk the Trustees of said
Town passed an ordinance in the Words and
figures following to wit

" Sec 33. Be it ordained by the President and
" Trustees of the Town of Aurora that any person
" or persons, who shall by themselves or jointly
" or jointly or agent sell or exchange within
" the limits of the Corporation of said Town any
" Wine, rum, brandy Gin Whisky, beer or any
" Other Alcoholic or intoxicating liquors
" in any quantity less than Twenty Gallons, or
" who shall, barter, sell or exchange, the said
" Liquors or drinks, or any of them, ~~to be~~ ~~xxxxxx~~

"by any quantity; and suffer them to be drunk
"or any of them to be drunk in any house
"tavern, Store, grocery or other house, shed
"or other building occupied by them him or
"her. Shall on conviction be fined for any
"Offence Five Dollars, The giving away
"of any of the aforesaid drink, or liquors for
"the purpose of avoiding the provision, of this
"act shall be construed a selling within
"the meaning of this act." which ordinance
was marked 33 section of ordinances passed
by said board and for a violation of which
this suit was brought. The ordinance was
signed by said Winthrop Miller, as Clerk of said
board, and that he posted them exact copies
of said ordinance in three of the most public
places in the village of Aurora, within the limits
of said Corporation, and that they had been
up for more than ten days, before the instituting
or bringing of this suit in pursuance of an ordinance
of the town requiring the same.

The Plaintiffs have
further introduced the following Certificate of the Clerk,
of incorporation to prove the existence of the same
the Commission, sent with the Seal of the Court
therewith attached, which said Certificate
was in the word, and figures following to wit:

"At a Meeting of the legal voters of the
"Village of Aurora in the County of Kane and
State of Illinois, Convened at the School House in
said Village, on the Sixth day of March 1845, pursuant
to legal notice, for the purpose of incorporating
said Village according to the Revised Statutes,

in such case made and provided, Daniel
Cushing was elected President and Myron
Whipple Clerk; The following votes were polled
to wit: For incorporation, O. D. Day, Isaac Martine
Levine Brown, John M. Merritt, Edward Stau
Arthur Thomson, Thomas Hammett, Daniel
Eastman, E. R. Allen, John Hillson Richard
Jury, Chas. E. Goodwin, J. T. Parier, Andrew
Wagner, Chas. Goodwin, Isaac Gilson, Wyatt
Carr, Winslow Higgins, P. A. Wagner, Horace
J. G. Campbell, A. D. Sargent, R. D. Martine, B. F.
Phillips, M. S. Webb, A. D. Dexter, W. H. Hankins
Wm. Blanchard, Joseph Hammett, David Banks
Wm. A. Tilton, Ezra Owen, James King, A. P.
Farnsworth, G. S. Maternau, Charles Culver
Daniel McCarty, Samuel McCarty, J. W. Tripp,
Enoch Jury, Edward Cuthbert, H. A. Goodrich
Daniel Cushing, Myron Whipple, J. S. Martine
Daniel McRay, Rossen Granger, John M. Goodwin
George Higgins, A. G. Chauncey, 52.

We hereby certify that the above is a true and
correct statement of the proceedings of a public
meeting held for the purpose therein mentioned
fifty two votes were polled for incorporation and
none against it

Daniel Cushing

President

Myron Whipple

Clerk

Recorded 14th March A.D. 1848

W. H. Hitchcock Clerk of
Haver Co. Comm. Court

State of Illinois }
Haver County, ss }

I Josiah S. Warner Clerk of the
County Commission, Court

in and for said County do hereby certify the
following to be a true Copy of the proceedings
therein mentioned as appears from the Records
in such case

Read?

In Testimony Whereof I have
hereunto Subscribed my name
and affixed the Seal of said Court
at Geneva this 29th day of April
1849

Josiah S. Warner
Clerk of the Co

Gen. Court of Kanawha

to the introduction of said Certificate as evidence
the defendant by his Counsel excepted which
exception the Court overruled and permitted the same
to be read as evidence to the Jury

The plaintiff
then introduced Simeon Luce as a Witness who
stated that he was present at the trial of this
Cause in the Court below and that one Soul
was then a Witness who is now deceased, and
that said Soul then and there testified, that he
about one Week prior to the Commencement
of this Suit in the Court below purchased one Quart
of Whiskey of the said defendant and paid him
therefor, that the defendant resided in the limits
of the Consuetudo, and sold said Quart of Whiskey
within the limits thereof, and said Town is Kanawha
County. The said Luce and a number of other Wit-
nesses. Was examined as to whether they knew
of the said defendant after the passage of the
said ordinance and before the Commencement
of this Suit, selling, giving away or suffering

to be drank any of the Liquors prohibited
by said Ordinance, who severally answered
they did not, which was all the evidence
offered in said Cause, and that thereupon
the Cause was submitted to the Jury without
any other or further testimony on either side.
That the Court then stated to the Counsel engaged
in said Cause that but one speech on a side
would be allowed to the Jury, and that thereupon
the Counsel for the defendant stated to the Court
that he had drawn what instructions he could
anticipate would be necessary in said Cause
which instructions were in the following words,
to wit:

1st That the Plaintiff, as President and Trustee
of the Town of Aurora was only authorized to
make ordinances consistent with the Consti-
tution and laws of this State, and therefore
in attempting to restrain the Sale of ardent
Spirits in quantities greater than one quart
as provided by the Laws of the State, rendered
their ordinances void and of no effect.

2^d That the defendant is not liable for
a violation of the ordinances in question, it
being in violation of the Constitution and Laws
of Illinois.

3^d That the President and Trustee of the
Town of Aurora had no jurisdiction, power
or authority to pass the ordinance upon
which this suit is brought.

4th That the Magistrate had no jurisdiction
of the subject matter of this suit.

and handed
them to the Court before the commencement.

of his remarks to the Jury, which instructions the Court refused to give, and the refusal of the Court in not giving said instructions to the Jury, the defendant by his Counsel excepted. The defendant's Counsel then stated to the Court before his argument to the Jury he would prepare other instructions upon questions relating to the insufficiency of the plaintiff's proof, while the plaintiff's Counsel was arguing said Cause to the Jury, or ^{after he} ~~before~~ the defendant's Counsel had closed his remarks to the Jury & had time to prepare them - That while defendant's Counsel was addressing the Jury, some Member of the Bar prepared the following instructions to wit:

1.st The Court is requested to instruct the Jury that if it be not proved that five days Notice was given previous to the election of Trustees for the Town of Aurora for the holding of such election such Corporation is not in legal existence and the verdict of the Jury should be for the defendant

2.nd If it be not proved that the ordinances of the Corporation of the Town of Aurora were passed by a Majority of the Trustees of said Town such ordinances are void, and the verdict of the Jury should be for the defendant

3.rd In order to make the Ordinances of the Corporation of said Town legal, Copies of the same should be posted at least ten days in three places within the limits of the Corporation at least ten days before their taking effect and that unless the Jury believe from the evidence

they were so posted. they were illegal and void
and, ~~and they~~ ^{the Jury} must find for the defendant.

which last
these instructions, the defendant's Counsel handed
to the Court after the arguments in the case had
closed; and asked the Court to give or refuse
to give the same to the Jury as instructions in
said Cause - The defendant's Counsel declined
to argue said Cause to the Jury, and the
Court sent the Jury out of Court, and refused
to receive or entertain the instructions last
asked, for the reason that the same were not
asked for in time, in pursuance of a rule
of the Court requiring instructions to be asked
and said Cause before the commencement of the
last argument, nor would he give the def-
endant's Counsel any time to prepare any
other instructions after closing his remarks
to the Jury (although requested by defendant's
Counsel so to do, the Jury retired to their
room by order of the Court and found a
verdict for the defendant against the def-
endant of five Dollars, and thereupon the
defendant by his Counsel moved the Court for
a new trial, which Motion the Court overruled
and to the Opinion of the Court in overruling
the defendant's Motion for a new trial, the
defendant by his Counsel excepts, and prays
the Court to sign this his Bill of exceptions which is
done in Open Court this 29th day of May AD 1852.
Isaac S. Wilson Clerk,
Judge &c

State of Illinois
Haw County ss

I Chas. F. Wells, Clerk
of Haw County, Circuit Court do hereby certify
that the foregoing is a true & correct copy of
the entire Record from the Magistrate, Court, &
all the Records of the Circuit as entered of Record
the Book of exceptions on file in my Office

In Testimony Whereof I
have hereunto set my hand
and Seal of said Court at
Geneva this 3^d day of July
AD 1852.

Chas. F. Wells,
Clerk

Supreme Court - June Term 1852

Thomas Newland

vs

Pres & Trustees of Town of Aurora

And said Thomas Newland
by Dickey and Day his attorneys come
and allege that there is error in the fore
going record, proceedings and judgment.
There is manifest error - and that said

Judgment ought to be reversed - and
appeals specially The following points
of error -

1st The justice of the Peace had
no jurisdiction of the subject matter
and the circuit Court therefore has
no jurisdiction -

2nd The Court erred in allowing
illegal evidence for plaintiffs below

3rd The Court erroneously rejected
proper evidence offered by defendant
below -

4th The Court erred in giving
instruction objected to by defendant below

5th The Court erred in refusing
to give instructions asked for
by defendant below -

6th The Court below erred in
refusing to grant a new trial

7th The Court erred in reversing
judgment against defendant & in favor
of defendant -

Said Newland Therefore
prays that said judgment be reversed
and held for naught -

Dickey & Day

And now comes the said defendant in error
 one says that in the record & proceedings
 aforesaid and in the rendition of the judgment
 aforesaid there is no error & he prays that
 said judgment be affirmed

Almon Hook

deft atty

Name 22

Thos. Chas. Lane

vs

Pres. & Trs. of Town of Aurora

Record

Filed July 23^d 1852
 Deland Clerk.

Amount of J. H. Harrison
 for 1000 dollars for this
 summe. @ 10 Cts

41 for 10¢

Can & decs

41.10

30

41.40

STATE OF ILLINOIS, }
Supreme Court.

The People of the State of Illinois,

To the Sheriff of the County of *Kane* — Greeting:

BECAUSE in the record and proceedings, and also in the rendition of the judgment of a plea which was in the circuit court of *Kane* — county, before the Judge thereof, between *the President & Trustees of the Town of Aurora* plaintiffs and *Thomas Newlan* —

defendant, it is said that manifest error hath intervened, to the injury of the said — *Thomas Newlan* —

as we are informed by *his* 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 *President & Trustees of the Town of Aurora* —

that *they* 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 *2^d* Monday in — *June* next, to hear the records and proceedings aforesaid, and the errors assigned, if *they* — 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 *President & Trustees* — notice, together with this writ.

Witness, the Hon. SAMUEL H. TREAT, Chief Justice of our said Court, and the seal thereof, at Ottawa, this *17th* day of *November* in the year of our Lord one thousand eight hundred and fifty *two*.

L. Leland Clerk of the Supreme Court.

Personally served on the ~~within named~~ William H Hawkins as
Resident of ~~Princeton~~ and Arthur Thornton Crutcher, St.
Allen & A Long & Edward R. Allen. Trustees of the
Town of Aurora this 23rd day of February
1853 by reading this writ to them

Noah B. Spalding
Sheriff of Kane Co
By J. F. Beaver Esq

Apr. 22 1860
Thomas A. Stowland

President & Trustees of
the Town of Amora

Sci. Fa. Co.
Name Co.

Dec	250	
Ex entry	250	
April 30 M		10
Net		<u>\$510</u>

Filed March 21. 1853.
J. L. Ladd Clerk.

25th

25 Feb

Know all men by these presents, That we
Thomas Newlen and O'Day are held and
firmly bound unto the "The President and Trustees
of the Town of Aurora" in the penal sum of one
hundred Dollars lawful money of the United
States, for the payment of which well and truly
to be made we bind ourselves, our heirs and
administrators, jointly, severally and firmly by
these presents - Witness our hands and seals this
23rd March 1853 -

The Condition of the above
obligation is such, That whereas the said Thomas
Newlen has appealed from the decision of the
Circuit Court of the County of Kane and State of
Illinois to the Supreme Court of the said State of
Illinois in the case of "The President and Trustees
of the Town of Aurora against him, and a Super-
sedas ordered by the said Supreme Court to be
applied upon the said Thomas Newlen entering
into an appeal bond in the penal sum of one
hundred Dollars with O'Day as security -

Now if the said Thomas Newlen in
case the said judgment is affirmed by the
supreme Court shall pay the same, together
with the costs, interest and damages awarded
against him by the said Supreme Court and shall
also prosecute his appeal with effect then
the above obligation shall be void, otherwise
to remain in full force and effect -

O'Day
Thomas Newlen

Thomas Newlan

2

Pres. & Trustees of Aurora

Super. Bond

Filed March 25-1853
J. Sealand Clk.

The President and Justices of the Supreme Court
of the Town of Aurora & 34 Grand Division
at June Term 1853.
Thomas Newlen

This deponent

Richard H. Montgomery being duly sworn
on oath says, that William H. Hawkins
who has been for a long time, and now is
President of said Town of Aurora, had,
shortly after the above cause was brought
to the Supreme Court by writ of error by
said Newlen, several interviews with
this deponent in relation to the said cause
and that is about the trial of the same,
the probable result of it &c. But this
deponent says that he did not understand
or did misapprehend the said President
as intending thereby to retain this deponent
to attend to and to try said cause
in said Court. And this deponent further
says that he was not aware, that there
was any such misapprehension or misunder-
standing between him and the said
President in relation to such retention,
until after the reversal of the judgment
in the above cause in this Court. And that if
this deponent had understood ~~that~~ the said
President as thereby retaining him to attend to
and try said cause in said Supreme Court
for and to try, he should have promptly
so done. And this deponent further says that
he tried the said cause at the Circuit for said
Town, which undoubtedly made the
said President less particular in his language

and led him to the supposition and
conclusion from what he said to me
in those interviews, that this deponent
regarded himself retained on behalf
of said town to attend to and try
said cause in the Supreme Court
and further this deponent ~~see~~ ^{is} not.

Subscribed and sworn to
before me this 30th day of Richard H. Montgomery
June 28 1853

Geo. S. Cook
Notary Public

22
Presl: & Insult
D. Burrows
vs.
Thomas Newlan

Filed July 1. 1853.
L. Deland Clk.
By J. R. Deland Depy.

The President and
Trustees of the Town of
Aurora

eto

Thomas Strohan

Supreme Court

3^d Grand Division

Term Term 1853

William H. Hawkins being sworn states on oath that
he is President of the Town of Aurora that said
Town have employed Richard G. Montague a counsellor
of this Court to try said cause in said
Supreme Court and believe that said cause
would be promptly attended to in said court
affiant knows of no reason why the said case
not so attended to except from the information
derived from said Montague which is embodied
in the affidavit of said Montague herewith
filed

William H. Hawkins

Sworn to and Subscribed to
before me this 3^d day of
June A.D. 1853

Geo. S. Smith
Notary Public

#22
President & Trustees
of Ansonia
vs,
Thomas Keeler

Filed July 1, 1853,

L. Leland Clerk
By P. H. Leland
Copy

State of Illinois, sct.

WRIT OF ERROR—FREE TRADER PRINT.

The People of the State of Illinois,
To the Clerk of the Circuit Court for the County of *Kane* — GREETING :

BECAUSE in the record and proceedings, as also in the rendition of the judgment of a plea which was in the Circuit Court of *Kane* — county, before the Judge thereof, between *The President & Trustees of the Town of Aurora* —

— plaintiffs and *Thomas Newlan* —

defendant — it is said manifest error hath intervened, to the injury of the aforesaid *Newlan*

as we are informed by *his* complaint, and we being willing that error, if any there be, should be corrected 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 *2^d Monday of June* — 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. SAMUEL H. TREAT, Chief Justice of our said Court, and the seal thereof, at Ottawa, this *23^d* — day of *July* — in the year of our Lord one thousand eight hundred and fifty *two*.. —

A. Deland Clerk of the Supreme Court.

No. 22

Thomas Stewell

^{vs}
Pres. & Trus. of Town of Aurora

Writ of error

Filed July 23^d 1852.
Leland Clk.

This writ of error is
made a Supersedeas as
such is to be obeyed according
to by all concerned —
Leland Clk.