

No. 13126

Supreme Court of Illinois

Rose

vs.

Canfield et al

71641  7

STATE OF ILLINOIS,

SUPREME COURT,

Third Grand Division

No. 72.

Rose

vs

Carfield

Supreme Court of Illinois
Third Grand Division
April Term AD 1861

Orrin L. Rose
vs Affiant } Error to be set
Edmund Caulfield
John Caulfield and
Wright H. Wheeler
Defendants }

And now come the said
Defendants in error, by Monroe & Spencer their
Attorney, and enter their appearance in said
Court, and consent that the same proceedings
may be had therein, as though a Scire Facias had
been duly served upon them in and to the said Court.
Days given to the Concurrence of a present
Term of said Supreme Court.

Monroe & Spencer

Attorneys for the Defendants.

Superior Co. of Minn.
Omn. L. Ross
24th Nov

Edmund Carpio this
24th Nov

Superior Co. of Minn.

Filed April 24/1860
L. Leland
Clerk

STATE OF ILLINOIS, SUPREME COURT,

THIRD GRAND DIVISION.

APRIL TERM, 1860.

ORRIN J. ROSE,

vs.

EDMUND CANFIELD,
JOHN CANFIELD and
URIAH WHEELER.

Error to Superior Court of Chicago.

Page of Rec. PETITION charges, that on various times between the last day
3 of May and the 15th day of July, 1857, defendants sold and delivered to plaintiff, at his request, a large amount of lumber of the value of \$1091.58, the particular items of which are set forth in exhibit "A," on pages 4, 5, 6 and 7, of the record, and which is made a part of the petition.

That plaintiff promised to pay defendants what the lumber was reasonably worth, and defendants aver that the lumber was reasonably worth \$1091.58, and that said sum is due and unpaid to defendants, and that plaintiff refuses to pay the same.

4 That the lumber was purchased by plaintiff for the purpose of erecting a certain block of buildings on lot eight, (8,) in block one, (1,) in Duncan's addition to Chicago, in Cook County Illinois.

That said lumber was used in the erection of said block of buildings, and at the times hereinbefore mentioned, and are now owned by said Rose, and who was the owner at the times hereinbefore mentioned of said lot in said block.

Pray a sale of whatever right, title or interest said plaintiff may have had at the time or times herein specified, or now has in said premises with the appurtenances and every part thereof, and that the proceeds of said sale be applied to the payment of defendants' debt.

2, 8 Petition was filed 24th August, 1857. Summons issued same day, and served 25th August, 1857.

9 Answer filed 26th October, 1857, sets forth that the allegation that defendants between the last day of May and 15th day of July, 1857, sold and delivered to plaintiff, and at his request, a large amount of lumber of the value of \$1091.58, or any other amount of lumber is not true.

10 Denies any promise to pay, and denies that the lumber was reasonably worth \$1091.58.

Page of Rec. Says that it is not true that said lumber was purchased by plaintiff for the purpose of erecting a block of frame buildings on lot 8, in block 1, Duncan's addition in the City of Chicago, or elsewhere; but he says that the lumber in petition mentioned, was purchased by one Ralph Tate and not by plaintiff; nor by any one under his agency, or in his employ as agent or servant.

11 Answer sworn to.

Replication re-asserts the main allegations of the bill.

13 The issues were tried by a jury and found for defendants, and their damages assessed at \$1170.00.

14 For that sum a decree was rendered, and after reciting the chief averments in the petition to be true as matters of fact, the decree proceeds and declares a mechanic's lien upon said lot 8, in block one, and orders a sale of all the right, title and interest of plaintiff in said lot and buildings, with the appurtenances.

17 *Assignment of Errors.*

FIRST. Petition does not set forth and shew such a contract, as entitles defendants to a lien, under the laws of this State.

SECOND. The contract set forth does not state or show any time within which the lumber furnished by defendants was to be paid for, or any agreement on the part of the plaintiff in error to pay for the same, at any time within two years from the delivery.

18 THIRD. Petition does not show that there was any contract between said parties respecting the purpose for which the said lumber was purchased by plaintiff, nor that the same was sold and delivered upon any contract or agreement that it should ever be used in the erection of buildings upon this lot.

FOURTH. That judgment was rendered for defendants and against the plaintiff, when by the laws of the land judgment should have been rendered for the plaintiff.

PLAINTIFF'S POINTS.

I.

The petition in this case is wholly insufficient—it fails to aver that any time was agreed upon, within which the materials were to be furnished, or the work to be done, or when the money was to be paid.

Cook vs. Rafinot et al., 21 Ill. R., 437.

Cook et al. vs. Vreeland 21 Ill. R., 428.

Cook et al. vs. Heald et al., 21 Ill. R., 428.

Senior vs. Brebnor, et al., 22 Ill. R., 252.

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II.

There was no proof of any contract which would entitle the defendants to a mechanic's lien.

III.

The Court and jury erred in finding more than was claimed to be due by the petition, and in allowing interest on an open account. The case as to interest falls under the statute of 1845.

Revised Stat., page 249.

SCATES, McALLISTER & JEWETT,
Of Counsel for plaintiffs.

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O. J. Rose
v

Edmund Campfield
et al

Brief for Opp.

Supreme Court of Illinois
April Term 1860

Orin L. Rose

Plaintiff

Edmund Canfield

John Canfield &

Wm H. Wheeler

Defendants

Error to Clerk

It is hereby stipulated
and agreed by and on behalf of the parties to this
above entitled cause, by their attorneys, that
the judgment or decree of the Court below
therein, may be reversed or affirmed by the said
Supreme Court, at the costs of the said defend-
ants in error, and said claim remanded
with leave to the said defendants to amend their
Petitions therein —

Chicago April 30th 1860

Scats McAllister & Son

Attys for Plaintiff

Morse & Son

Attys for Defendants

Superior Let. of Mission

Orville L. Ransom

as
Edward Canfield ^{Chap.}

Superintendent

Friday 3^d 1860
Leland
Cal.

STATE OF ILLINOIS,
SUPREME COURT,

To the Clerk of the

ss. The People of the State of Illinois,
Common Pleas of Cook County
Court for the County Greeting:

Because, In the record and proceedings, as also in the rendition of
the judgment of a plea which was in the Cook County
Court of Common Pleas of Cook County, before the Judge thereof, between
Edmund Canfield John Canfield & Mary versus
plaintiffs and Orrin J. Rose

defendant, it is said mani-
fest error hath intervened, to the injury of the aforesaid defendant

as we are informed
by his 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 Su-
preme 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 15th day of
November in the Year of Our Lord
our thousand eight hundred and fifty-nine.

Clerk of the Supreme Court.

by J. D. Caton Deputy

Edmund Campfield et al

^{vs}
Orrin J. Rose

Writ of Error

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

L. Leland Clerk
by J. B. Rice Deputy

Filed Nov. 16. 1859

L. Leland
Clerk

Know all Men by these Presents, That Orrie J. Ross
of the City of Chicago, County of Cook and State
of Illinois _____ as principal, and William
Sill of the same place _____ as security, are held and firmly bound
unto Edmond Canfield, John Canfield and Wm. H. Wheeler

in the penal sum of Forty-two Hundred Dollars
good and lawful money of the United States, for the payment of which, well and truly
to be made, the said Orrie J. Ross and William Sill

_____ bind themselves their heirs, executors and administrators,
jointly, severally and firmly by these Presents.

Witness, the hands and seals of the said Orrie J.
Ross and William Sill _____

this Fifteenth day of November A. D. 1887

The Condition of the above Obligation is such, That, whereas the above named
Edmond Canfield, John Canfield and Wm. H. Wheeler

did, at the September Term of the Cook County Court of Common
Pleas _____ held in and for the County of Cook _____ in the
State of Ill. _____ a judgment against the above bounden Orrie
J. Ross, in a certain suit in said Court pending by
William for a Mechanic's Lien

_____ for the sum of Eleven
Hundred and Seventy Dollars, and Costs of said
said Orrie J. Ross _____ to reverse which said judgment, the

has sued out a Writ of Error from the Supreme Court, within and for the Third
Grand Division of said State, which Writ of Error is made a Supersedeas. Now if the
said Orrie J. Ross

shall duly prosecute said Writ of Error, and pay, or cause to be paid, the amount of said
judgment, and all judgments, costs, interest and damages which the said Supreme Court
shall adjudge against him, the said Orrie J. Ross
_____ and abide the order and judgment of said Su-
preme Court in this behalf, then this obligation is to be void, otherwise to remain in full
force and effect.

O. J. Ross [SEAL.]
William Sill [SEAL.]

[SEAL.]

[SEAL.]

No. 72

SUPREME COURT.

THIRD GRAND DIVISION.

Orville J. Rorr

vs.

Edmond Caufield

SUPERSEDEAS BOND.

Filed November 16 1887

L. Leland Clerk.

United States of America v
State of Illinois, Cook County, &c.

Pleas before the Honorable John M.
Wilson, Judge of the Cook County
Court of Common Pleas, within and for
the County of Cook and State of Illinois, at
a regular Term of the Cook County Court of
Common Pleas begun and holden at the
Court House in the City of Chicago in said
County on the ^{first} Monday being the
thirtieth day of September in the year of
our Lord one thousand eight hundred and
fifty eight and of the Independence of the
United States of America the Eighty second

(1)

Present The Hon: John M. Wilson . . . Judge
Charles Haven . . . Prosecuting Attorney
John L. Wilson . . . Sheriff of Cook County

Attest

Walter Kimball, Clerk.

Be it remembered that before & within the Twenty
fourth day of August in the year of our Lord one thousand
eight hundred and fifty seven came Edmund Caulfield and
others, Plaintiffs, by Monroe Spencer their Attorneys and
filed in the Office of the Clerk of the Cook County Court of
Common Pleas their certain process for Process, together
with Petition for Mechanics Lien; Which said Process and
Petition is in the words and figures following; to wit,

"Cook County Court of Common Pleas
September Term 1857.

Edmund Caulfield, John
Caulfield & Uriah Wheeler ...

vs
Mechanics Lien.

Carroll A. Reed ...

(2) The Clerk will please issue
process in above case upon Petition filed.

Monroe Spencer

Solicitor for Petitioners.

"Cook County Court of Common Pleas
October Term 1857.

State of Illinois }
Cook County ... } P.

To Hon: John M. Wilson Judge of
said Court.

Complaining show unto your Honor your
Petitioners Edmund Caulfield, John Caulfield and Uriah Wheeler

comprising the firm of E. J. Canfield & Co. Timbermen and
doing business in the City of Chicago County of Cook and
State of Illinois, that on various times between the last day
of May A. D. 1857 and the fifteenth day of July A. D. 1857
your Petitioners sold and delivered unto one Aaron H. Rose of
Chicago in said County at the Special request of said Rose
a large amount of Lumber of great value to wit of the
Value of Two hundred and twenty one dollars and fifty eight
cents, the particular items of said Lumber are particularly
set forth and specified in the Bill of items hereto annexed
and marked "Exhibit A" and which your Petitioners pray
may be taken as a part of this Petition and to which your
Petitioners for the greater certainty beg leave to refer. And
your Petitioners further pray that for the said Lumber so sold
and delivered by your Petitioners to said Rose as aforesaid
the said Rose then and there promised to pay your Petitioners
what the same was reasonably worth. And your Petitioners
pray that the said Lumber so sold and delivered as aforesaid
was and is reasonably worth the sum of Two thousand
and ninety one dollars and fifty eight cents. And your
Petitioners further pray that the said sum of money is now
wholly due and unpaid and that the said Rose has
directly refused and still does refuse to pay your Petitioners
the same although often requested so to do by your Petitioners.
And your Petitioners further pray that the said Lumber was
so as aforesaid purchased by said Rose of your Petitioners for
the purpose of erecting a certain Block of framed Building
on Lot Eight in Block One of Duane's Addition to Chicago

(3)

in the City of Chicago, County of Cook and State of Illinois
 And your Petitioners further say that the said Turner
 as aforesaid purchased was used and employed in the Erect
 of said Block of Buildings and that the same were at the
 times heretofore mentioned and are now owned as your
 Petitioners are informed and believes by said Rose, and
 that the said Rose was at the times heretofore mentioned
 the owner and proprietor of said Lot (8) Eight in Block
 One of Duane's Addition to Chicago.

Wherefore your Petitioners pray that the Honorable
 Court will be pleased to Order a Sale of whatever right
 title interest the said Rose may have had at the times
 times heretofore referred to, or now has in the said
 premises with the appurtenances and every part thereof, and
 that the proceeds of such Sale or so much thereof as may
 necessary may be applied to the payment of the aforesaid
 sum of money, due your Petitioners.

(Signed) Edmund Canfield

John Canfield

Ulrich H. H. H.

By Monroe T. T. T.

their Solicitors."

(Copy particulars of Account)

'C. A. Rose by R. Tate

To E. & J. Canfield & Co.

1864	June 1.	To	Ans. Clear Drp'd Flooring	100	&	31.	\$	3	"	10.
	"		Comm Bros	805	"	15.		12	"	03.
	"		to pro 244	660		15		9	"	90

To	60	ps	2 x 4	18	720	17	\$ 12 " 24
"			2 x 1		1108	18	15 " 12 52 " 39
"	12	ps	2 x 11	18	1144		
"	40	"	2 x 8	18	1440	13 811	17 " 23
"			base	sidning	32		
"			Con	Brds	100	1311	18 " 01 28 " 94
2	"		Con	Brds	500	18	7 " 50
"	35	ps	2 x 8	18	840	17	14 " 28
"	9	"	2 x 1	18	144		
"	60	"	2 x 4	14	840	13 811	18 " 1
"	31	"	2 x 4	18	510	17	11 " 36 " 1
"	70	"	2 x 1	18	1120	18	15 " 30
"	24	"	3 x 4	18	436		
"	20	"	2 x 9	18	360	10 26	17 " 14
"			Clear	Brds	1000	31	31 " 65 " 2
"	17	ps	2 x 9	18	439	17	7 " 30
"			Con	Brds	210	18	3 " 00
"			Clear	In Unders Flooring	100	28	13 " 8
4			Clear				29 " 3
9	"		In Clear Unders? Flooring	1000			28 " 00
"	40	ps	2 x 4	12	320	15	4 " 80 32 " 8
"	1 1/4	In	2 ^o Clear	2000		30	4 " 00
"	10000	ft	unders? base: 1 1/4 In	Flooring 10000	33		230 " 00 300 " 00
10	"	1 1/2	In	2 ^o Clear	300	30	9 " 00
13	"		Clear Unders? Flooring	4000		28	112 " 00
"	1 1/2	In	2 ^o Clear	300		30	9 " 00
"	1 1/4	"	2 ^o Clear	400		30	114 " 00 135 " 00
17	"	3	ps	4 x 1	18		9 " 1

(5)

To	60	frs	2 x 11. 1b.	340	636		9. 3 11	
"	1 1/4	In	2 ^o Clear	1100		35.	11. 00	23. 57
19	"	60	frs	2 x 14. 12	480			
"	8	"	4 x 1. 1b	336				
"	50	"	2 x 14 1b	330	1286	13		19. 29
"	40	"	2 x 14 12	320		15		4. 80
20	"	2 ^o	Clear	500		35		17. 50
23	"	2 ^o	Clear 1 1/4 In.	500		35.		14. 50
23	"	2 ^o	" In Best	1000		35.	35. 00	
"			Clear In Dress ^o Flooring	1000		31.	00	66. 00
26	"	2 ^o	Clear 2 In.	900				
"	2 ^o	"	1 1/2 " "	216	416	33		11. 56
"			Comm. Bldg 12 ft.	1700				
"			" " 1 1/2 "	700	2400	15		37. 00
29	"		Comm. Bldg ft Bldg.	1000	1600	15		
"	12	frs	2 x 11. 1b.	1320				
"	30	"	2 x 11 12	340	372	11		
"	2 ^o	Clear	1 1/4 In.	333				
"			Rafted Shingles	4 7/16	311			49. 7/8
30	"	2 ^o	Clear In Best	1000		35	00	
"	2 ^o	"	1 1/4 In.	200		35	1. 00	42. 00
"	2 ^o	"	3 In.	230				
"	2 ^o	"	1 1/2 In.	200	430	33		15. 00
July 1.	"	4	" 6 x 1 20	240				81009. 60
"	"	"	6 x 6 14		20		4. 80	
3	"		Comm. 4	252		15	3. 7/8	8. 58
"	"		Comm. 114 ft Bldg	230				
"	2 ^o	"	1 1/4 In "	110	360	15		5. 40

(6)

1/2	Clear 1 1/4 in:	200	36.	7.00
1	38 ps 2 x 4 - 18.	504	17.	9.07
"	240. 2 x 4 14	216	15	3.24
"	Clear in:	500	35	17.50
				<u>29.81</u>
				\$1060.20
2/4	Clear Siding	254	17.	4.32
"	but Plank	250	11.	2.75
"	Com 16 ft Plank	800	15	12.00
"	2 ps 2 x 4 14	18	15	2.70
8	Com 16 ft Bds	1200		18.00
9	Clear Underlayment Flooring	300		
"	" " Siding	300		
"	2 Clear 1 1/4 in:	300	36	10.80
				<u>20.88</u>
				1118.58

(7)

June 29 Debit 1000 for Com 16 ft Bds not used

in Building 8 15 12.00

1 1176 Rustd Shingles " " 12. 12.00 24.00

\$1091.58

And thereupon accordingly on the said twenty fourth day of August A.D. Eighteen hundred and fifty seven, there was issued out of and under the Seal of said Court, Proper Writ of Summons, against the said Carrie L. Ross; Which said Writ with the Sheriffs return thereon endorsed is in the words and figures following; to wit,

'State of Illinois }
County of Cook } p

The People of the State of Illinois

To the Sheriff of said County: Greeting.

We command you that you summon Orrin A. Rose, if he shall be found in your County, personally to be and appear before the Cook County Court of Common Pleas of said County on the first day of the next term thereof to be holden at the Court House in the City of Chicago in said County on the second Monday of September next to answer unto Edmond Campbell, John Campbell & Maria Wheeler in their certain Petition for Money Lien now on file in said Court to the damage of the said plaintiffs as they say in the sum of One thousand ninety one dollars fifty eight cents.

(8)

You have you then and there this Writ, with an Endorsement thereon in what manner you shall have occasion the same.

Witness Walter Kimball Clerk of said Court
and the Seal thereof at the City of Chicago in
said County this 24th day of August A.D.
1854.

Walter Kimball. Clerk."

Endorsed

"Served on the within named Orrin, A. Rose by
delivering a copy hereof to him the 25th day of August
1854.

John, L. Wilson. Sheriff

By John M. Dart Deputy "

And thereafter to wit on the Twenty sixth day of October A. D. Eighteen hundred and fifty seven came the said Defendant and filed in the Office of the Clerk of said Court his Answer to said Petition: Which said Answer together with the Affidavit thereunto annexed, is in the words and figures following, to wit.

" Cook County Court of Common Pleas
September Term 1857.

State of Illinois)
Cook County ..) S.

(9) Edward Canfield, John
Canfield & Uriah Wheeler) Petition for
vs) Mechanics Lien
Orvin I. Rose)
The Answer of Orvin I. Rose
Defendant to the above named Petition.

The Defendant Orvin I. Rose says that it is not true as alleged in the Petition of the Plaintiffs in this suit that they "on various times between the last day of May A. D. 1857 and the fifteenth day of July A. D. 1857 sold and delivered unto the Defendant Orvin I. Rose at Chicago in said County at the special request of the said Defendant a large amount of Lumber of great value to wit, of the value of Two hundred and ninety one dollars and fifty eight cents" or any other amount of Lumber.

The Defendant further answering denies that he then or at any other time promised to pay to the said Petitioner what the said Lumber was reasonably worth.

The Defendant further answering says that it is not true that the said Lumber was reasonably worth the sum of Two hundred and ninety one dollars and fifty eight cents.

(10)
The Defendant further answering says that it is not true "that the said Lumber was purchased by the said defendant Orrin A. Rose of the said Petitioners for the purpose of Erecting block of framed Buildings on Lot Eight in Block One in Duane Addition to Chicago, in the City of Chicago, County of Cook and State of Illinois or elsewhere, but that the said Lumber in the Petitioners Petition referred to and Marked as such was purchased by one Ralph Tate and not by the Defendant Orrin A. Rose or any one under his Agency or in his employment as Agent or Servant."

All which matters and things the Defendant is ready and willing to aver maintain and defend as he thinks fit. He prays that the Honorable Court shall direct and finally decree to be done and dismissed with his reasonable costs and charges in the behalf most wrongfully sustained.

(signed) O. A. Rose."

"State of Illinois)
Cook County .. } ss.

Edmund Canfield Etal

@

Orrin A. Rose .. }

Petition for

Mechanics Lien.

Orui. A. Rose being duly sworn or oath doth depose
and say that he is Defendant in the above Entitled cause,
that he hath read the foregoing answer by him subscribed
and knows the contents thereof, that the same is true of his
own knowledge except the matters and things therein stated
to be on his information and belief, and as to those he believes
it to be true.

Sworn and subscribed to by Orui. A. Rose.
before me this fifteenth day
of September A. D. 1857.
W. H. Davis. Notary Public
Cook County.

(11)

And thereafter to wit on the thirtieth day of 20
November in the year of our Lord one thousand eight hundred
and fifty seven the said Plaintiffs filed in the Office of the Clerk
of said Court, their replication in said cause in the words and
figures following: to wit:

"Cook County Court of Common Pleas. Of the
November Special Term A. D. 1857.

Edmund Caulfield, John
Caulfield & Uriah Wheeler
(vs)
Orui. A. Rose

Petition for
Mechanics Lien

The Replication of Edmund
Caulfield, John Caulfield and Uriah Wheeler, Complainants

to the Answer of Carrie I. Rose Defendant to the said Petition of the above Complainants.

These repliants having and receiving to themselves all and all manner of advantage and exception to the manifold insufficiencies of the said answer, for replication hereunto say.

1st That they did at various times between the last day of May A.D. 1857 and the 15th day of July A.D. 1857 at the Special request of the said Defendant, sell and deliver to said defendant a large amount of Lumber to wit the value of One thousand and twenty one dollars and fifty Cents.

2nd That said Lumber was reasonably worth and due of money.

3rd That said Lumber was not sold or delivered to any other person than said defendant.

(12) 4th That said Ralph Hoyt was an Agent of said Rose to receive said Lumber.

That they well aver and prove their said petition to be true certain and sufficient in law to be maintained, and that said Answer of said Defendant is uncertain, untrue and insufficient to be further relied unto by these repliants; Without this that any other matter or thing whatsoever in the said Answer contained, material or effectual in the law to be relied unto Confessed and avoided, traversed or denied is true.

All which matters and things these repliants aver and well be ready to aver and prove as this Honorable Court shall direct, and humbly prays as in and by their said Petition they have already prayed.

Morrison & Spencer
Solicitors for Complainants.

And afterwards to wit on the Twelfth day of
October (being one of the days of the said September Term
of said Court) in the year of our Lord one thousand eight
hundred and fifty eight, the following proceedings were had
in said cause and entered of record in said Court to wit

Edmund Caufield, John
Caufield & Frank Wheeler

Petition for

Reliance

Case No. 100

This day came and the causes by

Marion Spencer their Solicitors and said Defendants by

Drummond & Davis their Solicitors also came and the cause

coming on to be heard on Petition and Answer of said

Defendant and replication by said Petitioner therein and costs

being joined therein it is ordered that a Jury be chosen

the Jury comes of good and lawful men to wit

Henry Dear, R. H. Van Bunt, William Coleman, N. Rossiter

William Constock, D. H. Brown, L. J. Sprague and Peter

John Casey, F. Snyder, H. J. Bull, William Uplinton

who being duly elected tried and sworn to try the issues

joined aforesaid, after hearing the allegations and proofs so

submitted and arguments of Counsel retire to consider of

their Verdict and afterwards come into Court and say We

the Jury find issues herein for said Petitioners and assess

their damages herein to the sum of Seven hundred and twenty

dollars Wherefore said Petitioners ought to have and recover of

the said Defendant their damages sustained herein by reason

of the premises and it appearing to the Court that said Petition
was filed for the purpose of securing a Mechanic Lien on
the premises set forth and described in said Petition for the
amount of their claim and demand stated in said Petition
due and owing to said Petitioners and bring for Summ
and materials sold and delivered by said Petitioners to said
Defendant, between the last day of May A.D. 1854 and the
fifteenth day of July A.D. 1854 and that the said Sum
and materials so as aforesaid purchased by said Defendant
said Petitioners was for the purpose of erecting a certain Block
of framed Buildings on Lot Eight in Block One of Duncan
Addition to Chicago in the City of Chicago County of Cook
and State of Illinois, and that the said Sum and material
was so used by the said Defendant in the erection of said
Block of Buildings on the said premises.

(14)

Wherefore it is therefore considered, Ordered, adjudged and
decree, and the Court by virtue of the authority vested therein
doth order adjudge and decree that the said Petitioners Edward
Campbell, John Campbell and Uriah Campbell as no
Mechanics Lien upon the premises set forth and described
in the Petition filed in this cause, and do have and recover
of the said Defendant their damages of Eleven hundred and
twenty dollars in sum aforesaid by the Jury aforesaid
found and assessed, together with their costs and charges in the
behalf expended, and have a special execution therefore against
all the right title and interest of the said Defendant Orrin
Rose, of us and to the premises set forth and described in
Petition filed in this cause, to wit, Lot Eight in Block One

of Duncan's Addition to Chicago, with the certain Block of
framed Buildings erected thereon, situate lying and being in
the City of Chicago, County of Cook and State of Illinois, and
to sell the aforesaid Premises with all the appurtenances to
thereunto belonging or in anywise appertaining to satisfy the
aforesaid damages with Costs.

And afterwards to wit on the thirtieth day of
October being 4th of the said September Term of said Court
in the year of our Lord one thousand eight hundred and fifty
eight, the following further proceedings were had in said
cause, and entered of record in said Court, to wit.

(15)

Edmund Canfield, John
Canfield & Virick Wheeler

(vs)

Orren L. Root

Plaintiffs for
Mechanics Lien

And now on this day comes
the said Defendant and prays an Appeal of this Cause to
the Supreme Court of the State of Illinois, which appeal is
allowed to him in condition of his filing his Appeal Bond
within ten days in the sum of Fifteen hundred dollars to
be approved by the Judge of this Court.

State of Illinois }
Cook County . } 60

I Walter Kimball, Clerk of the Supreme Court of Chicago (late Cook County Court of Common Pleas within and for the County of Cook and State of Illinois) Do hereby certify the above and foregoing to be a full, true and perfect Transcript of the Precept, Return, a Summons, Answer of Defendant and Affidavit and Application now on file in my Office, together with all orders, judgments and decrees entered of record in said Court, in certain proceedings therein for a Mechanics Lien, wherein Edmund Crawford, John Crawford and Noah Wheeler, were complainants and Orrin J. Rose was Defendant.



In testimony whereof I have hereunto set
my hand and affixed the Seal of said
Superior Court at Chicago in said
County the ¹fourteenth day of November
in the year of our Lord one thousand
eight hundred and fifty nine.

Haller Kimball Club

In the Surface Control Section

Miss J. Ross

21. *Alpinia* *Alpinia*

Edurus leaefield

Soher beauftragt aus

North Wheeler

Left in even

(But now comes the
 said Plaintiff in evn. Will J. Ross, J. Scott
 McAllister & Scott. His attorney and says that
 in the Recd and Proceedings aforesaid and
 also in the giving of the Subpoena aforesaid
 there is manifest evn. in this. Truth!

(17) The Petitioners of the said African社 in New
does not say forth and show such a contract
as entitles them to any claim, under the laws
of the State of Illinois, upon the property in
said Petition described.

2^d. The Criminal set forth in said Petition does not state or show any transaction which the Secular Government by the said Defendants in error was to pay for, or any agreement on the part of the said Plaintiff in error to pay for the same at any time within two years from the delivery thereof.

3^d. It does not appear from the said Relation
that there was any contract between the said

Parties, respecting the persons for which the said
lumber was purchased by said Plaintiff in error -
or that the same was sold & delivered by the said
defendants in error, upon any Contract or Agree-
ment, that it should or would be used in the
erection of buildings upon the Premises des-
cribed in said Petition.

4th That the Judgment aforesaid, in favor
aforesaid, was given for the said defendants
in error against the said Plaintiff in error
whereas by the Law of the Land, the said Judgment
ought to have been given for the said Plaintiff
in error against the said defendants in error.

(18) And the said Plaintiff in error fears
that the Judgment aforesaid, for the errors
aforesaid, or its other errors in the Return and
Proceedings aforesaid, may be reversed, annulled
and altogether lost for nothing. And that he
may be restored to all things which he hath
lost by occasion of the said Judgment - or.

Scotus McAllister & Smith
Attys for Plt in error

Let a supersedeas issue. Bond in the
sum of fourteen hundred dollars with
William Sell Security
J D Catow

State of Illinois
Cook County ..

72

Edmond C. Aspley et al.

vs

Orui J. Rose ..

Record.

Filed November 16, 1887

L. Leland
Clerk

\$5.00 Paid for Record

STATE OF ILLINOIS, SUPREME COURT,

THIRD GRAND DIVISION.

APRIL TERM, 1860.

ORRIN J. ROSE,

vs.

EDMUND CANFIELD,
JOHN CANFIELD and
URIAH WHEELER.

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That said lumber was used in the erection of said block of buildings, and at the times hereinbefore mentioned, and are now owned by said Rose, and who was the owner at the times hereinbefore mentioned of said lot in said block.

Pray a sale of whatever right, title or interest said plaintiff may have had at the time or times herein specified, or now has in said premises with the appurtenances and every part thereof, and that the proceeds of said sale be applied to the payment of defendants' debt.

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Cook vs. Rosinot et al., 21 Ill. R., 437.

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The Court and jury erred in finding more than was claimed to be due by the petition, and in allowing interest on an open account. The case as to interest falls under the statute of 1845.

Revised Stat., page 249.

SCATES, McALLISTER & JEWETT,
Of Counsel for plaintiffs.

¹²
Orrin J. Rose

vs
Edmund Canfield

Abstract and
Deeds of Plff.

Filed April 24 1860
L. Leland
Clerk

STATE OF ILLINOIS, SUPREME COURT,

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Revised Stat., page 249.

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Edmund Canfield
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Abstract of
Briefs & Pleadings

Filed April 24, 1860
L. Leland
clerk

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SCATES, McALLISTER & JEWETT,

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72

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Edmund Canfield

Abstracts &
Briefs of Pleas

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L. Leland
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Filed April 24, 1860
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