

12332

No. \_\_\_\_\_

# Supreme Court of Illinois

Stilson

---

vs.

Hill

---

70  
Samuel H. Titson  
vs  
Warren Hill

70

✓ Vin

1856

Reversed

1857

✓ 12332

74

✓  
X

# LaSalle County Court

## Term Comm 1855

State of Illinois }  
 LaSalle County } p.

Pleas, Proceedings and judgments  
 held and taken in and before the LaSalle  
 County Court in the State of Illinois at the  
 Court House in Ottawa in the County of  
 LaSalle of June Term thereof, to wit, of the  
 fourth day of June in the year of our  
 Lord One thousand eight hundred and  
 fifty five and of the Independence of the  
 United States of America the Seventy ninth

Present Hon. Henry S. Cotton Judge

Saml. W. Raymond Clerk.

Francis Warner Sheriff

Be it remembered that heretofore to wit on  
 the 12<sup>th</sup> day of May 1855 a paper was filed  
 in the office of the clerk of the County Court  
 of said LaSalle County - which is in the  
 words and figures following to wit,

"Warren Will" State of Illinois

"County of LaSalle

Samuel J. Stillson & County Court

Prace P. Wallack & Assumpsit

Damages \$500.00

George Cook Attorney

Afterwards on the same day a summons was  
 issued in the words and figures following  
 to wit,

"The People of the State of Illinois, To our

Sherriff of our county of LaSalle  
Greeting -

Es  
cc

We command you that you summon  
Samuel J. Stilson & Isaac P.

Wallack if they shall be found  
in your county personally, to be and appear in  
and LaSalle County Court, before our Judge thereof  
on the first day of the next term of said  
court, to be held at the Court House in  
Ottawa, on the first Monday in June next  
at ten o'clock in the forenoon, then and  
then to answer unto Warren Will, in a  
plea of trespass on the case upon damages  
to the damages of the said plaintiff as he  
says of five hundred dollars - and how  
you then then this writ and the manner  
in which you shall have executed the same.

In witness whereof we have caused the  
seal of our said Court to be hereunto affixed  
and attested by Samuel W. Raymond, our  
clerk thereof at Ottawa 12<sup>th</sup> day of May 1855  
S. W. Raymond clerk

which writ was returned and filed in the  
office of said clerk on the 23<sup>rd</sup> day of May 1855  
with the following endorsement, to wit,

"Executed this writ by reading the same to  
"Samuel J. Stilson May 15<sup>th</sup> 1855, Isaac P.  
"Wallack not found in my county  
H. Wainor Shiff

Ex. & At. 60

20 miles 1, 10  
/ 1, 10

filed May 23-1855

S. W. Raymond clerk  
H. Wainor Shiff

Afterwards to wit on the 25<sup>th</sup> day of May 1855  
a declaration was filed in the office of the  
clerk of the County Court in the words and  
figures following to wit.

State of Illinois

La Salle County and County Court thereof  
of June Term A.D. 1855

Warren Hill plaintiff in this suit by  
Homer Clark his atty complains of Samuel  
J. Stillson and Isaac B. Wallack who were  
late partners in trade under the name and  
style of S. J. Stillson & Co. of a false & unjust  
on the case on promises for that the said  
defendants to wit at the county aforesaid  
herebefore to wit on the first day of April A.D.  
1855 were justly indebted to the plaintiff in  
the sum of five hundred dollars for so much  
money before that time had and received by  
the said defendants to and for the use of the  
plaintiffs - and in the same sum for so  
much money before that time lent and  
advanced by the plaintiff to the said  
defendants at their special request and  
request and in a the same sum which  
was then and then found to be due from  
said defendants to said plaintiff upon  
an accounting then & then had between  
them and in consideration thereof then  
and then promised the said plaintiff  
to pay him said several sums of money  
when they should be <sup>thereby</sup> requested - yet though  
requested said defendants have never paid  
the same but so to do have wholly neglected  
& refused & still refuse and for that the said

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defendants heretofore to wit on the 31<sup>st</sup> day  
of October A.D. 1854 at Carlville to wit at the  
court aforesaid by their said firm & style  
of V. J. Stillman & Co. executed and delivered  
to one W. S. Will their certificate of deposit  
which is in substance as follows:

Exchange Office of V. J. Stillman & Co.  
Carlville Del. Oct. 31<sup>st</sup> 1854

\$40.00.

W. S. Will has deposited in this office  
twenty dollars to the credit of himself pay-  
able to his order hereon in current bank  
bills. This certificate is to draw 15 per cent interest

V. J. Stillman & Co.

and the said W. S. Will afterwards to wit  
on the same day enclosed and delivered  
said certificate of deposit to the plaintiff  
and thereby then & there ordered and appoint-  
ed said sum of money in said certificate  
specified to be paid to the plaintiff - By  
means whereof the said defendants then  
and there became liable and in consid-  
eration thereof then & there promised the plain-  
tiff to pay him the sum of money in said  
sum of money in said certificate mentioned  
when they should be thereafter requested  
so to do - Yet though often requested said  
defendant hath never paid said sum  
of money or any part thereof but so to do  
hath wholly neglected and refused and  
still do refuse

whereby said plaintiff hath sustained damage  
in the sum of five hundred dollars & there-  
fore he brings his suit

Glover & Cook  
attys. for plaintiff

5  
Copy of account declared on  
Messrs. S. J. Stillman & Co.

To Warren Will Dr.  
April 1<sup>st</sup> 1855. To money had & received of Will and \$500.00  
" " " " " lent & advanced by Will to them 500.00  
" " " " " due on account stated 500.00

Copy of Certificate of deposits

Exchange Office of S. J. Stillman & Co.  
\$40.00 Embled Let. Oct 31-1854 - No.

W. S. Will has deposited in this office  
twenty dollars to the credit of himself paya-  
ble to his order hereon in current bank bills  
this certificate is to draw 15 per. cent interest

S. J. Stillman & Co.  
Enclosed "Pay the within to Warren Will"  
W. S. Will

filed May 25<sup>th</sup> /55  
J. W. Raymond Clerk.

Afterwards to wit on the 11<sup>th</sup> day of June 1855  
the same being one of the days of the term  
of the Court the following order was  
made and entered of record to wit  
Warren Will

Assumpsit  
Warren J. Stillman &  
Isaac P. Wallacke } This day comes the  
} plaintiff by John Clark  
his attorney and on their motion it is  
ordered that Samuel J. Stillman file a plea  
herin by to morrow morning

Afterwards to wit on the 13<sup>th</sup> day of June 1855 being  
one of the days of said term of said Court the

following order was made and entered  
of record & wit

Warren Hill

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Samuel J. Stillman &  
Isaac P. Wallack

Assumpsit

This day coming the  
plaintiff by Glover & Cook his attorneys - and  
on his motion this cause is continued at  
plaintiff's costs to be taxed

page 6.7

Afterwards & wit, on the 6<sup>th</sup> day of September  
1855 being one of the days of the September  
Term of said Court the following order was  
made and entered of record. & wit.

Warren Hill

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Samuel J. Stillman &  
Isaac P. Wallack

Assumpsit

This day coming the  
plaintiff by Glover & Cook his attorneys - and  
on his motion leave is granted them to  
file an additional count in declaration

And on the same day a plea and an  
amended declaration were filed in the  
words and figures following & wit

State of Illinois

La Salle County Sept 1855

Warren Hill

Samuel J. Stillman &  
Isaac P. Wallack

Trans on the case  
upon promises

And the said Samuel

7  
T. Stillson one of the above named defendants  
impleaded with Isaac P. Wallack, in  
his own proper person comes and defends  
the wrong and injury whereof and prays  
judgment of the said suit and the declaration  
as amended of the said Warren Will because  
he says that the said Samuel J. Stillson was  
not at the time of the commencement of this  
suit or at any <sup>other</sup> time before or since, in the  
exchange business & banking business ~~and~~  
a partner with Isaac P. Wallack doing  
business under the style of S. P. Wallack  
nor was he a partner with said S. P.  
Wallack in said exchange and banking  
business on the 14<sup>th</sup> day of April 1855  
under any other name firm or style, and  
this he is ready to verify whereupon &c.

S. J. Stillson

And the said Samuel J. Stillson whose name  
is signed to the foregoing plea and one of the  
defendants in said entitled cause maketh  
oath and saith that the above plea is true  
in substance & fact

S. J. Stillson

The foregoing plea was submitted & sworn  
to before me this 26<sup>th</sup> day of Sept. 1855

Saml. W. Raymond clrk

Ed. Menick Depy.

Filed Sept. 6 1856

W. Raymond clrk  
Menick

Warren Hill

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State of Illinois

Sabell County Court

Samuel S. Stilson &amp;

Sept Term 1855

Isaac P. Wallack

3<sup>rd</sup> Cont. Warren Hill plaintiff in this case also complains of Samuel S. Stilson and Isaac P. Wallack partners in the exchange & banking business under the style of I. P. Wallack of a false & improper on the case upon previous & that whereas the said defendants as partners as aforesaid at the county aforesaid on the fourteenth day of April A.D. 1855 under the <sup>said</sup> style of I. P. Wallack executed & delivered their certificate of deposit or due bill of that date to the plaintiff - which certificate is in the words & figures following.

Exchange Office of I. P. Wallack  
\$350. Earlville April 14 - 1855

Warren Hill has deposited in this office three hundred and fifty dollars, to the credit of himself payable to his order in current bank bills

N.

I. P. Wallack  
per. S. S. Stilson

It means whereof the said defendants as partners as aforesaid under the style aforesaid acknowledged to be due & promised to pay when requested to the plaintiff or his order the sum of money in said certificate of deposit or due bill mentioned. Yet though requested the said defendants have not paid the same or any part thereof

filed Sept. 6 - 1855

Gloria Clerk for filer.

SW Raymond  
B.M.

9  
Afterwards to wit on the 7<sup>th</sup> day of September  
1856 being one of the days of the September term  
of said Court the following order  
was made and entered of record  
to wit.

Warren Hill

Samuel J. Skilern  
Isaac P. Wallack

Assumpit

{ This day comes the  
plaintiff by Glendon Clark his attorney  
and on their motion this cause is  
continued to the next term of this  
court at the cost of the plaintiff to  
be taxed

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Afterwards to wit on the 10<sup>th</sup> day of December  
1856 the same being one of the days of the  
December term of said court a demurrer  
was filed in the office of the Clerk of said Court  
which is in the word and figures following -  
Warren Hill

Samuel J. Skilern  
Isaac P. Wallack

Sadall County Court  
December term 1856

And now comes the said  
plaintiff by Glendon Clark his attys. and demurs  
to the plea for abatement of Samuel J. Skilern  
filed in this cause, & says preclude now because  
he says said plea is not sufficient in law  
to abate the suit of the plaintiff & this he  
is ready to verify wherefore he prays  
Judgt &c.

Glendon Clark p.p.

10

Afternoon on the same day a plea was filed  
in the court and begins following  
State of Illinois } County Court thereof of the  
Saball County } Dec. Term Ad. 1855

Warren Hill

<sup>m-</sup>  
Samuel Skilson &  
Isaac P. Wallack partners  
in name & style of  
Skilson & Wallack

Assumpsit

And the said defendants  
Samuel J. Skilson comes by counsel his  
attorney and defends the wrong & injury  
when &c. and says that he did not under-  
take & perform in manner and form  
as the said plaintiff hath therein in  
his declaration alleged against him  
and of this he puts himself upon the  
country &c.

By A. W. Cavarly atty for deft.  
Skilson

And the jury, with the  
like

Gloria Clerk

Afternoon on the same day the following sen-  
culings now had and order made and  
entered of record &c.

Warren Hill

<sup>m-</sup>  
Samuel J. Skilson &  
Isaac P. Wallack

Assumpsit

This day comes the

185  
plaintiff by Glendon Clark his attorney  
and the defendants Samuel J. Stilson by  
Brusnell, Wallace, Leonard & Gray his attorneys  
Whereupon came the following jurors of a jury  
to wit. David Beck, William Pearson, George  
Hill, David Richey, Alphe Loff, George W. Post.  
Benjamin F. Miller, William Evans, A. S.  
Putnam, Joseph J. Worland, Dolphin Clark  
and George Ives who were duly elected tried  
and sworn to well and truly try the issues  
herein according to the evidence - And  
after hearing part of the evidence the jury  
were allowed to separate and came into  
court the morning morning

Afterwards to wit on the 9<sup>th</sup> day of December  
being one of the days of the December term  
of said court the following order was  
made and entered of record to wit  
Warren Hill

Samuel J. Stilson &  
Isaac P. Wallace

Assessors

This day again came  
the plaintiff by his said attorneys, as well  
as the said defendant Stilson by his said attorneys  
together with the jury sworn herein - Whereupon  
after hearing the balance of evidence and arguments  
of counsel the jury retired to consider of their  
verdict - who after due deliberation thereon  
have returned into court the following verdict  
to wit. That the jury find for the plaintiff in  
the sum of three hundred and seventy one  
dollars and thirty four cents

Whereupon the said defendant Stilson,  
by his said attorneys, enters his motion  
for a new trial herein

Afterwards to wit, on the 15<sup>th</sup> day of December  
1855 being one of the days of said December  
term of said court the following order was made  
and entered of record to wit.

Warren Will

Assumpsit

Samuel J. Stilson &  
Isaac P. Wallack

This day again comes  
the parties herein by their said attorneys  
and by agreement, it is ordered that  
the motion for a new trial entered herein  
be determined on or before the tenth day  
of January next - and the order therein  
to be entered as of this day - and that  
all necessary orders may then be made  
for perfecting an appeal in the same  
manner as orders may be made in  
Term time - and they shall be made as  
of this term - And if appeal is not  
taken Judgment may be perfected as  
of this day in this term

Afterwards the following order was made  
and entered of record as the 15<sup>th</sup> day of  
December 1856 to wit.

Warren Will

Assumpsit

Samuel J. Stilson &  
Isaac P. Wallack

This day again comes

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the parties herein and after hearing the arguments of counsel on the motion on-  
tend herein for a new trial - said  
motion is overruled by the Court -

It is therefore considered that the plain-  
tiff have and recover of said defendant  
Samuel T. Stiles the said sum of Three  
hundred and seventy one dollars and  
thirty four cents for his damages and also  
his costs and charges by him herein  
expended and that he have execution therefor

Whereupon the said defendant prayed  
an appeal herein which is allowed on  
his entering into a bond in the sum of  
Seven hundred and fifty dollars, with  
Charles H. Sutherland or George W. Nutt as  
security and by agreement it is or-  
dered that the bond be filed on or before the  
1<sup>st</sup> day of February 1856 and also that a  
bill of exceptions be filed before the 1<sup>st</sup> day of  
February 1856

Page 13.

Afterwards to wit on the 10<sup>th</sup> day of January 1856  
a bill of exceptions was filed in the office  
of the Clerk of said Court in the words and  
figures following. To wit,

State of Illinois } LaSalle County Court  
LaSalle County } p. December Term Ad. 1855

Be it remembered that on the trial of the  
issue in this cause, the plaintiff to main-  
tain that issue on his part, offered in  
evidence a certificate of deposit, or writing,

14

in the words and figures following  
that is to say

Exchange office of S. J. Stilson Rev.  
\$200.00 Carlville Ill. Oct. 31<sup>st</sup> 1854 N<sup>o</sup> =

W. S. Hill has deposited in this office  
twenty dollars to the credit of himself pay-  
able to his order hereon in current bank bills  
this certificate is to draw 15 per cent interest  
S. J. Stilson Rev.

Endorsed on back - "Pay the within to Warren Hill"  
W. S. Hill"

~~the~~ and also the following other certificate  
of deposit or receipt in the words and figures  
following that is to say

\$350.00

Exchange office of S. P. Wallock  
Carlville April 14<sup>th</sup> 1855

Warren Hill has deposited in this office  
three hundred and fifty dollars to the credit of  
himself payable to his order, in current bank  
bills

S. P. Wallock  
per. S. J. Stilson

And to the giving of which last mentioned  
certificate in evidence the defendant Stilson  
objected at the time the same was offered  
in evidence but the objection was overruled by  
the court and the said certificate was read  
in evidence to the jury and to which decision  
of the court in permitting the said last  
mentioned certificate to be read in evidence  
to the jury the defendant Stilson at the time  
the said decision was made also excepted  
which was all the evidence in the case  
and thereupon the court at the request of the plain-

liff instructed the Jury as follows,

1<sup>st</sup> That the defendant Stillson can not in this suit deny that he was in partnership with J. P. Wallack at the time when the certificate set forth in the plaintiffs declaration was issued that not being in issue

2<sup>d</sup> That the ~~declaration~~ <sup>defendant</sup> Stillson can not in this suit deny that Stillson & Wallack did execute the certificate set out in plaintiffs declaration he having failed to file a plea denying such execution verified by affidavit

And to the giving of which instructions for the plaintiff the defendant Stillson at the time the same were given excepted

And thereupon the defendant Stillson asked the Court to instruct the Jury as follows,

1<sup>st</sup> Under the issues made in this case the plaintiff by his answer to the plea of the defendant, Samuel Stillson, that he was not at the time of the commencement of this suit or at any other time before or since in the exchange & banking business, or partner with Isaac P. Wallack, the other defendant, in said exchange and banking business on the 14<sup>th</sup> day of April 1855, under any other name firm or style, admits the truth of the facts set out in said plea

2<sup>d</sup> The plea of the said Stillson above referred to was not waived by the said Stillson afterwards filing the plea of the general issue

*Given*

*Given*

*Refused*

*Refused*

(16)  
3<sup>rd</sup> The only question of fact put in issue by the pleadings in this case and which this jury can try are upon the common counts and if the jury believe from the evidence that Stilem and Wallock as partners render the name of S. J. Stilem & Co. now indebted to the plaintiff on the \$20.00 certificate of deposit, dated April 14-1855, they will find for the plaintiff for that amount and interest from the date thereof

4<sup>th</sup> The certificate of deposit, offered in evidence by the plaintiff for \$350.00 dated April 14-1855 is not <sup>in</sup> evidence under the common counts of the plaintiff's declaration and under the issues made, said certificate is not in evidence under the special counts of the plaintiff's declaration, and should not be considered as in evidence by the Jury

5<sup>th</sup> The plea of Stilem denying under oath the partnership existing between him and S. J. Wallock under the firm name of S. J. Wallock, though in form a plea in abatement, is in fact a plea in law, going to the merits of the plaintiff's cause of action and the said Stilem had a right in law to file also the plea of the general issue and this did not waive in any way the other plea

And to which refusal of the Court to give the instructions aforesaid, asked for by the defendant Stilem, the said defendant at the time of such

(17)  
refusal excepted.

And thereupon the said defendant, Stilson  
also asked the Court to instruct the jury as follows -  
- The jury should only allow interest on the  
\$20,000 certificate of deposits at the rate of six  
percent per annum

And thereupon the jury rendered a verdict  
for the plaintiff for the sum of three hundred  
and seventy four dollars and thirty four cents

and thereupon the defendant, Stilson, moved  
the Court for a new trial, which motion was  
overruled by the Court, and to which decision  
of the Court in overruling the said motion  
for a new trial the defendant Stilson at the  
time thereof excepted

And prays the Court here to sign and seal  
this his bill of exceptions, which is done  
this 10<sup>th</sup> day of February A.D. 1856 in pursuance  
of the order and decision of the Court in this  
cause at the term at which this case  
was tried

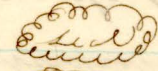
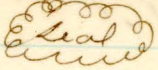
Henry J. Cotton Seal

Afterwards to wit on the 31<sup>st</sup> day of February  
1856 an appeal bond was filed in the clerk's  
office of said Court in the words and figures  
following to wit:

XX  
I now all men by these presents, that we Samuel  
J. Stilson and George W. West are held and firmly  
bound unto Warren Hill, in the penal sum of  
seven hundred and fifty dollars, lawful money  
of the United States, for the payment of which well

and truly to be made, on behalf ourselves  
our heirs, executors, and Administrators jointly  
and severally and giving of these presents,  
Witness our hands and seals this      day  
of January A.D. 1856

The condition of the above obligation is such  
that whereas the said Warren Hill, died, in  
the County Court in and for the County of LaSalle  
and State of Illinois at the December Term  
thereof A.D. 1855. never a judgment against  
the above bounden Samuel J. Stilson with  
Isaac P. Wallock, in a certain action of Assump-  
sit, for the sum of three hundred and twenty  
one dollars and thirty four cents damages  
and also for costs of suit. from which judg-  
ment the said Samuel J. Stilson has taken  
an appeal to the Supreme Court of the State  
of Illinois - Now if the said Samuel J.  
Stilson shall prosecute his said appeal  
in said supreme court with effect, and  
shall pay the condemnation money and  
costs, in case the said judgment of said  
County Court shall be affirmed by said  
supreme court in whole or in part, then the  
above obligation to be void otherwise to remain  
in full force and effect

Samuel J. Stilson        
Geo. W. West      

(191)  
State of Illinois  
LaSalle County 3p. Samuel W. Raymond  
Clerk of the County Court of said County of  
LaSalle, hereby certify the foregoing to be  
full, true and correct copy of the record of the  
cause, wherein Warren Hill is plaintiff  
and Samuel J. Stilson and Isaac P. Wallock  
are defendants, as appears from the  
records and files in my office.

In witness whereof I have hereunto set my hand and the seal of said court at Ottawa this 23<sup>d</sup> day of September A.D. 1856

Saml. W. Raymond Clerk,  
J. C. Merrick Deputy

for \$6.00

Let a supersedeas issue upon the  
plffs in error filing a bond in the penal  
sum of eight hundred dollars with  
surety

And the said Samuel S. Stilson now comes and says, that in the Record and proceedings aforesaid, there is manifest error in this, to wit;

1<sup>st</sup>

The Court below erred in not disposing of the plaintiffs' demurrer to the defendant's plea in abatement, before proceeding to render final judgment.

2<sup>d</sup>

The Court below erred in permitting the certificate of deposit mentioned in the last count of the plaintiffs' declaration, to be read in evidence to the jury.

3<sup>d</sup>

The Court below erred in giving to the jury the Instructions of the plaintiff.

4<sup>th</sup>

The Court below erred in refusing to give to the jury the Instructions asked for by the defendant.

5<sup>th</sup>

The Court below erred in over-ruling the motion of the defendant for a new trial.

6<sup>th</sup>

That the Verdict is manifestly against the evidence in the case.

7<sup>th</sup>

The said judgment was given in favor of the plaintiff below, whereas by the laws of the land, it ought to have been given in favor of the defendant below. Wherefore said Samuel S. Stilson prays that a supersedeas may issue, and that said judgment may be reversed, annulled, and held for nothing, and that he may be restored to all things he has lost by reason thereof.

For Knell & Gray.  
His atty.

Now comes the debt in favor of Green & Cook  
his ~~debt~~ & again in many days in  
the next judgment and proceeding Green & Cook  
expressed there is no more

Green & Cook et al  
vs  
Warren Hill -  
Transcript of Record

Filed Oct. 5. 1854  
J. L. Leonard  
Clerk.

The plea is in form of abatement, it prays judgment of the court.

This being a plea in abatement it was waived by the subsequent filing of the general issue -

1<sup>st</sup> Burns Iowa Rep. 165 -

Watchkis vs Thompson 1<sup>st</sup> Morris 156 -

Cook vs Sturben County Bank 1<sup>st</sup> Iowa (Burns) 1447 -

Shepard v Graves 14 Howard U.S. 505-512 -

Heart v Turk 15 Ala. 675 -

Berlin v Webster 5. Mass. 266 -

Robinson v See 1 Stewart 141 -

Nelson v Oliver 26 46 -

These authorities show 1<sup>st</sup> If Dft after having plead in abatement voluntarily plead to the action without a judgment of respondeat it is a waiver of the first plea which is to be considered as if never filed

And this though the Dft does in his last plea insist that he does not waive the plea in abatement

14 Howard 505 -

The Instructions are right, the Legislature has an undoubted right to declare that the joint liability should be admitted unless denied by plea in abatement, or unless the <sup>execution</sup> of the instrument sued on <sup>joint</sup> liability of Dfts was denied by plea

Warren Keile

vs

Isaac P. Keallack &

Samuel T. Stilson

Points and Authorities for Deft in Error

The only question in this case is whether the first plea which was filed by deft Stilson and was verified by affidavit was before the Court on the trial of the cause -

I say it was not, because it is a plea in abatement, and a plea in abatement is waived by the filing of the general issue.

The plea is a plea in abatement the statute provides that the partnership in this case could only have been put in issue by plea in abatement -

See Pursh's Stat Vol 1. page 542. sec 8.  
8 New Hampshire 542.

In Warren vs Chambers 12 Ill. 127 -  
This Court say "that the joint liabilities of parties who are sued as partners can only be put in issue by plea in abatement denying the partnership or by plea denying the execution of the writing verified by affidavit -

verified by affidavit. It is not  
pretended that the execution of the  
instrument is denied in manner  
pointed out by the Statute, the  
joint liability could only be put  
in issue by plea in abatement  
and this plea in abatement was  
waived by filing the general issue.

Bl. Book of Counsel  
for Dft in Error -

Samuel F Stilson

vs

Warren Hill

Argument

Books

Filed May 18. 1854

L. Leland

Clerk

STATE OF ILLINOIS,  
SUPREME COURT,

<sup>ss.</sup> The People of the State of Illinois,

TO THE SHERIFF OF THE COUNTY OF *La Salle*

GREETING:

BECAUSE, In the record and proceedings, and also in the rendition of the judgment of a plea which was in the ~~Circuit~~ <sup>County</sup> Court of *La Salle* county, before the Judge thereof, between *Warren Hill Plaintiff*

*and Samuel L. Stinson & Isaac P. Hallack*

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

*Defendants*

as we are informed by *their* complaint, the record and proceedings of which said judgment we have caused to be brought into our Supreme Court of the State of Illinois, at Ottawa, before the Justices thereof, to correct the errors in the same, in due form and manner, according to law; THEREFORE, WE COMMAND YOU, that by good and lawful men of your county, you give notice to the said *Warren Hill*

that *he* be and appear before the Justices of our said Supreme Court, at the next term of said Court, to be holden at Ottawa, in said State, on the *Second* Monday in *June* next, to hear the records and proceedings aforesaid, and the errors assigned, if *he* shall see fit; and further to do and receive what said Court shall order in this behalf; and have you then there the names of those by whom you shall give the said *Warren Hill*

notice, together with this writ.

WITNESS, The Hon. WALTER B. SCATES, Chief Justice of our said Court, and the Seal thereof at Ottawa, this *8th* day of *October* in the Year of Our Lord One Thousand Eight Hundred and Fifty-*Six*

*L. Seland*

Clerk of the Supreme Court.

*By J. B. Rice Deputy*





Clerk of the Supreme Court

1856-57  
Year of Our Lord One Thousand Eight Hundred and  
Sixty Six, this 25 day of December in the  
Justice of our said Court and the Seat thereof at  
Springfield, The Hon. MATTHEW B. SCOTTS, Chief  
Justice, together with the said

shall give the said  
shall order in this behalf: and have you then there the names of those by whom you  
errors assigned, it shall see fit: and further to do and receive what said Court  
in next to hear the records and proceedings aforesaid, and the  
terms of said Court to be holden at Ottawa in said State on the 1st Monday  
that you do and appear before the justices of our said Supreme Court, at the next

Good and lawful men of your county, you give notice to the said  
the said and further to do and receive what said Court  
Illinois at Ottawa before the justices thereof to correct the errors in the same in  
judgment we have caused to be pronounced into our said Court of the State of  
are informed by you, comply with the records and proceedings of which said

Samuel Wilson et al  
vs  
Warren Hill  
See page

Am. Mt. 60  
20 and 100  
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Filed Dec. 20, 1856.  
L. Leland  
Clerk

Secured Dec 21 1856

Served by Reading to Warren Hill  
Dec 3<sup>d</sup> 1856  
to the Sheriff of the County of  
Springfield  
STATE OF ILLINOIS  
The People of the State of Illinois  
J. J. Hunt Const

STATE OF ILLINOIS,  
SUPREME COURT,

*County* ss. The People of the State of Illinois,  
TO THE CLERK OF THE ~~CIRCUIT~~ COURT FOR THE COUNTY OF *La Salle* GREETING:

BECAUSE, In the record and proceedings, as also in the rendition of the judgment of a plea which was in the *County* ~~Circuit~~ Court of *La Salle* County, before the Judge thereof, between *Warren Hill*

plaintiff, and *Samuel T. Titson & Isaac P. Hallack*

defendant<sup>s</sup> it is said manifest error hath intervened, to the injury of the aforesaid

*Defendants* as we are informed by *their* complaint, and we being willing that error should be corrected if any there be, in due form and manner, and that justice be done to the parties aforesaid, command you that if judgment thereof be given, you distinctly and openly, without delay, send to our Justices of the Supreme Court the record and proceedings of the plaint aforesaid, with all things touching the same, under your seal, so that we may have the same before our Justices aforesaid at Ottawa, in the County of La Salle, on the *Second Monday in 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. WALTER B. SCATES, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this *8th* day of *October* in the Year of Our Lord One Thousand Eight Hundred and Fifty-*six*.

*L. Leland*  
Clerk of the Supreme Court.  
*By J. B. Rice Deputy*

Clerk of the Supreme Court

of Our Lord One Thousand Eight Hundred and Fifty-  
four, this day of October in the Year  
Justice of our said Court, and the Seal thereof, at Ot-  
tawa, The Hon. MAURICE B. SCARLETT, Chief

be done according to law.

next, that the record and proceedings, being in-  
the same before our Justice residing at Ottawa, in the County of Le Salle, on the  
notwithstanding all things touching the same, under your seal, so that we may have  
sent to our Justices of the Supreme Court the record and proceedings of the same  
and you that if judgment thereof be given, you distinctly and openly, without delay,  
be to the Court and we will be bound to the Justice residing at Ottawa, in the County of Le Salle, on the

Samuel A. Stilson  
& others  
vs  
70  
Warren Hill  
Writ of Error

This Writ of Error  
is to operate as a  
Superedeas and as  
such is to be obeyed  
by all Concerned.

L. Leland Clerk  
By J. B. Rice Deput.

Filed Oct. 8. 1856  
L. Leland  
Clerk

the Judge thereof, between

of a plea which was in the

REDACTED In the record and proceedings, as was in the rendition of the judgment

TO THE ORDER OF THE

REDACTED COURT,

STATE OF ILLINOIS.

Court, before

the Judge thereof, between

of a plea which was in the

REDACTED In the record and proceedings, as was in the rendition of the judgment

TO THE ORDER OF THE

REDACTED COURT,

STATE OF ILLINOIS.

Know all men by these presents, that We  
Samuel J. Stilson and Wm R. Haight G. R. Richardson  
of LaSalle County and State of Illinois, are held  
and firmly bound unto Warren Hill, of the same  
place, in the sum of Eight hundred dollars, to the  
payment of which well and truly to be made, we  
do by these presents jointly and severally bind  
ourselves, our heirs, executors, and administrators:  
Sealed with our seals, and dated this 30<sup>th</sup> day of  
September A.D. 1856.

The condition of the above obligation is such, that  
whereas the said Samuel J. Stilson has obtained  
an allowance of a Writ of Error, upon a certain  
judgment rendered in the County Court, in and  
for LaSalle County aforesaid, at the December  
Term thereof A.D. 1855, in favor of said Warren Hill  
and against said Samuel J. Stilson, and Isaac P.  
Hallack, for the sum of Three hundred and Seventy  
one dollars and thirty four cent. damages, and also  
costs of suit. Now if the said Samuel J. Stilson  
shall pay the condemnation money and costs, in  
case the said judgment of the said County Court  
shall be affirmed by the Supreme Court of the State  
of Illinois, in whole or in part, then the above  
obligation to be void; otherwise, in full force in law.

Samuel J. Stilson (Seal)  
Wm R. Haight (Seal)

G. R. Richardson (Seal)

Samuel H. Theron et al  
vs  
Warren Hill

Bond

Filed Oct. 8, 1886  
L. Leland  
Clerk