

No. 13644

Supreme Court of Illinois

Farlin

vs.

Lovejoy

71641  7

STATE OF ILLINOIS,
SUPREME COURT,
Third Grand Division.

No. 115

Fauler

vs

Lovejoy

1862

115

3644

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

To the Sheriff of the County of

Cook

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 *Cook* County, before the Judge thereof, between

Harriet Farlin

plaintiff, and

Reuben Lovejoy

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

Harriet Farlin

as we are informed by *her* 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

Reuben Lovejoy

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

Reuben Lovejoy

notice, together with this writ.

Witness, The Hon. JOHN D. CATON, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this *first* - day of *February* in the Year of Our Lord One Thousand Eight Hundred and *Sixty-two*.

L. Seland

Clerk of the Supreme Court.



¹¹⁵
Harriet Harlin
Reuben Lovejoy
Sci Fw.



To Apil. Term, 1862.

The within named Defendant
and put in my Court
the 10th day of January 1862.

Amos C. Hering
Sheriff & Clerk of Court
of a Binding & For

Filed Feb. 11. 1862
L. Veland
Clerk.

Supreme Court.

3.^d Division

Harriet Farlin.

Plff. in Error

vs.

Rentier Loujoy

Defendant in Error

L. Leland Esq

Clerk &c.

Will you please issue a writ
of Error in the above Entitled cause, to
the Clerk of the Circuit Court of Cook
County, to certify a correct transcript of
the record of a cause depending
in his court, wherein Harriet Farlin
was Plaintiff and Rentier Loujoy
was defendant, and judgment was
rendered against the Plaintiff for
costs, at the November term of said court
ad 1861. and also a writ of Scire facias
to the Sheriff of the County of Cook.

Mrs J. J.
Hugan Miller Secy

Mount Hasler
of
Reuben Lorejoy
Receipt

Filed Feb. 1. 1862
L. Deland
Ch.

Supreme Court of Illinois.
Third Grand Division.

Harriet Farlin

Plaintiff in Error.

vs.
Reuben Lovejoy

Defendant in Error.

State of Illinois.

Cook County ss.

Harriet Farlin being duly sworn deposes and says that she is the Plaintiff in the above entitled cause, and that the Defendant therein is a now-resident of the State of Illinois, so that process cannot be served upon him in this State, and that he resided at Bellevue in the Territory of Nebraska.

Subscribed and sworn Harriet Farlin.
before me this 3rd day of
February 1862

Lewis H. Davis
Justice of the Peace

Supreme Court.
3d Jd Division.
" "

Harriet Farlin

vs
Reuben Lovejoy -
" "

Affidavit.
" "

Harriet Farlin
vs
Reuben Lovejoy
Affidavit

Filed Feb. 6. 1862
L. Seland
Clerk

STATE OF ILLINOIS, }
SUPREME COURT, } ss.

The People of the State of Illinois,

To the Clerk of the Circuit Court for the County of Cook - 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 Cook County, before the Judge thereof, between

Harriet Farlin

plaintiff, and

Reuben Lovejoy

defendant....., it is said manifest error hath intervened, to the injury of the aforesaid

Harriet Farlin

as we are informed by her -

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

Witness, The Hon. John D. Eaton, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this first day of February in the Year of Our Lord One Thousand Eight Hundred and Sixty two.

L. Leland

Clerk of the Supreme Court.



Harriet Farlin

No.

vs.

Reuben Lovejoy

WRIT OF ERROR.

FILED

Feb. 11.

A. D. 1862

S. Deland

Clerk

accept
 service of the within
 February 10th 1862
Mrs Church
ctd



UNITED STATES OF AMERICA,

STATE OF ILLINOIS, COUNTY OF COOK, SS.

Plas, before the Honorable George Manure Judge of the Seventh
Judicial Circuit of the State of Illinois, and sole presiding Judge of the Circuit Court of
Cook County, in the State aforesaid, and at a term thereof begun and held at the Court House
in the City of Chicago, in said County, on the first Monday, (being the
fourth day) of January in the year
of our Lord One Thousand Eight Hundred and eighty five and of the
Independence of the said United States the eighty fifth

Present, Honorable George Manure Judge of the 7th Judicial Circuit
of the State of Illinois. }

Charles Warren States Attorney.

Anthony L. Kering Sheriff of Cook County.

Attest, William L. Church Clerk.

Be it remembered, that heretofore

Do=mit; on the seventh day of December in the year of our
Lord Eighteen hundred and fifty seven, there was filed
in the Office of the Clerk of said Court, a certain
affidavit for attachment together with an attachment
Bond, which said Affidavit and Bond are in the
words and figures following. Do=mit

Affidavit—

State of Illinois }
Cook County }

J. Whitney Farlin being duly sworn
deposes and says, that he is the agent of Harriet Farlin
and that Reuben Savage is justly indebted to the said
Harriet in the full sum of Eleven hundred & twenty
Eight dollars and twenty two Cents with interest thereon
from the twenty ninth day of August last past in all

amounting to the sum of Eleven hundred hundred
and forty six ^{#6}/₁₀₀ dollars. upon a promissory note
made by said Sorejoy for the sum of Eleven hundred
and twenty eight ²²/₁₀₀ dated June twenty ninth
A.D. 1857 and payable to the order of D. W. Clark in
fifty days after the date thereof, which time has now
elapsed; And that said note was duly endorsed by the
said Clark, and the said Warren Farlin is now the
legal holder thereof.

2. That the said Sorejoy
is not a resident of this State & deponent therefore
prays that a writ of attachment may issue against
the Estate of the above named Reuben Sorejoy in
pursuance of the Statute in such case made and
provided.

J. Whitney Farlin
Subscribed & sworn to before me
this 7th day of December 1857
Wm L Church Clerk

Circuit Court of Cook County
January Special Term 1858

Warren Farlin

Reuben Sorejoy

Attachment in apt

Am't sworn to \$ 1146.46

Damages & Costs \$

The clerk will issue writ of
Attachment re an affidavit & Bond filed

Wayne Miller & Son

Ref Atty

2
Bond

Know all men by these presents that we Harriet Farlin and J. Whitney Farlin are held and firmly bound unto Reuben Sorey in the penal sum of Twenty two hundred Ninety two dollars and ninety two Cents, lawful money of the United States, for the payment of which said sum well and truly to be made, we bind ourselves our heirs Executors and administrators, jointly and severally by these presents — Sealed with our seals, and dated this Fifth day of December AD 1857.

3. The condition of the above obligation is such, That whereas the above bounden Harriet Farlin by her Agent J. Whitney Farlin has on the day of the date hereof, prayed an attachment out of the Circuit Court of Cook County, at the suit of the said Harriet Farlin against the estate of the above named Reuben Sorey for the sum of Eleven hundred forty six dollars forty six Cents and the same being about to be tried out of said Court, returnable on the second Monday of January next, to the term of the said Court, then to be holden Now if the said Harriet Farlin shall prosecute her said suit with effect, or in case of failure therein shall well and truly pay and satisfy the said Reuben Sorey all such costs in said suit and such damages as shall be awarded against the said Harriet Farlin her heirs Executors or administrators in any suit or suits which may hereafter be brought

for wrongfully suing out the said attachment, then
the above obligation to be void; otherwise to remain
in full force and effect.

Signed sealed & delivered

in presence of

Warriet Farlin

J. Whitney Farlin

Seal

Seal

And thereupon, Do=mrk. on the same day and year
last aforesaid Do=mrk. there was issued out of and
under the seal of said Court the people's writs
of Attachment and summons, directed to the
Sheriff of said County to execute, in words and
figures following. Do=mrk.

Attachment Writ

" State of Illinois }
Cook County } ss

The People of the
State of Illinois, to the Sheriff of said County. Greeting.
Whereas, J. Whitney Farlin hath complained on oath
to William L. Church Clerk of the Circuit Court of
Cook County that Reuben Sargoy justly indebted
to Warriet Farlin in the sum of Eleven hundred
forty six dollars and forty six cents, and oath
having also been made that the said Reuben
Sargoy resides out of this State so that the ordinary
process of law cannot be served upon him but has
property and effects within this State liable to
Attachment. And the said Warriet Farlin
having given bond and security, according to the

3
act in such case made and provided; We
therefore Command you, that you attach so much
of the estate, real and personal of the said
Reuben Sargey to be found in your County, as
shall be of value sufficient to satisfy the said
debt and Costs, according to the said Complaint
and such Estate, so attached in your hands to
secure, or so to provide that the same may be liable
to further proceedings thereupon, according to law
at a term of the Circuit Court, to be holden at
Chicago, within and for the County of Cook on
the second Monday of January next so as to Compel
the said Reuben Sargey to appear & answer
the Complaint of the said Harriet Harlin
when and where you shall make known to the
said Court how you have executed this writ,
And have you then and there this writ-



Witness William L. Church, Clerk of our
said Court, and the seal thereof at
Chicago this 7th day of December in the
Year of our Lord one thousand eight
hundred and fifty seven
Wm L Church Clerk

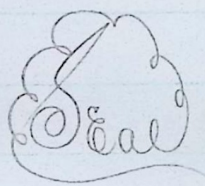
Summons

State of Illinois }
County of Cook }

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

We command you that you summon Reuben Sweeney if he shall be found in your County, personally, to be and appear before the Circuit Court of Cook County on the first day of the next term thereof to be holden at the Court House, in Chicago, in said County on the second Monday of January next, to answer unto Harriet Farley in a plea of Trespass on the Case on promises, to the damage of the said plaintiff as is said in the sum of Two thousand dollars; And have you then and there this writ, with an endorsement thereon, in what manner you shall have executed

6. the same



Witness William L. Church. Clerk of our
said Court, and the seal thereof, at Chicago
aforesaid this 7th day of December A.D. 1857
Wm L Church Clerk

And afterwards. To-wit, on the fourteenth day of December in the year last aforesaid, said writ of Attachment, was returned into said Court, by said Sheriff, Endorsed as follows. To-wit-

By virtue of the within writ of Attachment, I did on the 7th day of December A.D. 1857 levy upon all the right title and interest of Reuben Sweeney in and to the following described property. To-wit Lot number One (1) in Block number one hundred and thirty two (132) in the School section addition to Chicago, being Fifty (50)

feet front on State Street and one hundred and ten
(110) feet on Taylor Street more or less in the City of
Chicago, in the County of Cook and State of
Illinois.

1 Serv 50 Recd 75¢	{ John L. Nelson Sheriff	
Certificate 25 Paid by pffs		{ Andrew Nelson Deputy
Return 10 Atty		
$\begin{array}{r} 85 \\ 10 \\ \hline 95 \end{array}$		

And afterwards. Do=ord. on
the thirty first day of December in the year last
aforesaid, said plaintiff by Wayne Heiler & Morris
his attorneys. filed in said Court her certain
declaration, in words and figures following. Do=ord.

7.

Circuit Court of Cook County
Of the January Special Term AD 1858
State of Illinois }
County of Cook }

Warren Farlin plaintiff in this
suit. by Wayne Heiler and Morris his attorneys. Com-
plain of Reuben Sorey defendant, who has been
summoned &c. of a plea of Displeasure on the case on
promiss; For, that whereas the said defendant, heretofore
Do=ord. on the twenty ninth day of June in the year of
Our Lord One thousand Eight hundred and fifty
seven, at Chicago Do=ord. at said County of Cook
made his certain promissory note in writing, bearing
date the day and year aforesaid, and then
and there delivered the same to one D. W. Clark
in and by which said note said defendant by

the name style and description of Reuben Sorey is
promised to pay to the order of the paid D. M.
Belark by the name style and description of
D. M. Belark Esqr. sixty days after the date
thereof, the sum of Eleven hundred and twenty-eight
 $\frac{22}{100}$ dollars, (Eleven hundred and twenty-eight
dollars and twenty two Cents meaning) for value
received. And the paid D. M. Belark
to whom, or to whose order paid note was payable
afterwards. Do=mit, on the day and year afore
said Do=mit, at the County of Leok aforesaid
endorsed paid note in writing, and then and there
under his hand assigned the same to the paid plain
tiff, by which ^{paid} endorsement the paid D. M. Belark then
and there ordered and appointed the paid sum of
money in paid note mentioned to be paid to the paid
plaintiff and then and there delivered paid note
so endorsed to the paid plaintiff. By
means whereof and by force of the statute in such
Case made and provided, the paid defendant
became liable to pay said plaintiff said sum
of money mentioned in paid note, and being so
liable in consideration thereof, then and there un
dertook and promised to pay the same to the
said plaintiff, according to the tenor & effect
of the paid note, and of the indorsement aforesaid.
Do=mit, at the place aforesaid. And whereas also the paid defendant, afterwards

Do-wit, on the first day of December in the year of
Our Lord One thousand Eight hundred and fifty
seven Do-wit, at paid levanty; became and was
indebted unto the plaintiff in a large sum of
money Do-wit the sum of \$1000 thousand dollars
for money before that time lent and advanced to
said defendant by said plaintiff at said defen-
dants request; and also in the like sum for
money before that time paid laid out and expended
for said defendant by the paid plaintiff, at the like
special request of said defendant; and in the like
sum for money had and received by said defendant
9. to and for the use of said plaintiff; and also in the
like sum for goods wares and merchandise before
that time sold and delivered by said plaintiff
to said defendant, at the like special instance
and request; and also in the like sum for the labor
care and diligence of said plaintiff before that time
done and performed by said plaintiff for said
defendant; and at the like instance and request
of said defendant; and also in the like sum then
and there found to be due owing to said plain-
tiff on an account stated between them; And
being so indebted said defendant in consideration
thereof, then and there undertook and promised to
pay said plaintiff said several sums of money
above mentioned, when thereunto afterwards re-
quested. — Yet the said defendant not
regarding his said promise and undertakings, but

Contriving &c, although often requested so to do
has not paid said plaintiff either of said sums of
money above mentioned, or any part thereof, but
so to do has hitherto wholly neglected and re-
fused, and still does neglect and refuse to the
damage of said plaintiff of two thousand dollars
and therefore she brings this suit &c

Wayne Miller & G. Harris
Plaintiffs Attorneys

Copy of Instrument & Account paid on

10 \$ 1128 $\frac{22}{100}$ Chicago June 29 1857
Sixty days after date of promise to
pay to the order of D. W. Clark Esq. Eleven
hundred + twenty Eight $\frac{22}{100}$ dollars Value
Received (Signed) Reuben Lovejoy
Due Aug 28/31.
(Endorsed) D. W. Clark

Reuben Lovejoy	To Warrick Martin	Dr
To money lent and advanced		\$ 2000 #
To money paid laid out & expended		\$ 2000 #
To money had & received to & for the use of said plaintiff		\$ 2000 #
To goods ware & merchandises sold & delivered		\$ 2000 #
To labor and service		\$ 2000 #
To Balance due on account stated		\$ 2000 #

And afterwards Do=rcd. on the
2^d day of January in the year of Our Lord One
thousand Eight hundred and fifty eight, said
writ of summons heretofore issued to the Sheriff
of said County, was returned into said Court
by said Sheriff, endorsed as follows. Do=rcd.

"The within named defendant
not found in my County the 2^d day of January 1858
Return 10^t pd by Chg ally

John L. Wilson Sheriff

//

And afterwards Do=rcd. on
the 13th day of January in the year last aforesaid
said defendant by Enoch A. Van Buren his attorney
filed in said Court his Affidavit of merits in
words and figures following. Do=rcd.

Reuben Savagejoy

vs

Harriet Harlin

Circuit Court Cook County

Cook County ss

Archibald M. Torane being
sworn, says that he is the agent of the above named
defendant, and that he is better acquainted with
the facts in this case than the defendant, and
that this defendant has a good & substantial
defence to the above action upon the merits
Sworn before me this 12th
day of January 1858
Submitting Or. Justice Peace.

H. M. Crane

And afterwards. Do=mrk. at the April Term of said Court. Do=mrk. on the first day of May in the year last aforesaid, the following proceedings, among others, were had and entered of record. Do=mrk.

"Warriet Harlin

Att.

Reuben Sorejoy

This day comes the said plaintiff by Wayne, Miller and Lewis his attorneys and the said defendant by Van Buren his attorney also comes, and by agreement of the parties made in open Court, it is ordered, this cause be and is hereby continued, to next term -

And afterwards. Do=mrk. at the February Term of said Court. Do=mrk. on the 21st day of February in the year of our Lord One thousand Eight hundred and fifty-nine, the following. Among other proceedings, were had and entered of record. Do=mrk.

"Warriet Harlin

Attachment

Reuben Sorejoy

On motion of Van Buren's of Counsel for the said defendants it is ordered that he have leave to file plea and notice, the original having been lost -

And thereupon Do=mrk on the
same day and year last aforesaid, Do=mrk paid
defendant by E. A. & S. Van Buren his attorneys,
filed in said court his certain plea and Notice
in words and figures following Do=mrk

" In the Circuit Court of Cook County
Of the Term A.D. 1858

Reuben Lovejoy }
at
Barriett Harlin }

And the paid defendant by E. A.
and J. Van Buren his Attorneys, Come & defend the
13. wrong and injury where, and says that he did
not undertake and promise in manner and form
as the paid plaintiff hath above thereof complained
against him and of this he puts himself upon the
Country &c

E. A. & J. Van Buren
Defts Atty

And the paid plaintiff doth the like

Wm. Boyne Miller and Lewis

Attorneys of paid plaintiff

Take notice that on the trial of this cause, the
above named defendant will give in evidence
and insist that the Note filed upon in the
said cause, when the same became due and
payable Do=mrk on the 28th day of August
A.D. 1857 Do=mrk at the County of Cook

was held by Dudley W. Farlin and George T. Moorely doing business in the firm name of D. W. Farlin & Co as the legal holders & owners thereof, the same having been endorsed to them by the said D. W. Farlin & Co the payee thereof to-wit, on the 29th day of June A.D. 1857 to-wit at said County - and that after the day on which the said note became due and payable to-wit, on the 30th day of August A.D. 1857 at said County the said D. W. Farlin & Co fraudulently and without consideration, transferred the said note by delivering the same but without endorsing the same to the 14. said plaintiff for the purpose of avoiding and defeating the defence of the said defendant thereto hereinafter stated, and said defendant will on said trial further give in evidence and insist that at the time when the said note became due & payable as aforesaid the said D. W. Farlin & Co were & ever since hitherto have been and still are indebted to the said defendant in the sum of Three thousand six hundred dollars for so much money by the said D. W. Farlin & Co had & received to and for the use of the said defendant before the said note became due & payable as aforesaid and for so much money by the said defendant lent & advanced to the said D. W. Farlin & Co at their special instance and request before the said note became due and payable

as aforesaid, + also that heretofore to-wit, on
the 5th day of November A.D. 1857 in the Cook
County Court of Common Pleas at the County
aforesaid at the November Term A.D. 1857, of said
Cook County Court of Common Pleas the said
defendant by the judgment and consideration of
said Cook County Court of Common Pleas re-
covered against the said Dudley W. Hartin
and George T. Morely, by the name + description
of D. W. Hartin + G. T. Morely the sum of Three
15. thousand five hundred + fifty six dollars and
seventy seven Cents, which in and by the said
Cook County Court of Common Pleas were then
and there adjudged to the said defendant for
his damages which he had sustained by reason
of the non performance by the said Dudley W. Hartin
and George T. Morely of certain promises and
undertakings then lately made by the said
Dudley W. Hartin + George T. Morely to the
said defendant together with the costs and
charges of said defendant in that suit by him expended
whereof the said D. W. Hartin + G. T. Morely were con-
victed as by the record and proceedings thereof remaining
in the said Cook County Court of Common Pleas at said
County more fully appear, which said judgment
still remains in full force and effect, not reversed
satisfied or otherwise vacated + the said defendant
hath not obtained any Execution or satisfaction
of or upon the said Judgment so recovered as aforesaid

and paid defendant avers, that the cause of action upon which the said judgment was so recovered by the said defendant against the said D. W. Farlin and J. T. Moorely was the money by them had and received as aforesaid to the use of said defendant, and the money by the said defendant as aforesaid lent and advanced to them; and the said defendant will set off & allow to the said plaintiff on the said trial so much of the said indebtedness of the said D. W. Farlin & J. T. Moorely to the said defendant, against any demand of the said plaintiff to be proved on said trial as will be sufficient to satisfy and discharge such demand according to the form of the statute in such case made and provided. And said defendant will further give in evidence, and insist upon said trial, that the said note by the said D. W. Farlin & Co was fraudulently & without consideration & by delivery only & without their endorsement, transferred to the said plaintiff for the purpose of avoiding & defeating the defendant defence of the defendant thereto hereinafter stated, and that on the day of the date of said note to-wit, on the 29th day of June AD 1857 to-wit of said county the said D. W. DeLark the payee & then holder of said note endorsed the said note to the said D. W. Farlin & Co & then and there as agent of the said defendant in that behalf duly authorized & in the name and on behalf of the said defendant, made and Entered

into with the said D. W. Farlin & Co the agreement in substance following - that is to say - That whereas the said defendant had on the 30th day of June AD 1857 at the special instance & request of the said D. W. Farlin & Co deposited & left with the said D. W. Farlin & Co for collection a certain Bill of Exchange drawn by him the said defendant, dated the 30th day of June AD 1857 whereby he the said defendant requested one Jesse Finell of Boston in the State of Massachusetts, to pay thirty days after the date thereof to the order of H. M. Crane the sum of Thirty six hundred dollars, which Bill of Exchange was then & there endorsed by the said Crane for the
17/ accommodation & benefit & for the use of the said defendant, which said Bill of Exchange the said D. W. Farlin & Co then & there on the said 29th day of June AD 1857 at said County had in their possession to collect for the use & benefit of the said defendant, in consideration thereof it was then and there so ordered on the day and year last above said at said County by & between the said D. W. Farlin & Co & the said defendant in substance agreed that they the said D. W. Farlin & Co would & did at the request of the said defendant discount the said promissory note for the said D. W. Black & pay him the amount of money in said note mentioned, less such discount & that if they the said D. W. Farlin & Co collected the said Bill of Exchange before or at the time the said note became

due, then they the said D. W. Fairbairn & Co should
repay themselves the amount of said note out of
the proceeds of the said Bill of Exchange
and deliver said promissory note to said
defendant and that afterwards and before
said note became due Do=mt, on the 29th day of
July AD 1857 Do=mt, at said County the said
D. W. Fairbairn & Co did collect the said Bill of Ex-
change & did receive the sum of Thirty six hundred
dollars or thereabouts as the proceeds thereof to and
for the use of the said defendant & that instead of
applying so much of said proceeds to the pay-
ment of said note as by the said agreement they
were required to do the said D. W. Fairbairn & Co
fraudulently appropriated the same to their own
use, of all which said several premises the
said plaintiff, before the said note was trans-
ferred to her, Do=mt on the said 29th day of
June AD 1857 at said County had notice
Yours &c

E. A. of Van Buren
deft Atty

And afterwards, Do=mt, on the
February Term of said Court, Do=mt on the Tenth day of
March in the year last aforesaid One Lord Eighteen hundred
and fifty nine, the following proceedings, among others,
were had and entered of record. Do=mt —

11429

Harriet Farlin }
 Reuben Lovejoy } Attachment

This day comes the paid plaintiff by
 Wayne Meiller and Seris his attorneys; and the
 paid defendant by E. A. & J. Van Buren his attorneys
 also comes, and issue being joined herein it is ordered
 that a jury come. Whereupon come the Jurors of a
 jury of good and lawful men Dorset, to W. Martin
 to H. Kimball, to L. Webster, John Turner, Geo. Leale
 E. E. Pratt, S. A. Shepard, O. B. Bailey, to M. Phillips
 S. E. Smith, A. M. Peet Stephen Lamb, who being
 duly elected tried and sworn, well and truly to
 try the matter at issue herein between the said parties
 and a true verdict render according to law and
 evidence, and after hearing a part of the evidence
 the hour of adjournment having arrived, it is ordered
 that said jury have leave to separate to meet the
 court at the coming in thereof on tomorrow morning nine
 o'clock

19.

vi

And afterwards. Do=rich. at the same
 term of said Court last aforesaid, Do=rich. on the Eleventh
 day of March in the year last aforesaid. the following
 proceedings, among others, were had and entered of
 record. Do=rich.
 Harriet Farlin }
 Reuben Lovejoy } Attachment

11429

This day again came as well the said plaintiff by
Wayne Miller and Dennis her attorneys, as the said
defendant by E. A. & Van Buren his attorneys, and
the Jurors of the Jury aforesaid also came except
Stephen Lamb, who is now represented to the Court as
sick and unable to attend to his duties as such
Juror. Whereupon the Court ordered that another
Juror be selected tried and sworn to try the
issue joined herein aforesaid, that the panel may
be complete, to which the said defendant by
his Counsel now her excepts; Whereupon a
Juror was called; and thereupon the said defen-
dant in open Court, consented and agreed for
the purpose of saving time in going over the evidence
20 already submitted in said Cause, that the
trial of said Cause might proceed with Eleven
Jurors, reserving however the right to except to the
ruling of the Court in ordering another Juror to be
called to try said issue, but agreeing to take
no exceptions to the trial of said Cause by Eleven
Jurors, and expressly consent thereto, Whereupon
the said Juror so called to fill said panel, was
discharged, and the trial of said Cause
thereupon proceeded with the Eleven Jurors aforesaid
and they after hearing the evidence in said Cause
as well on the part of the said plaintiff as
of the said defendant, the arguments of Counsel
and the instructions from the Court, retire to con-

11
- pider of their verdict. under the charge of a sworn
officer of the Court, with direction from the
Court, that when they shall have agreed upon
a verdict, that they thereupon seal up the same
and afterwards separate to meet the Court
at the coming in thereof tomorrow morning at 9 o
Clock

And afterwards. Do=mit on the
same Term of said Court. Do=mit on the Twelfth
day of March in the year last aforesaid, the follow=
ing proceedings, Among others, were had and entered
of record in said Cause Do=mit —

21.

David Martin

Reuben Dorejoy

Attachment

17429
This day again come as well the
said plaintiff by Wayne Miller and his
Attorneys, as the said defendant by E. A. r. Van
Buren his Attorneys, also come the Jurors of the
Court aforesaid, and they having failed to agree
upon a verdict, are with the consent of parties
now discharged by the Court, from any further
consideration of said Cause

And afterwards. Do=mit. ad
the Sixth day of September in the year last afo
said. there was filed in said Court a certain

stipulation in said Cause, in words and figures
following To-wit,
"State of Illinois }
Cook County } per

In the Circuit Court of Cook
County, Of the September Term A D 1859,
Warriet Harlin }

Reuben Savagey }

By agreement of the parties to the
above named suit, the attachment in said suit upon
Lot One (1) in Block One hundred and thirty Two (132)
in the School Section addition to Chicago, in said
County is hereby discharged, and the said land
22 is hereby released and discharged of any lien or
incumbrance caused or created by said attach-
ment — This stipulation is not in any manner
to effect said suit or to operate as a discontin-
uance thereof, but simply as a release of said
property from the operation of said writ of
attachment — Milton S. Manchester, William Sill
and Michael Divary having this day Executed
to the said Warriet Harlin in lieu of the security
effected by the levying of said Attachment writ
upon the said property above mentioned, their
Bond, Conditioned for the payment of any final
Judgment which the said Warriet Harlin may
recover against the said Reuben Savagey in said

12
suit—

Carrie Farlin

Chicago August 29th A.D. 1859

Witness J. M. Farlin

And afterwards, to-wit: at the January Term of said Court, to-wit: on the Eighteenth day of January in the year of Our Lord One thousand Eight-hundred and Sixty, the following proceedings among others, were had and entered of record to-wit:

"Carrie Farlin

11439
Reuben Sorejoy

} Attachment

By agreement of said parties
23. and on motion it is ordered, that this suit be continued, and the same hereby is continued accordingly

And afterwards to-wit: at the November Term of said Court, to-wit: on the 20th day of December in the year of Our Lord One thousand Eight-hundred and Sixty one, the following proceedings, among others, were had and entered of record to-wit:

"Carrie Farlin

11429
Reuben Sorejoy

} Attachment

On motion of Wayne Miller and Gerrig of Counsel for said plaintiff, it is ordered that said Cause be, and the same hereby

is set for trial on the 2^d day of January next

And afterwards Do=rit. at the same Term of said Court last aforesaid, Do=rit on the Third day of January in the year of Our Lord One thousand Eight hundred and Sixty two, the following proceedings, among others, were had and entered of record Do=rit;

Warriell Martin

Reuben Lovejoy

} Attachment

114219
24. This day comes the said plaintiff by Wayne Miller and Seris her Attorneys, and the said defendant by Van Buren and Gay his Attorneys also come, and issue being joined herein, it is ordered that a Jury come, Whereupon come the Jurors of a Jury of good and lawful men Do=rit: Daniel Talcott Sidney Caswell, John Bunnell William McKee William Dineen, O Seaward, J. H. Knowles, E. Thompson Philip Peirce, Nathan Straus, and R. L. Chapman John T. Norton, who being duly elected tried and sworn, well and truly to try the issue joined aforesaid and a true verdict render according to law and the Evidence and after hearing a part of the Evidence the hour of adjournment having arrived, by consent of said parties said Jury is allowed to separate to meet the Court on the Evening in there of tomorrow morning at nine O'clock

13
And afterwards, Do=mt, at the same
Term of said Court last aforesaid, Do=mt, on the fourth
day of January in the year last aforesaid, the following
proceedings, among others, were had and entered of record
Do=mt:

Harriet Partin

11429
Reuben Lovejoy

} Attachment

This day again come the said
parties by their attorneys, and the Jurors of the Jury
aforesaid also come; and having heard further testimony
in said Cause, the same not being closed, and the
hour of adjournment having arrived, it is agreed by and
between the said parties now here in open Court that—
25. said Cause shall stand continued to the next Term of
this Court, commencing on the first Monday of January
instant, when such trial shall be closed, verdict re-
ceived and Judgment entered thereon, with like force
and effect as if they had been no lapse of a term
of this Court, and the parties respectively waive and
release of record all exceptions which might otherwise
have been taken on the ground of such irregularity

And afterwards, to=mt, at the
January Term of said Court, Do=mt, on the sixth day of
January in the year last aforesaid, the following proceedings
among others, were had and entered of record Do=mt

11429

Warrel Martin }
 Ruben Lovejoy } Attachment

This day again come the said parties by their Attorneys, and the Jurors of the Jury aforesaid also come, and having heard further testimony in said Cause, the same not being closed, and the hour of adjournment having arrived, by consent of said parties said Jury is again allowed to separate, to meet the Court at the coming in thereof tomorrow morning at nine O'clock

26

And afterwards. Do=rrick, at the same Term of said Court last aforesaid, do=rrick on the Seventh day of January, in the year last aforesaid, the following proceedings, Among others, were had and entered of Record. Do=rrick,

Warrel Martin }
 Ruben Lovejoy } Attachment

This day again come the said parties by their Attorneys, and the Jurors of the Jury aforesaid also come, and having now heard all the Evidence offered in said Cause, and the argument of Counsel as well on the part of the plaintiff as of the defendant, and instructions from the Court, retire to consider of their verdict, and afterwards return into Court and say "We the Jury find the issue for the defendant. Whereupon the plaintiff by her Counsel here demanded that the Jury be polled

and the Jury aforesaid being separately called and Enquired of whether the foregoing verdict by them returned was and is now their verdict, severally answer and say that it was and is now their verdict; and thereupon the plaintiff by her Counsel moves the Court for a new trial of said cause, and the Court having carefully considered the premises, and being now fully advised therein, doth order that said motion be and the same hereby is overruled, To which ruling of the Court in overruling said motion for a new trial the plaintiff by her Counsel now here excepts—

Therefore it is considered by
 27. the Court that said defendant do have and recover of the said plaintiff his Costs and Charges by him about his defence in this behalf Expended, and have Execution therefor, and that said plaintiff have leave to file a Bill of Exceptions in said cause, within Twenty days from this date—

And afterwards. Do=mt, on the 25th
day of January in the year last aforesaid, said plaintiff
by Wayne. Miller and Lewis his Attorneys, filed in
said court her certain Bill of Exceptions, in words
and figures following. Do=mt

"In Circuit Court

Of Nov. Term 1861.

Warren Farlin

Reuben Loring

29. Be it remembered that on the
3^d day of January A.D. 1862, said cause came on
for trial, and the parties plaintiff and defendant
appearing by their respective Counsel, and a Jury
having been duly empanelled, the plaintiff ^{by his counsel} introduced
and read in evidence to the Jury the following
promissory note

\$ 1128 $\frac{22}{100}$

Chicago June 29. 1857

Sixty days after date I promise to pay
to the order of D. M. Belack Esq. Eleven hundred
+ twenty Eight $\frac{22}{100}$ Dollars. Value received
Reuben Loring

Due Aug 28/31

708.

Endorsed D. M. Belack 708

upon which note was the following endorsement ^{erased}
~~We guarantee the due payment of the within note~~ D. M. Farlin & Co
and the plaintiff here rested } J. Whitney Farlin
The defendant thereupon called as a witness
A. M. Lorne, who being duly sworn testified as follows

I know defendant - have known him twelve or fifteen years, In 1857 he lived in Nebraska he was not in business here - I then lived in Chicago I knew the Metropolitan Bank, The owners were paid to be Dudley W. Farlin and H. T. Mosely - On the 29th of June 1857 I went there (to the Bank) with defendant with Draft drawn by defendant on Jesse Tyrrell of Boston for \$ 3,600 payable in 30 days after date - The business was transacted with D. W. Farlin - Defendant asked him if he would collect that draft for him, and Farlin said that he would, and took the draft ^{from} ~~for~~ him. Then defendant paid to him that he had given D. W. Farlin a note at fifty days for \$ 1,125.00 (The Note in Evidence shows notes) This is the note, That as soon as the money was collected on the Draft I was to draw a Check on the \$ 3,600, to take up the blank note in question - Whether the note to Farlin was due at the time or not - D. W. Farlin was in the Bank and was present at the conversation, and he wanted to get some money on it - The blank note had not at that time been discounted by Farlin - Then Savory paid to Farlin, I suppose Mr. Farlin will discount the note as it would be paid in a few days by the payment of the draft - which would be paid before the note became due - Farlin said he would discount the Note for Farlin with that understanding with defendant that the note was to be paid

as soon as the draft was paid by my check, the draft was delivered to Farlow, don't know but got the note discounted that day - don't know but that he did, am not positive - The next day after the draft was given I handed my book to Dudley to Farlow, who entered the draft thereon for collection

" June

" 30 J. Russell July 11 \$36.00 -

The next week after the draft was given, I ascertained that the Bank was in trouble - or at least I had suspicions and felt anxious about the draft. I waited along a day or two after that, calling at the Bank twice a day, and not finding Mr. Farlow, at last I ascertained he Farlow had gone East - I then on the 12th or 13th of July telegraphed to Tyrrell - I received an answer from Tyrrell the next day and ^{then} went to the bank and there par and conversed with Hamley and Messely - he was one of the Firm of D. H. Farlow & Co and Mr. Hamley was there also

The further Examination of the witness suspended was here suspended, and thereupon defendants called as a witness David H. Clark, who being duly sworn, testified as follows.

(The promissory note given in Evidence was here shown to the witness) I had the note discounted at the Metropolitan Bank - The note was given to me by Defendant on the 29th of June 1857 I had that day sold out an interest in a Distillery I had here in Chicago to defendant, and I was to

have \$ 4.500 for my interest. I supposed I was to receive \$ 3.500 that day in Cash but as he could not give it to me, and so he gave me gave me three notes of which this is one - each amounting to \$ 1,128.32 and other notes or besides, he told me he should draw a draft on Tyrrell of Boston at thirty days for \$ 3,600.00 and said he should leave it at the Metropolitan Bank for collection and thought I could get the first note discounted there, then, We all went to the Bank together defendant Lerane and myself, on the 29th of June Savoy deposited draft with Bank for collection 32. and at the same time I asked Mr Dudley the Harlin one of the owners of the Bank if he could discount the note for me, he said he could provided the draft was paid at maturity - and he asked me if I knew the man the draft was drawn on - I told him I did had known him personally well for twenty years, and had not the least doubt it would be paid on presentation if he risked it, he then said he would discount the note if I would not draw against the amount for a few days, I agreed not to draw against it as requested, I said to him in the presence of Savoy that the amount of that note should be taken out of the first money collected on the draft, as my note runs thirty days, and my note was to be then taken up upon that agreement the note was discounted by Harlin

Excluded

and Moorely, some few days after that - from the first to about the middle of July, I can't state the date

Crane came to me

I wrote by his request to a brother of mine in Boston, I received an answer from him about the 1st of July D. H. Farlin went east and returned about the middle of July, I was at the Bank before his return inquiring for him, and on his return I saw him.

Counsel for the defendant here asked the witness the following question What occurred and what conversation was had at that time at the Bank.

33. This question was then and there objected to by plaintiffs Counsel but said objection was overruled by the Court and the witness directed to answer the same, to which ruling of the Court the Counsel for the Plaintiff then and there excepted, and the witness answered as follows, -

I asked Moorely if they had given up the note of defendants to Crane which I had got discounted; He said he knew nothing about it. I then stated to him that I had received a letter from Boston advising me that that draft had been paid - made of fourteen days from its date to J. W. Belack a broker on State Street Boston - I then told him that the note had been discounted on the Express agreement that the first money received upon the draft should be taken out for the purpose of

offsetting the note, that it was discounted on that Express condition, he said he knew nothing about it and could do nothing about it till Harlin returned. I think Wamble was present —

Counsel for the plaintiff here moved the Court to exclude from the Jury, the testimony last above given by this witness, commencing with "I asked Morley re" but the Court overruled said motion and refused to exclude the same from the Jury, to which ruling and decision of the Court the Counsel for the plaintiff then and there Excepted

34. Nothing was then said about their holding the note or not, a few days later I called on ¹⁰³⁴ Harlin where he boarded with his Mother — I think this was early in the forenoon after he returned, he returned at night — I saw Mr Harlin about the note and Draft —

Counsel for the defendant here asked the witness the following question, "What there occurred and what conversation was had with Harlin"

This question was then and there objected to by plaintiffs Counsel but said objection was overruled by the Court, and the witness directed to answer the same, to which ruling and decision of the Court, plaintiffs Counsel then and there excepted and the witness in answer thereto testified as follows.

Mr Harlin said he had sold

sold the draft and realized the money. This was from the fifteenth to the twentieth of July - am not certain as to the day - He said he had received the money and would give up the note to Leane - He said his papers were at the Bank and he had not been there since his return - I then went and saw Mr Leane and notified him of Fardon's return - Afterwards within one or two days went again to the Bank and saw Fardon about the note -

Counsel for the defendant here asked the witness the following question -

What occurred and what conversation was had with Fardon at that time -

35.

This question was then and there objected to by plaintiffs Counsel by said objection was overruled by the Court and the witness directed to answer the same, to which ruling & decision of the Court, plaintiffs Counsel then and there excepted and the witness in answer thereto testified as follows,

I asked him for the note - he said he would bring it down, and give it to me or to Mr Leane, Leane ^{was} at the time acting as Sargeant agent - I told him I was very anxious to get up the note - as I had indorsed it, and it looked as if the note would fall back upon me, I being endorser, and as the agreement had not been fulfilled between him and myself, that the money had been received on the draft and I wanted the note given up that I should not be held liable - Some days previous I was at the

Metropolitan Bank, pay somewhat later than the 20th and was expressing my views in regard to the draft of J. Whitney. Harlan a brother of D. W. Harlan. I received a notice through the Post office some months after conversation with D. W. Harlan and after note became due, from a gentleman named Bush - I then went to his office - he showed me the note - he was an attorney. -

Counsel for the defendant then asked the witness the following question

Did you have any other conversation with D. W. Harlan in reference to the draft and the note - and if so, state the time and what was paid -

To which question counsel for plaintiff then and there objected, but the court overruled said objection, and directed the witness to answer said question, to which ruling and decision of the court, counsel for the plaintiff then and there objected excepted, and the witness in answer to said question testified as follows -

I had several conversations with him besides the one stated, some time in the last of August and first of September 1857. I had several conversations with him, he knowing the notes I then held against Scovoy - besides this, I held some four others he then advised me to surrender the balance of the draft in his hands, the balance meant what was left after deducting the note which the Bank had discounted

in so doing he said he would see if it that he would pay the balance into my hands, so that I could have the use of that money before any other notes against Sorejoy became due, that it would be a great accommodation to him for a few days, and that it would be a great accommodation to me, and upon his advice and my own judgment, I did garnish the balance of the draft in his hands, and kept the process on foot sometime - and I did not get any money on it - after that time I had a settlement with Sorejoy and he has paid all the notes I held against him.

Counsel for the plaintiff here moved to exclude from the jury the answer of the witness to the last above question, but the court overruled said motion, and refused to exclude said evidence from the jury, to which ruling and decision of the court, Counsel for the plaintiff then and there excepted -

Said witness further testified as follows, -
 Harlin Weather lived in Chicago and he was boarding with her. I know of his boarding with her for a year and perhaps two years, have called on him there, and he continued to board with her through all these transactions. J. W. Harlin boarded there too during same time - Both were unmarried men - I have been Carpenter and building for fifteen years or twenty years and have got my living that way -

Counsel for the defendant

then and there asked this witness the following question
Do you know whether the plain-
tiff in this suit has within a year or two built a new
house in this city, if so state what you know about it
and what is its value

Counsel for the defendant then
and there objected to said question on the ground
of immateriality, but the Court overruled said
objection, and directed the witness to answer said
question, to which ruling and decision of the Court
plaintiff's Counsel then and there Excepted, and the
witness in answer to said question testified as follows

38. She has built a home within the
last two or three years. I think two years ago last fall, on
Nabach Avenue, near Twelfth Street. I could not
state the value of the house, my best judgment of its
value is, that the Expenses of building it at that time
would be from \$4,000.00 to 5,000.00 and if my have
Cost less, it is a free stone front, the value of the
lot was from One hundred to one hundred and fifty
dollars or more per foot - lots above - further south
were held at \$175.00 per foot; this lot was
twenty five to thirty feet adjoining Woodlands Water
Whitney. Parlin told me his Mother had bought the
lot and was building the house

On his cross examination, said witness testified as follows
I don't know now what she

paid, or what she was to pay, a great many have
 built houses, I am no relative of Savoy's, nor is
 he to my knowledge — up to 29th of June I was
 connected with Savoy in business. I was interested
 with him in a Distillery here, my interest had ~~supposed~~
 existed there from October 1st 1856 to June 29th
 1857, when I sold my entire interest to him it was
 conducted by him some few months afterwards —
 The residue of the notes of defendant has been paid
 to me, ^{arrangement} No agreement has been made by him with
 me with regard to the note in suit — I know of no
 other way in which I have been released except —
 that an endorser is not liable unless suit is brought
 within two years after the note fell due —

39.

This is part of my reason for saying I have been
 released by law — I have a bond of indemnity
 from defendant — I required a bond from defen-
 dant and he gave me one — I believe I have a
 bond and he put up securities which will in-
 demnify me, so I have no interest in this matter

The firm was D. O. Farlin &
 or D. O. Farlin and Mosely. The note was discounted
 when the draft was left as stated — I testified
 in a former trial of this case — I can't state
 that I then paid the note was discounted on the
 3^d of July. I think I paid it was on last of June
 or first of July — it may not have been until
 the 3^d of July. But I think if may on the last
 of June if I stated it on the 3^d of July I must

have then thought so, I state my impression now on the point. I took no note of the time - I know when the draft was dated, it was on the same day my note was dated, the draft was signed the same day my notes were drawn they were signed in the forenoon on State Street in the presence of Crane defendant and myself - I am pretty sure of this - I went with them to the Bank on the 29th of June, and then the conversation took place.

40. Did you not pay in your previous Examination in this case that - "some two or three days after the 29th of June I went to Furlin and asked him if he could discount this note; and that his answer was, that he was short and he did not know as he could for a few days; That you then told him that Sorejoy had paid to you to get this note discounted and take ~~and take~~ out of the proceeds of the draft; was that not the statement made by you on the former trial I might have paid so + and might not, but as I now recollect it I should not pay I did not make the statement - and therefore I will not contradict the statement -

Question - If you paid so, at that time, was it true -

I shall state the matter no differently now from what I have done - it may have been on 3^d of July -

Question - Did you not when you testified as a witness on the former trial, state that you afterwards

had conversation with Farlin next after note was discounted, about the time the note became due, about his having received the money on the draft;

I had several conversations with him, not only one, two and three but perhaps a dozen or two dozen in reference to this subject, I very probably had conversations with Farlin after the note became due.

Question - Did you on that Examination state any conversation that you had had with D. W. Farlin between the time when the note was discounted and the last of July 1857;

I cannot now state what I

41. then said in regard to that -

Question - Did you have any conversation with him in that time;

I did I can't state the dates I had several with him after his return, but I can't state whether I stated any one of them at that time or not.

Question - If you can't fix the date how can you state you had them before the last of July?

One circumstance is I received a letter from the East dated middle of July and from the contents of the letter I wished to see him - I went to his Bank, they said he was not in town but would be that night or in a day or two - that they had received a Telegram from him, he returned that night, or next night, I then called at his boarding house

his mother, and there I saw him, and had the conversation, I have stated this as I recalled - was about the 20th of July - I can't fix the date of the letter, but I can state reasons why I know it was within the twentieth - I received a letter from my wife ~~re re~~

Question - Did you on your former Examination state any conversation in detail that you had with Harlin between the time of his return from New York and the time when the note became due -

I can't state whether I did or did not -

42/ Question - Do you now recollect any conversation had between those two dates

I do I have stated conversations between his return and September at his house the conversation about the garnishee was before the 14th of September - I state that this conversation was before the note became due - he had several conversations with me on the subject of the garnishee suit before the fourteenth. I think he forgot me in the plot - Harlin closed his Bank on or about the 28th of July 1857, after that he suspended payment - I could not get what he owed me privately - Harlin at that time came to me and we had considerable conversation, he made me Confidential, and talked with me in reference to garnisheeing, this was talked of because he said that Crane had been there several times annoy-

ing him with Checks, and that a garnishee process would stop it. Think these things were paid in conversation last of July or first of August. I can't fix any particular date, nor can I recollect business done by me on first of August. I had a good deal of confidence in Mr. Farley and relied upon his word even after his failure. Lovejoy's notes were not all paid at the same time, but they were paid along —

In your Cross Examination on the former trial did you not say the conversation you had with Farley in July was about the time the draft was returned?

43. I probably did, because he did not return until about the twentieth; the conversation at his house was near the time the draft became due, he went off after his return. I think he came back on 28th think he left immediately on his return on the 30th. I had conversations with Farley after and before the draft became due. I had from ten to one hundred conversations with him. If he did not return first time until after the 28th, I could not have had conversations with him before that time.

On his Direct Examination resumed he testified as follows

I don't think I was asked one half of the questions on that trial I have been to day. I was surprised that I was there let off so easy. I learned the Bank was in failing circumstances from the 5 to the 10th of July 1857. I then learned there was something wrong

On his ^{cross} ~~direct~~ Examination resumed, he testified as follows
I received this intimation through
some parties, whose names I can't now recall, but whom
I had advised to deposit with Parlin & Co., I wrote to
Boston right away. I did not keep copies of letters
that I wrote. I received a letter in answer. I don't keep
my correspondence not even with my mother. I don't
think I am mistaken. I think I have stated to day
that I found there was difficulty in the Bank in July
but I don't think I made that statement in evidence before
I answered all questions that were asked and no more.
Mr. Parlin and I ~~more~~ were very intimate friends. I don't
recall how often I spoke to him and he to me, but
44. it was a great many times —

The witness A. M. Crane being recalled, Counsel for
defendant asked him the following questions —
State what occurred, and what conversation was had
by you with Moody and Wamley at the time you called
at the Bank,

To which question plaintiffs
Counsel then and there objected, but the Court overruled
said objection, and directed the witness to answer said
question, to which ruling and decision of the Court plain-
tiffs Counsel then and there excepted, and said witness
in answer to this question testified as follows —

Wamley was their Bookkeeper
paying Teller and receiving Teller — I stated to him

my business, I paid to Warley I have ascertained that the money on that draft had been received, and I wanted to check in it to take up the note discounted for D. M. Clark. Warley paid to me Farlin was not at home, paid he knew nothing about it and referred me to Mr. Morley his Farlin partner. Mr. Morley came right up by the side of Warley and I stated the matter to him, and he said Mr. Farlin is away and I know but very little about that part of the business and nothing can be done until Mr. Farlin returns. Then I asked when he would return, they said in a few days - I said, Can you state the time when he will return. They said they could not state it. Consequently I went there in the forenoon and afternoon every day until perhaps the Eighteenth, Nineteenth and Twentieth, from the thirteenth or fourteenth of July, sometimes I went there three times a day, one day they told me he would be at home, and I went there the next morning in the neighborhood of 19th of July and 20th and found him in the Bank after Bank had opened. I can't say whether this was not as late as I

Counsel for defendant then asked the witness the following question

State what occurred and what conversation was had by you with Farlin on that morning

So which question plaintiff Counsel then and there objected, but the Court overruled said objection and directed the witness to answer said

question, to which ruling and decision of the Court
plaintiffs Counsel then and there accepted, and paid
nothing in answer to this question testified as follows
"I said to him, I understand you have got the
money on this draft, he answered and said
that he had, or at least he equivocated
at first. I said to him, it is no use for you to
deny it for I have facts showing that you
have - he then admitted that he had
and he, Farlie, said he had received the
money on 12th of July from Charles
Baumers. Boston, to whom he had sold the
46. Draft on that date. I then said I want
to check on that and take up that note
according to agreement - he said, I
cant do it because I cant pay you
the balance, and the note is not due yet.
But I will in a few days. He said he
had sent a man to Wisconsin to get a
note of \$3000⁰⁰ discounted, and that he
had a man East to buy up a Bank
Charter and that he was going to
get Bills into circulation & pay up all
his Creditors. I said no more to him
until about the time the note became
due when I saw him in the Bank -
he had then returned from the East
again - it was in the afternoon before

The Bank closed

Defendants Counsel here asked the witness the following question —

State what occurred and what conversation was had with Martin at that time

To which question, plaintiffs Counsel then and there objected, but the Court overruled said objection and directed the witness to answer the question, to which ruling and decision of the Court plaintiffs Counsel then and there Excepted; and witness in answer to this question testified as follows.

47. I said to him, that note is now due and I want to check on the money and take up the note, can't pay the exact day, think it was the day the note fell due, it may have been the day before, he said I have left the note at the house with some papers there, and I have not got it with me, I said will you have it tomorrow morning, he said I don't know but I think I will. I went into the Bank the next morning and he met me on the floor —

Counsel for the defendant here asked the witness the following question —

State what occurred and what conversation was had with Martin at that time

To which question Counsel for plaintiff then and there objected, but the Court overruled said objection, and directed the witness to answer said question, to which ruling and decision of the Court, the Counsel for the plaintiff then and there

Excepted, and the witness in answer to said question testified as follows -

Mr. Farlin said, Mr. Leane I can't do anything about that - for Mr. Leane has gambled all the money - I said I don't see what he did that for, and turned around and left him for that time - I then went to see Leane, I had no further conversation with Farlin until I think the 28th of May 1858 - I think in the conversation just previously stated Farlin said in reply to my remark I don't see what Leane did that for. He said he did so to give me time for I know you would not give me time wait for the balance - I found out the Bank was in fail-
48 ing circumstances somewhere between the third and fifth of July, at that time he represented that he boarded with his mother - I can't say where Whitney boarded in particular, I understood they all lived together, and that the plaintiff was a widow, I was not acquainted with her - I was not present when Leane actually got his note discounted - I had a conversation with D. K. Farlin in relation to its being discounted.
Counsel for defendant then asked

the witness the following question -

Did you have a conversation with him in reference to the matter; if so state when and what it was.

To which question defendant's counsel then and there objected, but the court overruled

paid objection, and directed the witness to answer said question, to which ruling and decision of the Court the Counsel for the plaintiff then and there excepted; and the witness in answer to said question, testified as follows

I had a Conversation with him the first time after he returned from the East, I paid for Belark had the note discounted &c, this is the same Conversation referred to by me just now, no part of the \$ 3,600, or draft was ever paid by the Bank I called time and time again to get the amount paid or secured, never could get either, no part was ever secured, the Bank failed for \$ 50,000 as I heard

49. On his Cross Examination, said witness testified as follows
- My first wife was Sorejays adopted daughter, I was not in business with him on the 30th of June, I was his agent at the time previous to that I was the partner of R & D W Belark Sorejoy was not the partner, I empowered Belark to put up all the buildings as agent for Sorejoy, and he was indebted to Belark on account of the business, Belark and Sorejoy were not carrying on the distilling business I was the party, I did not use my own name because I was in trouble - when Sorejoy bought out Belark I sold my interest to Sorejoy and then it was all his - the only relation that the defendant bore to the business previous to his buying of Belark - previous to the 30th of June - I had been running the distilling, the Connection between Belark and Sorejoy was in the

building, but not in the manufacturing alcohol. We
began putting up building October 1856 - I now
have the balance of the draft to carry on the business
the land and buildings were put in the name of defen-
dant's wife; it was bought with her money - in 1857
I did not do much - but for last three years, I have
been in the liquor business - previous to 1856 I had been
in the Cardle House and so continued until I failed,
previous to that I came from New York, was there in the
Hotel business - after defendant + myself
had left the draft with Farlin we did not want to see
what arrangement - Delark made about getting his note
50 discounted -

Question - Did George afterwards get a judgment
against Farlin and Meadey for this \$5000. or the amount
of this draft. -

I did, for defendant. I
learned the Bank was in failing Circumstances from
D. M. Delark and some other persons, Delark was the
man who introduced me to the Bank - I am able to
fix the day between the third and sixth of July only
through a Chain of Circumstances - I don't pretend to
say what I did on 4th of July 1857 - I can't say what
I did except to go to this Bank to see about this matter
The minute I learned there was trouble I went to the
Bank and Farlin had gone East - it was between the
first or 2nd of the month - I think it was within
a week after the draft was left there. I got all

the information between the third or fourth and the twelfth it was in that space of time, I got the telegraph, I don't fix the date of the telegraph on the twelfth, it was that or the thirteenth, I can't state any particular thing that I did on any day from the twelfth to the twentieth - on Wednesday a week ago I distributed hot-rum to those who came. - there is no particular thing that would enable me to fix the telegraph on the 12th or 13th except my general course of business in following up the business - don't think I was as long on the stand before as I have been now, am almost positive I spoke of the telegraph. 57. But I can't say whether I did as to the failure of the Bank, think I did speak something about the hearing of the situation of the Bank -

Did you not testify as follows on the former trial. (Here inserted - Not from Judge's notes of Evidence on former trial (stipulated to be left out))

I understood that I have now ^{propounded} testified substantially as ~~propounded~~ in the question - I spoke of the telegraph but perhaps nothing in reference to having learned of the Bank being in failing circumstances - I think I am positive I spoke of the telegraph - no particular reason for saying I recollect the one and not the other - think I did state I telegraphed - pretty positive.

After making the statement in your former Examination which has been read to you, did you not go on and state as follows

(These must No 2 from Sedges notes) (disputed to be left out) I think I made that statement as in the question - if I paid on the Thirtieth I made a mistake, or it was a mistake in the book. The draft was not handed to him until the thirty first - Harlin first wrote it July Third, then corrected by Harlin to August, I have no memorandum but my own recollection of the transaction. I have never seen the draft since it went on - I have had no conversation with any one about my Evidence on the former trial - defendant through me empowered Messrs Van Buren to defend this suit 52. a judgment was recovered against Harlin for the whole amount of the draft, suit was brought on October 16th 1857 - Van Buren was ^{employed} ~~employed~~ to bring the suit. the suit was brought for that claim. Judgment was rendered for \$ 566.77 on the 5th of November 1857 in Superior Court. don't know whether Sargeys Account was overdrawn at the Bank -

Counsel for plaintiff thereupon introduced and read to the Jury the summons, declaration with a copy of the account filed therewith and the judgment referred to by the witness, which is in the words and figures following. Do = ord -

Summons
State of Illinois }
County of Cook } ss

The People of the State of Illinois to the

Sheriff of said County: Greeting

We command you that you summon D. H. Farini & G. T. Mosely if they 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 first Monday of November next, to answer unto Reuben Sorejory in a plea of Trespass on the Case upon promises, to the damage of the said plaintiff, as he says, in the sum of seven thousand dollars — And have you then and there this writ, with an endorsement thereon, in what manner you shall have Executed the same,

53.

(Seal)

Witness Walter Kimball, clerk of our said Court, and the seal thereof, at the City of Chicago, in said County this 16th day of Octo — 1857. Walter Kimball Clerk

Return

Served by reading to the within named D. H. Farini and G. T. Mosely Oct 17, 1857

2 Service 1.00	pd by peffs	}	S. L. Wilson Sheriff
2 mde 10			
1 Ret- 1.20	Atty		
			By S Taylor deputy

Declaration

Cook County Court Common Pleas
November Vacation Term 1857

State of Illinois }
County of Cook }

Reuben Sorejory plaintiff in this suit

By Er A. Van Buren his attorney complains of D^r
Farlin & G. S. Moorely copartners in business under the
name firm and style of D. W. Farlin & Co defendants
who were summoned &c of a plea of Trespass on the case
on promises — For that whereas the said defendants
heretofore do-writ on the first day of September in the year
of our Lord, One thousand eight hundred and fifty
seven, at Chicago do-writ, at said County of Cook
became and were indebted to the said plaintiff
in a large sum of money do-writ the sum of Seven thousand
dollars, lawful money; for money before that time
lent and advanced by the said plaintiff to the
54. said defendants, at their special instance and request
of the said defendants; and for other money by the
said plaintiff before that time paid laid out and
Expended for the said defendants, at the request of
the said defendant; and for other money by the said
defendants before that time had and received to
and for the use of said plaintiff; and for other money
before that time and then due and owing the said
the said plaintiff for interest upon and forbearance
of divers other sums of money before that time and
then due and owing from said defendants to said
plaintiff — and for other money found due and
owing from the said defendants to the said plaintiff
upon an account then and there stated between the
said plaintiff and the said defendants, and being
so indebted the said defendants in consideration thereof

afterwards do=not, on the same day and year and at the place aforesaid, undertook and then and there faithfully promised the said plaintiff, well and truly to pay unto the said plaintiff, the said several sums of money in this Count mentioned, when the said defendants should be thereunto afterwards requested - Nevertheless the said defendants (although often requested re) have not yet paid the said several sums of money above mentioned or any or either of them or any part thereof to the said plaintiff - but to pay the same or any part thereof, to the said plaintiff the said defendants hath hitherto altogether refused and still doth refuse to the damage of the said plaintiff of seven thousand dollars and therefore the said plaintiff brings suit re -

Er A. W. B. Buren

Plffs Atty

Copy of account paid upon

Dr.

— over —

per

Copy of Account paid upon

Dr

July 1	To Bal. R. & M. Clark	15.16	July 3. By A.	59.00
" "	" by	991.92	" 6 \$30 ⁰⁰ \$100.	131.21
" 6	"	909.19	" 7 \$62 ⁴⁰ \$752 ⁶²	817.02
" 7	"	361.48	" 8	1000.00
" 8	"	133.26	" 9 \$23 ⁴² \$64 ⁴⁰	87.82
" 9	"	57.61	" 11	182.10
" 10	"	1000.00	" 13	48.75
13	"	148.79	" 14	101.
"	Br d.	121.52	" 15	12
17	"	175.10	" 16	22.50
21	"	134.72	" 17	50.
26.23	Ann. & Ser	165.00	" 18 \$1142 ⁹⁰ \$600	1742.90
17	"	37.00	" 21 \$67 ³⁹ \$25	92.39
18	"	239.16	" 25	36.37
21	" Balance	694.02	" 27	37.50
27	Balance	141.63		
		<u>\$ 4419.56</u>		<u>\$ 4419.56</u>

multi-voucher returned
July 28. 1857
Adams

Aug 3		60.90	July 27 By Bal forward	141.63
July 29		3600.00	" 28 " do	8.00
		<u>3660.90</u>	" bal	<u>3511.27</u>
Aug 11.	To Bal	3511.27		<u>3660.90</u>
" "	"	36.00		

Filed Oct 16 1857. M. T. Tinsall clerk

Judgment

Reuben Langjoy
 D. W. Martin and
 S. T. Morely

Assumpsit

This day comes the paid plaintiff by E. A. Van Buren his attorneys, and appearing to the Court, that due personal service of process of summons, issued in this cause has been had on each of the paid defendants, and they being severally three times solemnly called in open Court - Come not, but makes default, whereon motion is ordered to be taken, and is hereby entered - Wherefore said plaintiff ought to have and recover of said defendants his damages sustained by reason of the premises, and the Court having heard the proofs and allegations submitted and being fully advised now assesses the damages herein to the sum of Three thousand five hundred and fifty five dollars and seventy seven cents - Therefore it is considered that said plaintiff do have and recover of said defendants, his damages sustained of Three thousand five hundred fifty five dollars and seventy seven cents in form as aforesaid by the Court assessed, and also his Costs and Charges in this behalf Expended, and have Execution therefor -

Paid witness further testified
 This is the judgment to which I refer it is for the whole
 amount of this draft, without any deduction on
 account of this note - I can't pay when the

\$ 3566 ⁷⁷/₁₀₀

Manishee was begun, it was about the time the notes became due, only I know as they have stated - I believe had some notes discounted with Hartin before this the account stood R. Sir D. M. Clarke - Clarke had the discounts for firm, R. stood for defendant's name, but I was really represented thereby. Clarke did all the business at the Bank before Longoiz bought us out -

Direct Examination resumed

The account with name in suit referred to. I think was made out by Van Buren. I never had anything to do with the suit, except to direct the suit to be brought - The
58. notes and drafts were all made out - at some time at the distillery on State Street, all made out together I think -

On his further cross examination he testified as follows -

Question. Did you not say on your former examination as follows. "The defendant drew the draft on Tyrrell of Boston for \$3,600.00 he drew it at the counter of the Bank, and gave it to Hartin for collection

I don't think I made the statement just as it is written there. I don't think I said it was drawn at the Bank. I will not state positively that I did not, but I don't think I did, I don't think I made it, I have always kept the matter in mind I have handed the matter up to get it tried. I am

not interested in the matter one farthing, only friendship, Georgey has not paid the note but securities (bond) has been given to secure back against liabilities, the bond was made to release the property from the attachment. Bill and Diversy are considered responsible

Agreement read in Evidence between the parties to this suit by defendants Counsel. (No objection)

Cross Examination resumed

I have had a final settlement with Georgey, settled next day after he brought back out. I turned him out all the property here in settlement, have had no settlement with him since, I wound the business up when we found we could not get the money, about the twentieth of July 1857

Thereupon defendant called as a witness
Robert D. McFarlane

who being duly sworn testified as follows. I am doing business in the city 54 La Salle Street. I was acquainted with Metropolitan Bank it was third door from my place, in same building in July 1857. Farlin and Mosely were the parties who owned it. There were four in there in charge. Wamley, Farlin, Mosely and me, he did outside shoring. I kept an account with them. I used to deposit all my notes received in business. I made a deposit of that kind in May or June 1857 —

Counsel for the defendant thereupon asked the witness the following question -

What do you know of the solvency or insolvency of the Metropolitan Bank on or about the month of June 1857. and what are your means of knowledge.

To which question the Counsel for the plaintiff then and there objected, but the Court overruled said objection and directed the witness to answer said question, to which decision of the Court in overruling said objection, plaintiffs Counsel then and there excepted, and said witness in answer to said question testified as follows.

60.

The first information I had of it was in early July. B. B. Cobb brought into the store a note and asked me if that was my handwriting I said it was, shortly after that I sent my clerk to get back my paper amounting to \$2,800. The clerk returned without the paper. Harlin was not in the Bank at the time, one day I went in and talked as much as I could about it, and while I remained there, one of them went out and soon returned with \$200, or \$300 of the paper, and said that when they could raise the money they would take up the rest. I was the endorser on the Cobb note, it was one of the notes I had taken of a Customer of mine and left for Collection, I had to pay the note as endorser.

Plaintiffs here moved to exclude

the foregoing answer from the jury to said question but the Court overruled said motion, and refused to exclude the same, to which ruling of the Court Counsel for plaintiff then and then excepted — Counsel for the defendant thereupon asked the witness the following question —

What amount of notes that you had left with the Metropolitan Bank for Collection was transferred to other persons —

In which question plaintiffs counsel then and then objected, but the Court overruled said objection, and directed the witness to answer said question, to which ruling and decision of the Court in overruling said objection, plaintiffs Counsel then and then excepted, and the said witness in answer to said question, testified as follows

As near as possible about \$500.00. There was \$1700 of drafts and acceptances I never saw again, it was collected and used by the Bank — I applied to the Bank for the notes which had been transferred — I applied to the Bank to receive the money that they had collected on my notes and acceptances, once to Mr. Wamley personally and once to Woseley. This was about the latter end of July.

The Counsel for the plaintiff here moved to exclude the answer of the witness to the last above question, but the Court overruled said motion, and refused to exclude said evidence, to

which ruling and decision of the local plaintiffs
Council then and there excepted -

On his Cross Examination, said witness testified as follows
I have been in business

since 1857 on my own account. I began doing business
in latter part of July 1857. I got that date fixed
by my business, I was a good deal interested, it is on
my memory and cannot be forgotten, I recollect well
books coming in, I don't keep a record of such matters,
I can't state positively when the note became due, but I
know when book came, and I can tell within a day
or two, I was doing some work in Kankakee - I
recollect distinctly that I got up on 25th of July

62. of that year, and went to my office & directed my men
what to do I don't see whether the 25th came on Sunday or not -
book came in early in July; I have nothing to re-
fresh my memory recollection -

Thereupon defendant called a witness

Edwin D. Wells

who being duly sworn, testified as follows
I was intimately acquainted with Metropolitan Bank
Hartlin and Mosely were the proprietors - Hurley and
Hartlin to March 1857 and Hartlin and Mosely after

Defendants Counsel thereupon
asked the witness the following question -

Do you know ^{any thing} of the meadness
of that Bank, on or about June or July 1857 if so
state what you know, and your means of knowledge

to which question plaintiffs counsel then and there
 Excepted objected, but the Court overruled said ob-
 jection and directed the witness to answer said question
 to which decision of the Court plaintiffs counsel then
 and there Excepted, and the witness in answer to
 said question, testified as follows. —

I was a depositor in the Bank
 I had some money on deposit, and was in every day and
 sometimes several times a day when I was in the City.
 During that time, my store was in same building, some
 time in June I had my suspicions aroused in regard to
 the solvency of the Bank, and with — the money I had
 there I felt some concern about it, and I spoke to
 63. Farlin. I knew that they were paying high rate of
 interest and spoke to him in regard to it — I
 asked him if the affairs of the Bank were all
 right, if it was safe, he told me they were a
 good deal pressed for money, but that they were
 expecting to make an arrangement with some Bank
 perhaps buy a Charter of a Bank which would
 give them some money. I was drawing checks on
 them almost every day, and I think it was in the
 sixteenth of July — I looked at my book this morn-
 the first draft I got of them was protested in New
 York that was just \$125 — July 23^d I drew a
 check on them for \$1575.96 which they were unable to pay
 on that day, subsequently and perhaps on the second day
 Farlin paid it to me, he gave me the Currency, I think he
 said he received & raised it; and that he was expecting to

receive some money, from that time I found the checks on the Bank thrown out and not paid by it, I drew several checks which -

Plaintiffs counsel here moved to exclude from the jury the above testimony of this witness given in answer to the above question, but the court overruled said motion and refused to exclude said evidence, to which ruling and decision of the court, the plaintiffs Counsel then and there Excepted

Defendants Counsel thereupon asked the witness the following question -

How much did you have in when the Bank quit -

64.

In which question plaintiffs Counsel then and there excepted objected, but the court overruled said objection, to which ruling and decision of the court the plaintiffs Counsel then and there Excepted and said witness in answer to said question testified as follows,

My balance ranged June and July from \$ 3000⁰⁰ to \$ 5000⁰⁰ after they closed. I took their note in settlement for \$ 3,800⁰⁰ - they have paid nothing since they closed, they did not make any general assignment but they assigned some note to me to cover my indebtedness, the amount was nominally greater than my debt I don't think I ever realized over \$ 200.00, some of the notes were claimed by other parties as collection notes & were surrendered up to them, I had several talks with

him about these notes, about the time, Farlin paid there were some collection notes among them. I don't recollect that I ever heard that any assignment was made to Meiller by the Bank. I never had but one discount there I have bought notes there and paid Cash for them. I bought notes often at two per cent discount about that time. I have met Whitney Farlin in the Bank, not often, never saw him behind the counter. I was acquainted with the Farlin family. It then consisted of Mrs Farlin her daughter and two sons, they boarded at home I think with their Mother, they were both unmarried men I think. Mrs Farlin built a house about two years ago, she claimed to own it, it was about four doors south of 12th Street on the West side of Mabush Avenue. White stone front, stone side walls and brick side walls.

Did you at any time have an interview with Mrs Farlin with respect to the cost of that house, and as to where she got the means from to build it with; — I did —

Please state when it was, how you came together, and who was present and what was paid —

Plaintiff objects and questions witness — I am an Elder of the first Presbyterian Church, at the time enquired of. Mrs Farlin has confessed such and is now was also a member. In my relation of Elder I laid the matter before the session and asked for an investigation of the manner in which she had procured the funds to build that house, a committee was appointed for the

purpose of having an interview with Mrs. Farlin and
Mr. B. Nelson. I. W. Smith and I think F. T. Chamberlain
moreover. I was not on the committee.

It was the Convention which is referred
to in the defendants Interrogatory had in connection with
such investigation -

66. It was had in connection with it, but
not by me as a committee man, it was had with reference
to satisfying my own mind on the subject. It was between
us as members of the same Church and in reference to that
investigation, it was some weeks before the appointment of
the committee and before the subject was brought before
by me before the session, and there was but one member
of the session who knew it at that time. Mr. Henry E.
Seeley was that person. I had not employed him in
reference to my legal rights, had never spoken to him
upon the legal points of my case, nor have I since -
Plaintiff abandons question
at this time -

On his Examination resumed, he testified as follows

I called on Mrs. Farlin about
two years ago, while the house was building. Mr. Seeley
was with me, he was a member of the session. We stated
to her that we had called as members of the same Church
upon a delicate mission, I can't give the language,
and one that related to us as members of the same Church
and that we wished any wrong impression we were laboring
under to be removed before going before the Church, or

having the matter become public in any form, I told
 her I lost a considerable amount of money through the
 Bank, that I had occasion to suspect that money
 had been wrongfully appropriated in some direction,
 that we had no fixed suspicions but we came to re-
 move any impression which might exist as to where
 the money I had lost in the Bank with others had
 gone. Mrs. Farlin said she did not know in regard
 to the money, that she was very sorry I should have
 lost by the Bank, that she had every confidence in
 her plan and that she would yet be able to discover
 the parties who had misdealt with or had the money. She
 referred the matter to her Attorney, Mr. Miller, I asked
 67. Mrs. Farlin if she would be kind enough to give me a
 short statement as to where the money came from with
 which she was building her house, and I said to her to
 excuse me for ~~asking~~ asking the question, and told her
 my ^{reasons} ~~means~~ for asking it, I told her that at the time of the
 failure of the Bank she had represented to me that
 she had lost what she had through the Bank and
 that I wanted to know whether the money that was
 building the house was her own, whether it belonged to the
 directors of the Bank. I told her I felt satisfied
 under the circumstances to ask for that explanation. She
 referred the matter entirely to Mr. Miller and I said
 I should like to have her make out the statement within
 a week, we told her that in the mean time we should
 give no publicity to the matter and that if our impressions
 were wrong, we were ready and willing to have them corrected.

this was about the substance of the interview. She did not make the statement to me. she had represented to me that she had lost what she had by the failure of the Bank. The house had two stories and a basement a very pleasant house - Can't pay what it cost -

On his Cross Examination he testified as follows

I have had no conversation with Van Buren until this P.M. Orner Manchester called on me last week and said they wanted me for a witness. I asked them what case it was. they told me I told him I did not wish to disclose the matter, that a Committee had been appointed by the Church, the Committee said it was all right and she was acquitted
68. Seeley was a lawyer - I told him how much I had lost by the Bank - I think her health was pretty good - I told her I did not want to bring a suit but that unless I was satisfied I should take legal proceedings or bring the matter before the Church. She said you (Meiller) had always been her legal adviser, that she would like to see her attorney, and referred me to you. she wanted me to see you to see whether it would be proper. - When we asked her in regard to where the money came from she referred the matter to Mrs. Meiller, that she wanted to confer with Mrs. Meiller in regard to making her reply to our requests, she said she could make such a statement, that the matters of the Bank were in a very



Confused state; she said I could call on Mr Martin and wished I would. She did not refer me to you on a supposition that you had any knowledge on the subject - she wished to consult with you with regard to the propriety of complying with our request and wished us to call upon you and talk with you upon the same subject. I called upon Mr Martin but not with respect to this matter, he called at my store for her within four miles to have some conversation upon the subject. The interview was not a pleasant one, you charged me with going there in a very ungentlemanly manner, to extort confessions from her. I told you that I had no such design -

69.

Did you not say that Mrs Martin would state any thing that was desired if you desired to have the matter cleared up as Church members, but that if you desired to get statements from her to use in a suit, that I should advise her to give you no explanation -

I did not understand it in that way, my understanding was that you charged me with committing a great outrage in going to her house as I did the conversation then took an excited turn

Did you not state that Mrs Martin might depend upon it that unless Mrs Martin did not make that explanation you would institute legal proceedings -

I don't recollect making any distinction in proceedings whether at law or in the Church. but I did say that I should take proceedings

you charged me with having violated my Office,
at the outset you charged me with having assumed
a wrong position in having the interview in the manner
I did - I have laid the matter before Seely, as
a brother and most intimate friend, Mrs. Furlin
and her daughter were the only parties here at the
time. What I said was as a member of the Church,
I don't think that Seely asked a question, she made
the statement to the Committee appointed by the Church
within two months; she drove up in her buggy about
the time of the failure where I was standing on the
street ^{and said} quite the last days of July - Whitney Furlin
was with her, he got out and went into the bank
70. we spoke of the Bank, she was weeping at the time
she said that everything she had was in the Bank
and that she had lost all that she had -

Will you undertake to be
positive in stating whether her expression was that
Everything she had was in the Bank and that she
had lost it, or that she had lost everything she had
in the Bank -

I don't think I would. But I
proceeded in the investigation upon the impression that
she said she had lost everything she had in the
world by her firm and the Bank, I told her that
and it was the basis of my conversation with her
and I told her I wanted that accounted -
On his Direct Examination resumed

83 = 86
Mr. Miller did not tell me where the money came from to build the house

Defendant thereupon called as a witness George W. Whitney who being sworn testified as follows

I resided here in 1857 I was then in the Banking and Exchange business I was acquainted with the Metropolitan Bank Defendants counsel then asked the witness the following question.

7/1. State what you know of the solvency or insolvency of the Metropolitan Bank on or about June and July 1857. and your means of knowledge. (to which question the counsel for the plaintiff then and there objected but the court overruled said objection and ^{directed} ~~ordered~~ the witness to answer said question to which ruling and ^{decision} ~~action~~ of the court plaintiff counsel then and there excepted. and the witness in answer to said question testified as follows.

I was in the habit of buying exchange and bought a good deal of exchange of Mr. Farlin. I knew but little about the concern and took their exchange without particular inquiry. I had confidence in Farlin. had known him as Clerk with Swift, not well. I took their Bills of Exchange of him freely

until the evening of the Eleventh day of July 1857. Mr Lee and Mr Hadsworth came to my house and I telegraphed to Parker and Moxley's correspondent in New York in reference to the subject of their annuities. I had several of their Bills that went to protest which I had bought of them and which were drawn on their Broker. I bought the Bills about the sixteenth day of July, the amount of \$35,000 came back in one letter. I had paid them for these bills of exchange. Several other bills besides came back in the same way \$500⁰⁰ to a \$1000⁰⁰. There was another of about \$3,000⁰⁰ I think it was about that. I don't particularly recollect any other. I recommended these last named. I paid them because I felt honorably bound to pay them as I had recommended the paper, and not certain when they closed their Bank it was sometimes in August or September. I don't know of their selling paper, either Collection notes or those which they had discounted. Parker told me he had lost \$70,000⁰⁰ that he could not account for that amount -

On his Gross Examination he testified as follows
I had no books. no account with the Bank. I bought their Bills, that is all

my office was 38 Clark Street. I had then been in the business four or five years. I closed my business perhaps a year afterwards. I have been in the Exchange business. I have the memorandum of the Bill I bought of them, the Book contains the principal memorandum - perhaps the stumps in my Draft Book. I can get that book -

Cross Examination suspended until witness can procure his books -

Defendants Called as a witness

William W. Patterson

73. Who being sworn testified as follows -
I was in business in 1857 as Clerk of McFarlane. he did business with R. D. McFarlane. I attended in part to his Banking business, the greater part I deposited there for him notes for collection. The names and amounts of such as we did not get, that we were provided out of were of 279.77 left in May 1857. due in August, note of Knight due in August - left in May Note of Dwyer due August 9th for \$250. - left Cant pay for certain - Two of his were left some time one six months and one four months - I think we got them about the first of May - we generally left them at the Bank within a week or a fortnight - some times in the same day they were received - Note of R. H. Torrance and Brother \$156.31 due in August - left later than May - perhaps given

for settlement of Account due July 1st 1857
note of James Brown due September fourteenth
for \$200. I think it was a three months or four
months note, this note was left in May or June
along in June Note of Mc + Fitzpatrick,
due September thirteenth for \$110.42, think it was
a first-day Note, Mr Wells got three of the notes
from Harlyn & Co above named and returned them
to me I know Cobb. I could not find out
where the others went. I tried at the Bank to
get them and could not, I was requested and
also went into the Bank several times after the
74. notes, they said they had not got them, some of
the notes were returned after the failure, Baileys
for \$316.78 due in August was returned also two
notes of Brown due fourth 7th September 1857,
these notes I now speak of were received by me
from the Bank, I know plaintiff have been her
in my establishment —

Verose Examination suspended to enable witness
to get Books, —

George L. Whitney

Recalled. testified as follows,
I took the Bills referred to. I thought on the 13th
but it is entered upon the books as on the 14th of
July, My impression is that it was on the 13th —
they are entered in the Ledger on the Thirteenth by
the way I took another on the fourteenth of July

there was at that time a great deal of Exchange buying and selling at the time - I am not aware that Brokers were then generally assisting each other by Exchange, there was some no doubt - When he paid before I took the paper he would see me through if I would take it - he settled it all but \$15,000.00 through the fund of the Bank, in taking up the paper which I had recommended. I lost on that, the drafts were not returned to me until the 33^d of July. I advised them to hold the paper over - Harlin told me he could not account for \$711,000 that he left when he went to New York it was 75% all right and when he returned he could not account for it at all - there was none left - he offered to show his books and was ready to allow every investigation into affairs - I think I treated them as I did other Bankers, took their paper when offered - I failed about a year after - I failed for twenty or thirty thousand dollars, endorsing for my brother -

On his Direct Examination resumed

he testified as follows
 See got me some other Bills - other Bankers bills and Checks in settlement of the debt to me, \$1500, of the amount is left unpaid. They defrauded me no collection notes - Harlin said they had got the Bills struck off and should have plenty.

money when the Bills got dry, he was absent - about three or four weeks just before the Convocation in which he said he could not account for the \$70000, he left when he went away.

William H. Patterson recalled.

On his Cross Examination testified as follows - We continued to deposit with the Bank up to August first - last entry for currency is twenty dollars of that date - some notes ^{entered} ~~returned~~ after that, no notes were left there as late as August - I think that \$20.00 in the entry was not a deposit - but money that 76. I loaned him - he came in and got that amount. I think we never as a general thing made such small deposits - I could not swear for certain but I think it was for money loaned about that time, small deposits at poor times were made, I could not positively say that twenty dollars was not deposited in the regular course of business, but my recollection is otherwise.

On his Direct Examination resumed he testified as follows - The Book was left and was written up by the Bank, left the book in the latter part of July, when the trouble broke out - While Farlin was away a few days before he came back in the latter

part of July Mrs Martin came into the store
am not positive as to the exact time —

Defendant then called a witness
Suzanne Silverman

who being duly sworn testified
as follows. In 1857 I was a Banker. Knerr
Martin & Co and sometimes did business with them

Defendants Counsel here
asked the witness the following question —

What do you know of their
solvency or insolvency in the Months of June & July
1857, state if you know and your means of Knowledge

To which question peff
by her Counsel then and there objected but the
Court overruled said objection and directed the
Witness to answer said question. to which decision
and ruling of the Court peffs Counsel then and
there excepted, and witness in answer to said
question testified as follows;

They failed in the fall
of 1857 but I don't recollect exactly what month
I thought some drafts of them on New York, but
whether in June or July I don't know, and on one
occasion one of their drafts, may have been
\$2000.00 was protested — I went to Europe
left here sometime in latter part of July, was
gone three months. I think it was some time in
July — must have been first week or fore days of

July when draft was protested

On his Cross Examination, he testified as follows.

As near as I can recollect it was in the fore part of July - I left it latter part of July - I took ship in New York first or second of August - It must have been two weeks before I left that I received notice of protest, not sure of that, could not say whether it was one or two - but it strikes me it was more than one, we eventually got the money, there was a great deal of exchange buying and selling, but I suppose no more than was ordinary at that time

78 On his Direct Examination resumed he testified as follows

I loaned Furlin some more money after protest. I did not loan the money to pay the draft - Bankers are in the habit of getting currency of each other - I bought some notes of Furlin & Co. - Draft was in the habit of selling notes too at two percent a month, same as Furlin & Co. I have sold some myself at the time - some people buy at one price and sell at another - I was partly in the note brokerage business

Plaintiffs counsel here moved to exclude from the jury all that part of defendants evidence given by the witnesses Clark and Crane which relates to the agreement between

D. W. Farlin and the defendant at the time the note in suit was discounted, to the effect that the proceeds of the draft for \$3,600, as soon as collected should be applied to the payment of said note and all evidence of said witnesses tending in any way to show any agreement at the time said note was discounted in regard to the mode and manner in which said note should be paid. But the Court overruled said motion & refused to Exclude said evidence to which ruling and decision of the Court plaintiffs Counsel then and there excepted

— Defendant here rested —

Pliffs Counsel then Called as a witness
J. Whitney Farlin who being duly sworn testified as follows
 I have been here six or eight years perhaps longer, plaintiff has lived here nearly as long as I have. I was acquainted with D. W. Farlin & Co they were Bankers. D. W. Farlin was my brother - firm of Farlin and Mosely, my Mother kept an account with the Bank. I acted as her agent. I obtained this note from the Bank on the Eighteenth of July 1857, the Bank was indebted to plaintiff at the time, she had money on deposit I went to the Bank purchased this note with another of David Guiley of \$600.00 and a note of my own for one hundred dollars, all of which are included in a check. this is the check I gave for them

Plaintiffs counsel here read in evidence to the
jury the check referred to by the witness in the
words and figures following

No Chicago July 18th 1857
Metropolitan Bank. Dr. H. H. H. H. H.
Pay Notes on Bearer Seventeen hundred seventy
nine ⁸⁶/₁₀₀ dollars ^{Amos T. H. H.}
\$ 1779 ⁸⁶/₁₀₀ Mrs. H. H. H.
p. J. M. H. H.

I gave it at the time, plaintiff had more than
that at the Bank, I bought two other notes,
this two was had with W. D. Hamley, I went to the
Bank and told Mr. Hamley I wished to buy some
good paper for plaintiff. he took out this paper
with the other I spoke of. (Husley & mine). I recollect
80. nothing more that was said at the time. I took
all three of them home to my mother and delivered
them to her, previous to that time I had received
no intimation or information that any defence
existed to this note, I had no notice of anything
attending the discount of the note by the Bank,
I had purchased paper there before for my
mother, the discount allowed to the Bank
was two or two and a half percent, my brother
at that time was past in New York he returned
I think from 25th to 28th of July, that is my im-
pression - It was not until some days after -
I had no suspicions whatever that there was
any defence to the note. This is the pass book

39 $\frac{3}{4}$

15	To Bal down	5649	55	July 15	By	25
"	"	31124	90	17	"	10
21	"	200		18	"	3719 86
23	" Interest	82		20	"	10
"	"	1082		21	"	7
24	"	600		23	"	15
27	"	3.1140		24	"	10
				25	"	95
				29	" Balance	4741 69

\$8613 85

8613 55

1857	July 30	To Bal forward	4741 69	Aug 1	By Notes	1600 00
					" bal	3141 69

83.

4741 69

4741 69

Sept	Total	3141 69	Sept 4	By Check	1008 28
			"	"	2000
				Balance	333 41
		<u>3341 69</u>			<u>3341 69</u>
	Balance	333 41			

Collections

March	7	S. Loomis Abbott	re	Apr 6/9	1500
"	"	R. L. D. M. Blake		May 6/9	1600
July	"	S. Loomis Abbott	Chapman	Sept 3/6	1000
"	"	do		Sept 1/4	1000

of the plaintiff with the bank - I know the handwriting it is that of the Clerk of the bank. I made a number of the deposits myself.

The pass book referred to by the witness was here read in Evidence, which is in the words and figures following

No passbook
among papers

On his Cross Examination. testified as follows
I have no means of deposits

85. made by plaintiff except entries on the Pass Book (Book shown witness) don't think I can state the particular deposits made by me. There is one of \$600.00 on 24th of July. I made that one of \$200.00 Made on the 21st of July 1857. I have made others I presume but I don't recollect the particular ones I made I can't state positively any others. - That \$600.00 was a note of Susan Hurley, on the 24th my brother was in some trouble and wanted plaintiff to let him have that note back and paid he would give her other paper in place of it. This was the same note I bought on the 18th of July. he gave her other paper afterwards, which proved worthless - The \$200.00 deposit my

impression is that that was a draft that plaintiff
had given to her by some parties coming here. I think
it came from a Mr. Baker he was in Wisconsin,
cant say whether it was made to plaintiffs order
or Bakers and endorsed by her. I bought on
same day 18th July two notes for one thousand dollars
each of Loomis Abbott and Chapman's notes
and gave her check for \$ 1,940.00 I bought no
others at that time, two per cent off I think
she bought paper in that way, you may call
it a speculation if you please - I dont know
whether they the bank could afford to discount
at two per cent. I did not think anything about
86. it - I bought other notes afterwards - one of E. M.
and A. Fuller for \$ 16,000.00 on 1st of August and
two others of paper makers for \$ 3,000.00 dated
September 4th - I have forgotten at what rate
I bought these at - I think these are all I bought
may have bought of Parsons and Martin but dont
recalled, I have no recollection of buying any
others, may have done so, Dudley was East when
I bought those notes, I was in the Bank occasion-
ally, cant state how often, went there as often
as three or four times a week, maybe of more,
I cant state dont recollect being behind the
counter at any time, may have been, dont recollect,
when I bought this lot of notes on the 18th I
either took them directly to her or deposited

them with George Smith & Co. if I took them to her I nevertheless deposited them with Smith & Co same day. I have forgotten whether I took all of them I know I took the Loomis Abbott and Chapman notes, my memory is pretty good.

Did you not in your evidence on the former trial state: (hereinment-re)

(stipulated to be left out)

87. I may have stated that I took the whole as therein written. My impression now is that I took the whole. But I would not swear to it I think I took them home first and then took them there. I will not swear that I did not say I took them to George Smith for deposit as soon as I got them, nor that I did not take them directly to the Bank. Pugs and Harton were doing their business with George Smith & Co at that time. I was of that firm, plaintiff was doing business with Harton & Co, put these notes to the credit of Mrs. Harton. I think I opened a new account that day with George Smith & Co for plaintiff.

Why did you change her account—

There were a great many at that time in trouble and failing, and I thought they would be safer there than any where else — I thought they would be safer there than at the Metropolitan Bank — I presume the plaintiff knew the same day and

before I took them there, that I was going to
do so - I did so by her direction, can't state
whether she or I first suggested to take them
there. I don't know whether I bought any paper
at Metropolitan Bank before the 18th of July or
not, notes that were bought ~~in~~^{or} which had been
discounted by him may have been credited up to
her by my Brother or Wamley - I don't recollect
of buying any other myself, my mother did not
buy a note of mine of \$4,000. I was owing my
brother \$4,300, and the firm of Parsons & Harlan
of which I was a member gave quite a number
of notes to Metropolitan Bank to be sold or discounted
for us, they bought notes themselves - they did
sell that paper but instead of giving Parsons
and Harlan the money, they gave them credit for
it on the Book. This \$14,200. I was to use in
settling the claim of Parsons and Harlan against the
Bank - The notes that had been left by Parsons
and Harlan was in amount - \$2,000. or \$3,000, can't
state what the amount was - I was to apply that
amount on my note to Harlan & Co. I signed a note
of \$2,000. for brother, and wished me to give a note
he could not meet the note and I had to sell
the property he gave me as collateral security
I sold the real estate but it fell short \$1,000.
of paying the note. Brother told me the security
was perfectly good. I have forgotten what the
real estate did bring, but I lost \$1,000. interest

and all that note was given while brother was in business. I think three or four or five months before they stopped. I think they stopped on the first of August. The note for \$2000. was a six months note, and matured after he stopped he had my note for \$4200, after taking out Parson and Harlin and this amount of \$1000. I think that fixed it, don't think any thing was due after that, plaintiff bought my note for one thousand dollars. I afterwards got it renewed and Hurley got it. I think my brother placed that to her credit. I don't know. but I think so, she had money on deposit —

89.

Did you not state before that you had that note discounted and placed to her credit?

I went to the Bank to get it discounted and it was put to her credit. I can't state by what direction it was placed to her credit it was not by mine, by my mother I presume. My note fell due and it was credited up to her. I can't state when that note was discounted, the note was paid on that day, or it was renewed on that day — Piece of \$500. June 5th she is credited with that note — June 16th with mine of \$1000. June 22^d Note of Jordan for \$500.00 I have heard my brother speak of Jordan, that note was bought by her direction, so with Pierce, sometimes I acted as my Mother's agent, and sometimes

my Brother acted, I can't state from recollection
without looking at the book whether I
deposited any money in June. I have no
recollection out-side of the Book as to whether
any deposit was made by me in June for her -
I don't recollect of any money being deposited
by plaintiff in July. But my Brother was
East and plaintiff had property East which
was disposed of by him and he used the
proceeds. Credit was given to her by my Brother
when he returned. I know she had deeds made
out. I know nothing of the sale of the property
except what I saw of the deeds. I did not see
90. the money that was paid. I have no knowledge it
was paid except from what my Brother told me.
I have knowledge of her depositing money in the
Bank, my Mother had Bank stock in Boston
which was which was sold and the amount placed
to her credit, this was before first deposit in
Book was made say three or four months before
the deposit was made in the Book. That was
entered March twentieth 1857 previous to that
time my brother may have been here two or three
or four years - I can't state the time, he came here
before I did about a year I should think, don't
know whether he had been here before he came
here to live - This was Bank stock Father
left her - he gave it to her before his death, only
know of it - Except what I have heard, and her

interest-coming to her every six months - I have been drafts to her for the interest - she told me they were for interest - I know it only as I have stated. I don't recollect that I saw the money paid to my Brother -

Did you not state on the last trial that money was money that Dudley had received to invest in paper?

I don't recollect it.

Did you not state on that trial in speaking of that money that it was money your Brother had dealt with him ever since he had been west?

91.

I don't recollect making the statement. I am not positive enough in my recollection to say I did not say so. My Brother was here it may have one and may have been two years before plaintiff came, can't state. don't recollect. I came here before plaintiff did. I have forgotten when I came I had been here one year before she did. I came the next year or within one or two years of the Chalval season in 1854. I am now about twenty five years of age. I believe Dudley is twenty six years old. I know only what I have stated about plaintiff putting money in the Bank.

Did you tell Mr Clark about the time the note in suit became due or in the latter

part of July 1857 in the Metropolitan Bank that Sludley was not there and that you picked out such notes as you chose.

I don't recollect telling him any such thing. I either paid money on the note of \$1,000. or got it renewed. my impression is I got it renewed. I understood defendant lived in Nebraska after I bought it. I did not know it at the time. was not personally acquainted with him. I did not know about him. but I knew the endorser, and I relied entirely on the endorser. I bought it on his solvency. I can't say who erased the
92. endorsement. I presume I may have done it. I don't know who did it. I know the \$1,000. note was not given up to Gurley. I don't know whether it was collection paper. I don't know whether they discounted in June and July. I don't know that I recollect ~~that I recollect~~ seeing any note discounted at Bank in June or July. and not in May unless my own or firm paper. I don't recollect.

On his direct Examination resumed. he testified as follows.

I paid the \$1,000 afterwards myself Gurley went in and bought that note of Farlin who had an account there. and I afterwards paid it. My brother sometime acted as plaintiff. Agent in getting paper for her a long while

the Bank was doing business.
On his second Examination resumed. he testified as follows.

Did you not say to Mr Clark at the time and place above referred to that you went into the Bank. and that Dudley was not there and that you & went into the Vaults and took out such notes. as I wanted?
No Sir. I never said so.

Plff's Counsel thereupon call as a witness,
William D. Hawley. who being duly sworn testified as follows.

I have lived here nearly six years I knew the firm of Farlin & Co. I was in their employ they succeeded Gurley and Farlin.
93. I was in their employ. my employment commenced on the 7th of July 1856. I continued in their employ till September 7th 1857. I know Plaintiff. she kept an account with Farlin & Co I was the active teller of Farlin & Co. I kept one sett of Books and acted as teller. This is her account on 144th page of the ledger This in her pass book (here was shown to the witness the pass book already given in evidence) she had no other & ever saw. I recollect no other. have seen note in the suit before. This Note appeared on the discount book of the Bank. The number is on the back of the note. it was discounted on the 29th

of June as shown by the Book. She had
an account with Clark in the Bank
(Clark's Account referred to by witnesses)
page 91 Ledger. I know both Pauline & knew
of J. Whitney's acting as agent for his Mo-
ther. and of giving him this note, he came
into Bank and to the first person behind the
counter, and I was standing there by the
desk writing, and he said he wanted
some good paper for his Mother. I went
back and got a reference file containing the
papers belonging to the Bank for sale. I
picked out this note. J. Gurbys for \$600.
94. and his own for one hundred dollars. I
told him that was as good paper as we
had. he was on the out side of the Counter
he took the paper and gave me his check
for it. This is the check (see was shown to
the witnesses the check given in evidence) the
reason he took his own note was that it
made up just the amount he wanted. This
was July 18th. a memorandum of the trans-
action is on the pass Book and Deposit
book Journal. date July 18th also on
Cash Book credit to discount of the
notes \$1128.⁷⁰⁸ \$600 and \$500.00 The number
708 is on the note in suit. the entries
balance each other. The notes were sold
to her through her agent. it was done in

the regular course of business. exchanges.
 I had no information of the manner in which
 the note was discounted. I don't know ~~whether~~
 that I ever heard ^{Crane told me that} there was a defence to the
 note. I never heard of it until yesterday
 I know of no defence at the time that the
 note was sold ~~to~~ ^{the} plaintiff that I now
 recollect of. I have stated all that took
 place at the time. I don't recollect our
 having any conversation with Lerane in
 regard to the note before the Bank
 failed. Mosely was in the Bank. the indors-
 ment on the back of note. D. H. Farlin & Co
 95. is in his Mosely's hand writing. The Author-
 ity I had was that when Farlin was at
 home he frequently told me to go and
 pick them out when parties came in to buy
 That business of selling paper was left in
 my hands in his absence subject to ap-
 proval by Mosely. On the 18th of June I
 did not know if the Bank was in a
 failing condition. I think we stopped
 paying our checks on the 21st of July.
 Farlin was east on the 18th ~~last~~ he
 went on the 3rd I think I was at
 depot with him I rightly recollect
 and that I spoke to him about staying
 over the 4th. I have a sort of recollection
 of that kind. he came back within a day

or two after we stopped paying checks he did not tell me his business when he went away he brought back \$15,000 with him. I expected Bank to resume after his return we paid considerable out until the second or third of August and then very little after. I refused to receive deposits in latter part of July. he told me about the 7th of September I should no longer be wanted. We paid as long as we could I never knew how much. The Bank failed for. I heard Farlin say it was all the way from \$40,000⁰⁰ to \$60,000⁰⁰.
96. he seemed to be perfectly willing to give parties a chance to look at the books saw him show books to parties. the books were frequently examined by parties. we were dealing largely in exchange at that time. with B.C. Whitney and Macdonald & Co. a suit was brought by Farlin and Company vs Macdonald & Co. Farlin was not here on the 18th of July Lee was in the Bank and an employee of the Bank. a commission man sold paper for half commission.

On his cross Examination he testified as follows
The suit I spoke of I don't

Know who it was brought by, nor who it was against. There was a sink. Notes were sold at two and a half per cent per month. I knew what notes were left for collection never sold any such. I did not know of the sale of Mrs Fairbanks Notes. Lee sold Notes besides me and Farlin when he was at home. The notes in sink had been discounted. I don't recollect at what rate bank are not kept so as to tell. The rates of interest are kept on the books. The Book will show what was taken off, and you can figure up the rate. \$28. off - rate $1\frac{1}{4}$.

97. Should the Bank have made money by receiving one + one fourth -
 Yes. the bank would ~~lose~~ ^{lose} money by buying at that rate and selling at two and a half -

How came you to sell paper at a loss to the Bank

I was instructed by Farlin that when his Mother wanted paper to sell it to her at $2\frac{1}{2}$ per month. some paper we could sell at higher rates. he placed no particular figure on the other paper. We had some we could afford to sell at higher rates. We left it in my discretion to sell to her at higher rate.

think I sold one note at three per cent
per month, once. These notes were all paid
for by her checks. I never knew of plaintiff
depositing any cash there, except what
was collected from notes. I don't know
whether the notes were bought by her
were left at the Bank for collection. I
can't tell by looking at the books. I don't
know of her leaving any notes there for
collection except those she bought of the
Bank.

Do you know of a note of J. Whitney
Farlin of \$4,000.00?

98. I don't recollect
any such now, nor do I recollect any of
Huddy to Whitney Farlin. I have no
recollection of the \$1,000 of Whitney's that
was discounted there. Huddy Farlin's
account is not on this ledger. The gen-
eral ledger is not here. I know we had
business with George L. Whitney, no distinct
recollection of it. no recollection of his coming
to the Bank and telling that his draft had
been pirated. my memory is pretty good
but these matters I did not consider of
much importance. I don't recollect of McFarlane
calling on me or of his checks in reference to
collection notes. I have no distinct recollection
that any paper was sold in July. I

was in the habit of buying paper inside of the Bank. all along inside at two per cent. out side from two to twenty per cent. when I took in bank I got Farlin's concurrence out side he had nothing to do with me continued to buy till Farlin left. customers left notes for collection. I knew of this doing so usual notes of discount some ten per cent a year some two some three per cent. There were regular customers we discounted at three per cent. We discounted at ten per cent for those who kept large balances at the Bank.

P

D. M. Clark. recalled by Defendant. testified as follows.

99.

Did you have a conversation with Whitney Farlin as to how he came into possession of the note in question?

I did state where. It was in the latter part of July in the Metropolitan Bank of Farlin who of Dudley returned from New York J. M. Farlin - recalled by defendant testified as follows.

Did you in the latter part of July 1857 at the Metropolitan Bank say to Mr. Clark in answer to an inquiry made by him about the note in question. I have got that note. and in reply to a remark of Clark as to how you came by the note. did you not say "I took it"?

I have no recollection of any such conversation.
G. W. Clark. recalled testified as follows.

Did you have a conversation with Whitney Farlin as to how he came into possession of the note in question.

100. There was such a conversation I was in the bank in the latter part of July. I met Whitney Farlin. Lee and Mosely. I made a remark about this note. about it being paid out of the proceeds of the draft. Whitney asked me about what my trouble was. I then told him in regard to this note how it was discounted. he said I have got this note with some others. I asked him how he came by it. if Dudley gave it to him. he said no I took these notes that and some others to secure my mother. he said you need not trouble yourself about it at all. I had several thousand dollars discounted at the bank at ten per cent.

On his cross Examination he testified as follows

This was after the Bank had refused to pay our check it was the 27th 28th or 29th Lee was there. Hawley and several others beside. I don't know whether Mosely was paying attention to this conversation. can't say whether Hawley heard it. I asked Lee about this note and some others I wanted to find out Mosely was at the

Deck. Lee was in bank outside where I spoke to him I think I spoke to Mosely. he told me he had nothing to do with it. cant say I spoke to him that A.M. Nor that I spoke to Hawley that A.M. I had been in probably five minutes before I spoke to Whitney. I first encountered Lee and spoke to him. First asked Whitney. and I cant give the exact words. I state the substance as nearly as I can recollect I had a bank book. and kept a private account book. I could not find the letter the memorandum book was destroyed. I cannot find the letter.

101. Thereupon plaintiffs counsel called as a witness. George T. Mosely who being duly sworn testified as follows. I reside in Chicago. have for five years I was of firm of Farlin & Co. It began business (March 1857) Hawley was in the employ of firm during its continuance. On 18th of July D. H. Farlin was in New York. I think we had this note (in suit) in bank the note in suit was here shown to the witness The endorsement of D. H. Farlin is in my hand writing. Hawley had authority to sell notes at that time I dont recollect the circumstances of the transfer of this note. D. H. Farlin & Co have no interest in that note to my

102. Knowledge. nor have I the only knowledge I have of the Transaction is what appears on the face of it. I know (Mrs Farlin she had an account with the firm at that time. this is her bank book here was shown to the witness the pass book given in evidence. on the 18th of July I supposed the firm to be solvent it stopped doing business in the month of August. I think the latter part or first of September? Cant state definitely when it failed to meet its obligations but I think between the middle of August and the middle of September. It may have been first of August. we were doing some business during the entire month of August. I dont recollect what date Farlin got home in July he was absent in July and I think during August. Bank was open during the entire month of August. On his Cross Examination he testified as follows.

I had charge of the Western Correspondence and collection. I did not keep posted in regard to general business of the Bank. Farlin was principal man when at home in financial matters. I dont-recelled the ~~transacting of the note~~ Know whether it was bona fide or not All I know is what appears on the books and in note itself. I knew that cus-

Former notes were being sold. it was part of the
 business to sell notes when authorized. I knew
 not at the time what McFarlanes notes were
 sold. I learned so afterwards should not think
 we had power to sell notes left for collection.
 have no recollection of any such sales of cus-
 tomer notes. I did endorse some notes to Wells.
 Hawley brought me some notes I did not
 examine them at the time. he was authorized
 to dispose of notes in that department and
 brought me some of McFarlanes with others
 to endorse. I did not at the time know these
 were McFarlanes or that they had been left
 merely for collection. Hawley told me they
 were to be placed in his Wells hands as
 security for him Wells to raise a sum of
 money. I supposed them to be the property
 of the Bank. I dont now recollect the
 time of this transaction it must have been
 some weeks before the Bank actually closed
 I did not then suppose the Bank was in
 failing circumstances. I only thought times
 were close. I did not reflect as to wheth-
 er so. I did not know much as of what was
 going on. I trusted everything to Hawley
 he got his instructions from Farlin. I
 think Checks were paid in the month of
 August. it is possible. I am mistaken in
 this. Hawley would know best. I recollect

Cranes being in the Banks, coming there on business, but what I don't recollect. His conversation was with Hawley, he was there at least twice to my recollection, he may have come every day, he appeared to be in earnest about the note business. I don't recollect McFarlane coming there complaining and threatening to shout.

104. I know nothing about Mrs Farlane's account except as it appears on the books. I do not know of her ever paying in a dollar in money none of the selling notes to her was ever done by me or with me or with my knowledge. Mr Hawley came to me with the McFarlane notes and I endorsed them on his statement as I was accustomed to do he may have stated it was a straight forward transaction don't recollect what he said I know the endorsement on the note. The guarantee payment of the within note D. H. Farlan & Co the signature was written on it by me, have no recollection when it was put there. the guaranty is not in my hand writing. I know nothing about it except as the note was brought for signature.

On his Direct Examination resumed he testified as follows.

I know of no reason for supposing that this note was not transformed

in good faith I merely signed the notes as brought to me by Sawyer. I can't recollect but few of the transactions in which I endorsed notes.

On his cross examination resumed he testified as follows.

I don't recollect any fact in regard to the transfer of the note to plaintiff. I think I was never absent a day while I was in the business.

On his Direct Examination resumed he testified as follows.

I can't tell what time he came was in the Bank, it was subsequently to the middle of July but I can't tell exactly the time my recollection is not distinct, The above and foregoing being all the evidence given in the case The ~~court~~ ^{learned} for the plaintiff thereupon requested the court to give the jury the following instruction

If the Jury shall believe from the evidence in this case the promissory note given in evidence in this case was purchased by the Plaintiff before its maturity and that she gave a valuable consideration therefor then the Jury should find for the Plaintiff unless they shall believe from the evidence that the note was taken by her with no

tice to her or to her agent J Whitney Farlin of facts which would as between J. W. Farlin & Co and the Defendant constitute a defence to an action upon the note.

But the court refused to give said instruction as asked but gave to the jury in the place thereof the following instruction.

106. If the jury shall believe from the Evidence in this case that the promissory note given in evidence in this case was purchased by the Plaintiffs before its maturity and that she gave a valuable consideration therefor. then the jury should find for the Plaintiff unless they shall believe from the evidence that the note was taken by her with notice to her or to her agent J. Whitney Farlin of facts which would as between J. W. Farlin & Co and the Defendant constitute a defence to an action upon the note or be sufficient to put a person not wilfully intending to be ignorant upon inquiry into the title of the holder

To which refusal of the court to give said instruction as asked. the counsel for the plaintiff then and there excepted.

The counsel for the plaintiff thereupon requested the court to give to the jury the

the following instructions.

If the jury shall believe from the evidence in this case that the Plaintiff purchased the promissory note given in evidence in good faith and for a valuable consideration before its maturity then the jury should find for the Plaintiff although they should believe from the evidence that the Plaintiff after she had so purchased the note had notice or reason to believe that a valid defence existed to a recovery upon the note as between Deft Farlin & Co and the ~~Plaintiff~~ Defendant.

But the Court refused to give said instruction as asked but gave to the jury in the place thereof the following instruction.

107.

If the jury shall believe from the evidence in this case that the Plaintiff purchased the promissory note given in evidence in good faith and for a valuable consideration before its maturity and without notice of any defence or of any facts which would cast suspicion upon the note and put her upon inquiry then the jury should find for the Plaintiff although they should believe from the evidence that the Plaintiff after she had so purchased the note had notice or reason to believe that a valid defence existed to a recovery upon the note as between Deft Farlin & Co

and the Defendant.

To which refusal of the Court to give said instruction as asked, the Counsel for the Plaintiff then and there excepted.

The Court thereupon at the instance and by the request of Plaintiffs Counsel gave to the jury the following instructions.

108. If the jury shall believe from the evidence that the Plaintiff had funds in the ~~soi-~~ hands of D. H. Farlin & Co and that with those funds or a portion of them she purchased the promissory note in question of D. H. Farlin & Co by giving her checks for the amount of said note less the interest or discount agreed upon and that such purchase was made before the maturity of said note, in good faith, and without any notice to her or her agent, J. Whitney Farlin that any defence could be made to a recovery upon said note as between D. H. Farlin & Co and the Defendant then the jury should find for the Plaintiff. If the jury shall believe from the evidence that the Plaintiff purchased the note in the manner stated in the last instruction on the 18th of July 1857. Then the jury will disregard any state-

ments made after that time by Dindley H. Farlin regarding said note which have been given in evidence in this cause. If the jury find that the plaintiff gave value for the note in suit and bought the same before it became due then in order to constitute such notice to the plaintiff as would under the previous instructions affect her right to recover in this action. It is necessary that the defendant should show that the plaintiff or her agent had notice of those facts or grounds to suspect the existence of those facts which would as between D. H. Farlin & Co and the defendant constitute a defence to an action upon the note.

109.

Thereupon the Court at the instance and by the request of defendant's counsel give to the jury the following instructions,

Ans. 1

If the jury believe from the evidence in the case that the Plaintiff or her agent or agents at the time of receiving the note in question had notice of facts which would constitute a valid defence to said note as between D. H. Farlin & Co. and the defendant which would cast such suspicion upon the note as to induce a person not wishing to be ignorant to inquire that then in that case the Plaintiff or her Agent took the note

subject to all the equities and defences. And if the jury further find from the evidence, that a valid defence to said note existed, as between the said D. H. Farlin & Co and the defendant, then the jury should find for the defendant.

To the giving of which instruction to the jury by the Court the Plaintiff's Counsel then and there excepted.

Thereupon the Court at the instance and by the request of defendants counsel gave to the jury the following instructions.

No 2
110. If the jury find from the evidence that the Plaintiff never deposited any money with D. H. Farlin & Co and was entitled to no credit on their books, and that her account with them was fraudulent and fictitious, and that the note in controversy was received by Plaintiff or her Agent or Agents on a Check drawn against said fraudulent and fictitious Account, that then she received said note without consideration and subject to all the equities and defences that existed to said note on the hands of D. H. Farlin & Co. And if the jury further find that a valid defence existed to said note in the hands of said D. H. Farlin & Co then the jury should find a verdict for the defendant.

To the giving of which instruction by the Court the Plaintiff's Counsel then and there excepted

Therefore the Court at the instance and by the request of defendant's counsel gave to the jury the following instructions.

No 3.

III. The general rule is that ~~where~~^{where} a party is about to receive a bill or note if there are any suspicious circumstances accompanying the transaction or within the knowledge of the party as would induce a prudent man to inquire into the title of the holder or the consideration of the paper, he shall be bound to make such inquiry, or if he neglect to do so he shall hold the bill or note subject to any equities which may exist between the previous parties to it. In other words he shall act in good faith and not willfully remain ignorant when it was his duty to inquire into the circumstances and know the facts. Therefore if the jury find from the evidence that the defendant had a valid defence to the note in suit in the hands of Farlin & Co and that this was known to the Plaintiff or her agent at the time the transfer was made, or that such circumstances were known to her or her agent from which a knowledge of such defence can be presumed or which would

have put a person acting in good faith not wilfully intending to remain ignorant, on inquiry into the circumstances of the title. then the Plaintiff is not a bona fide holder of the note though a valuable consideration was paid by her, and the defendant is entitled to a verdict.

To the giving of which instruction by the Court the Plaintiff's counsel then and there excepted.

112. Thereupon the Court at the instance ~~the inst-~~
~~ance~~ and by the request of defendant's counsel gave to the jury the following instruction.

no 4. If the jury believe from the evidence that at the time the check was drawn the plaintiff had a bona fide account with L. B. Farlin & Co yet if they further find that Farlin & Co were so insolvent as to be wholly unable to pay the check or provide for it, by means of which insolvency the account was worthless and that such fact was known to the plaintiff or her agent at the time this note was transferred to her - then the Plaintiff is not to be considered as having taken the same in the course of trade or for value as against the maker with a valid defence. And if they further find that the defendant had such a defence

to the note in the hands of D. H. Farlin & Co. the jury will find for the defendant.

To the giving of which instruction by the Court the Counsel for the plaintiff then and there excepted.

Thereupon the Court at the instance and by the request of defendant's counsel gave to the jury the following instruction

No 57

113.

If the jury find from the evidence that the note was transferred to the plaintiff without consideration, with the mere purpose of enabling Farlin & Co. or one of them to defraud creditors or to avoid a defence to the same, and that the defendant had money in the hands of Farlin & Co appropriated to its payment or with which payment could have been made at the time of the transfer, then the jury will find a verdict for the defendant.

To the giving of which instruction by the Court the plaintiff's Counsel then and there Excepted

— Defendants Instructions Refused —

"If the jury find from the evidence that the plaintiff or her agent or agents got possession of the note in

question. by fraud or out of the ordinary course of
trade or business, though it was before its maturity
then and in that case all the equities and defenses
that attached to said note in the hands of D. W.
Farlin & Co followed it in the hands of Plaintiff - and
if the jury further believe from the evidence, that
a good and valid defence existed in said note
in the hands of said D. W. Farlin & Co, then the
jury should find for the defendant

114. If the jury find from the Evidence in the case, that
the plaintiff or her agent or agents, received the note
in question, from D. W. Farlin & Co, with the
knowledge at the time it was so received, that the
said D. W. Farlin & Co had stopped payment
and were insolvent; and also believe that it was
received in payment of an antecedent or precedent
debt due the plaintiff from said D. W. Farlin
& Co - and that as between said D. W. Farlin & Co
and the defendant a good and valid defence
existed to said note, then the jury will find
for the defendant -

If the jury from the evidence in the case shall
believe that the promissory note given in Evidence
was received by the plaintiff or his agent or agents

of D. W. Farlin & Co on a Check drawn against an account he had with the said D. W. Farlin & Co as Bankers, and that said Bank account at the time the Check was drawn had become worthless by the insolvency of said firm of D. W. Farlin & Co, and that this fact was known to the plaintiff at the time. Then the plaintiff received the note in question without consideration, and all the Equities and defenses followed it in plaintiff's hands. — And if the jury further find that a valid defense existed against the collection of said note as between said D. W. Farlin & Co and the defendant. Then the jury should find for the defendant.

115.

If the jury believe from the evidence, that the note in question was fraudulently put in circulation, then the burden of proof is up on plaintiff to show that she purchased the note for a valuable consideration, bona fide & innocently, and if the jury shall further believe from the evidence, that the plaintiff did not pay a valuable consideration for the note or did not take it bona fide and innocently then the plaintiff cannot recover, if they shall further find that in the hands of D. W. Farlin & Co the debt had a good defense, and to arrive at a conclusion on these points, they will take into consideration

all the facts and Circumstances given in Evidence
If the jury shall further find from the Evidence
that when the plaintiff took the note, there
were such facts and Circumstances Connected there
with as to Cast suspicion on the note then she
Cannot be regarded as an innocent purchaser,
and all facts and acts known to W. Harlan
in this transaction, he acting as her agent and
considered as known to her

And thereupon the said Cause being given to the jury, upon the instructions and evidence aforesaid and the jury having retired to consider of their verdict, returned into Court, and rendered in said Cause the following verdict— "That the jury find the issues for the defendant"—

Whereupon plaintiff, by her Counsel duly made and entered a motion for a new trial, which motion for a new trial of said Cause was thereupon overruled by the Court; to which ruling and decision of the Court in overruling said motion the plaintiff by her Counsel then and there excepted— and the plaintiff ~~thereupon~~ by her Counsel thereupon, prayed an appeal which was granted—

And forasmuch as the several matters and rulings and exceptions aforesaid do not appear of record in said Cause, the plaintiff by her Counsel prays that this her Bill of Exceptions, may be duly signed and sealed and made a part of the record thereof which is done this 25th day of January A D 1862

George Manierre Seal
Judge of 7th Judicial
Circuit Illinois

119.

I, WILLIAM L. CHURCH, Clerk of the Circuit Court of Cook County, in the State aforesaid, do hereby certify the above and foregoing, to be a true, perfect and complete copy of All papers & all proceedings entered of record in a certain cause lastly pending in said Court, on the Common Law side thereof, wherein Warren - Harlin was plaintiff and Ruben Lacey or vs Defendant

In Witness Whereof, I have hereunto set my hand, and affixed the Seal of said Court, at Chicago, this Seventh day of April A. D. 1862.

Wm L Church Clerk.



State of Illinois,
Supreme Court.

Harriet Farlin

vs.
Reuben Soujoy

April Term A.D. 1865.
" "

Afterwards, to wit: at this same term of the Court before the justices thereof comes the said Harriet Farlin by Hogue, Miller & Lewis her attorneys, and says that in the record and proceedings aforesaid, and also in the rendition of the judgment aforesaid, there is manifest error in this to wit:

1. The said Circuit Court of Cook County erred in allowing, in proper and incompetent evidence to be given to the jury, in the trial of said cause, and in overruling the objections thereto made on behalf of the plaintiff in said trial.
2. Said Circuit Court erred in refusing to withdraw and exclude from the jury on the motion of said plaintiff's counsel, improper and incompetent evidence which had been given to the jury in the trial of said cause.
3. Said Circuit Court erred in giving to the jury, in the trial of said cause, the instructions in behalf of the defendant, marked in the bill of exceptions in said record, as Nos. 1, 2, 3, 4, 5.
4. The said Court erred in overruling said plaintiff's motion for a new trial of said cause.

And the said Harriet Farlin by her attorneys aforesaid, prays that the judgment aforesaid for the errors aforesaid and for other errors apparent in the record and proceedings aforesaid, may be reversed, annulled, and altogether held for nothing, and that she may be restored to all things which she hath lost by occasion of the said judgment.
&c.

Hogue, Miller & Lewis
Attys for Plff in Error.
" "

State of Illinois
Supreme Court
Harriet Tachin

April Term A.D. 1862.

vs
Reuben Lovejoy

Afterwards to wit, at this same term of the Court before the Justices thereof. Comes the said Harriet Tachin by Herynes Miller Lewis her attorneys, and says that in the record and proceedings aforesaid, and also in the rendition of the judgment aforesaid, there is manifest error in this to wit:

1. The judgment of the Court below was against the law and the evidence
2. The Court erred in admitting the testimony of the witnesses Crane and Clark in respect to conversations had by said witnesses with, and declarations and statements made to said witnesses by Dudley H. Tachin, and in overruling plaintiffs objection thereto.
3. The Court erred in overruling plaintiffs motion to exclude said testimony from the jury.
4. The Court erred in admitting the testimony of said witnesses in respect to conversations had by said witnesses with, and declarations and statements made to said witnesses by George J. Mosely and in overruling plaintiffs objection thereto.
5. The Court erred in admitting the testimony of the witnesses Clark and Wells in respect to the fact that the plaintiff had built a house in Chicago, and the cost of the same, and in overruling plaintiffs objection thereto.
6. The Court erred in admitting the testimony of defendant to wit-

nesses H. C. Farlane, Bell, and Whitney in relation to the
insolvency of the firm of D. H. Farlin & Co. in the months of
June and July, A. D. 1837. And in overruling plaintiffs
objections thereto.

7. The Court Erred in overruling plaintiffs motion to exclude
said testimony from the jury.
8. The Court Erred in admitting the testimony of said witnesses
in respect to the conversion by said firm of promissory notes
left with it for collection, and the particular acts of said
firm testified to by said witnesses, and in overruling plain-
tiffs objection thereto.
9. The Court Erred in overruling plaintiffs motion to exclude said
testimony from the jury.
10. The Court Erred in admitting other improper and incompetent
evidence testimony to the jury in the trial of said cause.
11. The Court Erred in overruling the plaintiffs motion to exclude
the testimony of the witnesses Crane and Clark. in relation to the
agreement under which the promissory note in suit was
discounted by D. H. Farlin & Co.
12. The Court Erred in giving to the jury defendants instruc-
tion Marked No. 4.
13. The Court Erred in giving to the jury Defendants instructions
marked Nos. 1, 2, 3, & 5.
14. The Court Erred in overruling plaintiffs motion for a new
trial of said cause.

And the said Harriet Farlin by her attorneys aforesaid prays that
the judgment aforesaid for the errors aforesaid, and for the errors ap-
parent in the record and proceedings aforesaid, may be reversed, annulled,
and altogether set aside, and that she may be restored to all things which
she hath lost by occasion of the said judgment.

Hoyle Whipple, Esq.
Attys for Affg. Error

Supreme Court of the State of Missouri
April Term 1862

Reuben Looney
vs. Debra Ewer
Harriet Fader
Plffs in Error

And now comes the
Defendant in Error by Ed A. Hartman
his Attorney & says there is no error in
the record & proceedings & in favor of judg-
ment affirmed & prays that the judg-
ment may in all things be affirmed
Ed A. Hartman
Att'y for Def't in Error

115

Harriet Taylor

¹⁸
Reuben Covejoy

Filed April 22, 1862

L. Silana

Clerk