

No. 13404

Supreme Court of Illinois

Long

vs.

Kingdom

71641  7

STATE OF ILLINOIS,
SUPREME COURT,
Third Grand Division.

No. 168.

*Long vs
Kingdom*

1861

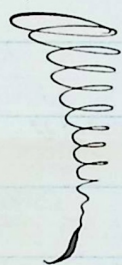
13404

State of Illinois - vs.

In the Supreme Court at Ottawa
April Term A.D. 1867 -

James Lang &
William Lang

"
Henry Ungerson



Appeal from Texas -

Reversed & remanded April Term A.D. 1860

Appellees Petition for Re-hearing -

To the Honorable

the Justices of the said Supreme Court -

The said Appellee in the above-
entitled cause represents that the opinion of the
Court reversing and remanding this case is as
follows to wit:

The plaintiff introduced the
note in evidence, upon which there was a payment
indorsed, and the jury neglected to allow the credit in-
dorsed, but rendered verdict for the full amount
of the note, and that verdict is attempted to be sus-
tained because the defendant did not formally read
the indorsement to the jury. No such formality
was necessary. When the note was put in ev-
idence, the credit was in evidence also. Suppose
an account had been introduced and proved upon
which there were credits - would the defendants
have been bound to read those credits in a

formal manner to the jury. Before they were
bound to notice them. We are too obtuse
to perceive such fine points of the Law.
The judgment must be reversed and the
Cause remanded."

But may it please the Court, the ob-
jections for which the judgment is reversed
could not have been made in the Court
Below, without a correction of it there. Had
the appellants but pointed out the error there,
that Court would have allowed a new trial un-
less the plaintiff would remit the excess.

What the appellee complains of is this,
that the record in this case shows that the appel-
lants suffered this error to creep into the pro-
ceedings, then drew the attention of the Court, and the
opposite party to other and unfounded objections,
and now take the delay gained, and the costs of this
appeal, for an error for which they are in Law
and in equity responsible.

The only reasons assigned before the Court
Below for a new trial, are the following, - cited
from the printed abstract furnished by the
appellants - &c:

1. Filing up the assignment of the note upon the trial
2. The verdict is without sufficient evidence
"in this, the plaintiffs Council only offered the

face of the note in evidence, but did not offer the arguments?

3. The Court allowed damages in addition to the verdict. —

Nothing is here said about any failure to allow the credits endorsed on the note, or any except of damages. Surely the appellee may be allowed to make some "fine points of Law" & sustain a judgment, — though it would be otherwise, were he seeking to over-turn it. In the errors assigned, we are for the first time apprised of the objection that the damages are excessive.

The appellee refers the Court to the following cases to show that the failure of the appellants to make the objections specified in the opinions of this Court, upon the trial below precludes them from succeeding upon it here —

Beck v. Rodgers	1	Scam.	281
Leigh v. Rodgers	3	Scam.	17
Gibbons v. Johnson	3	Scam.	63
Gilmore v. Gallard	1	Scam.	252
Hill v. Ward	2	Gal.	293
Martin v. People	13	Ills.	342
Fackmaster v. Cool	12	Ills.	76
Dafild v. Cross	13	Ills.	700
Dicklet v. Durrell	11	Ills.	84
Mann v. Russell	11	Ills.	587

Handbill etax. v. Johnson etax - 3 Exam. 49
 Miller v. Dobson 1 Gil 573
 Scott v. McPorter 13 Lls 405.
 Cline v. Truper - Pre. 163
 Scafford v. Dornor 1 Exam. 166.
 Johnson v. Bright 15 Lls 466
 Selby v. Hutchinson 4 Gil 330
 Smith v. Moore 3 Exam. 464
 Harman etab v. Thornton 2 Exam 353.
 Gilham v. State-Bank 2 Exam 247.
 McKenney v. People 2 Gil 570
 Holmes v. People 5 Gil 480
 Ferguson v. Falcock 11 Lls 30.
 Mann v. Russell 11 Lls 586
 Clay v. Poyer 5 Gil. 508.
 Schmecker v. Riley 3 Exam 403
 Snyder v. Laframboise Pre 268.
 Stokes etab. v. Tane 4 Exam. 167
 Sergeant v. Velloff etab 5 Gil 281.
 Mayer v. Hutchinson 2 Gil 240

Therefore the said appellee ~~prays~~ prays
~~for~~ ~~re-hearing~~ a re-hearing of his said cause,
 and that the judgment aforesaid, in form
 aforesaid given, may be in all things af-
 firmed &c.

Charles L. Bonney
 Attorney for Appellee

Received notice of the above petition -
that is, I read the above
petition this day -

Apr 12th 1864

Wm. Dymally

Atty for Applicant

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In the Supreme Court

Lang et al.

v.
Kingdon

Letters for re-hearing

of Notice

Filed April 6 1881
L. Leland
Clerk

Donney