

State of Illinois } Circuit Court at
Sangamon County } Spring Term 1830

Be it remembered that at a circuit Court for Sangamon County began and held in the Town of Springfield on Monday the twenty first day of April 1830 before the Honorable Samuel D. Lockwood Judge. The following cause came on to be heard -

William Clark } Upon appeal
Against } from a Justice of
John Pearson } the Peace

" This day came the Parties by their Attornies and
" a hearing of the Cause being had it is considered by the
" Court that the plaintiff recover of the Defendant the
" sum of fifty nine dollars and Eighty seven Cents and
" three fourths of the Costs in this appeal expended and
" also in the Court below and that the plaintiff pay the
" other fourth of the Costs -

And afterwards (to wit) on the day and year aforesaid
the Defendant by his Attorney files this bill of exceptions to
the opinion of the Court given in this Cause which is made
a part of the record and is in the words & figures following

William Clark Be it remembered that on the
Spring Term of this Cause it was proven
by two witnesses that the plaintiff
had made an improvement on public land consisting
of breaking seven acres of prairie and making a fence
around sixteen acres that the timber of which the said
fence was made was taken from public lands, that the
Defendant afterwards made an entry or purchase of the
United States of the lands on which said improvement
was made and after he purchased the said lands as

affidavit told the plaintiff that he need not be uneasy that he would satisfy him for his improvements and told him in addition to go and count the rails and he would pay him until he was satisfied, but no particular contract was made or any price agreed on for the said improvement. Nor whether the same was to be paid in property or money this promise was made in the last of December 1828 or first of January 1829.

It was proved by several other witnesses that the defendant frequently said he ~~would~~ intend to pay the plaintiff for his improvement, but there was no contract proven between the parties, but that the defendant said word by witnesses that he was willing to choose a man and the plaintiff might choose an other, and whatever they said was right the defendant would pay which was told to the plaintiff to which plaintiff agreed, and some time after was sent word to the defendant that he was ready to have the improvement valued but the defendant then objected and said that some improvements lately had been valued very high and he would not agree to have it valued and there was no proof that defendant ever did appoint his man or agree to have said improvement valued but the plaintiff chose two men himself and had the improvement valued to the sum of \$88.11 - the promise affidavit was made upon one other consideration than that the plaintiff had made the improvement on the land the defendant had purchased of the U. States. It was further proved by S. D. Shaw a Justice of the peace who produced his docket that on the 19th of January 1829 the plaintiff brought a suit before Justice Peter for breaking a yoke of oxen for a demand in money against the defendant in which demand the claim for the improvement was not included that the said suit was never brought to trial but it was agreed before the day of trial by the parties in said suit on a final settlement and adjustment of the matters in controversy that the suit should be dismissed and each party should pay half the cost before Justice Peter & each should pay all the costs before Justice Shaw to whom it was removed for trial by affidavit under the Statute

authorizing a change of venue from one Justice to another
the costs were all paid by defendant except 87½ cents which was
neglected to be Certified by Justice Peter to Justice Shaw and
there was no proof that defendant ever had notice that the
said costs were not paid or any demand made by plaintiff or
deft for the said 87½ cents costs before this suit was brought.

And this was all the testimony which was produced by plff
and the deft introduced no testimony whatever but insisted that
no consideration had been received by deft for the promise that
had been made (if such was made) to pay for said improvements
because the improvements made by plff. on said land became his
defendants when he the said deft purchased the said land of the
U. States, and further insisted on the Statute Compelling parties
before a Justice of the peace to bring ^{Rev Code page 284 Sec 161} all demands or be barred.

but the Court overruled both the defendants grounds and gave Judg-
ment for the plff to which the deft excepts and prays that this
his bill of exceptions may be signed sealed and made part of the
record in this cause

David J Lockwood

Deft

" And the defendant prays an appeal to the Supreme
Court which is granted on his entering into bond in the clerk's
office within thirty days from this date in double the amount
of the Judgment with Mathias Chittton his security.

And afterwards on the 10th day of April 1830 the
defendant John Carson with Mathias Chittton executed
and delivered the following bond.

" Know all men by these presents that we John Carson
and Mathias Chittton are here and firmly bound unto William
Clark in the full sum of one thousand and nineteen dollars
lawful money to which payment well and truly to be made
we bind ourselves our heirs executors & administrators firmly by
these presents sealed with our seals & dated this 10th day
of April 1830. Now the condition of this obligation is
such that Whereas the said William Clark did on the
second day of the Circuit Court for Sangamon County held at

4 the Court house in the Town of Springfield Commencing on
Monday the 26th day of April last past obtain a Judgment
against the above defendant John Carson for the sum of fifty
five nine dollars and Eighty seven cents from which Judgment
the said John appeals to the Supreme Court of the State
of Illinois. Now if the said John Carson shall prosecute
said appeal and pay all costs & condemnation money if
in case the same should be adjudged against him on the
trial thereof then this obligation shall be null and void
or otherwise remain in full force -

Signed Sealed & acknowledged the day & date above -
In presence of } John^{his} Carson }
C.R. Matthey } mark

M. Shelton Seal

State of Illinois }
Sangamon County }/

I Charles R. Matthey Clerk of
Sangamon Circuit Court do hereby certify the above and
foregoing to be a true copy from the record and proceeding in
the above entitled case.

Testimony Whereof I have hereunto
set my hand and seal of office
this 26th day of Nov 1830
Charles R. Matthey C.R.

~~No 5~~

Wm Clark
vs } Appeal
John Carson

A Copy of
Record

Filed 8th Decr 1830

295

No 4

(Filed)