

No. **12168**

Supreme Court of Illinois

Petrie

vs.

Sloan

Be it remembered that heretofore
to wit on the day of 1833 there was filed in the Office
of the Clerk of the said Stone County Circuit Court the following
transcript which is in the word & figures to wit

United States of America

State of Illinois
McHenry County

Read before the Honorable Isaac G. Wilson
Judge of the Thirteenth Judicial Circuit of the State
of Illinois a presiding Judge of the McHenry County Circuit Court at
Circuit Court began and held at the Court House in Woodstock in
said County on Monday the Seventeenth day of January in the year
of our Lord One thousand Eight hundred and fifty three and of the
Independence of the said United States the Seventy Sixth

Present the Hon Isaac G. Wilson Judge
" Mr. M. H. Joyce State Attorney
" Charles Washington Sheriff

Attest

I. H. Johnson

Clerk

Be it remembered that heretofore
to wit on the nineteenth day of January 1833 said day being one
of the days of the January Term of the McHenry County Circuit Court
and said Court being then in session at the Court house in Woodstock
in said County
the following among other proceedings were had that is to say

Nenny Petrie
vs
William Sloan

And now comes the Plaintiff by
Murphy his attorney and files his petition herein
verified by affidavit and for reasons therein set forth moves the
Court for a change of the Venue of this cause And the Court being

fully advised thereon sustains the same. It is therefore ordered
that the venue in this cause be and the same is hereby changed
to the County of Kane in the Thirteenth Judicial Circuit and
that the clerk of this Court certify and transmit to the Clerk of the
Circuit Court of Kane County a copy of the record herein as also
all papers filed in and pertaining to this cause

State of Illinois
McHenry County ss I the undersigned Clerk of the Circuit
Court in and for the said County and State of Illinois
do certify that the foregoing is a true copy of the record in the
above entitled cause in this office and that the accompanying
papers numbered from one to ten inclosed are all of the papers
filed in and pertaining to said cause

Witness my hand & seal of said Court
and the Seal thereof at Woodstock this 16th day of
February AD 1883

J. H. Johnson

And whereas it from appears from the papers
now on file in my said Office that the following name was
filed in said Cause on the 3^d day of September 1883 by
J. H. Johnson Clerk of the said Circuit Court of McHenry County

State of Illinois

McHenry County Circuit Court 3rd
September Term AD 1883

McHenry County ss

Henry Petrie Plaintiff in this suit by
Smith & Murphy his attorneys complains of William Slown defen-
-ant herein who has been summoned also of a plea of Trespass
on the case. For that whereas the said plaintiff now is
a good true honest just & faithful citizen of this State and as

such always behaved & conducted himself and until the committing of the several grievances by the said defendant as hereinafter mentioned was always reputed, esteemed & accepted by & amongst all his neighbors & other good & worthy citizens of this State to whom he was in anywise known to be a person of good fame & credit to wit at the County of McKenney and State aforesaid and whereas also the said plaintiff has not ever been guilty or until the time of the speaking & publishing of the several false scandalous malicious & defamatory words by the said defendant as hereinafter mentioned been suspected of the crime as hereafter stated as to have been charged upon & imputed to him by the said defendant. By means whereof the said plaintiff before the committing of the several grievances by the said defendant as hereinafter mentioned had deservedly obtained the good opinion and credit of all his neighbors & other good & worthy citizens of this State to whom he was in anywise known to wit at the County of McKenney & State aforesaid. Yet the said defendant well knowing the premises but ^{and} envying the happy state & condition of the said plaintiff & contriving & wickedly & maliciously intending to injure the said plaintiff in his said good name fame & credit & to bring him into public scandal infamy and disgrace with & amongst all his neighbors & other good & worthy citizens of this State & to cause it to be suspected and believed by those neighbors and citizens that he the said plaintiff had been & was guilty of the crime of perjury as hereinafter stated to have been charged upon & imputed to him by the said defendant & to subject him to the pains and penalties by the Law of this State made & provided against and inflicted upon persons guilty thereof and to ^{his} harass oppress impoverish & wholly ruin him the said plaintiff heretofore to wit on the first day of July in the year of our Lord one thousand eight hundred & fifty three at the County of McKenney aforesaid in a certain discourse with the said defendant then & there had of & concerning

the plaintiff in the presence of & hearing of divers good & worthy
citizens of this State, then & there in the presence & hearing of
the said last mentioned citizens falsely & maliciously spoke & published
of & concerning the said plaintiff the false
scandalous malicious & defamatory words following that is
to say "He (the said plaintiff meaning) is a damned perjured
old scoundrel" "He (the plaintiff meaning) is guilty of perjury"
"Old Petrie (the plaintiff meaning) is a perjured old scoundrel"
"He the Plaintiff meaning) is a perjured old scoundrel. Thereby
then & there meaning that the said plaintiff had been & was guilty
of the crime of perjury And afterwards to wit on the day & year
last aforesaid at the County of W. Perry aforesaid in a certain
other discourse which the said defendant then & there had of
and concerning the said plaintiff in the presence and hearing
of divers other persons good & worthy citizens of this State
the said defendant further contriving and intending as aforesaid
then and there in the presence & hearing of the said last men-
tioned citizens falsely & maliciously spoke & published of
& concerning the plaintiff the false scandalous malicious &
defamatory words following that is to say He meaning the
plaintiff Swore to a lie and if (the defendant meaning) can prove it
he. the plaintiff meaning is a perjured old scoundrel and I.
(the defendant meaning) will prove him to be so Thereby
then & there meaning that the said plaintiff had been & was
guilty of the crime of perjury By means of the speaking and
publishing of which said several false & scandalous malicious
and defamatory words by the said defendant as aforesaid the said
plaintiff hath been and is greatly injured in his said good name
fame and credit & brought into public scandal infamy and
disgrace with and amongst all his neighbors & other good & worthy
citizens of this State inasmuch that divers of those neighbors and
citizens to whom the innocence and integrity of the said plaintiff
in the premises were unknown have on account of the speaking

publishing of which said several false scandalous malicious
& defamatory words by the said defendant as aforesaid from thence
hitherto suspected & believed and still do suspect & believe the said
plaintiff to have been a person guilty of perjury & as aforesaid
charged upon & imputed to him by the said defendant and have by
reason of the committing of the said grievances by the said defendant
as aforesaid from thence hitherto wholly refused and still do refuse
to have any transaction acquaintance or discourse with him the said
plaintiff as they were before used & accustomed to have & otherwise
would have had and also by means of the premises the said plaintiff
hath been & is greatly injured & damaged diminished & wit at the
County aforesaid to the damage of the said plaintiff of one thousand
Dollars whereupon he brings suit &c. And whereas also afterward
to wit on the day & year aforesaid at the County aforesaid the said
defendant further contriving & intending to injure the said plaintiff
in his good fame name & credit and to cause it to be believed
by amongst all his neighbors & other good & worthy citizens of
this State that the said plaintiff had been and was guilty of the
crime of Larceny then & there in the presence and hearing of the
said last mentioned neighbors & citizens in a conversation which
the said defendant then & there had of concerning the plaintiff
in the presence & hearing of the said last mentioned neighbors and
citizens falsely & maliciously spoke & published of & concerning
the said plaintiff the false scandalous malicious & defamatory
words following that is to say "Old Petrie meaning the plaintiff
is a thief" "He meaning the plaintiff is a thief Stole my ax
and I meaning the defendant can prove it. thereby then & there mean-
ing that he the said plaintiff had been & was guilty of felonious by stealing
taking and carrying away the "ax" of the said defendant By means
of the speaking of which said false scandalous malicious &
defamatory words by the said defendant the said plaintiff
hath been & is greatly injured in his good name fame
& credit & brought into public scandal infamy & disgrace with

amongst all his neighbors & other citizens who were amongst
ignorant of the innocence and integrity of the plaintiff in the
premises inasmuch that those last mentioned neighbors & citizens
have on account thereof from thence hitherto believed and still do
believe the said plaintiff to be guilty of Larceny & have by reason
thereof refused & still refused to do or have any transaction with him
the said plaintiff as they were before accustomed to have
& otherwise would have done at the County of McKenny aforesaid
& that he is otherwise greatly damaged & to the damage of the said
plaintiff of One Thousand Dollars & therefore he prays suit do

Smith & Murphy
attys for Plaintiff

And whereas it appears from the papers on file
in said cause that the following answer was filed in the
aforesaid cause on the 1st day of January A.D. 1852 by
J. H. Johnson clerk of the McKenny Circuit Court which is in
the words & figures following to wit

William Sloan
Henry Petrie

McKenny County Circuit Court

And the said defendant in his own
proper person comes and defends the wrongs & injuries when & as
as to the first and second counts of the said Plaintiff declaration
says he is not guilty of the said supposed grievances in said first
& second counts laid to his charge or any or either of them in manner
and form as the said plaintiff hath above thereof complained
against him and of this the said defendant puts himself
upon the country etc. And for a further plea in this behalf
as to the first and second counts in the said declaration the
said defendant by leave of this Court hear for this purpose first-
had and obtained according to the form of the Statute in such
case made and provided says that the said Plaintiff ought not to have

or maintain his aforesaid ^{claim} thereof against him because he
says that before the speaking and publishing the said words ^{of and}
concerning the said plaintiff in the said first and second counts men-
tioned to wit "on the nineteenth day of May in year one thousand
Eight Hundred and fifty-two at General in the county of Kane at
the Circuit Court in and for the county of Kane then & there being
holding according to the form of the Statute in such case made
and provided before the Judge thereof in a certain cause in said
Court depending wherein the said defendant was plaintiff and
said plaintiff was defendant the said plaintiff for the purpose
of continuing and delaying said cause before the Clerk of the said
Court subscribed & swore to his certain affidavit in said cause and
used and offered & read the same in said cause for the purpose
aforesaid in and by which said affidavit the said plaintiff
on the day aforesaid at the place aforesaid upon his oath aforesaid
falsely & wickedly wilfully maliciously and corruptly and by his
own act and consent did depose and say & swear that on the ninth
day of July 1857 between the hours of nine and ten o'clock a.m.
of said day according to a written request of one Gadsden Dexter and
the said defendant in the words and figures following to wit
"To Mrs. Henry Petrie of McHenry County Illinois Sir you are
hereby required to make payment of all money now due on
contract signed by us dated May 3. 1856 in relation to the sale
of the mill property at Algonquin And pay before the hours
of ten o'clock a.m. July 9th 1857 to Mr Charles Follenbee of
Chicago Ill who is authorized to receipt for and receive the money
If the money is not then paid the contract will be declared
void & forfeited. Dated this first day of July A.D. 1857

Gadsden Dexter
Jm. Sloan

he had at the Office of Charles Follenbee in the city of Chicago at room
of 117. 24 that the said Follenbee refused to receive said money
stating that he had no authority to receive said money whereat

in truth and in fact the said plaintiff had not at the ^{time} said
affidavit stated the said sum of \$117.44 at the Office of said
Charles Tollensbee and that the said Charles Tollensbee did not refuse
or receive said money and did not state that he had no authority to receive said
money and the said defendant avers that said matter so sworn
to in said affidavit were material to the point in question to wit
to continue and delay said loans and that said affidavit was
required in said cause to obtain a continuance thereof the said
plaintiff did thereby in the said Court so holden as aforesaid
in the said cause upon his said oath in his said affidavit
falsely, wilfully, wickedly, corruptly commit wilful and corrupt
perjury wherefore the said defendant at the said several times
when also in the said first and second counts mentioned at the
County of McHenry aforesaid spoke and published of and
concerning the said plaintiff the said several words in the said
first and second counts of said declaration mentioned to have
been spoken and published by the said defendant of and concerning
the said plaintiff as it was lawful for him to do for the cause
aforesaid and this the said defendant is ready to verify
wherefore he prays judgment of the said plaintiff ought to
have and maintain his aforesaid action against him
And for a further plea in this behalf as to the first and second
counts of said declaration the said defendant by leave of the
Court here for this purpose first had and obtained according
to the form of the Statute in such case made and provided
say that the said plaintiff ought not to have or maintain
his aforesaid action thereof against him because he says
that before the speaking and publishing the said words of and
concerning the said plaintiff in the said first and second counts
mentioned to wit on the nineteenth day of May in the year
One thousand eight hundred and fifty two at General in the
County of Kane at the Circuit Court in and for the County
of Kane then and there being holden according to the form of

the Statute in such cases made and provided, before the Judge
thereof ^{a. certain} ~~in such case made and provided~~ in said Court defending
wherein the said defendant was plaintiff and said plaintiff was
defendant. the said plaintiff for the purpose of continuing and
delaying said cause, before the Clerk of said Court subscribed and
swore to his certain affidavit in said cause and used and offered
and read the same in said cause to said judge for the purpose
aforesaid in and by which said affidavit the said plaintiff on the
day aforesaid at the place aforesaid upon his oath aforesaid falsely
unlawfully wilfully maliciously and corruptly and by his own act
and consent did depose and swear that on the ninth day of July 1857
between the hours of nine and ten O'clock am of said day according
to a written request of one Zadoc Dexter and the said defendant
in the words and figures following to wit To Mr Henry Petrie
of McHenry County Ill. as you are hereby requested to make
payment of all money now due on a contract signed by us
dated May 3rd 1850 in relation to the sale of the mill property at
Algonquin and pay before the hour of ten o'clock am July 9th
1857. to Mr Chas Tallensbee at Chicago Illinois who is authorized
to receive for and receive the money. If the money is not then paid
the contract will be declared forfeited dated this first day of July 1857

Zadoc Dexter
Wm Sloan

We had at the Office of Chas Tallensbee in the city of Chicago
the sum of \$117.44 that said Tallensbee refused to receive said money
stating that he had no authority to receive said money. Whereas
in truth and in fact the said plaintiff had not at the time in said
affidavit stated the sum of \$117.44 at the Office of said Chas
Tallensbee and the said defendant avers that said statement in said
affidavit contained that he the said plaintiff had at the time
aforesaid at the Office of Chas Tallensbee aforesaid the sum of \$117.44
was material to the point in question to wit "to continue and delay said
cause and that said affidavit and said statement were required

in said cause to obtain a continuance and delay of the same
and the said plaintiff did thereby in the said court so holden or foreseen
in the said leaves upon his said oath in the said affidavit falsely and fully
wickedly and corruptly commit wilful and corrupt perjury wherefore
the said defendant at the said several times when &c in the said
first and second counts mentioned at the county of McHenry aforesaid
spoken and published of and concerning the said plaintiff the said several
words in the said first and second counts of said declaration mentioned
to have been spoken and published by the said defendant of and concerning
the said plaintiff as it was lawful for him to so do for the cause aforesaid
and this the said defendant is ready to verify wherefore he prays judgment - if
the said plaintiff ought to have and maintain his aforesaid action against
him and for a further plea in this behalf as to the said first and second counts
of said declaration the said defendant by leave of the Court here for this purpose
first had and obtained according to the form of the statute in such case made
and provided says that the said plaintiff ought not to have and maintain his
aforesaid action thereof against him because he says that before the speaking
and published the said words of and concerning the said plaintiff in the said first
and second counts mentioned aforesaid on the ninth day of May in the year one thousand
Eight hundred and fifty two at General in the county of Kane at the circuit court
in and for the said county of Kane then & there being holding according to the
form of the statute in such case made and provided before the Judge thereof
in a certain cause in said Court depending wherein the said defendant was plaintiff
and the said plaintiff was defendant the said plaintiff for the purpose of continuing
and delaying said cause before the clerk of said Court subscribed & swore
to his certain affidavit in said cause and used and offered and read the same in
said cause to said Judge for the purpose aforesaid in and by which said affidavit
the said plaintiff on the day aforesaid at the place aforesaid falsely wickedly and fully
maliciously and corruptly and by his own act and consent did depose and swear
according to a written request of one Zadoc Dexter and the said defendant
in the words & figures following to wit. To Mr. Henry Stetson of McHenry
county Illinois do you and hereby requested to make payment of all money
now due on contract signed by us dated May 3^d 1850 in relation to the

Sale of the Mill property at Algonquin and pay before the hour of ten A.M. on
July 9th 1857 to Mr Chas Tollenbee of Chicago, Ill. who is authorized and receipts for
to receive the money. If the money is not the said the contract will be declared void
dated the first day of July A.D. 1857

Yasoo Dexter
Jpm (down)

on the ninth day of July 1857 between the horns of mine & ten A. M. at
or in he had at the office of Chas Tollenbee in the city of Chicago the sum
of \$117.24 that said Tollenbee refused to receive said money stating that
he had no authority to receive said money whereas in truth and in fact
the said Tollenbee did not refuse to receive said money & did not state
that he had no authority to receive said money & the said plaintiff
did not offer or hand the same to him & the said defendant avers that
said statement in said affidavit contained that he the said Tollenbee
refused to receive said money stating that he had no authority to receive
said money was material to delay & continue said ^{cause} & that said affidavit
& said statement was required & was necessary in said cause to obtain
a continuance & delay of the same and the said plaintiff did cherchly
in the said Court so holden as aforesaid in the said cause in his said
oath in the said affidavit falsely wilfully inserted & corruptly commit
wilful & corrupt perjury wherefore the said defendant at the said several
times when also in the said first and second counts mentioned at the county
of McHenry aforesaid spoken & published of and concerning the said plaintiff
the said several words in first and second counts of said declaration mentioned
to have been spoken & published by the said defendant of & concerning
the said plaintiff as it was lawful for him to do for the cause aforesaid
and the said defendant is ready to verify wherefore he prays judgment of the
said plaintiff ought to have or maintain his aforesaid action
against him and for a further plea in his behalf as to the third count
of the said declaration the said defendant comes and defends the wrongs
& injury when also and as to the said third count says he is not guilty
of the said supposed grievances in said third count laid
to his charge or any or either of them in manner & form as
the said plaintiff hath above thereof complained against

him and of this the said defendant puts himself upon the country
to wit

And whereas afterwards to wit on the 30th day of
February AD 1853 the following replication was filed in the said Hann
Hane County Circuit court which is in the words of figures following
to wit

Hane County Circuit Court

Nenny Petrie {

William Slown }

And the said plaintiff as to the pleas of the
said defendant by him secondly, thirdly & fourthly
above pleaded said that he by reason of any thing by the said defendant
in those pleas above alleged ought not to be barred from having and
maintaining his aforesaid action against the said defendant in
respect of the grievances in the introductory part of those pleas ment-
ioned because he says that the said defendant at the time when ob-
in the said first and second counts mentioned of his own wrongs
and without the cause of the said defendant in his said second and
and fourth pleas or either of them respectively mentioned did commit
the said grievances in manner and form as the said Plaintiff
hath above therein complained against the said defendant
to wit at the County of West Henry aforesaid

And this the said Plaintiff prays may be
enquired of by the Court &c

Smith & Murphy

Attys

And whereas afterwards to wit on the 19th day
of May AD 1853 the same being one of the days of the Hane
County Circuit court of the May Term thereof AD 1853
the following among the proceedings were had to wit

Nenny Petrie {

William Slown }

Slawler

This day comes the parties to this suit

by their attorneys and on motion of Defendant this cause is continued at Defendants cost of Term. It is therefore considered by the court that the Plaintiff have and recover from the said Defendant his costs by him about this suit expended and have execution therefor.

And afterwards to wit on the 10th day of November AD 1883. the same being one of the days of the aforesaid November Term of said Kane County Circuit Court the following among other proceedings were had to wit

Henry Petrie (
 v
 William Sloan) Slander

This day come the parties to this by their attorneys and on motion of Plaintiffs attorney it is ordered by the court that a Jury come whereupon come a Jury of good and lawful men to wit "H. B. Moore, William Lindsey, Andrew Doty, John Cox, Nathan Perce, Moses A. Arnold, Langdon, Meiller, Jerry, Hall, S. C. Jones, H. C. Matteson, David Parity, David Campbell who being severally sworn and sworn also come and after hearing the evidence and a part of the argument of counsel it is agreed between the parties that the Jury may separate and meet the court to morrow morning at 9 o'clock

And afterwards to wit on the 11th day of November AD 1883 it being one of the days of the aforesaid November Term of said Kane County Circuit Court the following among other proceedings were had to wit

Henry Petrie (
 v
 William Sloan) Slander

This day again comes the parties to this suit by their respective attorneys and the Jury heretofore empaneled herein also come and after

hearing the balance of the argument of counsel retire under
Charge of a Sworn Officer of the court to consider of their
Verdict and subsequently return into court and for a verdict
upon their oath say "The the jury find the issues joined in
favor of the plaintiff and award his Damages herein at the sum of
Nine Hundred and fifty Dollars

Whereupon comes the defendant in pro-
per and moves for a New trial herein

And afterwards do sit on the 19th day of
November AD 1853 the same being one of the days of the aforesaid
November term of said Kane County Circuit Court
the following among other proceedings were had which are in the
words of figures following do sit

Henry Petrie	{	Slander
vs		
William Sloan		

This day comes on to be heard
the defendants motion for a new trial heretofore entered herein
and in arrest of Judgment - The Court being fully advised
overrules the same.

It is therefore considered by the court that the
plaintiff have and recover from the defendant the sum of
Nine Hundred and fifty Dollars Damages together with his costs
in this behalf expended and had execution therefor

Thereupon comes the defendant and brings
an appeal to the Supreme Court of this State which is
allowed by the court on the defendants giving Bond in the
sum of Two Thousand Dollars with Neil Donnelly as security
to be filed in forty days

Henry Petrie {
 v { Slander Kane Circuit Court
 William Sloan } November Term 1853

Be it remembered that on the trial of the
 above entitled cause. A. C. Smith a witness was called by the
 Plaintiff testified as follows. I have known the parties to this
 suit about two years. I should think that in the last part
 of the Spring or in the forepart of the Summer 1852. after the
 Spring Term of this Court had been held I had some con-
 versation with Mr. Sloan about Mr. Petrie and he said Mr
 Petrie was guilty of Perjury he used the following words
 "he is a perjured old scoundrel he is guilty of Perjury and
 I can prove it and I would do it if it was not for his family
 Petrie swore to a lie" and I can prove it. He is a damned
 perjured old scoundrel" this conversation took place
 in Woodstock in the County of Henry. He was con-
 versing of Henry Petrie the Plaintiff. The following questions
 were asked by Plaintiffs counsel and objected to by the defendants
 counsel.

"Will you state to the Jury the circumstances
 and position in life of Mr Sloan at the time he used these
 words testified about"

The objection of def^t was overruled by the
 Court to which ruling the def^t counsel at the time excepts
 and the witness answered

His social position was that of an attorney in fair
 standing. he held at that time the Office of President of the Illinois
 and Wisconsin Rail Road Company. His pecuniary position
 I was not acquainted with at the time. He held some property
 in and about Woodstock.

The following questions was asked

by plaintiff and objected to by defendant.

Have you heard from the Mr. Sloan say what his pecuniary circumstances were and if so when was it and what did he say.

The defendant's objections was overruled by the court and the witness answered to which ruling the defendant by his counsel at the time excepted.

Some time during last summer I met Sloan at the Invermont House in Chicago. I talked with him about some sales I had made that day of Lots in Chicago and he afterwards in the same conversation told me he had made the last year a hundred thousand dollars and it might run up to a great deal more. That he in connection with others talked of starting a large bank in Chicago.

The following questions were asked by Plaintiff and objected to by defendant.

What was the course "terminus" of the road of which Mr. Sloan was President. The objection of deft. was overruled by the court and Witness answered to which ruling the defendant by his counsel at the time excepted.

It runs from Chicago to the State line running North westerly through Perry County.

On cross Examination said Witness testified as follows to wit:

I was the attorney of the plaintiff and commenced this suit. drew up the declaration in this suit have been formerly the attorney of plaintiff in all his suits now in this county except the Chancery suit against defendant. The jury bill in that case was drawn up by Mr. McElure who was formerly in the same Office with me. I am not certain that he occupied same Office at that time. I wrote down the words as Mr. Sloan spoke them. I should think about six weeks after were spoken.

and before I drew up ^{the} declaration. & drew the Declaration from what I heard, & what others told me, no other counsel were engaged in this suit by the plaintiff untill after it came to this county except myself and ^{parties} Mr Murphy. Mr McClune I think drew up the affidavit for the continuance in the Ejectment suit. I heard the slanderous words I have testified to some of them two or three times at the foot of the stairs leading up into Mr. Sloan's Office between his Office & mine some ten or fifteen days after the court adjourned. The conversation with Mr. Sloan about the amount he made occurred in the middle of the last summer. I remember the conversation well. I intended to inform Mr. Petrie or his counsel attorney the first time I saw them. Did mention it to Mr. Garsworth's plaintiff's attorney I presume the first time I saw him. I have no actual knowledge of Mr. Sloan's property except in McHenry County. I only know Mr Sloan was President of the Rail Road company from report and from seeing a notice of his Election in the Chicago papers. As soon as I ^{was} notified that I would be required as a witness I ceased to be counsel for the plaintiff in this suit.

O. V. Wells.

The next witness of the plaintiff testified as follows to wit

I have been acquainted with the parties of this suit some seven years. At the term of this court when Mr Petrie made ^{the} affidavit in question he ~~Petrie~~ ^{Sloan} came to ^{my} ~~my~~ desk for a copy of it & said Mr Petrie had sworn false & (he) could prove it. I was clerk of this court.

Edw. J. T. T. T.

The next witness of the plaintiff testified as follows to wit

I have been acquainted with the parties to this suit several ~~suits~~ years. I heard Mr. Sloan say the (some) affidavit of Mr. Petrie was false and he could prove it I think I ^{have} heard him say so more than once. on cross examination. have heard others of hearing ^{Mr Sloan} Mr Sloan having made the same charge. I am an attorney of this Court. the conversation took place in woodstock

B. D. Parks. The next witness of Plaintiff testified as follows to wit

I have been acquainted with the parties to this suit since they have been living in this country the day the affidavit was filed or the day after at the Feb. Term. at the clerks desk Mr. Sloan said of the Plaintiff. he is a damned perjured old scoundrel and I can prove it" I think. Mr. Hermonston was ^{present} I think. Mr. Hermonston is one of self counsel. Heard Mr Sloan (some time last May) say that he and some others had made a large amount of money in Chicago

J. C. Moore the Plaintiffs next witness testified as follows to wit

I am acquainted with the parties to this suit about two weeks ago Mr Sloan came to the Sherman House in Chicago. to see Mr. Farnsworth. Plaintiffs counsel about taking depositions in this cause and he, heard Sloan say Mr. Petrie was a damned perjured old scoundrel and a damned old villain and he could prove it so clear there could be no mistake about it

The Plaintiff then offered the deposition of Robert G. Snyver. To the introduction of which deposition the defendant objected and filed and read the following affidavits-

Henry. Petrie
v
William. Sloan } Slander.

Stam Circuit Court
Nov. 1. 1853

William Sloan the defendant in this suit being sworn says that he did on the 10th Inst. Examine the files of the Court and enquired of the clerk particularly for the deposition in this case and could not find the deposition of Robert G. Seyver. This was a short time previous to the case being called on for trial and this affiant was not aware that the Ref. intended to use the deposition of said witness until the same was produced on the trial of case to be used as testimony
Subscribed and Sworn
to before me this 10th Nov
1853.

Wm Sloan

L. Dearborn clerk.

And L. Dearborn being sworn on the part of the defendant testified as follows to wit

I am clerk of this Court some time in the forenoon to day Mr. Smith handed me the deposition of Robert G. Seyver. I opened it & marked the filing on the back of the deposition. And at Mr. Smiths request handed it to him soon afterwards & before this case was called for trial. He returned it to me and I placed it in a pigeon hole for loose papers - the file of papers in this case not being in my desk.

I. C. Smith then testified that the ^{said} deposition was handed to him to deliver ^{by the plaintiff} to the clerk & that he handed it to the clerk. That Mr. Sloan had the papers of the suit at the time.

The defendant then objected to the reading of said deposition because no notice appeared to have been given to the defendant of the passing of said deposition

the court refused to entertain such objection or allow the defendant to object to said ^{deposition} ~~examination~~ at the time unless the defendant would allow the plaintiff to examine the defendant on oath as to having received notice of the taking of said deposition, the defendant refusing to be so examined the court allowed the deposition to be read (to which decision of the court the defendant's counsel at the time excepts) which is as follows.

The deposition of Robert Schryver of the County of Wexford and State of Illinois a Witness of lawful age produced sworn and examined upon his corporal oath on the 14th day of October A.D. 1883. at the Office of the Clerk of the Circuit Court of said County in the Town of Woodstock in said County before me by Abel H. Johnson Clerk of the Circuit Court of said County with compliance with notice according to law heretofore served him in a certain suit or matter in controversy pending and undetermined in the Circuit Court of Kane County Illinois wherein Henry Petrie is plaintiff and William Sloan is defendant in behalf of the said Plaintiff as well upon the interrogatories of the said Plaintiff as the cross interrogatories of the said defendant and none others The said Robert Schryver being duly sworn as a Witness in the said Cause previous to the commencement of this examination to testify the truth as well on the part of Plaintiff as the defendant in relation to the matters in controversy between the said Plaintiff and defendant as far as he should be interrogated thereto. testified as follows

Robert Schryver being duly sworn testified as follows to
Interrogatory 1st
What is your name. age. place of resident and occupation

Answer to Inter. 1st

My name is Robert G. Schryver
My resident is Woodstock Illinois My age is Thirty-six
Years. My occupation is that of Carpenter & Joiner

Inter. 2nd

Are you acquainted with the parties to
this suit & if yea. how long have you been acquainted
with them

Answer to Inter. 2nd

Yes. Since the year. Eighteen hundred
of forty five or forty six

Inter. 3rd

Have you ever heard the defendant
in this suit utter any words derogatory to the character
of the character of the plaintiff and if yea what state
when, where, & what.

Answer to Inter. 3rd

I have. Sloan told me in
his (Sloan's) office sometime in the winter or spring of
Eighteen hundred & fifty-one or two or in the spring of
Eighteen hundred fifty-two after he came back from the
Court in Kane County where he said he & Petrie had a
suit about a mill in Algonquin that Petrie was a damned
old perjured scoundrel. I told him that was pretty high
talk and he said he could ^{that he} would prove it And I am
not certain which

Subscribed & sworn to
before me this 14th day of
October A.D. 1833

J. W. Johnson

R. G. Schryver

Clus circled -

State of Illinois
In Henry County

I J. W. Johnson Clerk of
the Circuit Court in and for the
County & State mentioned in the caption to this deposition
be duly appointed to take the deposition of Robert Schryver
aforesaid in compliance with notice served him
according to Law do hereby certify that previous to the
commencement of the Examination of the said Robert
Schryver as a witness on the said suit between Henry
Petrie Plaintiff and William Slown defendant he was duly
sworn by me as such Clerk to testify the truth in relation
to the matter in controversy between the said plaintiff
and defendant so far as he should be interrogated con-
cerning the same. That the deposition was taken at my
Office in the Town of Woodstock aforesaid on the 15th day
of October A.D. 1883. and that said deposition was taken
by me as aforesaid. That the interrogatories & answers
therein as written down were read over to the said
Witness and that thereupon the same was signed and
sworn to by the said Schryver before me as such Clerk
at the place and on the day and year last aforesaid

~~Teste~~
J. W. Johnson

J. W. Johnson

Clerk

Fees	1.35-
lost	25-
Spafile	40
file notice	5-
	1.90 paid by Petrie

The Plaintiff here rested his case

The defendant then introduced the following
depositions

Henry Petrie Sir

Please take notice that on the fourteenth day of January A.D. 1853. at 10 O. Clock of the forenoon I shall proceed to take the deposition of Charles Tollenabee and Holland Richmond at the Office of the county Judge of Cook County Illinois in the city of Chicago before said Judge the Hon. W. L. Rucker acting as Justice of the Peace said deposition to be used in a certain suit now pending in the Circuit of the Henry County Illinois wherein Henry Petrie is plaintiff and I am defendant. You can attend at the taking of said deposition if you deem proper

to

Wm Sloan

J. L. Murphy Esq

Plff atty

due service of the within notice is hereby accepted & all informalities waived
Jan'y 8 1853

Smith & Murphy

Plff Attorneys

Depositions of Witnesses

Taken under & pursuant to the annexed notice at the Office of and before Henry L. Rucker County Judge and Ex Officio a Justice of the Peace in and for the County of Cook and State of Illinois on the 14th day of January A.D. 1853 and to be used as evidence in a suit pending in the Circuit Court of Henry County in said State wherein Henry Petrie is plaintiff and William Sloan is defendant

Present. parties in person & Plff by atty

Deposition of Charles Tollenabee

who being first duly cautioned & sworn deposes and answers as follows

1st Interrogatory by defendant in person

Are you acquainted with the parties to this suit

answer

I am.

2^d Interrogatory by same
Where do you reside

Answer

In Chicago Cook County

3^d Interrogatory by same

did you ever have any conversation with ^{the} Plaintiff in relation to tendering money by him and contract for the purchase of the mill property known as the Algonquin Mills if so state what that conversation was and when it occurred

Answer

I had a conversation on that subject on the 8th of July 1857 Mr Petrie the Plaintiff said he was going to pay me some money tomorrow as a payment on that property. I told him I was not authorized to receive it. He told me that he should tender me some money for a payment on the next day in the morning the next day being the 9th of July. he said he had been at my ^{my} store about 9 or 10 o'clock with the money, and as I was not there he had taken the money away. I remanded to him that I should like to see the money and I would take it & give him a receipt for it. He then remanded that it was too late. This conversation took place about Eleven o'clock in the forenoon

4th Interrogatory by same

What did you say to Mr. Petrie on the 8th of July before you left him about receiving the money

Question Objected to by Petrie's counsel

Answer. I told him I was not authorized to receive it. but on the next day about Eleven o'clock I told him that I would receive it

5th Interrogatory by same

did or did not Mr. Petrie on the 9th day of July 1857 tender or offer to tender you. or say that he had the money to tender you on the mill contract

Question objected to by Petrie's counsel

Answer No

6th Interrogatory

Will you give the name of the parties to the contract upon which Mr. Petrie said he was intending to tender you the money. The date of the contract. And the property included in it and who owned the property on July 9th 1857 as you understood

Question Objected to by Petrie atty

Answer It was a contract given by Zadock Dexter to Henry Petrie dated in the forepart of May 1856 and for the mill property in the village of Algonquin in McHenry County Illinois In June previous to the 9th of July 1857 Dexter sent me a deed which conveyed the property to William Sloan which deed I delivered to Mr Sloan

Answer Objected to by Petrie atty

7th Interrogatory by same

State if you ~~know~~ had any other conversation with the plaintiff in relation to his tendering money upon contract above mentioned about the 9th of July 1857 other than what you have stated

Answer I do not think of anything else

Crop Examination

1st Crop Interrogatory by J. C. Smith plaintiff Attorney

Were you the agent of Zadock Dexter and William Sloan or either of them on the 9th of July 1857

Question Objected to by Defendant

Answer I was not

2^d Crop Interrogatory by same

Had you or had you not for some time previous to the 9th of July 1857 been the agent of Zadock Dexter & W^m Sloan or either of them for the purpose of receiving money on the contract referred to in your previous Examination

Answer I had been ^{the} agent for Mr Dexter up to some time in June 1857 for all his business

3^d Crof Interrog y by same

When did that agency terminate & how

Answer

I think by letter. He ordered me not to receive any more money as he had sold the property to Mr Sloan. I think it was in June

4th Crof Interrog y by same

Did you not state to the Plaintiff on the 9th of July 1857 that you were not authorized to receive the money

Question Objected to by Defendant

Answer

I stated that to him on the 8th I think but on the 9th I told him I would receive it and give him a receipt-

5th Crof Interrogatory by same

at what hour were you on the 9th of July 1857 were you first at your store

Answer

About 7 o'clock A.M.

6th Crof Interrogatory by same

where were you the balance of that forenoon up to about 11 o'clock

Answer

I was in my store except about half hours time between 9 & 10

7th Crof Interrogatory by same

Did Mr. Petrie state to you the amount of money he proposed to have paid you

Answer

He did it was not far from \$1100.00 - \$1100.00 & some odd I think it was

8th Crof Interrogatory by same

Do you know whether Mr Petrie had that amount of money with him at that time

Answer

I do not.

9th Cross Interrogary by same

Do you know that Mrs Petrie did not hand \$1117.44 at your store on the 9th day of July 1857 between the hours of 9 or 10 in the forenoon

Question objected to by defendant

Answer

No I don't know it

10th Cross Interrogary by same

Had you any place of business at that time which was called your Office Except at your Store

Answer

I had not

Sworn to Subscribed before
me this 14th day of
January 1853

L. Gallanster

N. L. Ruster. County Judge

Deposition of Holland ^{the} Richardson who
being duly ^{cautioned} sworn depose &c

1st Interrogatory by defendant in person

Are you acquainted with the parties to this suit

Answer

I am

2nd Interrogary by same

Where do you reside

Answer

at Chicago in Cook County

3rd Interrogary by same

What do you know about Mrs Petrie the plaintiff making a tender of money to Charles Gallanster at his Store in Chicago on the 9th July 1857

Question Objected to by Plaintiff Counsel

Answer.

The date I am not positive about but it was in the summer of 1857 I went with Mrs. Petrie to Mr. Gallanster's Office or Store about 10 o'clock in the forenoon he had with him Richmond, & gave checks on her Smith & Co I think for

an amount which he said was due Mr. Tollenbee as agent for some one. it was on a mill contract Mr. Tollenbee was not at his office. He walked to the Tremont House and returned to Mr. Tollenbee. after a few moments. he was still not in. I should think some fifteen minutes to half an hour had elapsed between the time of calling.

4th Interrogary by same

What money had Mr. Petrie with him at the time you went with him to Mr. Tollenbee. and for what purposes did you go with him

Question objected by Petff attorney

Answer No money that I know of. I think he asked me to go along with him. show him the office. and witness the tender. That is my impression of what I was there for.

5th Interrogary by same

What money did Mr. Petrie tell you he had with him at the time. Question objected by Petff attorney

Answer I don't recollect of his telling me that he had any

6th Interrogary by same.

What was done with Richmond's check

Question objected to by Petff attorney

Answer It was returned to them and it is my impression that it was destroyed.

7th Interrogary by same.

Who wrote or filled up the check for Mr. Petrie and to whom was it delivered when it was returned

Answer I cannot state it is my impression that Allen Richmond filled it up he was the Bond Keeper at Richmond at Richmond's office at the time. I cannot state to whom it was returned

8th Interrogary by same

What do you know of Mr. Petrie tendering or offering to tender or having money to tender to Mr. Tollenbee about

or on the 9th day of July 1853, and of Mr Tollenbo refusing to receive it

Answer I know nothing more specifically about the date or the tendering or having money to tender than I have stated. I did not seem to question at all

Direct Examination

1st Cross Interrogatory by plaintiff counsel

What was the amount of Richmond's 1000 checks which Mr Petrie had on the occasion you have mentioned
Answer I cannot state the exact amount my impression is that it was between 1000.00 or 1500.00

2nd Cross Interrogatory by same

was that check good for the money it called for and equivalent in value to that amount

Answer Richmond's 1000 checks were always good for the amount they called for this check was good for its face in currency

3rd Cross Interrogatory by same

Did not Mr. Petrie make an arrangement with Richmond & Co to borrow an amount to make this tender and receive this check as money. Question objected to by plaintiff
Answer The slide

Direct Examination Resumed

9th Interrogatory by Plaintiff

What was the value of currency at this time as compared with specie

Answer

I should think it was about one hundred and

10th Interrogatory by same

What did Mr Petrie say he wanted to do with the check at the time he borrowed the check

Answer It was ~~not~~ to make a tender to ~~xxxx~~ Mr. Tollenbo

11th Interrogatory by same

Did you know or do you know that Richmond also had money in the

hands of Geo Smith also to pay the amount of said check. And would
Geo Smith also have paid the check if the amount was not in definite
with him. *Question Objected by Plaintiff*

and I don't know whether the money was there or not, but thinking
that George Smith also would have paid it whether there ^{there was money there} or not.

Sworn to & subscribed before

me this 14th day of January 1853

H. L. Ruesler county Judge

H. M. Richmond

State of Illinois

County of Cook

I Henry L. Ruesler county Judge
and Ex-officio Justice of the peace in and for the said county do
certify that under the notice hereto annexed I proceeded at
the time & place therein mentioned and as set forth in the
caption foregoing to take the deposition of Charles Tollenster
Hall and Richmond which are set forth above. That said
deposition were reduced to writing by me in part and in
part by my clerk. That said witnesses were by me sworn in due
form of Law as such and severally subscribed their dep-
ositions in my presence

Given under my hand this 14th day of January

1853.

H. L. Ruesler

Dec's

County Judge

Sept 25 folio

\$ 3.12 1/2

certif 10

30

Spa & service

\$ 21.03 1/4

paid by defent.

Henry Petrie

Wm Sloan

Kane County Circuit Court Nov
Term 1853.

To Henry Petrie plaintiff in
the above entitled suit. please take notice that on the 3rd
day of November 1853. at 10. O'clock am. I shall proceed
to take the deposition of Thomas Richmond and Allen Richmond

residents of Chicago State of Illinois before Walter C. Kimball
Clerk of the Cook County Court of Common Pleas at his Office
in said City of Chicago. To be used as testimony on the trial
of said cause

Wm Sloan

J. Farnsworth & Burges
Plffs atty

Rec service of this notice by copy Oct 25th, 1853

J. Farnsworth

The Deposition of Thomas Richmond of the
County of Cook, State of Illinois a witness produced sworn and
Examined before Walter Kimball Clerk of the Cook County Court of Common
Pleas in said County on the fifth day of November A.D. 1853 in pursuance
of a notice hereunto attached, to be read as evidence on the trial of a
suit at Common Law now pending undetermined in the Vane County Circuit
Court wherein Henry Petrie is Plaintiff and William Sloan Defendant
on part & behalf of the said defendant - Present the Defendant in person
& Messrs Farnsworth & Burges for Plaintiff

The said Thomas Richmond being first duly sworn
according to Law in answer to the several Interrogatories prop-
ounded to him deposes & says as follows viz

Inter 1st What is your name, resident and age

Ans. Thomas Richmond my age 36 years. place of Residence
Chicago

Inter 2^d Are you acquainted with the parties to this suit
and how long

Ans. I am both of them. Some fifteen years with the
plaintiff and two or three years with the defendant

Inter 3^d Did the Plaintiff Mr Petrie obtain a check from you

in the summer of 1857 by whom and upon whom was the check drawn. What did Mr Petrie say he intended to do with the check and what was the amount of the check. State fully as far as you recollect.

Ans^r " he did obtain a check for me in 1857 drawn by Richmond & Co on George Smith & Co he said he intended to make a tender of it to Mr. Tollenst as payment of some mill property. Mr Petrie was gone out a little while and then returned and brought the check with him. He was accompanied by Hallam Richmond after it was returned. I suppose it was destroyed. I don't recollect the precise amount but my best recollection is that it was between ten & thirteen hundred dollars.

Int 4th About what time was this check obtained

Ans^r I should think it was between the first of April and the middle of June

Int 5th Did Richmond and company ever loaned any other checks to Mr Petrie

Ans^r Not to my knowledge

Int 6th Would you have known it if they had

Ans^r I should have known it because my sons would not have loaned a check to ~~him~~ Mr Petrie without my direction then were strangers to him and I was acquainted with him

Int 7th When Mr Petrie borrowed the check what did he say about returning it

Agreed to

Ans. He said that he had a payment due that day on some property of theirs. And that he had seen Mr. Hollenbeck and he had said that he would not receive it or he was not authorized to receive it. I do not recollect which and he wanted to make a tender but Mr Hollenbeck would not receive it and then he would return the check.

Inter 8th If you had known that Mr Hollenbeck would have received the check when tendered what would you have done about getting Mr. Petrie to cash the check?

Ans. He should not have given it to him without further security for its payment or assignment touching its security for its payment.

Inter 9th What did Mr Petrie say about his having money to make the tender with without your check?

Ans. Nothing that I recollect.

Loop Interrogatories propounded on the part of said Henry Petrie

Inter 1st At that time was the check of Richmond also upon George Smith also current at its face in Chicago?

Ans. It passed always in payment for produce or for other transactions & claims against us.

Inter 2^d Would Richmond's checks at that time on George Smith also have been honored?

Ans. It would have been it never has been dishonored for the last Six years

Int 3^d Were you in the habit of issuing checks of that kind

Ans. We were when we made a payment we made it by check

Int 4th Were not those checks issued by Richmond & Co received and regarded as money in Chicago at that time by business men

Ans. They were received as money

Int 5th What have you heard Mr. Sloun say that he called the plaintiff Retroic

Ans. I heard him say that he called him a damned perjured Old Scoundrel

Direct Examination resumed

Int 1st Were the checks of Richmond & Co ever used in Chicago as currency

Ans. They never issued any for that purpose nor were they ever used as such to my knowledge

Int 2^d Were the checks of Richmond & Co on George Smith & Co ever used for any other purpose than to Order Geo. Smith & Co to pay different individuals or bearers the amount Richmond & Co desired to pay to them

Ans. They were not to my knowledge.

Int³ If the check of Richmond also had been presented to George Smith also what would have been paid on it

Ans. If the check called for specie, specie would have been paid. Otherwise currency. I don't recollect whether the check given to Mr. Petrie called for specie or not

Int⁴. What was the value of currency compared with gold or silver

Ans. It is worth one percent less than gold or silver

Examination resumed

Int⁵ Did Petrie at the time you gave him the check apply to you for money and in response to that application did you give him the check before spoken of

Ans. Yes

Int. Were not the checks of Richmond also on George Smith also applied and used in the payments of debts purchase of grain and in passing from hand to hand as payments

Ans. They were

Int. Have you heard Sloan say that Petrie ought to be in the penitentiary. And that he would be there if it was not for disgracing his family

Ans. Yes

Direct Examination Resumed

Int. Have the checks of Richmond ever been used by the community to your knowledge to pass from hand to hand as payments

Ans. We generally use them as payments, after they have gone from our hands we do not know what becomes of them, until we find them at Smiths
 Subscribed & Sworn Thomas Richmond
 before me this 8th
 day of November
 AD 1833.

Walter Kimball cl

State of Illinois
 Cook County

I Walter Kimball clerk of the Cook County Court of common pleas within & for the County & State aforesaid do hereby certify that the above deposition of Thomas Richmond was sworn to & signed by the deponent before me and in my presence and that the said deposition was taken by me on the fifth day of November AD 1833 at my Office in the City of Chicago in said County between the hours of ten A. Clock AM and two A Clock PM of said day.

Seal

In Testimony Whereof I have hereunto set my hand and the Seal of said Court at Chicago in said County this 5th day of November
 AD 1833

Walter Kimball Clerk

Dee's Tarking Dep't Spa 2.00

A. B. Bradley Shff fees outgo 4.40 Paid by Wm. Kimball

Defendant then introduced the record and papers in the agreement
sunt between said William Sloan Plaintiff and said Henry Petrie
as defendant the same having been proved by the clerk and
the oath of ^{the affiant} said Petrie having been duly proved

United States of America

State of Illinois }
McHenry County } Pleas before the Honorable Isaac
G. Wilson Judge of the thirteenth judicial
Circuit of the State of Illinois and presiding Judge of the McHenry
County Circuit Court at a circuit court began and held at
the Court House in Woodstock in said County on Tuesday the
twentyeth day of January in the year of our Lord one thousand
Eight Hundred and Fifty-Two and of the independence of the said
United States the Seventy-fifth

Present the Hon Isaac G. Wilson Judge
" Mrs Bloom State attorney
" John Brown Sheriff

Attest - J. H. Johnson

Clerk

And heretofore writ on the second day
of October in the year of our Lord one thousand Eight Hundred
and fifty one being one of the days of the late September Term of
the McHenry County Circuit Court the following among other proceedings
were had to wit

William Sloan

v

Henry Petrie

Agreement -

And now comes the plaintiff
in his own proper person and
it appearing to the Court by affidavit that a copy of the declaration

has been served on the defendant with a notice in writing sub-joined addressed to the said defendant and notifying him that the declaration in this suit will be filed on the present day of the present term of this court agreeable to Law and the rule and the regulations of this court. It is therefore ordered on motion of the said plaintiff that the said declaration be filed and placed upon the docket of this court and that unless the said defendant shall appear and plead to said declaration within twenty days from the entry of this rule a judgment by default will be entered against him at the next term of this court and the plaintiff have judgment to recover the possession of the premises mentioned and described in said plaintiffs declaration with his costs and it is further ordered that this cause be continued

And thereafter to wit on the Twentieth day of January in the year of our Lord One thousand Eight Hundred and fifty Two being one of the days of the January Term of the McHenry County Circuit Court the following among other proceedings were had to wit

William Sloan (
 v Ejectment
 Henry Petrie) And now comes the defendant by Mr. Colburn his attorney and files his petition herein verified by affidavit and for reasons therein stated moves the Court for a change of venue of this cause

And thereafter to wit on the Twenty second day of January in the year of our Lord one thousand Eight Hundred and fifty Two being one of the days of the January Term of the McHenry County Circuit Court the following among other proceedings were had to wit

William Sloan (
 v Ejectment -
 Henry Petrie) And now comes the Plaintiff

in his own proper person and moves the Court for a judgment
for the want of a sufficient plea which motion is resisted by
defendants counsel and the Court having heard the parties thereon
overrules the same. and thereupon on motion of the defendants att-
orney it is ordered that the said defendant have leave to amend
his plea And it is further ordered and considered by the Court that
the plaintiff recover of the defendant his costs and charges from
the time of filing his plea to the present time and the Court being
fully advised on the motion for a change of venue herein made
by the said defendant sustains the same. It is therefore ordered
and considered by the Court that the venue herein be and the same
is hereby changed to the county of Kane in the thirteenth judicial
circuit of the State of Illinois and that the clerk of this Court
certify and transmit to the clerk of the Circuit Court of the county of
Kane a copy of the Record herein as also all papers filed in and pertaining
to this cause

State of Illinois ()
In Henry County J^{es}

I the undersigned clerk of the
Circuit Court in and for the said county and
State aforesaid do certify that the above is a true copy of the record
in the above entitled cause in my Office and that the papers
accompanying Translated 1. 2. 3. 24 are all of the papers filed in
~~said cause~~ and pertaining to said cause in this Office

Witness my hand and the seal thereof at Woodstock in said county
this 9th day of February A.D. 1835
Jed. H. Johnson

And whereas afterwards to wit on the 20th day
of May A.D. 1835 there was filed in the office of the clerk
of the Circuit Court of Kane County the following affidavit of
the following is a true copy

Wm Stann

Henry Petrie } Ejectment now pending in the Kane County
Circuit Court on change of Venue
from McHenry County

Henry Petrie the above named defendant being duly sworn says that on the third day of May 1850 this affiant and one Zadock Dexter entered into a written contract for the sale and purchase of a certain piece of Land - "mills" which contract is in the words and figures following "to wit"

Article of agreement made this third day of May in the year of our lord one thousand eight hundred and fifty (1850) Between Zadock Dexter of the county of Jefferson and State of New York of the first part and Henry Petrie of the county of McHenry and State of Illinois of the second part Witnesseth that if the party of the second part shall first make the payments - and perform the covenants hereinafter mentioned on his part to be made and performed the said party of the first part hereby covenants and agrees to convey and ap^{port} to the party of the second part in a good and sufficient quit claim deed the following described property viz. all my right title and interest in and to the property - lands water and water power contained in a certain deed from Homer Hubbard and wife of the county of McHenry and State of Illinois to Zadock Dexter of the county of Jefferson and State of New York dated on the 20th day of April A.D. 1850 and left for record in the Records Office the 2^d day of May A.D. 1850 at 4 o'clock P.M. for a more full description of the above named mentioned property see the above mentioned deed And the said party of the second part hereby covenants and agrees to pay to the said party of the first part at the Office of Charles Follenberg in the city of Chicago or any other agent that the said party of the first part may direct in said city the sum of Two thousand Nine Hundred

dollars (2900) as follows with ~~any~~^{annu} interest - thereon the sum of Forty
(40) Dollars in hand the receipt whereof is hereby acknowledged. The sum of
Four hundred and Sixty-Six (466) Dollars on or before the first day July A.D. 1857
the sum of Eight hundred (800) Dollars on or before the first day of July A.D. 1857
the sum of Eight hundred (800) Dollars on or before the first day of July A.D. 1858
the sum of Eight hundred (800) Dollars on or before the first day of July A.D. 1859
and pay all taxes assessments or impositions that may be legally levied or assess-
ed upon said property and in case of failure of the payments or perform-
ance of the covenants on his part the party of the first part shall have the right
to declare this contract forfeited and determined and recover and take
possession and retain and retain all payments that shall have been
made upon this contract. It is mutually agreed that all covenants and
agreements contained herein shall extend to and be obligatory upon
the administrators and assigns of the respective parties. In witness
whereof the parties to these presents have hereunto set their hands and seals
the day and year above written

Gaduo Dexter Ld &
J. C. Gallenbauer his attorney in fact

Henry Petrie Ld &

That the land described in the plaintiffs declaration is included in said
agreement that on the 9th day of July 1857 according to a written require-
ment of said Gaduo Dexter and the plaintiff Sloan. (which is in the word of figures
following to wit)

I, Mr Henry Petrie of McHenry County - Illinois. Do hereby and
herby required to make payment of all money now due on contract -
signed by us dated May 3rd 1850 in relation to the sale of the mile property
at Algonquin and pay before the house of ten O. clock A.M. July 9th
1857. to Mr Charles Gallenbauer of Chicago Ills who is authorized to receipt
for and receive the money. If the money is not then paid the contract will
be declared forfeited. Dated this first day of July A.D. 1857

Gaduo Dexter
Wm Sloan

This affiant states that on the ninth day of July 1857 between
the hours of nine o'clock and ten o'clock a.m. of said day he had at the office

* which said attachment was made on Saturday
last - 18th of March of Chicago this affiant atty
not directed to have returned

of Charles Follenster in the City of Chicago the sum of \$1115.44 that
said Follenster refused to receive said money. Stating that he had no
authority to receive said money and this affiant further states that he
has been informed of no other agent to receive said money and that
this affiant still holds himself ready to pay any and all monies on
said contract - that said Dexter may show himself entitled to that
said agreement is in the hands of Stephen L. Petrie who resides in
Cleveland State of Ohio and that he wrote to the said Stephen L. to
forward said writing to this affiant or to come and bring the same
and that said Stephen has not come with said writing nor has he
received it. that he has had a subpoena issued directed to the
Sheriff of Cook County where said Charles Follenster resides and also
one for Holland Richmond a resident of Cook County which subpoenas
are returned by the Sheriff of said Cook County served that an
attachment has been issued for said witnesses during this term of this
court which has not yet been returned that he expects to serve by said
witnesses the tender of the money as above set forth that he verily believes
that if a continuance is granted him that he can procure the testimony
of said witnesses by the next term of this court and that he can also
procure the written contract - of which this above is a true copy and
further saith not

Sworn and subscribed
before me this 19th day
of May AD 1882

Chas. B. Miles

clerk

Henry Petrie

which were read to the jury

The Plaintiff asked the court to instruct the jury as follows to wit

Given
1. That the defendant having justified in his plea the speaking of the Slanderous words in order to maintain that defence must prove that the plaintiff was guilty of the crime of perjury as clearly and conclusively as if the plaintiff were on trial upon an indictment for that crime

Given
2. That in order to maintain the justification pleaded the defendant must prove that the affidavit for continuance was wilfully corruptly and maliciously false in some material point as alleged and was known to be so by the Plaintiff at the time he swore to it and that in order to do this there must not only be the direct-oath of one witness to prove the falsity but that witness ^{must} be corroborated by other facts and circumstances in the case

Given
4. That in determining whether the Plaintiff was guilty of perjury or not the jury must give him the benefit of every reasonable doubt.

Given
5. That unless the jury believe from the evidence that the defendant intentionally & knowingly swore falsely the defence in this case fails and their verdict must be for the Plaintiff

Given
6. That if the defendant has failed to prove the defendant Plaintiff guilty of wilful and corrupt perjury it is no excuse for him that the words may have been spoken in the heat of passion nor that he may have believed them to be true

7 That if the defendant having justified the speaking of the slanderous words, if the jury believe that the proof has failed to sustain that defence such plea of Justification is in law an aggravation of the original slander and the jury should consider the fact in estimating damages

8 That if the jury believe from the evidence that the defendant spoke the words charged in the plaintiff's declaration then unless the jury believe from the evidence that Petrie Intentionally and knowingly swore false in swearing that he had \$1117.44 at Tallensbee on the 9th of July between the hours of 9 & 10 o'clock A.M. or that he willfully and knowingly and intentionally swore false in swearing that Tallensbee refused to receive the money in said contract stating that he Tallensbee had no authority to receive said money the jury should find for the plaintiff.

To the giving of which Instructions the defendant by his counsel at the time excepted

The defendant asked the court to instruct the jury as follows

Should the jury believe from the evidence that the plaintiff had at the store of Mrs. Tallensbee the check of Richmond & Co. or any third person with the intention of tendering such check to Mr. Tallensbee. The court instructs the jury that a legal tender could not have been made with such check unless Mrs. Tallensbee had consented to receive such check as money

The customs of business ^{of Chicago} ^{there} cannot alter or effect the Law in relation to the tendering money nothing can be a legal tender but gold & silver

If the jury believe from the evidence that

the plaintiff in his affidavit sworn to what was false
then if the plaintiff wishes to avail himself of his having
so sworn under a mistake the burden of proving such
mistake is on the plaintiff. If he has sworn to what was
false the presumption of Law is that he did so wilfully,
corruptly and maliciously and it is for the plaintiff to show
that he did not so swear.

which instructions were given
by the court.

The defendant also asked the Court
to instruct the jury as follows: "That

Whenever a person in a Court of
Law instead of stating facts attempts to state the legal
conclusions to be drawn from such facts he is held to a strict
accountability for the correctness of such legal conclusions and if
they are false he is guilty of perjury.

When a person in a Court of Law instead of swearing
to facts attempts to swear to the legal conclusions to be drawn
from facts and in so swearing swears falsely then he will be
held accountable therefor.

Should the jury believe from the Evidence that
Mr Gallenbach told the plaintiff on the 8th of July that he Mr
Gallenbach was not authorized to receive the money due on the contract
mentioned in the plaintiff's affidavit. Still the plaintiff was required to pay
or offer to pay the money and if Mr Gallenbach asked for the money
and offered to receive it from the plaintiff at any time afterwards
at his Office in Chicago the plaintiff was then bound to pay
the money and it makes no difference whether the offer to receive
the money was before or after ten O'clock of said day
July 9th.

+
refuse
if the jury believe from the evidence that the plaintiff swears that on the 9. day of July 1857 Mr Charles Tallensbee refused to receive the money as stated in plaintiff's affidavit and the said Tallensbee. and the said Tallensbee swears that he did on said day offer to receive the money then the oath of the plaintiff and the oath of Tallensbee balance one another and if the evidence of the case excepting the oath of Tallensbee in favor of the plaintiff that the oath of said Tallensbee is true then the charge of perjury is sustained

+
refuse
If the jury believe from the evidence that Charles Tallensbee did not on the 9. day of July 1857 between the hours of nine and ten o'clock refuse to receive from the plaintiff the sum of \$1117.44 then the law is for the defendant

6 +
refuse
Should the jury believe from the evidence that the plaintiff had the check of Richmond also on Mrs Smith also at the Office of Mr Tallensbee on the 9 of July, such a check could not be called money within the legal meaning of the term as used in by the plaintiff in his affidavit

+
refuse
at the time of the pretended tender set forth in the plaintiff's affidavit. the statements of the plaintiff as to what he had to make the tender with form part of the facts of the of the tender and may be proved by the testimony of witnesses the same as any other fact - and if the jury find believe that one witness testified that at the time of the pretended tender the plaintiff stated that he had the check of Richmond & Co to make the same tender with. then the testimony of this witness is sufficient evidence to balance the oath of the plaintiff. and if the jury believe that the other testimony of the case corroborates or sustains the testimony of the witness then the charge of perjury is sustained and the law is for the defendant

refused

In consideration of law nothing is money but gold & silver and if the jury believe that it is proved from by proper testimony that what the ^{deft} had at the office of Mr. Tollenbee on the 9 day of July as stated in plaintiffs affidavit to pay to Mr. Tollenbee was not gold or silver and the fact that it was not in gold or silver was waived by Mr. Tollenbee then what he had was not in contemplation of Law. money and the Law is for the Deft

refused

In consideration of law nothing is money but gold and silver and that if the jury believe that it is proved by proper testimony that the ^{deft} did not have the sum of \$117.44 in gold and silver at the office of Mr. Tollenbee on the 9th of July as stated in ^{deft} affidavit then the law is for the ^{deft}

which Instructions the Court refused to give to which decision the defendant at the time by his counsel excepted. The jury found a verdict for the plaintiff for \$950. The defendant filed the following affidavits to wit

Henry Petrie

v

Wm Sloan

f Slander

Wm County Circuit Court
Nov Term 1853

Henry L. Carter being duly sworn says that he is ^{deputy} Clerk of the Wm County Circuit Court and as such Officer the said ^{deft} did on or about the fifteenth day of October A.D. 1853. take before this affiant the deposition of Robert Snyper and O B Surfee and that afterwards said depositions were taken this affiant sealed said deposition up and directed them to the Clerk of this Court and delivered them to said plaintiff and further says not
Subscribed and sworn to before
on this 15th Novr 1853.

H. L. Carter

Seal

Witness my hands and
the seal of McHenry county
circuit court
J. H. Johnson
clerk McHenry county
circuit court

Henry Petrie
vs
Wm Sloan

Kane circuit court Nov term 1853

C. B. Duffee of lawful age being
duly sworn says that on the fourteenth day of October 1853
said plaintiff had the deposition of this affiant taken before
the clerk of the McHenry county circuit court by H. L. Carter
deputy and in answer to the question "What do you consider
Wm Sloan worth apparently or otherwise" I answered. I
consider him worth \$11,000.00 and this affiant states that
he is better acquainted with the pecuniary circumstances of
said Sloan than any other person in this county and said
question and answer was the only part this affiant thinks
of said deposition except the formal part and further
says not

Subscribed and sworn to
before me this 17 day
of Nov 1853

C. B. Duffee

J. H. Johnson

clerk cir ct. McHenry Co Ill.

and moves the court for a new trial for the following
reasons to wit

- 1st Said verdict is against law
- 2^d Said verdict is against evidence
- 3^d The court erred in admitting the testimony
objected to by defendant

4. The court erred in admitting the deposition of Robert G. Sengour

5. Improper testimony was admitted on the trial on the part of the plaintiff

6. The court erred in giving the instructions asked on the part of the plaintiff

7. The court erred in denying the instructions asked on the part of the defendant

Which motion the court overruled and rendered judgment on the verdict

to the overruling of which motion the defendant the defendant by his counsel at the time excepted

The defendant then made a motion in arrest of judgment - which motion the court overruled and the defendant by his counsel at the time excepted said decision

: So all of which ruling and decision of the court the said defendant at the time excepted and prays that this his bill of exceptions may be signed and sealed by the court which is done

Isaac H. Wilson
Judge

Know all men by these presents that Wm. William
Sloan, as principal and Neil Donnelly as security both of McKemmer
County in the State of Illinois are held and firmly bound unto John
Petrie of the same place County in the penal sum of Two Thousand
Dollars to be paid unto the said Petrie his heirs Executors Administrators
and assigns of which payment well and truly to be made we
bind ourselves our heirs Executors and Administrators and Every of them
jointly by these presents Sealed with our Seals and dated this nine -
teenth day of November A.D. 1883.

The condition of the above obligation is such
that whereas the above bounden Sloan has this day taken an appeal
to the Supreme Court of this State from the judgment of the same
County Circuit Court in said State this day rendered in favor
of said Petrie for the sum of Nine Hundred and fifty Dollars against
said Sloan in a suit wherein said Petrie is Plaintiff and said
Sloan is defendant Now in case said Sloan shall duly prosecute
his said appeal and pay said judgment Costs interest & Damages
in case said judgment shall be affirmed then this obligation
is to be void Otherwise to remain in full force and virtue
Sealed and delivered in presence of
Wm Sloan
Neil Donnelly

and now comes the appellant by Plato & Cook his attorneys and says that in the Record and proceedings aforesaid there is manifest error in this Court

1. The Court erred in permitting the plaintiff below to ask the witness J. E. Smith the following question viz Will you state to the jury the circumstances and position in life of Mr Sloan at the time he used the words testified about" and in permitting the answer to be given to the jury

2^d The Court erred in permitting plaintiff below to ask the said Smith the following question "have you heard Mr Sloan say what his pecuniary circumstances were and if so when was it and what did he say" and in allowing the answer to said question to be given to the jury

3^d Also in permitting plaintiff below to ask said witness Smith - "what was the course and termini of the road of which Mr Sloan was president" and in allowing the witness to answer said question to the jury

4th Also in permitting the deposition of Robert G. Scribner to be read in evidence to the jury

5th Also in giving each of the instructions asked by the plaintiff below

6th in refusing the instructions asked by the Defendant below that were refused

7 in overruling plaintiff's motion for a new

trial and in arrest of judgment

f. ¹ and in rendering the judgment
aforesaid in manner & form aforesaid

Plato & Co
for Plaintiff

State of Illinois }
Kane County } ss

I Luther Dearborn Clerk of the
Kane County Circuit Court do hereby
certify that the above and foregoing is a full perfect and complete
copy of the Transcript of the Henry vs. Lewis Court. Rep.
Replication Record of the Kane County Circuit Court Bill of
Exception and Appeal Bond in the case of Henry Petrie
vs William Sloan as appears from the Records and files of
my said Office

In Witness Whereof I have hereunto set my hand
and the Seal of said Court at Geneva in said
County this 8th day of June A.D. 1884

Luther Dearborn

Clerk

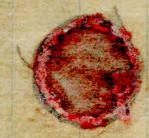
Petrie
is
Howe

Recd

Wm



Approved
Wm



No. 47.
Petrie
advs. } Handwritten
Howe } Appellant

and from him

47

12168

1854

Plato & book

Filed June 12th 1854
L. Leland Clk.
By P.K. Leland Depy.

+

(1) In framing a justification in slander, where the charge is saying the same certainty is required as in an indictment for that crime.

Steele v Phillips 10 Humphrey R 461.

And the same amount of evidence is essential to sustain the plea, as is required to maintain an indictment.

+ Candall v Dawson 1 Gilin R 556.

Bradley v Kennedy 2 Greene Iowa R 231.

Lanta v M'Ewen 8 Blackford R 495.

Wondely v Stokes 8 Blackford R 589.

+ Coulter v Stuart 2 Bergen R 225

Clark v Dibble 16 Wendell R 601

Woodbeck v Kellen 6 Cow R 118.

Chandler v Robison 7 Redell R 480.

Byrket v Monohon 7 Blackford R 83.

+ Hopkins v Smith 3 Barbours S. C R 599.

And a corrupt intent must exist have existed in the mind of the plaintiff when he made the oath.

Chandler v Robison 7 Redell R 480.

McKinley v Robt 20 John R 381

(2) Where general issue, and a special plea of justification is filed. Plaintiff need not prove the speaking of the words.

Alderman v French 1 Pick 1. Leading case.

Where a plea of justification is filed in a slander suit, and the defendant fails to sustain it - this is evidence of extreme malice and goes in aggravation

See v Robertson 1 Stewart R 138 -
No evidence - refused to allow plea to
be withdrawn - because it was an
aggravation 2 C & D 779 acc 318.

Carroll v Buffington 3 Mass R 553.

Jackson v Stetson 13 Mass R 57.

Updegrave v Zimmerman 13 Penn State R 619.

Smith v Wyman 16 Maine R 14. { Fero v Ruscoe 4

Alderman v French 1 Pick R 19. { Const R 162

Clark v Binney 2 Pick R 121.

Hig v Dray 5 Pick 302-3.

Sawyer v Hopkins 22 Maine R 268.

Wilson v Nations 5 Yeager R 211.

Devitt v Greenfield 5 Ohio R 141.

Failey v Rauck 3 Watts & Serg 534.

Bodwell v Swan 3 Pick R 376 2 Starkie Slander 85.

Root v King 7 Cow R 623-4.

1. One has no right to slander another - unless he can justify

2. A contrary fact would encourage these pleas - and if false - no punishment

The Court did not err in permitting the deposition of Schinner to be read.

1. Objection not made before trial according to Court rule.

2. Court simply required evidence of suppression from Sloan.

3. Enough evidence without it.

A repetition of the slanderous words after commencement of the trial
are admissible to show extent of defendant's malice

Bodwell v Swan 3 Pick R 376.

Hatch v Potter 2 Gilin R 725

M'Almont v M'Clelland 14 S & R 359.

Wallis v Mease 3 Kenney R 526.

Shock v M'Chesney 2 Bates R 473 True rule

Kean v M'Laughlin 2 S & R 469.

M'Alexander v Harris 6 Blimp R 465.

Thomas v Cuswell 7 Johns R 264.

Schomover v Rowe 7 Blackf R 202 note

Hesler v Hegauk 3 Porter Indiana R 581

The position of the defendant in society and his wealth were
facts proper for the consideration of the jury in
estimating damages. 2 Greenl R 269.

Clark v Kenney 2 Pick R 121

M'Almont v M'Clelland 14 S & R 359.

Leamed v Buffington 3 Mass R 528. 552.

McNamara v King 2 Gilin R 432

Grable v Mangrove 3 Scan R 372

The verdict will not be set aside because of the excessive damages awarded.

+ Clark v Bunnery 2 Pick R 118-121.

Gilbert v Buntenshaw Cooper R 230.

Tillotson v Chealam 2 John R 74.

Coffin v Coffin 4 Mass R 41.

Southwick v Stevens 10 John R 443.

Coleman v Southwick 9 John R 45.

Suberly v Gunning 4 T.R. 655.

Woodruff v Richardson 20 Conn R 243.

McNamara v King 2 Gilin R 432.

Douglass v Towsey. 2 Wend R. 352.

+ Beil v Howard 4 Litt R 117.

Riley v Nugent 1 Ark Marsh R 431.

They may give small money

Gleith v Allen 10 Ind R 67.

Duncan v Stalcup 1 Dec & Ab 449.

McNamara v King 2 Gilin R. 432.

Belief of the truth of the words spoken is no justification or
indignation.

20 Conn R. 242-3. Woodruff v Richardson

Hero v Museo 46 Conn R 462.

The bill of exceptions does not purport to contain all of the
evidence in the cause.

"Here plaintiff rested" from the examination of witnesses.
Whether all of his evidence is spread upon the record
or not does not appear.

Defendant's offered evidence

The plaintiff may have rebutted the proof in justification.

Bank notes are regarded as money or cash.

Burr. 452. Ill. R. 1 Ohio R 189.

10 W. 333.

If Peter believed he swore to the truth - it is no perjury -
It would be a case of mere mistake - must be corrupt mind
1 Hawk Pl. 429. M. Hurly v Robt 20 John R 381

Substantiated and libelous false calls Cook v Bostwick 12
Wend R 48.

If substantial justice has been done - Court will not grant
a new trial - tho' improper instructions were given or
proper instructions refused, or the evidence would
have warranted a different finding

Smith v Shultz 15 Cam. L 490.

Greene v Stokes 3 Gilin R 214-19.

Proof in justification not admissible under general issue.

Taylor v Robinson 29 Illane R 323

Regnier v Cabot 2 Gilin R 38-40.

Cooper v Barboon 24 Wend R 105. &

Gilman v Lowell 8 Wend R 573.

Purple v Horton 13 ibid 9.

Petrie v Rose 5 W. & S 364.

Muesingen v Kerr 9 Bar R 312.

2 Starkie on slander 77. 79-83

Immaterial point. The matter was immaterial.

McGlenary v Keller 3 Blk 488

Sloan
 v
 Bruck
 Petrus

The following is a list of the names of the persons who have been admitted to the membership of the Society since the last meeting. The names are given in the order in which they were admitted.

The following is a list of the names of the persons who have been admitted to the membership of the Society since the last meeting. The names are given in the order in which they were admitted.

1. John A. Smith 1878
 2. James B. Jones 1878
 3. William C. Brown 1878
 4. Robert D. White 1878
 5. Thomas E. Black 1878
 6. Charles F. Green 1878
 7. Henry G. Hall 1878
 8. John H. King 1878
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 508. Robert N. Taylor 1878
 509. Thomas O. Walker 1878
 510. Charles P. Young 1878
 511. Henry Q. Adams 1878
 512. John R

Shoan vs Petrie

There is no evidence to support the finding on 3^d issue

Before our Statute if entire damages were assessed and one Count was faulty Jury would be reversed

Jury with on measure of damages 576
3 Bouviers Institutes 500
2 New Hampshire R 398

If there be a special Count all note and common counts & clerk assesses it will be error

3 Cow 336

6 Cow 40

In action for slander & special counts and some of the words not actionable in some of the counts general verdict with entire damages will be erroneous.

3 Bac Ab 70. 71

All the issues must be found if all the damages are referred to 1st issue what is to be done with the 3^d

3^d Mr Blackstone 752 divides some of the damages shall be construed to be given on every Count

Graham on New Trials 140 145

140 145

See on this point 2 Geo 496

A plea of Justification if not fully maintained ought not to aggravate damages

6 Belf 55

7 Belf 85

1 Carter In R. 170. 372. 544

2 " 84

1 B Momor 213

15 Maine 474

3 Mass 553

15 Eng. C.S.R. 456

and see authorities quoted on next leaf

The Cth instruction refused any pt to have been given

14 Pick 315

5 N H 440

15 Vtuel 637

6 Pick 356

8 Yum 110

Graham on Br Trials 270, 277

Counsel are mistaken in saying that the bill of excep-
tions does not purport to set out all the evidence
the amended record (Chirograph) filed by leave of the
court shows that all the evidence in the case
is present

"In an action for libel, to support a plea of justification, stating that the plaintiff had forged and uttered, knowing it to be forged, a certain bill of exchange, to justify a verdict for the defendant, the same evidence must be given as would be necessary to convict the plaintiff if he were on trial for those offences: but if the evidence falls short of satisfying the jury, that the strict legal offence was committed the circumstances proved may be considered in mitigation of damages.

25 Eng Com Law R. 496 being 6 Camington & Payne 475

"But we are not prepared to declare that there are no facts or circumstances, from which the jury may mitigate the damages under a special justification of the truth of the words, in which he shall fail. When through the fault of the plaintiff, the defendant, as well at the time of speaking the words, as when he pleaded his justification, had good cause to believe they were true, it appears reasonable that the jury should take into consideration this misconduct of the plaintiff to mitigate the damages. 3 Mass. 553.

Instruction 3 The only issue in this case is, whether the plaintiff is guilty of perjury or not? and if the defendant has failed to prove that his plea is true, and that the plaintiff was guilty of perjury, it is a great aggravation of the slander to have the truth of the charge alleged and placed on the record by the plea; and the jury should take it into consideration in assessing the damages against the defendant. F Black.

"The fifth instruction is erroneous. The plea of justification was not, so far as appears

by the record, any ground for increasing the damages. What would be the effect of the plea if no evidence tending to sustain it was given, we shall not now determine. It is sufficient for the decision of this case to say, that it does not necessarily follow, as this instruction supposes, that the justification, if not fully proved, should aggravate the damages. The plea may not have been entirely proved, and yet if the evidence introduced under it showed that the defendant had reason to believe, from the plaintiff's conduct, that the charge was true, the damages should not be increased in consequence of the plea, as the evidence given under would then go in mitigation of damages." 7 Black. 85.

There may be instances in which, though the justification is not supported, the misconduct of the plaintiff may have been so glaring as to give the defendant reason to believe that the charge made by him, and his plea justifying it, are true; in which case, it may be proper for the jury to consider the circumstances developed on the trial in mitigation of the damages. 6 Black. 55.

The defendant is allowed by our statute, to plead as many pleas as he may deem necessary for his defence. If he pleads justification, he does so in exercise of a right which the laws guarantee to him. "It may turn out differently from what he or fall short of that which he had a right to expect, from the ignorance, misrecollection or corruption of witnesses. Failing in the issue of justification, as well as a failure to support the issue on any other plea

leaves open the question of damages, and should no more in the one case than the other preclude an enquiry into those palliatory circumstances which bear upon the question of damages."

"The defendant may introduce evidence tending to prove his justification, but not knowing how the jury may find, may introduce palliatory circumstances which bear upon the question of damages, which the jury are required to ascertain in the event of their finding the issue against him."

2 B. Moore R. 213.

Evidence given to support a plea of justification may be used to mitigate damages.

28 Maine 474.

"And if the evidence falls short of proving the commission of the crime, the Jury may still consider the circumstance, as tending to lessen the character of the plaintiff, and to reduce the amount of the damages."

2 Greenleaf Evidence §426 p.407.

5 Genger 211-
 2 B. 1110 210
 1 Xaming 503
 21 Pick 404
 1 Met 267
 23 Maine 474 Shepley
 13 Pen L. 619
 2 Gil 34
 1 Doug 321
 4 Comstock 152
 18 Con 464

"The jury in finding a general verdict, do in form return a verdict embracing the matter of law as well as fact; and, therefore, as they may mistake the instructions of the court, or may take the law into their own hands, imagining it to be severe or inequitable; they may return a verdict manifestly against the law and truth of the case. To render such a mode of trial safe and tolerable, there must exist ~~some where~~ a power ~~some where~~, to re-examine verdicts with some freedom, and when it is manifest that juries have been wrenched from the direct line of their duty, by mistake, prejudice, or even by an honest desire to reach the supposed equity, contrary to the law of the case, it will be the duty of the court to set aside the verdict aside. When therefore the evidence is clear plain and strong, and the law has been clearly and explicitly stated to the jury, and they decide against the law, it opposes upon the court, the duty of interfering, because it must be apparent, that the jury have unintentionally erred, by mistaking the terms of their instructions, or misapprehended the weight of the evidence or that they have mistaken their duty or ~~mis~~ taken their trust abused their trust." 18 Pic 14

"The general rule is, that when a fact is sworn to by a witness of fair fame, and who is uncontradicted by other testimony or any circumstances in which he may stand, the jury are not at liberty to disregard his testimony." 5 Pic 248.

The justice had no right, entirely and arbitrarily, to disregard the testimony of two unimpeached witnesses, and, ~~admitting this testimony, the evidence, of ordinary case and skill, is conclusive.~~ on the ground, 'that he was satisfied that they were biased in favor of the defendant.' There was no attempt to impeach their characters. The facts sworn to by them, were not contradicted by any other witness, either directly or indirectly; nor ~~was~~ there any intrinsic improbability in the narration given by them.

It is difficult to establish a rule which shall regulate and limit the discretion of a court or jury, in the degree of credit to be given to the testimony of different witnesses. Much must depend, upon the particular circumstances of each case. But there is no difficulty in saying that when (as in this case) the witness is unimpeached; the facts, sworn to by him, uncontradicted, either directly or indirectly, by other witnesses; and there is no intrinsic improbability in the relation given by him; neither a court or jury can, in the exercise of a sound discretion disregard his testimony. It is no less the duty of a court than of a jury, to decide according to the evidence. But it is no mockery to talk of evidence, if it is discretionary with the tribunal, to which it is addressed, to disregard it, upon the vague suggestion, unsupported by proof, of the bias of the witness." / Cowen 110

"There is at this day no doubt, and there never should have been any, that the verdict of a jury should be set aside were there has been no evidence to support it. When there is a disputed question of fact

and evidence has been given on both
sides of that question, the courts will not
disturb the finding of the jury. But
when upon any one question which is
decisive against either party, there is
evidence on one side of said question
and none on the other, and the verdict has
been given for the party who has given
no evidence upon the point in question the
verdict will be set aside." 6 Barbour Sup Ct. R. 143

Stearns & Petrie
Appellant Brief

William Sloan

vs
Henry Petrie

} Appeal from Kane

This was an action on the case for Slander
brought by Petrie vs Sloan

The 1st Count of the case charges the deft
with speaking concerning the plaintiff
the following words, "He soon will",
"Old Petrie is a damned perjured old scoundrel",
"He is a perjured old scoundrel", "He swore to a
lie and I can prove it", thereby intending to
charge the plaintiff with being guilty of
perjury.

The 2^d Count charges the deft with speaking
of and concerning the plaintiff the following
words, "Old Petrie is a thief he stole my case
& I can prove it", thereby intending to charge the
plaintiff with being guilty of larceny

Plea general issue and to the first ^{42^d} Counts a
special plea of Justification That in a suit
depending in Kane Co. Cir. Court May 19th 1852
in which ~~Henry~~ Sloan was plaintiff and Henry
Petrie was defendant said plaintiff Petrie
filed the following affidavit subscribed & sworn
to by him before said Court

The affidavit states that on the
3^d day of May 1850 a contract in writing was
entered into between said affiant and
one Gideon Deater of Jefferson Co. & Sullivan
by which said Deater agreed to convey certain

mill property in McHenry County (describing
it) upon the making of the following payments
by Petrie \$40. down \$400. on or before July 1st 1850
\$800. on or before July 1st 1851 \$800 by 1st July 1852
\$800 by 1st July 1853 with interest on the whole
and to pay all taxes &c &c the contract & later
reserved the right in case of default in any
one payment to annul the contract in
which case all prior payments were declared
forfeited to him.

after reciting this contract in
his verba the affidavit states that the land
mentioned in said contract is the land
mentioned in the declaration of the
plaintiff in that suit and that on the
9th day of July 1857 between the hours of 9.
& 10 o'clock he the said Petrie had at the
office of Charles Hollander in the City of Chicago
the sum of \$1117. & 44 cents that said Hollander
refused to receive said money stating that he
had no authority to receive said money.

There were other facts stated in said affidavit
showing the materiality of those facts and
due diligence to obtain the proof.

The Plea then stated that
said affidavit was corruptly false in
this that said Petrie did not have
at the office of said Hollander said sum
of money and that Hollander did not
refuse to receive it as stated in the
affidavit.

The plea avers that the suit in
which the affidavit was filed was an action

of Ejectment brought by Sloan against Petrie
to recover possession of the land mentioned
in the agreement between Sloan & Petrie set
out in said affidavit. The plea showed that
the statements in the affidavit which are
averred to be false were material to the question
before the Court & with ^a motion for a continu-
ance of said Ejectment suit.

In this plea there was a general repeli-
cation de injuria.

After the Jury was impanelled to try the cause
the plaintiff offered the deposition of Robert
G. Seryver which was objected to by the defendant
upon the ground that no notice had been
given him of the time & place of taking said
deposition, no notice appeared to have been
given in any manner. The deft filed his affi-
davit stating in substance that he examined
the papers in this case for said deposition
and inquired of the Clerk for the same before
the cause was called for trial. That he could
not find said deposition and was not
aware that the plaintiff intended to use it
until it was now produced in evidence.
The defendant produced the affidavit of
L. Wearson the Clerk which stated in substance
that in the forenoon of the day of the trial
the deposition was handed to him that he
opened it & marked it filed & handed
it back to Mr. Smith the Counsel for Petrie
who soon afterwards thereupon the cause was
called for trial returned it when it was

place in a pigeon hole for loose papers
the papers in the case not being in any
risk

The defendant objected to the reading
of the deposition because no notice ap-
peared to have been given of the time & place
of taking the same. The Court refused to enter-
tain the objection at that time unless the
defendant would allow the ~~defendant~~
plaintiff to examine him upon oath
as to whether he had received such
which the deft declined to do. The court
then overruled the objection & permitted
the deposition to be read in evidence
the deft excepted.

The plaintiff proved by the said
deposition and by other testimony the speaking
of some sets of the words mentioned in the
1st & 3rd counts of the declaration.

No evidence was offered tending to support
the third count of the declaration.

The following questions were asked of J. E.
Smith who was the atty of the plaintiff
and a witness offered by plaintiff. The
following questions

Will you state to the Jury the
circumstances & position in life of Mr. Sloan
at the time he used the words you have testified
about

Answer. His social position was that of an
attorney in fair standing. He held at that time
the office of the President of the Illinois

Rail Road Company. his pecuniary position I was not acquainted with at the time he held some property in and around Woodstock

2^d question Have you heard Mr Sloan say what his pecuniary circumstances were and if so when was it and what did he say

Answer. Some time during last Summer I met pett at the Vermont house in Chicago I talked with him about some sale I had made that day of lots in Chicago & he afterwards in the same conversation told me he had made that year a hundred thousand dollars and in might run up to a great deal more that he in connection with others talked of starting a large bank in Chicago

3^d What was the course and termini of the Road of which Mr Sloan was President Answer It runs from Chicago to the State line

To each of the above questions the defendant objected when they were asked the objections were overruled and exceptions taken by defense Pett rested his case

Defendant read the deposition Charles Hollander who testified in substance on the 8th day of July 1857 Petrie the plaintiff told me that he was going to pay me some money tomorrow as a payment on that property I told him I was not authorized to receive it he told me he should tender me

Some money for a payment on the next day in the morning on the 9th day of July the next day he told me he had been at my office about 9 or 10 o'clock with the money and as I was not in he had taken the money away I told him that I would take the money and give him a receipt for it. He said it was too late this was about eleven o'clock in the forenoon. Petrie did not on the 9th day of July tender or offer to tender me any money or say that he had the money to tender to me on the mill contract

Cross Ex. I was not the agent of Dexter or Sloan on the 9th day of July to receive this money I had been Dexter's agent up to some time in June 1857 for all his business I was in my store on the forenoon of the 9th except about 12 an hour between 9 & 10.

Deposition of H M Richmond, who testifies in substance as follows.

Some time in Summer of 1857 about 10 o'clock in forenoon I went with Petrie to Hollanslee's office he had Richmond's check on Geo Smith & Co for an amount which he said was due Mr Hollanslee as agent for some one on a mill contract Mr Hollanslee was not in his office he walked to The Summit house & back to Mr Hollanslee's office he was not in from 15 to 30 minutes elapsed between the calls I do not know that Petrie had any money with him he asked me to go with him and return the tender

he did not tell me that he had any money. The check was afterwards given back to Richmond & Co & destroyed. The check was considered good for its face in currency. Petrie honored this check to make the tender & did not know whether Richmond & Co had funds at Geo. Smith & Co or not but thought George Smith & Co would have paid the check.

The defendant read in evidence the deposition of Thomas Richmond who testified to the same facts substantially as the last witness and also that Richmond & Co never loaned to Petrie any other check that this check was loaned with the understanding that it was to make the tender to Hollander. Petrie said Hollander would not receive it & then he would return the check. The value of currency was one per cent less than gold & silver.

The defendant then introduced the record of the Extradition suit and the affidavits of Petrie as stated in the plea.

The court instructed the Jury for the plaintiff as follows:

1" That the defendant having justified in this plea the speaking of the slanderous words in order to maintain the defense must prove that the p'ty was guilty of the crime of perjury as clearly and conclusively as if the p'ty were on trial upon an indictment for that crime.

given

2

That ~~in~~ in order to maintain the justification plea the defendant must prove that the affidavit for continuance was wilfully corruptly and maliciously false in its material allegations and was known to be so by the plaintiff at the time he swore to it and that in order to this there must not only be the direct oath of our witness to prove the falsity but that witness must be corroborated by other facts and circumstances in the case.

4

That in determining whether the plaintiff was guilty of perjury or not the jury must give him the benefit of every reasonable doubt.

5

That unless the jury believe from the evidence that the defendant intentionally and knowingly sworn & falsely the defence in the case fails and their verdict must be for the plaintiff.

6

That if the defendant has failed to prove the plaintiff guilty of wilful and corrupt perjury it is no excuse for him that the words may have been spoken in the heat of passion nor that he may have believed them to be true.

7

That the defendant having justified the speaking of the slanderous words if the jury believe that the proof has failed to sustain

that define such plea of justification is in law an aggravation of the original slander and the jury should consider this fact in returning a verdict.

That if the jury believe from the evidence that the defendant spoke the words charged in the plaintiff's declaration then unless the jury believe from the evidence that Petrie intentionally and knowingly sworn false in swearing that he had 1117, 44 at Hollensber on the 9th of July between the hours of 9 & 10 o'clock a.m. or that he willfully knowingly and intentionally sworn false in swearing that Hollensber refused to receive the money on said contract stating that Hollensber had no authority to receive said money the jury should find for the plaintiff.

To the giving of which instructions the defendant by his counsel at the time objected.

The defendant asked the court to instruct the jury as follows:

Whenever a person in a court of law ^{instead of} ~~intends~~ stating facts attempts to state the legal conclusions to be drawn from such facts he is held to a strict accountability for the correctness of such conclusions and if they are false he is guilty of perjury.

When a person in a court of law instead of swearing to facts attempts to swear

given

refuse

to the legal conclusions to be drawn from facts
and in so swearing swears falsely he will be
held accountable therefor,

Should the jury believe from
the evidence that Mr Gollensbe told the
plaintiff on the 9th of July that he Gollensbe
was not authorized to receive the money and on
the contract mentioned in the plaintiffs affidavit
still the plaintiff was required to pay or
offer to pay the money and if Gollensbe agreed
for the money and offered to receive it at any
time afterwards at his office in Chicago the
plaintiff was then bound to pay the money
and it makes no difference whether the offer
to receive the money was before or after 10
o'clock of said day July 9th.

refused

If the jury believe from the
evidence that the plaintiff swears that on the
9th day of July 1851 Mr Charles Gollensbe refused to
receive the money as stated in the plaintiffs
affidavit and the said Gollensbe swears that he
did on said day offer to receive the money then the
oath of the plaintiff and the oath of Gollensbe believe
one another and if the evidence of the case excepting
the oath of Gollensbe impresses the minds of the
jury that the oath of said Gollensbe is true then
the charge of perjury is sustained.

refused

If the jury believe from the
evidence that Charles Gollensbe did not on on the
9th day of July between the hours of 9 and 10 o'clock

refuse to receive from the Plaintiff the sum of
1117,44 then the law is for the defendant

Should the jury believe from the
evidence that the Plaintiff had the check of
Richmond and Co on George Smith & Co at the
office of Mr Golenster on the 9th of July such
check could not be called money within the
legal meaning of that term as used by the
plaintiff in his affidavit

At the time of the pretended
tender set forth in the plaintiff's affidavit the
statements of the plaintiff as to what he had to
make the tender with form part of the facts of
the tender and may be proved by the testimony
of witnesses the same as any other fact and if
the jury believe that at the time one witness
testified that at the time of the pretended tender
the plaintiff stated that he had the check of
Richmond & Co on Geo Smith & Co to make the
tender with then the testimony of this witness is
sufficient evidence to sustain the oath of the
defendant plaintiff and if the jury believe that
the other testimony of the case corroborates or
sustains the testimony of the witness then the
charge of perjury is sustained and the law
is for the defendant

In consideration of the law
nothing is money but gold and silver and if the
jury believe that it is proved by proper testimony
that what the plaintiff had at the office of

refused

refused

refused

Mr Hollanster on the 9th day of July as stated
in the plaintiffs affidavit to pay to Mr Hollanster
was not gold or silver and also the fact that
it was not gold or silver was waived by
Mr Hollanster then what he had was not in
contemplation of the law money and the law
is for the defendant

In consideration of the law
nothing is money but gold or silver and if the
jury believe that it is proved by proper
testimony that the plaintiff did not have
the sum of 1117, 44 in gold or silver at the
office of Mr Hollanster on the 9th of July as
stated in the plaintiffs affidavit then the
law is for the defendant,

Which instructions
the court refused to give to which decision the
defendant at the time by his counsel excepted.

Clara v. B. B. B.

Henry Petrie }
William Sloan } Slander

Kane Circuit Court November
Term 1883

B. I remembered that on the trial of the above
entitled cause J. C. Smith a witness called by the plaintiff
testified as follows. I have known the parties to this suit about
two years. I should think that in the last part of the Spring
or in the forepart of the Summer 1882, after the Spring term
of this court had been held I had some conversation with
Mr. Sloan about Mr. Petrie and he said "Mr. Petrie was guilty
of perjury. he used the following words. 'he is a perjured old
scoundrel he is guilty of perjury and I can prove it and
I would do it if it was not for his family. Petrie swears to
a lie and I can prove it' he is a damned perjured old scoun-
drel" these conversations took place in Woodstock
in the county of McKenney. We were conversing of Henry
Petrie the plaintiff. — The following question was asked
by the plaintiff counsel and objected to by the defendants
counsel. — Will you state to the jury the circumstances
and position in life of Mr. Sloan at the time he used these
words testified about — The Objection of deft was over-
ruled by the court. and the witness answered to which ruling
the deft counsel at the time objected — His social
position was that of an attorney in fair standing he
held at that time the Office of President of the Illinois
& Wisconsin Rail Road Company. his pecuniary position
I was not acquainted with at that time he held some
property in and around Woodstock — The following
question was asked by plaintiff and objected to by def-
endant — Have you heard Mr. Sloan say what his
pecuniary circumstances were and if so when was it

and what did he say. The defendant's objection was
overruled by the court and witness answered to which ruling
the defendant's counsel at the time excepted. Some time
during ~~last~~ summer I met Jeff at the ^{Thomson's} ~~Thomson's~~ House
in Chicago. I was talking with him about some sales I
had made that day of lots in Chicago and he afterwards in
the same conversation told me he had ^{the} made ^{the} last year
a hundred thousand dollars and it might run up to a good
deal more. That he in connection with others talked of
starting a king's bank in Chicago. The following question
was asked by plaintiff and objected to by defendant -
"What were the crimes & termini of the road of which Mr
Strom was President" the objection of depts was overruled
by the court and witness answered to which ruling the defendant
excepted at the time excepted. It runs from Chicago to the
State line running north westerly through McHenry County
Ill. On cross examination said witness testified as follows that
I was the attorney of Plaintiff and commenced this suit
draw up the declaration in this suit have been ^{formerly} the attorney
of plaintiff in all his suits now in this county except
the Chicago suit against the defendant. The bill in that
case was drawn up by Mr McClure who was formerly
in the same office with me. Am not certain that he occupied
same office at the time. Wrote down the words as Mr Strom
spoke them. I should think about six weeks after were
spoken and before I drew up the declaration and drew
the declaration from what I heard & what others told me
no other counsel was engaged in this suit by the plaintiff
until after it came to this county except my self and
Mr. Murphy Mr McClure I think drew up the affidavit
for the continuation in the Ejectment suit. I heard the
Stroms words & have testified to some of them
two or three times. - the first time at the foot of the stairs

Stairs leading up into Mr Sloan's office between his office
and mine some ten or fifteen days after the court adjourned.
The conversation with Mr Sloan about the amount he made
occurred in the middle of the last summer. I remember
the conversation well. I intended to inform Mr. Petrie or
his attorney the first time I saw them, did mention it to
Mr. Damsworth the plaintiff's attorney ^{I presume} the first time I saw
him. I have no actual knowledge of Mr. Sloan's property
except in Werny county. I only know Mr Sloan was
President of the railroad company from report and from
seeing a notice of his election in the Chicago papers.
As soon as I was notified that I would be required
as a witness I cleared to counsel for the plaintiff in
this suit. C. B. Heller the next witness of the plaintiff
testified as follows to wit. I have been acquainted with the
parties to this suit some seven years. At the term of this
court when Mr. Petrie made the affidavit in question Mr
Sloan came to me at my desk for a copy of it and said
Mr. Petrie had ~~said~~ ^{and} he could prove it. I was then
of this court. Edward Torkyn the next witness of the
plaintiff testified as follows to wit. I have been ac-
quainted with the parties to this suit several years. I
heard Mr Sloan say ^{the} (some) affidavit of Mr Petrie was
false and he could prove it, I think I have heard him
say so more than once. on cross examination. have heard
others speak of ^{hearing} Mr Sloan having made the same charge.
I am an attorney of this court the conversation took
place in Woodstock. - B. B. Parks the next witness
of plaintiff testified as follows to wit. I have been
acquainted with the parties to this suit since they
have been lawing in this county. The day the affidavit
was filed or the day after at the Clerk's desk or at the
Clerk's desk. Mr Sloan said of the plaintiff he is a

darned perjurer old scoundrel and I can prove it. ^{think} Mr
Hersington was I think present Mr Hersington is one
of Pett's counsel. Heard Sloan some time last May say
that he and some others had made a large amount of money
in Chicago — J. C. Moore the plaintiffs next witness
testified as follows to wit — I am acquainted with
the parties to this suit. About two weeks ago Mr Sloan
came to ^{at} the Sherman House in Chicago to see Mr
James with the plaintiffs counsel about taking depositions
in this cause he said ^{James Sloan} Mr Petrie was a darned perjurer
old scoundrel and a darned old villain and he could
prove it so clear there could be no mistake about it

The plaintiff then offered the deposition
of Robert G. Sengver to the introduction of which deposition
the defendant objected and filed the following affidavit

(Here insert the affidavit of defendant as to
said deposition) And L. Leachman being sworn on
the part of the defendant testified as follows to wit. I
am clerk of this court. Some time in the forenoon
to day Mr Smith handed me the deposition of Robert
G. Sengver. I opened ~~the package~~ ^{it} marked the filing on the
back of the deposition and at Mr Smiths re-
quest handed it to him, soon afterwards & before this cause
was called on for trial, he returned it to me
and I placed it in a pigeon hole for loose papers — the file of
papers in this cause not being in my desk — J. C. Smith
then testified that the said deposition was handed to him
to deliver to the clerk by the Plaintiff & that he
immediately handed it to the clerk. Think Mr Sloan
had the papers of the suit at the time. The defendant
then objected to the reading of said deposition because
no notice appeared to have been given to the defendant
of the taking of said ^{deposition} the court refused to entertain

Such objection or allow the defendant to object to said deposition for said cause at this time unless the defendant would allow the plaintiff to examine the defendant or onto as to having received notice of the taking of said deposition the defendant refusing to be so examined the court allowed the deposition to be read. to which decision of the court the defendant's counsel at the time excepted which is as follows [Here insert said Deposition of Robert G. Senger] The Plaintiff here stated his case

The defendant then introduced the following deposition [Here insert the deposition of Charles Hollander Holland Richmond and Thomas Richmond which were read to the jury. Defendant then introduced the records and papers in the Specter suit between said John Slown Jelfs and said N. Petrie as debt the same having been proven by the clerk and the oath of said Petrie to the affidavit having been duly proven [Here insert the affidavit of Petrie & the Records in said suit

The foregoing is all the evidence given in the case - "The plaintiff asked the court to instruct the jury as follows to wit" [Here insert plaintiff's instructions which were given but not those refused] to the given of which instruction the defendant by his counsel at the time excepted. The defendant asked the court to instruct the jury as follows to wit. Here insert the defendant's instructions that were given, which instructions were given by the court. The defendant also asked the court to instruct the jury as follows to wit Here insert the defendant's instructions refused, which instructions the court refused to give to which decision the defendant at the time by his counsel excepted. The jury found a verdict for the plaintiff for \$950.00. The defendant filed the following affidavits to wit insert affidavit of C. B.

Surfer, H. L. Leuter and move the court for a new trial for the following reasons to wit

1st Said verdict is against Law. 2^d Said Verdict is against Evidence. 3^d The court erred in admitting testimony objected to by defendant. 4th The court erred in admitting the deposition of Robert G. Sengor. 5th Improper testimony was admitted on the trial on the part of the plaintiff. 6th The court erred in giving the instruction asked on the ^{part of the} plaintiff. 7th The court erred in denying the instruction asked on the part of the defendant, which motion the court overruled and rendered judgment on the verdict. To the overruling of which motions the defendant by his counsel at the time excepted. The defendant then made a motion in arrest of judgment which court motion the court overruled and the defendant by his counsel at the time excepted to said decision. To all of which rulings and decisions of the court the said Defendant at the time excepted and prays that this his bill of Exception may be signed and sealed by the court which is done

Isaac G. Wilson Clerk
Judge & Co

State of Illinois
Hane County

I, Luther Dearborn Clerk of the
Hane County Circuit Court do hereby
certify that the above and foregoing is a full perfect and complete
copy of the Bill of Exceptions as signed by the Judge in the
above entitled case as ~~above~~ appears from the files of my
said Office

Witness my hand and the seal of said Court at
Geneva in said County this 1st day of July A.D. 1884
Luther Dearborn Clerk

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Wm. Co. Lin. Board

Henry. Petre

or

William. Sloan

Copy of Will. Sloan

Filed July 6. 1854.
S. C. Sloan Clerk.