

14317


No. _____

Supreme Court of Illinois

Peter

vs.

Oxford

71641  7

²⁰ STATE OF ILLINOIS,

SUPREME COURT.

Third Grand Division.

1837 248

No. ~~2031~~

248

Peter

Olson

The People of the State of Illinois.

To all to whom these presents shall come
Greeting
Know Ye that we having caused to
be inspected the Records and proceedings of
our Circuit Court do find there certain Records
and proceedings in the Words and figures fol-
lowing to wit.

United States of America

" State of Illinois &c."

" Iroquois County

" Pleas before the Hon-
orable Charles R. Starr ^{Presiding} Judge of the twentieth
Judicial Circuit and ^{Presiding} Judge of the
Iroquois County Circuit Court in the State of
Illinois at a term of the said Iroquois County
Circuit Court begun and held at the Court House
in the Town of Middleport in said Iroquois County
on the Third Tuesday (the same being the ^{twentieth} ~~twentieth~~
day) in the Month of November in the
year of our Lord one thousand eight hundred
and Sixty one

" Present Now, Charles R. Starr Presiding Judge
of the Twentieth Judicial Circuit
Charles H. Wood States attorney of the
Twentieth Judicial Circuit Pro Tem
Theodore ^{agrees} Luther J. Clark, Sheriff of Iroquois County Illinois
Thomas Munnick clerk of the Iroquois County
" Circuit Court "

Be it Remembered that heretofore and on the 4th day of October A D 1861 there was filed in the office of the clerk of said Circuit Court a certain "Appeal Bond" which Reads in the words and figures following to wit

Know all men by these Presents that we John S Oxford Elias Oxford and Thomas Emory are held and firmly bound unto David Peter in the Penal Sum of Thirty 98/100 Dollars lawful Money of the United States for the payment of which well and truly to be made we bind ourselves our heirs and administrators jointly severally and firmly by these presents Witness our hands and Seals this 20th day of August A D 1860

The Condition of the above obligation is such Whereas the said David Peter did on the 20th day of August 1860 Before Charles Rumley Esq. a Justice of the Peace for the County of Iroquois recover a judgment against the above bounden John S Oxford for the sum of Ten dollars and costs of suit four dollars and ninety three cents from which said judgment the said John S. Oxford has taken an appeal to the Circuit Court of the County of Iroquois aforesaid and State of Illinois. Now if the said John S. Oxford shall prosecute his appeal with effect and shall pay whatever judgment may be rendered by the Court upon dismissal or trial of said appeal then the above obligation

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to be void otherwise to remain in full force and effect
 Taken and approved by me John S Oxford (S)
 this sixth day of September Elias Oxford (S)
 A D 1860 Thomas Emery (S)
 " Charles Rumley "
 " Justice of the Peace "

And afterwards to wit on the said 4th day of October A D 1860 there was filed with Clerk of said Circuit Court a certain Transcript which Reads in the words and figures following to wit

" Transcript of proceedings lately had
 before Charles Rumley a Justice of the Peace
 in and for the County of Iroquois in the State
 of Illinois Between David Peter Plaintiff and
 John S. Oxford Defendant
 State of Illinois In Justice Court.
 Iroquois County } Before Charles Rumley Justice
 David Peter }
 John S. Oxford } Action of Trespass on Personal Property
 Plaintiff Demand \$ 40.00
 August 13th Summons issued returnable August 20
 1860
 Justices Fees
 Plaintiff Costs August 20 inst 10 o'clock AM Summons returned
 Served by J S Storms Constable fees 50 cents
 J D Van Norman Atty for Plff. Chetwood Atty for
 defence - Plff demand - damages for killing a cow
 Defendant - Plead, not guilty -
 J W Jones Moses Opper and Robert Clark

Constables fees
 Sums .50
 Deft. Costs
 Sub 18³
 Witness fees

\$3.43

Sworn on the Part of the Plaintiff, Lewis W. Hunt
 J D Knight and Daniel Rice Sworn on the part
 of the defendant ~ After hearing the Testimony
 it is considered by the Court that the said Plaintiff
 have and recover of the said defendant the sum
 of Ten Dollars as damages for his demand against
 the said defendant with costs of suit herein
 taxed at four Dollars and ninety three cents
 J. D. Knight Andrew Sellers, L. W. Hunt J. W. Jones
 Mrs Mary Jones Daniel Rice and claim witness fees
 Charles Rumley J.P.

September 6th 1860 the above named Defendant
 with Elias Oxford and Thomas Emory as his
 Security filed his Bond for an appeal to the
 Circuit Court which Bond was approved by me
 and appeal granted
 Charles Rumley J.P.

State of Illinois

Jackson County

I Charles Rumley a Justice
 of the Peace in and for said
 County do hereby certify that the foregoing
 transcript and the papers herewith being the
 Summons numbered one Two Subpoena's Number
 Two and Three and Appeal Bond not are all the
 papers containing a full and perfect statement
 of all the Proceedings before me in said Cause -
 In Witness Whereof I have hereunto set my hand
 this 20th day of September 1860.

Charles Rumley J.P.

Costs \$4.93
 Entry appeal 25
 Transcript 25
 \$5.43

whole amt of costs

And afterwards to wit on the 21st day of February A D 1861 the same being one of the regular days of the February term of the Ingham County Circuit Court for said year 1861 the said Court being then duly organized and sitting as a court for the transaction of judicial business certain Proceedings were had and entered of record by order of said Court in the words and figures following to wit

David Peter
 vs
 John S Oxford } Appeal "

" And now comes the Complainant by Pletcher & Kay his attorneys on whose motion it is ordered by the Court that this cause be set down for hearing on Wednesday of the second week of this term of the Court

And afterwards to wit on the 27th day of February A D 1861 the same also being one of the regular days of the February term of said Court for said year A D 1861 the said Court being then duly organized as aforesaid certain other proceedings were had and entered of Record by order of said Court in the words and figures following to wit

David Peter
 vs
 John S Oxford } Appeal "

" On Motion of Complainant

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" it is ordered that this cause be continued one week
" from this date

And afterwards to wit on the 7th
day of March A D 1861 it also being one of the
regular days of the February term of said
Court for said year 1861 the said Court being
then duly organized as aforesaid certain
other proceedings were had and entered of
Record by order of said Court in the words
and figures following to wit

" David Peter
" III vs } Appeal
" John S. Oxford }

" And now come the Parties to
" this cause in person and by their attorneys and
" thereupon came the Jurors of a Jury to wit —
" Henry M. Reynolds, Angus Reynolds, Silas
" Burdick, Thomas Mason, Henry Lyman,
" John B. Clark, A. B. Chapman George King
" Wesley Garvey, John Snider Daniel J. Early
" and J. S. Crawford - twelve good and lawful
" men who were then and there duly empaneled
" and sworn to well and truly try this cause
" upon the issue joined, and after hearing the
" Evidence adduced and the arguments of Counsel
" retire in charge of an officer to consider of a
" Verdict and afterwards return into Court and
" report that they are unable to agree and are by order
" of Court discharged from the further consideration
" of this cause. and it is further ordered that this cause be continued

7.

And afterwards term on the 19th day of November a d 1861 the same being one of the regular days of said the November Term of said Court for said year 1861 The said Court being then duly organized as aforesaid Certain other Proceedings were had and entered of Record by order of said Court in the words and figures following to wit.

David Peter }
 is } Appeal
John S. Oxford }

Now Comes the Plaintiff into Court in Person and by Pletcher and Kay his attorneys on whose Motion it is ordered by the Court that the defendant be ruled to give additional Security on appeal bond in this cause by tomorrow Morning at 10 o'clock.

And afterwards to wit on the said 19th day of November there was filed with the Clerk of said Court a certain other appeal Bond which Reads in the words and figures following to wit

Know All Men by these Presents that the John S. Oxford and William P. Clark are held and firmly bound unto David Peter in the Penal sum of \$30.⁹⁸/₁₀₀ Dollars lawful Money of the United States for the payment of which well and truly to be made we bind

ourselves our heirs and administrators jointly
 Severally and finally by these presents Witness
 our hands and seals this 20th day of August
 A D 1860. The Condition of the above obligation
 is such Whereas the said David Peter did on
 the 20th day of August A D 1860 before Charles
 Runley Esq a Justice of the Peace for the County
 of Croquis recover a Judgment against the
 above bounden John S. Oxford for the sum
 of Ten Dollars and ~ cents and costs of suit
 four dollars ninety three cents from which said
 Judgment the said John S. Oxford has taken an
 appeal to the Circuit Court of the County of
 Croquis aforesaid and State of Illinois. Now
 if the said John S. Oxford shall prosecute
 his appeal with effect and shall pay what
 ever Judgment may be rendered by the Court
 upon dismissal or trial of said Appeal then
 the above obligation to be void otherwise to
 remain in full force and effect

In Presence of
 M. W. Taylor

John S. Oxford (Seal)
 William P. Clark (Seal)

And afterwards to wit on the 20th
 day of November A D 1861 the same also being
 one of the regular days of the November Term
 of said Court for said year A D 1861 The said
 Court being then duly organized as aforesaid
 Certain other proceedings were had and entered
 of Record by order of said Court in the words
 and figures following to wit

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" III

David Peter }
 } Appeal "
 } is
John S. Oxford }

" Now come the Parties to this Suit
" by their respective attorneys and thereupon came
" the jurors of a Jury To-wit, Z. P. Jenkins James
" Canvins, George Wilson, Jacob Billenstein, David
" Montbleau, L. E. Westover, J. A. Graham, A. W. Becker
" J. H. Bishop Benjamin Bratton, Joel Braudenbury
" and George Pinner Twelve good and Lawful Men who
" were then and there duly empaneled and sworn
" to well and truly try this cause upon the issue
" joined according to the evidence And the said
" Jury after hearing the evidence adduced in this
" cause the arguments of Counsel and the instructions
" of the Court retired in charge of an officer to
" consider of a Verdict and afterwards return into
" Court and for a Verdict say - We the jury find
" the defendant Guilty and assess the Plaintiffs dam-
" ages at Twenty Dollars

" And now comes the Defendant by C. Wood
" his attorney and enters his motion to the Court
" in arrest of judgment and for a new Trial in
" this cause "

And afterwards to-wit on the 21st
day of December 1861 the same also being one of
the regular days of the November Term of said
Court for said year 1861 the said Court being then
duly organized as aforesaid certain other proceedings
were had and entered of Record by order of said Court
in the words and figures following to-wit

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David Peter
vs
John S. Oxford } Appeal

" Now Come the Parties to this cause
" by their respective Attorneys, and the Motion by the
" defendant ^{in arrest of judgment and} for a new trial in this cause coming
" up for argument, it is upon Consideration by the
" Court ordered that ^{said} ~~the~~ Motion ~~for new trial~~ be
" overruled ~ It is therefore considered and ordered
" by the Court that the Plaintiff in this cause do have and
" recover of and from the said defendant the said sum of
" Twenty Dollars Damages being the Verdict of the Jury
" in this cause together with his costs and charges
" in and about the prosecution of this Suit expended
" and that he have Execution therefor against the said
" Defendant ~ And now comes Defendants attorney
" and enters his exception to the overruling of said
" Motion for a new trial and enters a motion
" for an appeal in this cause to the Supreme
" Court of this State

" Whereupon it is ordered by the Court that an
" appeal be granted on condition that Defendant do
" within Thirty days from this date Enter into a
" Bond conditioned according to Law in the sum of
" Two hundred dollars with Bradford Clark Security
" thereon, And on Motion it is ^{further} ordered that the Defen-
" dant do file his Bill of Exceptions within Thirty
" days from this date.

And afterwards to wit on the 18th day
January a D 1862 there was filed with the
Clerk of said Circuit Court a certain "Bill
of Exceptions" which reads in the words and
figures following to wit

David Peter

Trespass

John S. Oxford

In the Circuit Court of Inyo County

Be it Remembered that on the trial
of this cause at the November Term of the said
Circuit Court a D 1861 the said David Peter to
maintain the issue on his part gave in evidence
to the jury the following testimony by the witnesses
hereinafter mentioned to wit

Olive Ophy ~ Who testified in substance
that she knew Mr Peter and Mr Oxford and that
she knew Mr Peters cow which was killed, but could
not state how long ago it occurred but it was a
short time before the trial of this cause was had
before the Justice of the Peace that said cow was
killed, that she testified in relation to the same
case before a Justice of the Peace when said cause
was tried there and that said cow was killed
before that time, that ~~the said~~ ^{the said} Daniel Nee
ran said cow down the same, that the same
passed by her fathers door and she was standing
in the door of her fathers house when she first
saw Daniel Nee running the Cattle, that said
Daniel Nee passed along said same by her

father's house running the cattle which was from where
 she stood three or four Rods, That nice was riding
 his horse on a gallop and had a whip in his hand
 that the cattle were running, she saw him strike
 Peter's cow with his whip three or four times, that
 there were several cattle together, that she ^{saw} nice
 drive said cattle along the said lane past her
 father's house some distance on the run, when
 they reached a point in the Road where she sup-
 posed the Bridge was she saw the horse which nice
 was riding turn out quickly as she supposed at
 the time the horse was going around the Bridge, but
 afterwards she discovered that the place where the
 horse turned out was the place where the cow was
 laying dead and was not where the Bridge was
 in the lane That she knew Daniel nice at the time
 and knew the cow of David Peter at that time and
 knew that the cow which was found dead in the
 lane afterwards was the same cow which she saw
~~David~~ ^{Daniel} nice strike with his whip And that at
 the time when the said cow was killed the said
 Daniel nice lived with the said John S. Oxford
 that she saw the cow in the lane an hour or two
 after she was killed, The Plaintiff then introduced
 Mrs Jones - who testified in substance that
 she knew Mr Peter and Mr Oxford That she knew
 Peter lost a cow some over a year ago, That she saw
 nice on horseback running the cattle his horse was
 in a gallop and that she supposed the cow was
 one of them, That the Road where he was running
 the cattle ran north and South by Mr Oxy's house
 that the cattle were coming from the north and

going South. Refords field was not exactly north but was in that direction. That she saw Nice run the Cattle about one hundred yards. She saw him from the door of her house which was near the house of Mr Oppy. It was about the hour of twelve o'clock on Sunday. That she did not notice the Cattle particularly and did not see the cow fall. It was a warm afternoon. That there was a trial of this case before a Justice of the Peace in Oranga, and that the cow was found dead before that trial a short time. That the Cattle had not entered the Lane when she first saw them. That when she first saw the Cattle David Nice was driving them. The end of the Lane where the Cattle first entered said Lane was two or three hundred yards long from her house. She stood in the door of her house and knew the boy Nice but did not see his whip. He was near enough to strike the Cattle. That Daniel Nice was galloping his horse when I saw him running the Cattle.

The Plaintiff then called Mr Moses Oppy who testified that he saw a dead cow in his lane about forty Rods from his house it was on Sunday and at the time of day spoken of by the other Witnesses when ~~David~~^{Daniel} Nice passed his house driving the Cattle he was lying down on his bed in his house asleep. That he did not see the Boy running the Cow. The Cow belonged to David Peter the Plaintiff. About four o'clock of the same afternoon he saw the Cow in his Lane about forty Rods from his house. the Cow laid with her head under her body at right angles with

the ^{Lane} ~~Jane~~ with her neck broken as he thought
 close to the Shoulder That he pulled the head of the
 Cow out from under her body Soon after he first
 saw her & came to the conclusion that her neck
 was broken from the moving of her neck. Where
 he found the Cow dead was in Brognon County
 and State of Illinois That the cow was worth
 at least Twenty Dollars That a cow pressed by
 a horse running her will turn aside. That he
 examined the Tracks of the Cow & horse and saw where
 the cow and horse had been running and from the
 appearance of the said tracks he should judge that
 the Cow and horse were in a gallop. That the cow
 did not lay close to the bridge in the lane. That
 it was a warm day It was the twelfth day of
 August 1860 - That Oxford the Defendant was at
 the place where the cow was found dead, and he
 had a conversation with him soon after the
 cow was found dead, and in that conversation
 Oxford told him that he Oxford told the Day
 Nice to go and drive the cattle away from the
 field It was in the Middle of the afternoon
 when he went to see the cow and she was not
 thoroughly ^{cold} ~~cold~~. Her head moved easy - It was
 Eighty Rods from Oxfords corn field to the place
 where the dead cow was lying - Daniel Nice
 lived at the time with Oxford. There had been
 no hard feelings in particular Between
 Oxford and himself. The Plaintiff then called
Joshiah W. Jones Who Testified in substance
 as follows to wit That he saw the cow as he

Supposed some four hours after her death
 She was about forty Rods South of Oppy's house
 lying across the Road, at the time when he
 saw her her head laid straight out, This was
 after Oppy had seen her that he skinned and
 opened the cow the next Morning, and found
 nothing wrong there but ^{that} afterwards he cut
 down in her neck and found a large amount
 of clotted blood close to her Shoulder and from
 appearances he concluded her neck was broken
 close to the Shoulder, That he saw a bruise on
 the cows hip, He noticed Cows Tracks but did
 not notice those of a horse, That Daniel Née
 at the time said cow was found dead lived
 with John S. Oxford, that it was eighty or one
 hundred Rods from where the cow was found
 dead, to Oxfords corn field That Oxfords Corn
 field was a little East of North of where the
 Cow was found dead The cow was worth from
 Twenty to Twenty to Five Dollars.

The Plaintiff then called.

Robert Clark who testified that he had
 heard the Neighbors say that said cow was
 the same cow that he had sold to Peter the
 Spring before for Twenty Six Dollars and that
 he did not consider the use of a cow for
 Milk during the Summer as worth much
 of any thing because it would require her milk
 to raise her calf - The Defendant then introduced
 the following Evidence in substance to wit.

Mr Hunt who testified that he knew the
 parties to this Suit and that he was at

Mr Oxford's house on the day that the cow died
 and heard him tell the Boy Niece to go through
 the field and drive out any cattle which
 were in it. That the boy came back and said
 there was something curious about the cow
 That she was dead and ^{as} big as a hog's head
 That Oxford then told the Boy to go and tell
 Peter of it so that he might save the hide
 That the Boy's name is Daniel Niece, He is
 no relation of Oxford. Mr Emory raised the
 boy - the Boy was just able to walk alone
 when he first saw him at Emory's. That the
 Boy was twelve or thirteen years old when
 the cow died. That he was present the next
 day when the cow was opened. They were
 skinning her. He requested the cow to be
 opened that Mr Jones opened her. That he
 did not discover any disease about her when
 she was opened. The neck did not seem to
 be broken. Examined for the purpose of
 ascertaining. He did not see bones cut down
 into her neck at her shoulder, was not there
 when Jones cut down into her neck at the
 shoulder. That blood is apt to settle most
 any where in a dead animal. That he
 saw no bruise on the right hip - That the
 animal was some swollen. That he helped
 turned her up and saw spots of settled blood
 all over her body as is natural in such cases
 That his memory was treacherous, not as it
 used to be, was apt to forget things. That
 he could not recollect as he once could

That he was about twelve feet from Oxford
 and the Boy when he told the boy, when
 to go up through the field and drive out any
 cattle in it that he did not recollect of
 Oxford telling the Boy any thing else if he
 did he did not hear him. That the conversation
 was fastened in his mind better than events
 usually are on account of the previous and
 reported investigations of this case, first before
 the Justice of the Peace and then by a former
 trial of this case in this Court. He heard
 Oppy say if the cow was his the tail would go
 with the hide. That he was present at Oxford's
 when the directions were given by Oxford
 to the Boy and they were all the directions
 he heard given. The Defendant then called
Mr Knight who testified in substance
 that he went up the next morning and saw
 the cow. That he examined her and cut
 into her neck with a Pen Knife up next
 to her head and found nothing dislocated
 and that he was satisfied that the neck
 was not broken. That the cow was then swollen.
 The defendants then called
Daniel Rice. who testified in substance that
 Mr Oxford told him to go in the field and
 look around and see if there were any cattle
 in or about the field and if there were
 to drive them off. That he then went up
 in the field that he saw cattle outside
 the field feeding towards the fence. That
 he ^{then} went back to the house and went then

around outside the fence and when he came to
the cattle one of them a Steer had got into
the field That he drove the Steer out and
drove them all off down the lane, That when
he set out to drive them off the cow was
standing with her mouth open That he was
as far off from the cow when she fell as
half across the boat Room. That he drove
the rest of the cattle down in the timber
and then went home and told Oxford about
it. That he saw Olive Oppy standing in
the door of the house of her father when
he drove the cattle along the lane by her
fathers house. That Mr Oxford told him
to go inside of the field and see if there were
any cattle in or about the field and if
there were to drive them away. That
it was his daily business under the direction
of Mr Oxford to go in and about the field
and drive all cattle away. And he drove
the cattle down the lane on that day as
he had done before That he had been
brought up by Mr Emory but lived at the
time when the cow was killed with Mr.
Oxford That he did not whip the cow
that he never went faster than a trot
That while he was driving the cattle along
the lane the cow fell down That he was
a horseback while he was driving
said cattle That when he told Mr Oxford
about the cow Oxford told him to go

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and tell Mr Peter, that he had been accus-
tomed before that time to drive cattle from
the field under the direction of Mr Oxford

The foregoing being all the evidence that was
offered in the case and no other or further evidence
being offered by either of the said Parties the said
John J. Oxford moved the Judge of said Court upon
the evidence aforesaid to direct the Jury.

1
That in order to charge the Defendant
in this cause it must have been proven that the
injury was committed by Defendant with force,
or by his Servant in the course of his Masters
business, or while executing his orders with ordinary
care, or that the Defendant had subsequently
assented to the injury done by his Servant.

2
That unless the act done was the
probable result of the orders given by the def-
endant and the Servant used due care, or
unless the defendant actually consented to the
trespass after it was committed, the defendant
is not liable. -

Of which said directions to the
Jury the said Judge of said Court refused the
last one altogether, and altered and modified
the first and then gave it to the Jury in the words
following

That in order to charge the Defendant
in this case it must have been proven that
the injury was committed by the defendant
with force or by his Servant in the course of
his Masters business or while executing his orders,

Or that the Defendant had subsequently assented to the act done by his Servant by which the injury was done

To which alterations and modifications of the first direction by the said Judge and to the refusal of the second direction by him the said Judge the said Defendant then and there excepted and before the said instructions was given to the Jury,

And the said Plaintiff David Peter moved the Judge of said Court upon the evidence aforesaid to give the Jury the following instruction to the giving of which said last instruction the said Defendant then and there excepted. The said Judge then gave the instruction so excepted to as aforesaid to the Jury as follows. "The Court instructs the Jury that if they believe from the evidence that the cow was killed by Daniel Rice while executing the Commands of the said John P. Oxford in and about the business of the said John P. Oxford in that case the law is for the Plaintiff"

Whereupon the Jury upon the evidence and instructions above set forth gave their Verdict in favor of the said Plaintiff for the sum of twenty Dollars. And thereupon the said Defendant then and there made a motion for a new trial of said suit which said motion for a new trial was then and there overruled by the said Judge to which decision of the said Judge the said Defendant then and there excepted -

The said Defendant then and there made a motion in arrest of Judgment in said suit

Which said Motion in arrest of Judgment was then
 and there overruled by the said Judge to which
 last decision of the said Judge the said defen-
 dant then and there excepted,

And inasmuch as the matters and things herein
 set forth and contained would not otherwise appear
 in and of the Record of this Suit the said defen-
 dant now prays that his Honor Charles R.
 Starr the said Judge of said Circuit Court
 may sign and seal this Bill of Exceptions

C. R. Starr (Seal)
 Judge of the 2nd Judicial Circuit
 of the State of Illinois

And Afterwards to wit on the said
 18th day of January A D 1862 there was filed
 in the office of the Clerk of the said Circuit Court
 a certain "Appeal Bond" which Reads in the words
 and figures following to wit

"Know All Men by these Presents that the
 John S. Oxford Bradford Clark^{and} William P. Clark
 are held and firmly bound unto David Peter in the
 Penal sum of Two hundred Dollars lawful money
 of the United States for the payment of which
 well and truly to be made we bind ourselves our
 heirs and administrators jointly severally and
 firmly by these presents, Witness our hands and
 Seals this Twentieth day of November A D 1861.

"The condition of the above obligation
 is such Whereas the said David Peter
 did on the twentieth day of November A D 1861

at the November Term of said Co the Circuit Court
 of Iroquois County A D 1861 before Charles
 R Starr Judge of said Circuit Court recover
 a judgment against the above bounden John
 S. Oxford for the sum of Twenty Dollars
 and costs of suit from which said judgment
 the said John S. Oxford has taken an appeal
 to the Supreme Court of the State of Illinois
 Now if the said John S. Oxford shall prosecute
 his said appeal with effect and shall pay
 the judgments Costs interest and damages
 in case the judgment below shall be affirmed
 then the above obligation to be Void otherwise
 to be and remain in full force and effect

John S. Oxford (Seal)
 B. Clark (Seal)
 William P. Clark (Seal)

attested J. S. Early

State of Illinois
 Choquois County SS. I Thomas Vennum
 Clerk of the Circuit
 Court in and for Said County in the State afore-
 said do hereby certify that that the above and
 foregoing is true complete and perfect tran-
 script of the Record of the proceedings of the
 Choquois County Circuit Court in Said Cause
 therein entitled wherein David Peter is Plaintiff
 John S Oxford is Defendant and that Said
 Transcript contains a full true and perfect
 copy of all the papers filed in Said cause for-
 ming any part of the Record of Said Court in
 Said Cause



In Attestation of which I have here-
 unto set my hand and affixed the
 Seal of Said Circuit Court at office
 in Middleport in Said County this
 8th day of April A. D. 1862

Thomas Vennum Clerk
 By W. H. Taylor Depy

And now comes the appellant
by Wood & Long his Attorneys and
says there is manifest error in the
foregoing Record to wit

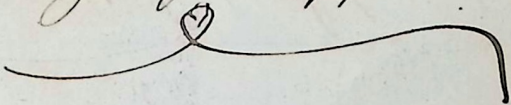
1 The court erred in overruling the
motion in arrest of judgment -

2 The court erred in overruling the motion
for a new trial -

3 The verdict is contrary to the instructions
of the court and contrary to the evidence.

4 The court erred in giving improper instruc-
tions for the plaintiff and refusing
proper instructions for the defendant -

5 The verdict is contrary to law -

Wood & Long
Atty. for Appellant


And now comes the appellee by his attys
Chester Kinnery and James Fletcher, who
says there is no error in the foregoing
Record.

1 That the court did not err in
overruling the motion arrest of judg-
ment.

2 The court did not err in overruling
a motion for a new trial.

3 The verdict is not contrary to the
evidence, but is fully sustained by
the evidence.

4 The court did not err in giving
improper instructions for the plaintiff
& refusing instructions for defendant.

5 The verdict is not contrary to law
but is in accordance to law.

6 The judgment should be affirmed.

Chester Kinnery
James Fletcher
Appellees attys.

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David Peter

John⁸⁵ S Oxford

Transcript of Record

Filed April 20th 1862.
S. Leland
Clerk.