

No. **12993**

Supreme Court of Illinois

Ault.

vs.

^W
~~R~~anson.

or any part thereof. the often requested but has hitherto neglected and refused and still doth neglect and refuse to Plaintiffs damage one thousand Dollars and therefore he does
Wm. Chumars Pkys Atty

Copy of Account

William C Ault

To E Rawson D^r

To money lent and advanced	\$ 1000
Paid laid out and expended	1000
" " " " " " " "	1000

And thereupon found out of the Clerks office of said Circuit Court a summons in favor of said Eaxter Rawson and against said William C Ault in the words and figures following to wit.

State of Illinois ss

Deaselle County

The People of the State of Illinois, To the Sheriff of said County greeting

We Command you to summon William C Ault if he shall be found in your County, personally to be and appear before the Circuit Court of said County on the first day of the next Term thereof, to be holden at the Court house in Ottawa in said County on the 28th day of April instant to answer unto Eaxter Rawson, Trespas on the Case on promises to the damage of the said Plaintiff or he says in the sum of one thousand Dollars, and leave you then and then this writ, with an endorsement thereon in what manner you shall have executed the same.

Witness Philo Lindley Clerk of said Court and the Seal thereof, ^{at Ottawa} in said County this 16th day of April
A D 1857

P Lindley Clerk

not found in my County,

Geo W Nelson Deputy Sheriff

Filed April 28th 1857

P Lindley Clerk

And afterwards to wit at the April Term A D 1857 of said Circuit Court the following among other proceedings appear of record,

Friday May 9th 1857

Eaxter Rawson assumpsit

William C Ault } On Motion of Plaintiff by Chumars his Attorney, It is ordered that this cause be Continued, and that an alias summons issue thereon,

And thereupon issued out of the Clerk's office of said Circuit Court an alias summons in favor of said Craster Rawson and against said William C. Ault in the words and figures following to wit,

State of Illinois ss. The People of the State of Illinois. To LaSalle County & the Sheriff of said County greeting

We Command you as we have before Commanded you to summon William C. Ault if he shall be found in your County, personally to be and appear before the Circuit Court of said County, on the first day of the next term thereof, to be holden at the Court house in Ottawa in said County on the 4th day of November next to answer unto Craster Rawson in a plea of trespass on the Case upon promises to the damage of the said Plaintiff as he says in the sum of one thousand Dollars, and have you then and there this writ, with an endorsement therein in what manner you shall have executed the same

(Seal)

Witness Phil Lindley, Clerk of said Court and the Seal thereof at Ottawa in said County this 30th day of June A D 1851

P Lindley, Clerk

Executed this writ by reading to William C. Ault July 26th 1851
Sug & Ret 60, 16 miles to \$1.40

R E Goodale Sheriff

Filed Sept 23^d 1851

P Lindley, Clerk,

And afterwards to wit on the 7th day of November 1851 the said Defendant by Glover and Cook his Attorneys appeared and filed his plea herein which plea is in the words and figures following to wit,

Craster Rawson LaSalle Co Cir Court
Nov Term A D 1851

Wm C Ault } And now Comes the said Deft by
Glover and Cook his Attorneys and defends &c when &c
and says action non &c because he saith that he never
promised the Plaintiff in manner and form as the
Plaintiff hath above thereof Complained against him
and of this he puts himself upon the Country

Glover & Cook,

off taken by
and William Chumars his Attorney

And afterwards to wit at the November Term 1851 of said LaSalle Circuit Court the following amount of proceedings appear,

Craster Rawson

Saturday Nov 8th

William C Ault } Apumpast,

On motion of Defendant by

Glover and Clerk his Attorneys, It is ordered that this Cause be Continued at Defendants Costs to be taxed,

And afterwards to wit at the February Term 1852 of said Leasalle Circuit Court, the following order appears of record
Wednesday February 25th

It is ordered that a Special Term of this Court be commenced and held at the Court house in said County of Leasalle on the first day of June next 1852 for the trial of Criminal and Common Law Causes and also for hearing and deciding Chancery Causes,

And afterwards to wit at the June Special Term 1852 of said Circuit Court the Honble Isaac G. Wilson presiding Judge of the thirteenth Judicial District of said State presiding by exchange,

On the 9th day of June instant the Defendant by Glover and Clerk his attorneys appear and make and file Affidavit for a continuance which Affidavit is in the words and figures following to wit,

Peru } I Glover Attorney for William C. Cull defendant
v } in this Cause states on oath that this suit
Filed } is brought to recover money alleged to be won
at gaming, said Defendant has advised Affiant that
he has a good and legal Cause, to this Suit and in the
opinion of Affiant the facts stated by Defendant do
amount to a perfect defence, Affiant believes the
Statement so made by Defendant to be true, that Affiant
cannot try this Cause safely without the presence of
Defendant, said Defendants Counsel not being acquainted
with the witnesses by whom the facts are to be proved,
Affiant sent a messenger from Peru from Deft on
yesterday who stated that Deft was too sick to come
to this Court, Affiant believes said Statement to be true
Subscribed and sworn to before me
this 9th day of June A.D. 1852
P. Lindley, Clerk

And on the said 9th day of June it being one of the days of the Special Term of said Court the following among other proceedings appear of record,
Elihu Rowson } in Absumpsit,
William C. Cull } The parties appear by their Attorneys

Dodge and Chumasee for the Plaintiff and Glover and Corti
for the Defendant, the Defendant by his Counsel moves
the Court for Causes set forth in an affidavit filed to
Contemner this Cause, and thereupon after due Consideration
it is ordered by the Court that the said motion be overruled
A jury being thereupon called came to wit, Artemas Gros
William Evans, Benjamin Masters, Jesse S Hinman,
Benj Brumfield, M F Baldwin, John Menhange,
Adam Jarvis, John Clark, Moses Little, William
Meerson and Willis Moffit who being duly empanelled
and sworn the truth to speak upon the issue joined
as upon their oaths say, We the jury find the issue
joined in favor of the Plaintiff, and do assess his damages
by reason of the premises at six hundred and sixty one
Dollars, and the Defendant by his Counsel moves the
Court for a new trial,

And on the 9th day of June it being one of the days
of the Special Term of said Court as aforesaid the
Plaintiff by Dodge his Attorney appeared and made and
filed an affidavit for an ^{new trial} execution, ^{the} further, which
affidavit is in the words and figures following to wit,
Carter Rawson

William C. Ault } State of Illinois ss. Horatio N Pease being
LaSalle County } duly sworn says he is Agent
for the Plaintiff in this Cause that he is informed and verily
believes that said Defendant William C Ault is so unsettled
in his Circumstances as to endanger the Collection of the
judgment rendered at the present term in favor of the
Plaintiff unless execution should ^{be} forthwith issued, and
affidavit further says that he has been informed and verily
believes that said Ault has been disposing of and covering
up his property for the purpose of defeating the Collection
of said judgment prior to and in Contemplation of the
Return thereof

Subscribed and sworn to before me
this 9th day of June 1852, P. S. Clerk

H N Pease

And afterwards to wit on the 11th day of June 1852 it being one of
the days of the Special Term of said Court the following among
other proceedings appear of record

Carter Rawson

Friday June 11th

William C Ault } In response
The Defendants motion for a new trial

Coming on to be heard and argued, and having ^{been} duly considered
it is therefore ordered that the said motion be overruled, therefore
it is considered that the said Crastus Rawson recover of the
said William C Ault the sum of six hundred and sixty
one dollars his damages suffered by the fire as aforesaid,
and also his costs in this behalf expended to be taxed, and
that he have execution therefor, and on motion of Mr
Dodge Attorney for the said Crastus Rawson it is for
Causes set forth in an affidavit filed ordered that the
said Crastus Rawson have such execution forthwith
The Defendant by Glover Hoots his Attorneys prays an
appeal to the Supreme Court, and offers either Henry
S Beebe, John Morris or A J Bosley for security on
appeal, and thereupon after inquiring as to the pecuniary
ability of the persons so offered as security, it is ordered by
the Court that such appeal be allowed, provided the said
Defendant shall by himself or Agent or Attorney within
30 days give Bond in the sum of Twelve hundred
Dollars with the said Henry S Beebe or the said
John Morris as security and within the same time
file such Bond (which shall be conditioned according to
Law) in the office of the Clerk of this Court,
The Defendant by his Attorney moves the Court to direct
that no property shall be sold on the execution now
authorized to be issued in this Cause until after the
expiration of thirty days and the Court overrules the
motion

And afterwards to wit on the 15th day of June 1852 the
same being one of the days of the said Special Term the
said Defendant filed his bill of exception herein which
is in the words and figures following to wit,

Saballe County Circuit Court of June
Special Term A D 1852,

Crastus Rawson

vs
Wm C Ault } Apumpset,
Be it remembered that on the trial of
this Cause the Defendant made a motion for continuance
and filed the following affidavit
Rawson I O Glover Attorney for William C Ault Defendant
vs } in this Cause state on oath that this suit is
Ault } brought to recover money alleged to be won at
Gambling, said Defendant has advised affiant that he

has a good and legal defence to this suit and in the opinion
of affiant the facts stated by Defendant amount to a
perfect defence, Affiant believes the statement so made by
Defendant to be true, that affiant cannot try this cause
safely, without the presence of Defendant, said Defendants
Counsel not being acquainted with the witnesses by whom
the facts are to be proved, Affiant saw a messenger
from Peru from Deft on yesterday who stated that Deft
was too sick to come to this Court, affiant believes said
statement to be true

Subscribed and sworn to before
me this 9th day of June A.D. 1852

J. Glover

P. Lindley Clerk,

which was then read to the Court in support of said motion.
The Court overruled the motion for a continuance to which
decision of the Court the Defendant then and there
excepted, and said cause came on for trial. The Plaintiff
to sustain the case on his part produced as a witness
Horatio N. Pease who on application of Defendant was
sworn on his voir dire and testified to the Court that
the money for which this suit is brought was money lost
at gaming by witness in playing Cards with Defendant
that said money so lost was the money of the Plaintiff.
That witness lost at gaming with various persons some
36 or 38 hundred Dollars, That after he lost the money
he footed up to ascertain the amount, This was in January
1851, I do not consider myself liable to Plff for the
money lost to Court, I told Rawson that I should pay
him back when I got able, I have received a release
from Plaintiff, This is it, produces a release in the words
and figures following,

In consideration of the sum of one Dollar to me paid by
H. N. Pease I hereby release him from all liability to me for
or on account of certain sums lost by said Pease at play
with Wm C. Ault or Asbury J. Bosley of Peru and to
recover which said sums I have commenced actions in
the LaSalle County ^{Circuit} Court State of Illinois the money so lost
having belonged to me

Chicago Sept 25 1851

E. Rawson Seal

Witness,

Before this release was executed I had deeded to Rawson a
house and lot worth some \$400 on which was a mortgage
of \$150 or \$175. I was trying to redeem the house and lot,
At the time I told Rawson that I should some time or other

upray him: this money he said that Lewis poor, and that
he must have it from the man that had won it,
The Defendant then objected to the said H N Pease being
sworn as a witness upon the ground that he was interested
in the event of the suit, the Court overruled the objection
and permitted the said witness to testify in said suit, to
which decision the said Defendant then and then ~~objected~~ ^{excepted}
The said H N Pease was then sworn as a witness and
testified as follows, I know the parties, Rawson &
years, Defendant since 1850 became acquainted with him
in Peru he was keeping a Saloon, at the time I was
engaged in purchasing grain for Plff on a contract with
him, he furnished the money and I had so much per
bush for buying, during that season I had bought 80 or 90
thousand Dollars worth, The first time I played with
Ault I was in Bosleys Saloon, we played Euchre and
then Ault proposed to turn it into poker, I told him
I did not understand the game and he said he would
teach me, I lost almost every time small sums,
Ault then proposed to play single handed Euchre at five
Dollars a game, we played, I was losing fast and we
raised it to \$10 and before we got through we played
at \$20 a game, this was about the last of September 1850
Ault won of me at that time \$300, I told him it was
Rawsons money, Ault treated to liquor a number of times
The liquor made me sleep, had a different ^{effect} on me from
what it does generally, this was I think from long
sitting, I do not think the liquor was drugged,
At noon I proposed to go to Dinner, Ault said he could
accomodate me to lunch, he did so, we then played
again about four hours, the money I lost at this time
was ~~all~~ ^{part} portion of some money I had received upon a
draft ^{drawn} by Goodell upon Coats of Peru, the Draft was
given me by Plaintiff to use in the purchase of grain
for him, I sold the draft to Coffing, At another
time when I was at Bosleys, Ault and Morris came in
I was afraid to have Bosley see me play as he had warned
me against it and I was afraid he would report me to
Rawson, I slipped out at the back door and went over
to Ault and he and I played at single handed Euchre for
\$10 a game, we played until eleven o'clock I lost in
the neighborhood of \$300 he let me have \$90 back for
which I gave him my note, I told Ault that he ^{had} made

his trays that he played the cards on me, He replied that he had played the cards on me, and he would do it, I was authorized by Rawson to draw draft on him, part of the money I lost lost to Ault was obtained by my drawing on Rawson, After we had played a little while I drew a draft on Rawson and sent to S J Smith and thus raised the money, at the first sitting it was I that proposed to raise the bet, I had been losing and proposed to raise the bet, Ault knew all the time that the money was Rawsons, I told him it was. To each and every part of the above testimony in relation to the money obtained ~~from~~ Smith the Defendant at the time it was offered objected on the ground that this action could not be maintained by this Plaintiff for money lost by Pease obtained in the manner above stated, the Court overruled the several objections of the Plaintiff and decided that an action might be maintained by the present Plaintiff for money lost at gaming by the witness Pease of the money obtained by him as above stated, To each of said decisions the Defendant excepted at the several times when they were made, said witness further testified as follows, Two weeks after I received \$1200 sent to me by Rawson by express, Ault proposed to play a single hundred game of ^{four} ~~cards~~ ^{cards} we played I lost \$40, the money belonged to Rawson. I had no money of my own with me, This last testimony was objected to by the Defendant at the time the same was offered and given, the objection was overruled by the court, to which decision the Defendant then and there excepted.

The witness on cross examination stated as follows. I can't swear that the draft sent by me to Smith was ever paid by Pease, the last \$40 I received from Rawson personally, at the time we played Ault drank of the same kind of liquor that I did and about the same amount, after the first sitting it was I that asked Ault to play, I wanted to get back what I had lost, at the 1st time I played with Ault I played with Morris after I played with Ault. I also played with Alexander Lamont and with George Hughes I did not lose anything to him, I played cards whenever I could get a chance about that time, was in the habit of doing it, after I lost the money I did propose to some one to draw a draft on Rawson for money and run away to Texas or California, I did think of doing it, but I don't believe

now that I should have done it, I felt very bad and didn't know what to do, when Ault let me have back the \$90, he said he would do it if I would not grumble any more.

Re Examined

at that time I was authorized to draw drafts on Rawson the drafts never returned to me, afterwards I had other money in my hands of Rawsons.

Re Cross Ex^a

At the time I drew the \$300 draft I said it to raise money to play with, Rawson did not authorize me to draw money to play with.

The Plaintiff then Called on a witness Seth Harkin who testified that in October 1850 the witness Pease asked me to go with him to Defendants, I went, I tried to get Ault to pay back the money or a part of it, I proposed to him to pay half of it back as it was Rawsons money and that I would try and see what arrangement could be made in relation to the balance. Ault said he had won \$700 of Pease, that he had given him back \$90 and he would be a-d if he would pay back a dollar more. Ault knew that it was Rawsons money, Pease told him that he knew that it was Rawsons money I know that Pease had no money of his own, I knew about his affairs, he frequently borrowed a few dollars of me, I was also purchasing grain for Rawson, and knew that Pease received packages of money from Rawson to purchase grain with. I know that Rawson had sent to Pease a \$1200 draft drawn by forcible I have no means of knowing as to the ownership of the money lost but from Pease declarations and what I have already stated, this was all the evidence offered by the Plaintiff.

The Defendant then Called John L. Coates who stated that he knew the character of H. N. Pease the witness for truth, it was generally good, he had the reputation of stretching the truth a little or exaggerating.

X. what I mean to say is that he stretched his story about contracts, ~~that~~ he had made, if he had told me he had bought 50,000 bush I should have believed he had bought 20,000 bush, this was all the evidence.

The court at the request of the Plff instructed the Jury as follows,

The court is asked to instruct the Jury on the part of

The Plaintiff

1st That if the jury believe from the evidence that the Defendant won at play from the agent of the Plaintiff money of the Plaintiff and which had been entrusted to said agent by the Plaintiff for a specific purpose, they must find a verdict for the Plaintiff for the amount of money so won with interest unless the money or some part of the same has been returned to the Plff or to such Agent,
2^d. That a party winning money from another at play, gains no property in the money so won, and the owner of said money can maintain an action for the amount so won against the winner, which instructions were severally objected to by the Defendant and the Court overruled the objections, and gave said instructions to which ruling of the Court and to giving of said instructions the Defendant excepted at the time they were given, the Defendant asked the Court to instruct the jury as follows,

For the defence the Court is asked to instruct the jury
1st That even if the Witness Pease did lose at gaming to Defendant a sum of money which belonged to Plaintiff and if at that time Defendant paid back to Pease \$90 of the money lost and took Pease's note for the same the Plaintiff is not entitled to recover the \$90,

2^d. If the witness Pease did lose at games with cards to Defendant the sum of three hundred Dollars which money was received by said witness Pease from Smith for a draft drawn by Pease upon the Plaintiff sold by Pease to Smith, the Plaintiff is not entitled to recover their money in this action unless he has proven that he has ~~not~~ paid the draft,

3^d. If the Plaintiff authorized Pease to draw certain drafts upon him to pay for corn that did not authorize Pease draw upon Plaintiff for money to be used in gaming nor did it bind Plaintiff to pay drafts drawn by the witness for money to be used in gaming.

4th The Plaintiff Cannot recover in this action for bills of bank which were lost by Pease to Defendant which were of a less denomination than five Dollars unless such bills were issued by a banking institution in this State authorized by its charter to issue bills of a less denomination than five Dollars,

given

refused

refused

refused

Refused

Refused

5th If the jury believe from the evidence that the witness Pease is anxiously and necessarily ^{personally} interested in the event of this suit they will not consider his testimony at all.

6th That there is no release from Rawson to Pease in evidence in this Cause,

All of which instructions the Court refused to give except the first which was given. In the refusal of the Court to give the instructions asked for by the Defendant severally the Defendant then and there excepted. and prays that this his bill of exceptions be signed sealed and made part of the record which is done

Isaac J. Wilson seal
Judge

State of Missouri

Lafayette County

Philip Piggally Clerk of the Circuit Court in and for said County do hereby certify that the foregoing is a full true and perfect transcript of all the orders of Court and Judgments thereon together with the pleadings in the above entitled Cause at the Supreme appeal of records and on file in my office

In testimony whereof I have hereunto set my hand and the seal of said Court this 8th day of July A.D. 1852

P. M. Clerk

And now comes the said plaintiff in error G. Glover & Coon his atty and says that in the record and proceedings aforesaid and in the rendition of the Judgment aforesaid there is manifest error in this point

150 The Court ruled in overruling the motion of delay
and for a continuance of the cause

3^d The court erred in admitting the testimony of the witnesses West Peace

3^d The Court erred in admitting evidence of concerning money lost by Pease not shown to have been paid by the defendant in error

4th The court erred in giving each of the instructions asked for by the defendant in error

6th The court erred in refusing to give the second instruction asked for by the plaintiff in error

6th The Court erred in refusing to give to the Jury the third instruction asked by plaintiff in error

7th The Court erred in refusing to give to the Jury the fourth instruction asked for by party in error

\$17 The Court erred in refusing the fifth instruction asked of it in Court below

9th The court erred in refusing The 6th instruction asked for by Dep^t in Court below

10th The Court erred in admitting improper evidence
in behalf of the plaintiff in the Court below

15th The Court were in rendering The Decree
of course in manner & form observed

And for these errors & others manifest in said
second said plaintiff in error prays that said
Judgment be reversed

Glover sleeve

And now comes the said Defendant in Error by Chumaseo & Taylor his Attorneys, and says that in the Record, proceedings & judgment aforesaid there is no error, wherefore they pray judgment be & that the judgment of the Circuit Court may be affirmed be Chumaseo & Taylor

Chimaseo & Taylor

³⁰
Erasmus Rasmus
H
William C. Cull

Transcript

Filed April 14. 1853.
A. Leland Clerk.

State of Illinois, set.

WRIT OF ERROR—FREE TRADER PRINT.

The People of the State of Illinois,
To the Clerk of the Circuit Court for the County of *La Salle* GREETING :

BECAUSE in the record and proceedings, as also in the rendition of the judgment of a plea which was in the Circuit Court of *La Salle* county, before the Judge thereof, between

Erastus Rawson - plaintiff - and *William C. Ault*

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

as we are informed by *his* complaint, and we being willing that error, if any there be, should be corrected in due form and manner, and that justice be done to the parties aforesaid, command you that if judgment thereof be given, you distinctly and openly, without delay, send to our Justices of the Supreme Court the record and proceedings of the plaint aforesaid, with all things touching the same, under your seal, so that we may have the same before our justices aforesaid at Ottawa, in the county of La Salle, on the *2^d Monday in June* next, that the record and proceedings, being inspected, we may cause to be done therein, to correct the error, what of right ought to be done according to law.

WITNESS, the Hon. SAMUEL H. TREAT, Chief Justice of our said Court, and the seal thereof, at Ottawa, this *14th* day of *April* - in the year of our Lord one thousand eight hundred and fifty *three*.

J. A. Island Clerk of the Supreme Court.

30
Wm C. Sult
Erastus Rawson
Wit of Ena

Filed Apr. 14, 1853,
V. Ireland Cts.

Arlet
vs
Ransom

Plff for Debt in Error.

1st The Motion to Continue came within no known rule entitling a party to be continuance. Merely a messenger from the party to his Attorney to inform him that the client was unable to attend Court could furnish no proof on which the Court could act.

If the reason really had any thing in it and by misfortune the necessary proof could not be made at the time - Sufficient affidavits might have been filed under the motion for a new trial.

2^d Pease was a competent witness. The sealed release is sufficient in form. The more honorable proposal of Pease to pay Ransom was not obligatory - especially when Ransom refused to accept the proposal & declared his intention to look to the man that had got his money.

It is not in the power of a witness to refuse a discharge, so as to effect his competency. 1st Stenkies Ev. 140

3^d The appropriation of Plff's money in the wrong person was a fraud upon him & he had a right to recover it in this action.

Mason vs Wain 17th Mass. R. 560 - money.

Story On agency 446

It was not necessary that Plff should have furnished the money directly to Pease. That got on Coates acceptance, was Ransom, the acceptance being furnished to get the money. That got of Smith was borrowed on Authority of Ransom, for Ransom, ~~was~~ as Ransom and so known to Arlet. It could make no difference whether Ransom paid the draft or not - but if it did there was evidence

warranting the jury to infer that Ramsom did pay
the draft. At any rate he would be
liable to Smith for money had & received.

Story's Agency { The fact that Pease had a design
152 { to misappropriate the money could render
it none the less Ramsom's.

4th Plff's instructions sustained by the Hutches
the Massachusetts case.

5th There was no evidence to found 4th in-
struction asked for Dept below.

6th Same as to 5th instructions.

7th There was a sufficient release to Pease.

8th No Exceptions were taken to the overruling of the
motion for a new trial. There was competent evi-
-dence tending to prove the money Ramsom's - whether
that evidence was sufficient is a question not
now open

Chambers & Taylor
for Dept in Error

Arch
vs
Ramsom
Error

Depts Brief

Filed July 15th 1853.
L. W. Leland Clk.
By G. W. Leland & Co. Sgts.

Ault } Brief for plff in error
 vs }
 Rawson } Single count in declaration, for money had
 & rec^d

A Witness by the name of Pearce called by the deft
 in error - says Ault won of him at cards about \$700 -
 at one time about \$350, at an other time about \$400,
 at an other time, about \$300, that he was engaged
 in purchasing what for deft in error, that he was
 authorized to draw - dfts - on him for that purpose
 that the above sum of \$300 he procured by sale of
 a dft - drawn by him & sold to a man by the name
 of Smith, that he drew this dft - & raised the money on it
 for the purpose of gaming - The witness not being
 authorized by dft - in error ^{to} draw for money to be
 used for such purposes, ~~was~~ ^{he} was not legally bound to
~~accept the~~ to pay the dft - There is no evidence
 showing ~~that~~ the payment of the dft - by Rawson
 Consequently no evidence showing the \$300 cash
 by the witness to have been the money of Rawson

Under this evidence the Court below ought not
 to have refused 2^d ^{to} instruction asked for by plff in
 error The Executives.

of The release to the witness Pearce if proved,
 may only proved by testimony of Pearce - Pearce swears
 that he conveyed previous to the bringing of this suit
 to dft - in error his house & lot in Chicago worth
 about \$450 - that he promised Rawson to pay
 him the bal - of the money if he ever got access -
 that he was to have the privilege of redeeming said
 house & lot, that he was making an effort to do so

Under this evidence the Court ought to have
 given the 5th instruction asked for by plff in error
 & the jury allowed to say whether the witness Pearce
 had a pecuniary interest in the event of the sale

Aut

24

Reunion

Pls bring

William C. Ault }
10 } Error to Salsu
Erastus Rawson }

This was an action of assumpsit brought by Rawson
vs Ault in Salsu Co Cir. court & tried April Term
Term AD 1852, J. G. Wilson presiding.

Declaration

1st count, common count for money paid laid out & ex-
pended. Money had received, Money lent & advanced
there was but a single count to the declaration, to this
was pleaded the

Plea

General issue, To which there was a Joinder.

continuance

June Term 1853 left moved for a new trial upon the fol-
lowing affidavit

~~Erastus Rawson~~ A. O. Glover attorney for defendant William
C. Ault states on oath that this suit is brought to recover money
alleged to have been won at gaming. Said defendant
has advised affiant that he has a good and legal
defence to this suit & in the opinion of affiant
the facts stated by defendant do amount to a proper
defence. Affiant believes the statement so made
by defendant to be true. That affiant can not
try this cause safely without the presence of
defendant, said defendant's counsel not being
acquainted with the witnesses by whom the facts
are to be proved. Affiant saw a messenger from
Perry from defendant on yesterday who states that
defendant was too sick to come to this court
affiant believes this said statement to be true
signed & sworn to

which motion the Court overruled and the defendant
excepted

The cause then came on to be tried before a Jury.
The Plaintiff called H. A. Pease who on application
of defendant was sworn on his voir dire and
testified to the Court that the money for which this suit is
brought was money lost at gaming by witness in playing cards
with defendant, that said money so lost was the money of the
Plaintiff, that witness lost at gaming with various persons some
36 or 38 hundred dollars, that after he lost the money he forced
up to ascertain the amount, this was in January 1857, I do
not consider myself liable to Pltff for the money lost to Ault

I told Rawson that I should pay him back when I got able
I have received a release from Plaintiff, this is it - produces a
release in the words and figures following

In ~~the~~ consideration of the sum of one dollar to me paid by
H. A. Pease, I hereby release him from all liability to me for
on account of certain sums lost by said Pease at play
with Wm C. Ault or Sabury by Bosley of Peru and to re-
cover which said sums, I have commenced actions in the
LaSalle County Circuit Court State of Illinois, the money
so lost having belonged to me

Chicago Sept 25th 1857

E. Rawson 

Witness

Before this release was executed I had decided to Rawson a
house and lot with some \$400 on which was a mortgage of \$150.
or \$175. I was trying to redeem the house and lot - At the time
I told Rawson that I should some time or other repay him this
money, he said that I was poor and that he must have it from
the men that had won it - The Defendant then objected to the said
H. A. Pease being sworn as a witness, upon the ground that he was
interested in the event of the suit - The Court overruled the objection
and permitted the said witness to testify in said suit, to which
decision the said Defendant then and there ~~objected~~ excepted
The said H. A. Pease was then sworn as a witness and testified

I knew the parties, Rawson 4 years Defendant since 1850, became acquainted with him in Peru. he was keeping a saloon at the time I was engaged in purchasing grain for Pltff on a contract with him, he furnished the money and I had so much per bushel for buying, During that season I had bought 80 or 90 thousand dollars worth, The first time I played with Ault, was in Bosleys Saloon, We played at Euchre and then Ault proposed to turn it in to poker - I told him I did not understand the game and he said he would teach me - I lost most every time small sums - Ault then proposed to play single handed Euchre at five dollars a game. We played, I was losing fast and we raised it to \$10. and before we got through we played at \$20. a game - This was about the last of September 1850. Ault won of me at that time \$350. I told him it was Rawsons money, Ault treated to liquor a number of times - The liquor made me stupid, had a different effect upon me from what it did generally, This was I think from long sitting, I do not think the liquor was drugged At dinner I proposed to go to dinner - Ault said he could accomodate me to lunch, he did so, We then played again about four hours The money I lost at this time was a portion of some money I had recieved upon a draft drawn by Goodell upon Coats of Peru. The Draft was given me by Plaintiff to use in the purchase of grain for him, I sold the Draft to Coffing - And another time when I was at Bosleys Ault and Morris came in - I was afraid to have Bosley see me play as he had warned me against it and I was afraid he would report me to Rawson - I slipped out at the back door and went over to Aults and he & I played at single handed Euchre for \$10. a game. We played until 11 o'clock, I lost in the neighborhood of \$300. He let me have \$90. back for which I gave him my note. I told Ault that he had made his brags that he had played the cards on me. He replied that he had played the cards on me, and he would do it, I was authorized by Rawson to draw a draft on him, part of the money I lost to Ault was obtained by my drawing on Rawson. After we had played a little while I drew a draft on Rawson & sold to S. G. Smith and thus raised the money

At the first sitting it was I that proposed to raise the bet - I had been loosing and proposed to raise the bet - Ault knew all the time that the money was Rawson's - I told him it was - To each and every part of the above testimony in relation to the money obtained of Smith, the Defendant at the time it was offered, objected on the ground that this action could not be ^{main-} ~~main-~~ maintained by this Pltff for money lost by Pease obtained in the manner above stated. The Court overruled the several objections of the Pltff and decided that an action might be maintained by the present Plaintiff for money lost at gaming by the witness Pease of the money obtained by him in the ~~manner~~ ^{as} above stated, To each of said decisions the Defendant ~~accepted~~ at the several times when they were made, said witness further testified as follows, Two weeks after I received \$1200. sent to me by Rawson by express - Ault proposed to play a single handed game of Poker - we played I lost \$40. The money belonged to Rawson, I had no money of my own with me.

This last testimony was objected to by the Defendant at the time ~~this~~ same was offered and given. The objection was overruled by the Court, to which decision the Defendant then and there ~~accepted~~ -

The witness on Cross Examination stated as follows - I can't swear that the draft sold by me to Smith was ever paid by Pltff, the last \$40, I received from Rawson personally - At the time we played Ault drank of the same kind of liquor I did and about the same amount. After the first sitting it was I that asked Ault to play - I wanted to get back what I had lost. At the first time I played with Ault I played with Morris after I played with Ault - I also played with Alexander Camont and with George Hughes, I did not loose anything to him. I played cards whenever I could get a chance about that time, was in the habit of doing it. After I lost the money I did propose to come on to draw a draft on Rawson for money and run away to Texas or California. I did think of doing it but I don't believe now that I should have done it, I felt ~~very~~ bad and didn't know what to do. When Ault let me have back the \$90. he said he would do it if I would not grumble any more.

Reexamined

At the time I was authorized to draw a draft on Rawson the Draft was never returned to me. Afterward I had other money in my hands of Rawsons

Re. Croft Etc?

At the time I drew the \$300 draft I did it to raise money to play with - Rawson did not authorize me to draw money to play with

The Plaintiff then called on a witness Seth Gardin who testified that in October 1850 the witness Pease asked me to go with him to Defendants - I went, I tried to get Ault to pay back the money or a part of it, I proposed to him to pay half of it back, as it was Rawsons money and that I would try and see what arrangements could be made in relation to the ballance - Ault said he had won \$700, of Pease that he had given back \$90 and he would be d-d if he would pay back a dollar more - Ault knew that it was Rawsons money I know that Pease had no money of his own - I knew about his affairs - he frequently borrowed a few dollars of me - I was also purchasing grain for Rawson and knew that Pease received packages of money from Rawson to purchase grain with, I know that Rawson had sent Pease a \$1200. drawn by Goddell - I have no means of knowing as to the ownership of the money lost but from Pease declarations and what I have already stated, This was all the evidence offered by the Plaintiff

The Defendant then called John S. Coats who stated that he knew the Character of H. A. Pease, the witness for truth, It was generally good, he had the reputation of stretching the truth a little or exaggerating. What I mean to say is that he stretched his story about contracts he had made, if he had told me had bought 50000 bushels I should have believed he had bought 20000 bushels, This was all the evidence

The Court at the request of the Plaintiff instructed the jury as follows

The Court is asked to instruct the jury, on the part of the Plaintiff

1st If the Jury believe from the evidence that the Defendant won, ~~money~~ at play, from the agent of the Plaintiff money of the Plaintiff and which had been entrusted to said Agent by the Plaintiff for a specific purpose they must find a verdict for the Plaintiff for the amount of the money so won with interest, unless the money or some part of the same has been returned to the Plaintiff or to said Agent,

2^d That a party winning money from another at play, gives no property in the money to won and the owner of the money ~~can~~ can maintain an action against for the money so won against the winner - which Instructions were severally objected to by the Defendant and the Court overruled the objection and gave said Instructions, to which ruling of the Court and to giving of said Instructions the Defendant excepted at the time they were given -

The Defendant asked the Court to instruct the jury as follows

For the defense the Court is asked to instruct the jury

1st That even if the witness Pease did lose at gaming to Defendant a sum of money which belonged to Plaintiff and if at that time the Defendant paid back to Pease \$90 of the money lost and took Pease's note for the same, the Plaintiff is not entitled to recover the \$90.

2^d If the witness ^{Pease} did lose at games with Cards to Defendant the sum of ^{three hundred dollars} \$300 which money was received by said witness Pease from Smith, for a draft drawn by Pease to Smith upon the Plaintiff sold by Pease to Smith, the Plaintiff is not entitled to recover their money in this action unless he has proven that he has paid the draft

3^d If the Plaintiff authorized Pease to draw certain drafts upon him to pay for coin that did not authorize Pease draw upon Plaintiff for money to be used in gaming nor did it bind Plaintiff to pay drafts drawn by the witness for money to be used in gaming

Given

Refused

Refused

Refused
4th 11 The Plaintiff Cannot recover in this action for bills of bank which were lost by Pease to Defendant which were of a less denomination than five dollars unless such bills were issued by a banking institution in this State authorized by its Charter to issue bills of a less denomination than five dollars

Refused
5th 11 If the jury believe from the evidence that the witness Pease is directly and necessarily and pecuniarily interested in the event of this suit they will not consider his testimony at all —

Refused
6th 11 That there is no release from Pearson to Pease in evidence in this Cause

All of which instructions the Court refused to give except the first in the Court below which was given. To the refusal of the Court to give the instructions asked for by the Defendant, severally, the Defendant then and there objected excepted, and prays that this his bill of exceptions be signed and made part of the record, which is done

James G. Wilson
Judge

Errors Assigned

1st 11 The Court erred in overruling the motion of Def^t for a continuance of the Cause

2^d 11 The Court erred in admitting the testimony of the witness H. R. Pease

3^d 11 The Court erred in admitting evidence concerning money lost by Pease not shown to have been paid by that Defendant in error

4th 11 The Court erred in giving each of the instructions asked for by this Defendant in error

5th 11 The Court erred in refusing to give ^{to the jury} the second instructions asked by the Plaintiff in error

6th The Court erred in refusing to give to the Jury the third instruction asked by Plaintiff in Error.

7th The Court erred in refusing to give to the Jury the fourth instruction asked for by Plaintiffs in Error.

8th The Court ^{erred in} refusing the fifth instruction asked by Defendant in Court below.

9th The Court ^{erred} in refusing the 6th instruction asked for by Def^t in Court below.

10th The Court erred in admitting improper evidence in behalf of the Plaintiff in Court below.

11th The Court erred in rendering the judgment aforesaid in manner aforesaid.

And for these errors & others manifest in said record said Plaintiff in Error prays that said Judgment be reversed.

Glover B. Cook

Cover to Labell
William C. Ault
vs
Erastus Rawson
Abstracts

Aust
vs
Ransom

Error to Saballe

Abstract for Sept in Error

Ransom was Plff. below, Declaration Common Money Courts.

At Nov. Term 1851 of Circuit Court, the Cause was continued on motion of Defendant below.

At June Special Term 1852 - Defts Counsel moved for continuance on affidavit of Counsel, that he was informed by his client & believed he had a good defense, that he needed defts attendance on the trial, that he did not know who were Defts witnesses; and that a messenger reported to him that Deft was too unwell to attend Court.

The motion was overruled. ^{taken} Excepting. The Plff below claimed to receive for money of his which had been entrusted with his agent Pease to purchase produce, and which Defendant won from Pease at Canas. Plff. offered Pease as a witness to prove the facts.

Deft below had Pease sworn on his voir dire who stated that he had a discharge from Ransom and produced it under seal. He also stated that he had told Ransom he went to pay him, but Ransom said he was too poor & that he went to collect the money from Aust.

Witness admitted. - Exception taken.

Pease testified in substance, that he played Canas with Aust several times, and lost each time, in all to some \$700. That the money was Ransom's & that he told Aust the money was Ransom's. That he was purchasing grain for Ransom on a commission and that Ransom furnished money for that purpose.

That part of the money lost to Aust was got on sale of a draft given him by Ransom to buy grain; the draft was drawn by Goodell on Coates.

Part of the money was obtained on a draft

drawn by Pease on ~~Ransom~~ + sent by Pease to S. G. Smith. Pease drew upon Authority from Ransom to draw on him for money to buy grain. Witnesses did not know whether Ransom had paid the Draft or not, but, he never had any ^{notice} ~~authority~~ of non-payment.

Pease's Authority was to draw for the purpose of buying grain - his own design at the time of drawing was to use the money in playing cards.

The balance of the money lost was received by Pease from Ransom ~~directly~~, to be used in buying grain.

All the foregoing testimony was objected to by Aults Counsel - Admitted by the Court & exception taken.

Plff. also introduced Seth M. Hearnin who testified in substance that he went with Pease to see Ault; that Ault admitted winning \$700 from Pease and that he knew that it was Ransom's money. & stated he had paid back \$90. Hearnin also confirmed generally the fact that Pease was using Ransom's money furnished to buy grain.

The foregoing is the substance of Plffs proof below.

Def't below introduced one witness who testified that Pease's general character for truth was good, but that he sometimes told large stories as to the amount of purchases he was making.

This was all the proof.

After Plff Below the Court charged

- 1st That if Def't won, ^{at play} from Plffs Agent, money entrusted to him for a specific purpose, Plff might recover back with interest, except what was repaid.
- 2^d. That the winner gets no property in money won at play; but the owner may recover it back.

Exception taken to above instructions

The following instructions asked by Defendant below were refused by the Court.

- 1st That Plff below could not recover for that part of

the money lost, which Pease got of Smith.

3^d That Authority from Ransom to draw on him for money to buy produce, did not authorize him to draw for money to use in gaming. And such Draft Ransom would not be bound to pay.

4th That Pff could not recover for any bills drawn by Deft. of less denomination than \$5. not issued by regular banks of this State.

5th If jury believe that Pease is directly & necessarily interested in the event of the suit, they should not consider his testimony.

6th That there was no release from Ransom to Pease.
To which refusals Exception taken.
Motion for new trial. Overruled
But no exception taken.

Errors Assigned

1st In overruling the motion to continue.

2^d In admitting Pease as a witness.

3^d In admitting testimony as to money lost by Pease, not shown to have been paid by Deft in Error.

4th In giving each instruction asked by Deft in error.

5th 6th 7th 8th & 9th

In refusing Pff in Errors 2^d 3^d 4th 5th & 6th instructions.

10th In admitting improper evidence for Pff below.

11th In rendering the judgment.

Auct. Ref in Error

vs

Ransom

Deft in Error's

Abstract

Filed July 15th 1853.

L. Leland Clk.

By J. N. Leland Sg.

William C. Ault
vs
Erastus Rawson

Error to Ladalle

This was an action of Assumpsit brought by Rawson
vs Ault in Ladalle Co Cir Court and tried June Term
A.D. 1852

Declaration

1st Count. Common Count for money paid, laid out
and expended, money had and received, money lent
and advanced. There was but a single Count to
the declaration

Plea

General Issue - To which there was a Joinder

1st Term 1851 cause continued on adjournment
June Term A.D. 1852. Defendant moves for a ~~new~~
~~continuance~~ ~~trial~~ upon the following Affidavit

Rawson vs Ault } J. O. Given Attorney for Deft William
C. Ault. States on oath that this suit is brought to recover
money alleged to have been won at gaming. Said Deft
has advised affiant that he has a good and legal
defence to this suit and in the opinion of affiant
the facts stated by Deft do amount to a perfect defence.
Affiant believes the statement so made by Deft to be true
That affiant cannot try this cause safely without the pres-
ence of Deft. Said Deft's Counsel not being acquainted with
the witnesses by whom the facts are to be proved, Affiant
saw a messenger from Peru from said Deft on yesterday who
stated that defendant was too sick to come to this Court -
Affiant believes said statement to be true

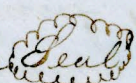
Signed & Sworn to

which motion the Court overruled and the Deft excepted

The Cause then came on to be tried by a jury. The Plaintiff called H. H. Pease who on Application of the Deft was sworn in his own day and testified to the Court that the money for which this suit is brought was money lost at gaming by said witness in playing Cards with Deft. That said money so lost was the money of the Plaintiff. That witness lost at gaming with various persons some 36 or 38 hundred dollars, That after he lost the money he footed up to ascertain the amount. This was in January 1857. I do not consider myself liable to Plaintiff for the money lost to Ault - I told him that I should pay him back when I got able. I have received a release from Plaintiff, this is it - Produces a release in the words and figures following -

"In Consideration of the sum of one dollar to me paid by H. H. Pease I hereby release him from all liability to me for or on account of certain sums of lost by said Pease at play with Wm. C. Ault or Asbury by Bosley of Peru and to recover which said sums I have commenced actions in the LaSalle County Circuit Court State of Illinois, the money so lost having belonged to me
Chicago Sept 25th 1857

Witness

E. Rawson 

Before this deed was executed I had deeded to Rawson a house and lot worth some \$400, on which was a mortgage of \$100 or \$175. I was trying to redeem the house & lot. At the time I told Rawson I should at some time or other repay him this money he said ^{first} I was too poor and he must have it from the man who had won it.

The Deft then objected to the said H. H. Pease being sworn as a witness upon the ground that he was interested in the event of the said. The Court overruled the objection and permitted said witness to testify in said suit. To which decision

the said Defendant then and there excepted. The said H. H. Pease was then sworn as a witness and testified as follows -

I know the Parties Rawson 4 years Defendant since 1850. became acquainted with him in Peru. He was keeping ^a saloon at the time. I was engaged in purchasing grain for Defendant on a Contract with him. He furnished the money and I had so much per bushel for buying. During that season I had bought 80 or 90 thousand dollars worth. The first time I played with Ault I was in Bosleys Saloon. We played Cucker and then ~~Bosley~~ ^{turn} proposed to change it into Poker - I told him I did not understand the game and he said he would teach me - I lost most every time small sums. Ault then proposed to play single handed Cucker at five dollars a game - He played I was losing fast and we raised it to \$10. and before we got through we played at \$20, a game - This was about the last of Sept 1850. Ault won of me at that time \$350. I told him it was Rawsons money - Ault treated to liquor a number of times, the liquor made me stupid - had a different effect on me from what it had generally - This was I think from long sitting - I do not think the liquor was drugged. At noon I proposed to go to dinner. Ault said he could accomodate me to lunch - he did so - we then played again about 4 hours. The money I lost at this time was a portion of some money I had received on a draft drawn by Good upon Coats of Peru - The draft was given me by Plaintiff to use in the purchase of grain for him - I sold the draft to Coffey and another time when I was in Bosleys Ault & Morris came in I was afraid to have Bosley see me play as he had warned me against it and I was afraid he would report me to Rawson. I slipped out of the back door and went over to Aults and he and I played single handed Cucker for \$10. a game. We played until 11 O.C. I lost in the neighborhood of \$300 - He let me have \$90. back for which I gave him my note. I told Ault that he had made his brags that he played the cards,

on me. He replied that he had played the cards on me & he would do it. I was authorized by Rawson to draw a draft on him. Part of the money I lost to Ault was obtained by my drawing on Rawson. After we had played a little while I drew a draft on Rawson and sold to J. G. Smith and thus raised the money. At the first sitting it was that proposed to raise the bet. I had been losing and proposed to raise the bet. Ault knew all the time that the money was Rawson's. I told him it was. To each and every part of the above testimony ~~admitted~~ in relation to the money obtained of Smith ~~the~~ Defendant at the time it was offered objected on the ground that this action could not be maintained by the Plaintiff for money lost by Pease obtained in the manner above stated. The Court overruled the several objections of the Defendant and decided that an action might be maintained by the Present Plaintiff for money lost by at gaming by the witness Pease of the money obtained by him as above stated. To each of said decisions the Defendant objected ~~at~~ excepted at ^{several} the times when they were made. Said witness further testified as follows. Two weeks after I rec^d \$1200, sent me by Rawson by Express. Ault proposed to play a single handed game at Poker. He played. I lost \$40. The money belonged to Rawson. I had no money of my own with me. This last testimony was objected to by the Defendant at the time the same was offered and given. The objection was overruled by the Court. To which decision the defendant then and there excepted.

The Witness on Cross Examination stated as follows. I can't swear that the draft sold by me to Smith was ever paid by Plaintiff. The last \$40 I received from Rawson personally. At the time we played Ault drank the same kind of liquor I did and about the same amount.

After the first sitting it was that asked Ault to play. I wanted to get back what I had lost. At the first time I played

with Ault, I also played with Alexander Samant and with George Houghes - I did not loose anything to him - I played cards whenever I could get a chance about that time - was in the habit of doing it - After I lost the money I did propose to some one to draw a draft on Rawson for money and run away to Texas or California, I did think of doing it but I don't believe now that I should have done it, I felt very bad and didn't know what to do - When Ault let me have back the \$70, he said he would do it if I would not grumble any more

Reexamined

At the time I was authorized to draw a draft on Rawson the draft was never returned to - Afterward I had other money of Rawson,

Re Cross Ex. At the time I drew the \$300. draft I did it to raise money to play with

The Plaintiff then called on a witness Seth Hordin who testified that in Oct 1850 the witness Pease asked me to go with him to Defendants - I went - I tried to get Ault to pay back the money or a part of it - I proposed to him to pay half of it back as it was Rawson's money and that I would try and see what arrangements could be made in relation to the balance Ault said he had won \$700. of Pease, that he had given back \$90. and would be d-d if he would pay back a dollar more - Ault knew that it was Rawson's money - I knew that Pease had no money of his own - I knew about his affairs - he frequently borrowed a few dollars of me, I was also purchasing grain for Rawson and knew that Pease received packages of money from Rawson to purchase grain with, I knew that Rawson had sent to Pease a \$200 draft drawn by Goodell I have no means of knowing as to the ^{amount of} money lost but from Pease's declarations and what I have already stated - This was all the evidence offered by the Plaintiff -

The Defendants then called John W. Cants who stated that he knew

the Character of H. S. Pease, the witness for truth - It was generally good - He had the reputation of stretching the truth a little exaggerating

X^d What I mean to say is that he had stretched his stories about Contracts he had made - If he had told me he had ~~purchased~~ bought 80000 bushels I should have believed he had bought 20000 bushels - This was all the Evidence

The Court at the request of the Plaintiff instructed the Jury as follows -

The Court is asked to instruct the Jury on the part of the Plff.

1st If the Jury believe from the evidence that the Deft won, at play, from the Agent of the Plff money of the Plff and which had been intrusted to said Agent for a specific purpose they must find a verdict for the Plff for the amount of the money so won with interest unless the money or some part of the same has been returned to the Plaintiff or to said Agent

2^d That a party winning money from another at play gains no property in the money so won and the owner of ^{said} the money can maintain an action for the money so won against the winner - Which Instructions were severally objected to by the Defendant and the Court overruled the objections & gave said Instructions to which ruling of the Court and to giving of said Instructions the Defendant excepted at the time they were given

The Defendant asked the Court to instruct the Jury as follows
For the Defence the Court is asked to instruct the Jury -

1st That even if this witness Pease did lose at gaming to Defendant a sum of money which belongs to the Plaintiff and if at that time the Deft paid back to Pease $\$80.$ of the money lost and took Pease's note for the same

The Plaintiff is not entitled to recover the \$90.

Qⁿ If the witness Pease did loose at games with cards, to & left the sum of three hundred dollars which money was received by said witness Pease from Smith for a draft drawn by Pease upon the Plff. sold by Pease to Smith, the Plaintiff is not entitled to recover the money in this action unless he has proven that he has paid the draft

Qⁿ If the Plff authorized the witness Pease to draw certain drafts ^{up} on him to pay for corn, that did not authorize Pease to draw upon Plaintiff for money to be used in gaming, nor did it bind Plaintiff to pay drafts drawn by the witness for money to be used in gaming

Ath The Plaintiff cannot recover in this action for bills of bank, which were lost by Pease to Defendant which were of a less denomination than five dollars unless such bills were issued by a banking institution in this State authorized by its Charter to issue bills of a less denomination than five dollars

Jth If the Jury believe from the evidence that the witness Pease is directly and necessarily pecuniarily interested in the result of this suit they will not consider his testimony at all

Qth That there is no release from Rawson to Pease in evidence in this Cause

All of which instructions the Court refused to give except the first which was given. To the refusal of the Court to give the instructions asked for by & left severally the Defendant thus and thus excepted

Errors Assigned

1st The Court erred in overruling the motion of D^{ft} for a continuance in this Cause —

2^d The Court erred in admitting the evidence of ^{the witness,}
H. H. Pease, -

3^d The Court erred in admitting evidence concerning
money lost by Pease not shown to have been paid by that
Defendant in Error

4th The Court erred in giving each of the Instructions
asked for by this Dept in Error

5th The Court erred in refusing to give the 2^d Inst.ⁿ
asked for by this Plaintiff in Error

6th The Court erred in refusing to give to the Jury the 3^d
Instruction asked for by the Pltff in Error

7th The Court erred in refusing to give to the Jury the 4th Inst.ⁿ
struction asked for by the Pltff in Error

8th The Court erred in refusing the 5th Instructions asked
for by Dept in Court below

9th The Court erred in admitting improper evidence in
behalf of the Pltff in Court below

10th The Court erred in rendering the Judgment aforesaid
in manner aforesaid

And for these Errors and others manifest in the
Record said Plaintiff in Error prays that said Judgment be
reversed

Steven Cook

Error to Sadelle
William C. Ault
vs
Erastus Rawson
Abstracts

STATE OF ILLINOIS, }
Supreme Court.

The People of the State of Illinois,

To the Sheriff of the County of *Cook* Greeting:

BECAUSE in the record and proceedings, and also in the rendition of the judgment of a plea which was in the circuit court of *La Salle* county, before the Judge thereof, between *Erastus Rawson* plaintiff

& *William C. Ault*

Defendant, it is said that manifest error hath intervened, to the injury of the said *Ault*

as we are informed by *his* complaint, the record and proceedings of which said judgment we have caused to be brought into our Supreme Court of the state of Illinois, at Ottawa, before the justices thereof, to correct the errors in the same, in due form and manner, according to law; therefore we command you, that by good and lawful men of your county, you give notice to the said

Erastus Rawson

that *he* be and appear before the justices of our said supreme court, at the next term of said court, to be holden at Ottawa, in said state, on the *2nd* Monday in *June* next, to hear the records and proceedings aforesaid, and the errors assigned, if *he* shall see fit; and further to do and receive what said court shall order in this behalf; and have you then there the names of those by whom you shall give the said *Rawson* notice, together with this writ.

Witness, the Hon. SAMUEL H. TREAT, Chief Justice of our said Court, and the seal thereof, at Ottawa, this *14th* day of *April* in the year of our Lord one thousand eight hundred and fifty *three*.

A. Keland Clerk of the Supreme Court.

338^v No. 30

~~Wm~~ William C. Dult

Erastus Rawson

Sci. Fa. to book

June Term 1853.

Served by reading to the
within named Erastus
Rawson April 29th 1853

Fees 1 am 50
Paid to { 1 miler 5
shipp { Rate 10
65

Cyrus C. Bradley Sheriff
By J. M. Regan Deputy

Filed May 12, 1853,
L. Leland Clk.

No. 30

William C. Ault

Erastus Rawson

1853

30.

Prepared

1853

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