No. 14467

Supreme Court of Illinois

Golden

vs.

Knox

STATE OF ILLINOIS,

SUPREME COURT,

Third Grand Division

No. 177

Golde

vs

1863

Kenn

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Pleas before the Honorable Ira O Wilkinson judge of the Sixth District of the State of Illinois at a term of the Circuit Court begun and held at the Court House within and for the County of Rock Island on the second Monday the twelfth day of January in the Year of our Lord One thousand eight hundred and Sixty three.

Present Honble Ira O Wilkinson - Judge
Chas A McLaughlin Sheriff
Edward A Bowman Clerk

Be it Remembered that on the 12th day of December 1862. there issued forth of the Office of the Clerk of the Circuit Court in the City of Rock Island in the County of Rock Island and State of Illinois a writ of Summons which is in the words and figures following, to wit:

State of Illinois } The People of the State
Rock Island County } of Illinois to the Sheriff
of Rock Island County, Greeting

We command you, to summon Amos Golden if to be found in your County personally to be and appear before the Circuit Court of said County of Rock Island on the first day of the next term thereof to be holden at the Court House in Rock Island on the second Monday of January next then and there to answer unto Charles M Knox of a plea of trespass on the case upon promises to his damage in the sum of Four hundred Dollars as he says; and have you then and there this writ and make due return thereon in what manner you execute the same. Witness Edward A Bowman Clerk of our Circuit Court and the seal thereof

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affixed at Rock Island this 12th day of December in the year of our Lord one thousand eight hundred and sixty two

Edward. H. Bowman Clerk

On the back of said writ the following returns were written & made to wit,

"I have served the within writ by reading the same to the within named defendant Amos Golden this 26th day of December A.D. 1862

C. A. McLaughlin
Sheriff of Rock Island County
By David Hawes Dept Shff

Be it further Remembered that on the 12th day of December 1862 there was filed in the office of the Clerk of the Circuit Court in the City of Rock Island and State of Illinois a narrative or Complaint which is in the words and figures with note attached following to wit—

(Copy of note attached)

"Cordovia August 25th 1857

For value received I promise to pay to the Sterling & Rock Island Rail Road Co or Order the sum of Two Hundred Dollars at the Expiration of Five years from the first day of September A.D. 1857 with Interest thereon at the rate of ten per cent per annum, payable semi Annually in each year on the first day of March and September, Principal and Interest payable at the Office of said Company at Sterling in the County of Whiteside and State of Illinois

Amos Golden"

On the back of the aforesaid note appears the following endorsement "Interest Cancelled to Sept 1st 1858"

"Pay Reynolds Wilder & Co or order Sterling & Rock Island Rail Road Co M. D. Kerr President, without Recourse Reynolds Wilder & Co
Filed 26 January 1863 E H Bowman clerk"

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State of Illinois
Rock Island County } ss: Of the January term AD 1863 of the Circuit Court of said County

Charles M Knox plaintiff in this suit by A Webster his attorney complains of Amos Golden Defendant in this suit commenced &c of a plea of trespass on the case on promises:

For the Defendant on the 25th day of August AD 1857 at Cordova to wit at the County of Rock Island & state of Illinois by his promissary note of that date for value received promised to pay at the expiration of five years from the 1st day of September AD 1857 to the Sterling & Rock Island Rail Road Company (under the style of Sterling & Rock Island Rail Road Co) or Order the sum of Two Hundred Dollars with interest thereon at the rate of ten per cent per annum payable semi annually in each year on the first day of March and September Principal and Interest payable at the Office of said Company at Sterling in the County of Whiteside and State of Illinois - And the said Company afterwards to wit on said 25th day of August AD 1857 at the County aforesaid endorsed the said note on the back thereof (as Sterling & Rock Island Rail Road per M S. Henry President) and assigned the same and ordered it to be paid to Reynolds Milder & Co or order - of all of which the said Defdt then and there had notice - And afterwards to wit on the day & year last aforesaid at the County last aforesaid the said Reynolds Milder & Co endorsed the said note on the back thereof and assigned the same "without Recourse" to the plaintiff

all of which the said Defendant there and then had notice and said Plff avers that said note long since became due and payable — By reason whereof the defendant became liable then and there in consideration of the premises promised the plaintiff to pay him the amount of the said note according to the tenor and effect thereof and of the endorsement thereof. And also for that whereas the defendant on the 1st day of December in the year of our Lord one thousand Eight hundred and sixty two at the County of Rock Island aforesaid was indebted to the plaintiff in Four Hundred Dollars for work done and materials for the same provided by the plaintiff for the defendant at his request. And in Four Hundred Dollars for money paid by the plaintiff for the use of the defendant at his request. And in Four Hundred Dollars for money received by Defendant for the use of the Plaintiff. And in Four Hundred Dollars for money due from the Defendant to the Plaintiff on an account stated between them. And whereas the defendant afterwards to wit on the day and year and at the place last aforesaid in consideration of the premises respectively promised to the plaintiff to pay him the said last mentioned several moneys respectively on request. Yet the defendant has disregarded his promises and has not paid to the plaintiff any of the aforesaid moneys or any part thereof to the plaintiff's damage of Four Hundred Dollars and thereupon he brings suit &c

A. Webster Plaintiff's Attorney

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The only cause of action in this suit is the promissory note a copy whereof is herewith filed &c

A. Webster Pltff Atty

(Copy of Note sued on)

$200. Cordova August 25th 1857

For value received I promise to pay to the Sterling & Rock Island Rail Road Co or order the sum of Two Hundred Dollars at the expiration of five years from the 1st day of September A.D. 1857 with interest thereon at the rate of ten per cent per annum payable semi annually on the first day of March & September Principal and Interest payable at the Office of the said Company at Sterling in the County of Whiteside and State of Illinois

Amos Golden

(Endorsed)

"Interest Cancelled to Sept 1st 1858"

"Pay Reynolds Wilder & Co or order"

"Sterling & Rock Island Rail Road"

"Pr W. S. Henry President"

"Without Recourse"

"Reynolds Wilder & Co"

at the January Term of sd Court

And afterwards, to wit on the fourteenth day of January AD 1863 the following proceeding was had before the said Judge of the said Court, and entered of Record in the Common Law Record Book in the Office of the said Circuit Clerk in the County & State aforesaid to wit.

Charles M Knox
vs
Amos Golden

This day came the Plaintiff by A Webster his Attorney and on his Motion It is Ordered by the Court that the defendant be ruled to plead by tomorrow Morning -

And Be it further Remembered that on the 17th day of January AD 1863 there was filed in the Office of the said Circuit Clerk County and State aforesaid, Pleas in said Cause, which are in the words & figures following to wit.

State of Illinois
Rock Island County } Sd Circuit Court

Amos Golden
vs
Charles M Knox

Pleas

1 And now comes the said defendant Amos Golden by Samuel Strawder & Samuel R Allen his Attorneys and defends the wrong and injury to him &c. And says that he did not assume and promise and undertake in manner and form as the said Plaintiff hath thereof in his said Declaration complained against him and of this he puts himself upon the Country

Samuel Strawder
Samuel R Allen Defts Attys

And the said Plaintiff doth the like
By A Webster

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And for a further Plea in this behalf by leave of the Court first had and obtained for that purpose the said defendant says that the said plaintiff ought not to have or maintain his said action aforesaid against him because he says that heretofore to wit on the seventh day of July AD 1857 the said Sterling and Rock Island Rail Road Company by its Officers and Agents pretended to be an incorporated Company legally and lawfully organized under and by virtue of the laws of the land and a general statute of the State known as an act to provide for a general system of Rail Road incorporations and the amendatory acts thereto. And as such a Company under the name and style of Sterling & Rock Island Rail Road Company by its officers and Agents requested this defendant to subscribe for and take Two shares of the Capital Stock of said Company Each share being one hundred dollars The two shares amounting to the sum of Two Hundred dollars. And this defendant says that upon the solicitation of said Company by its officers and Agents he did, to wit on the day and year last aforesaid upon the Stock Books of Subscriptions of said Company subscribe for and did agree to take and did take Two shares of the said Capital Stock of said Company and ~~did~~ then and

then agree to pay to the said Company for Two Shares of the Capital Stock of said Company the said sum of Two hundred dollars to be paid at such times and in such installments as the Board of Directors of said Company might from time to time direct they the Board of Directors giving the lawful notice of the time and place of paying the same, and the defendant says that after he had subscribed for two shares of the Capital Stock of the said Company upon the Stock books of said Company as aforesaid the said Company by its Officers and Agents requested the defendant to make execute and deliver to the said Company his this defendants promissory Note payable at the expiration of five years from the first day of September AD 1857 for said sum of Two Hundred dollars with interest thereon at the rate of Ten per cent per annum or ten cents on each and every dollar in said note mentioned for each and every year that said note is to run before it becomes due and payable which said interest money in said note mentioned is to be paid semi annually in each and every year, that is to say on the first day of March and the first day of September in each year and thereupon and in pursuance of the said request of said Company the said defendant did to wit on the Twenty fifth day of August in the year of our Lord one thousand eight hundred and fifty seven to wit at Cordova in

said County make execute and deliver to the said Company ~~his~~ this defendants promissory note calling for the sum of Two Hundred Dollars to be paid five years from and after the first day of September in the year of our Lord one thousand and eight hundred and fifty seven with interest at the rate of ten per cent per annum on ten cents on each and every dollar mentioned in said note for each and every year that said note was to run before it became due and which interest on said note is to be paid semi annually to wit on the first day of March and on the first day of September in each and every year and which and which is the same note mentioned in the plaintiffs declaration and the defendant avers and says that the said Company did to wit on the Twenty fifth day of August in the year of our Lord one thousand Eight Hundred and fifty seven to wit at the said County ~~County~~ of Rock Island demand of and receive of and from this defendant the said promissory note mentioned in the plaintiffs declaration in consideration of and in full payment of and for the said Two shares of the Capital Stock of the said Company which this defendant had subscribed for as aforesaid and which said Two shares of the Capital Stock afore said was the sole and only consideration

given or received for said note and that there was no other or different consideration for said notes and the defendant avers and says that the requesting and receiving of the said note by the said Company in manner and form as afore-said was and is in violation of the laws of the Articles of the said Sterling & Rock Island Rail Road Company Corporation and that the said note is fraudulent and void in law all of which the said Reynolds Milder & Co well knew at the time they received said notes and all who claim any interest in said note well knew at the time they and each and every of them received said note and this the defendant is ready to verify wherefore he prays judgment &c &c

Samuel Prawder
Samuel R Allen
Defendants Attys

3rd "

And for a further plea in this behalf by leave of the Court first had and obtained the defendant says actio non. because he says that the note mentioned in the Plaintiffs Declaration was given in payment of Two Shares of the Capital Stock of the said Sterling & Rock Island Rail Road Company and that on the only and all the consideration given or received for said note and that said two Shares of said Capital Stock had been subscribed for by this defendant previous to giving said note and that the amount of Capital Stock required to construct and procure the right of way and motive power and every other appurtenance for the completion and

running of the said Sterling & Rock Island Rail Road has not been subscribed for nor has it been taken to wit the sum of six hundred thousand Dollars that being the amount required as estimated by competent Engineers as appears in the Articles of association of said Company which articles of association are now on file in the Office of Secretary of State in Springfield in the State of Illinois All of which the said Reynolds Miller & Co and all persons that claim any interest in the said note well knew at the time that they and each of them received said note and this the defendant is ready to verify and wherefore he prays judgment &c

Samuel Shepherd
Samuel R Allen Defts Attys

4th And for the further plea in this behalf by leave of the Court first had and obtained the said defendant says actio non because he says that the note mentioned in the plaintiffs declaration was given in payment of Two Shares of of the Capital Stock of said Sterling and Rock Island Rail Road Company and that was the only and all the consideration either given or received for said note and the defendant avers that he had subscribed for said Two Shares of the Capital Stock previous to giving said note and the defendant avers that the amount of the Capital Stock required to construct and procure the right of way and motive power and every other appurtenance for the completion and running the said Sterling & Rock

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Island Rail Road by its Charter and the amendments to said Charter of said Company has not been subscribed for nor has it been taken to wit the sum of Two Hundred and Fifty Thousand Dollars All of which said Reynolds Milder & Co and all that claim any interest in said note well knew at the time they and each and every of them received said note and this defendant is ready to verify wherefore he prays judgment &c

Samuel Strawder
Samuel R Allen Jr Attys

5th

And for a further plea in this behalf by leave of the Court first had and obtained the said defendant says actio non because he says that the note mentioned in the plaintiffs declaration was given in payment of Two shares of the Capital Stock of the said Sterling and Rock Island Rail Road Company and that was the only and all the consideration either given or received for said note and the defendant avers that he had subscribed for said Two shares of the Capital Stock Company previous to the giving of said note and the defendant avers that the Capital Stock required to construct and build & procure the right of way and motive power and every other appurtenance for the completing and running the said Sterling & Rock Island Rail Road by its Charter and amendments to its Charter has not been subscribed for nor has it been taken to wit the sum of two hundred and

Fifty thousand dollars the amount required by the amendment to the original charter of said Sterling & Rock Island Rail Road Company and that the work on said Sterling and Rock Island Rail Road is now & has been for some time suspended and indeed the project of building said Sterling and Rock Island Rail Road is abandoned all of which the said Reynolds Wilder & Co and all who claim any interest in said note well knew at the time they and each of them received said note and this defendant is ready to verify wherefore he prays judgment if the plaintiff ought to have or maintain his aforesaid action against him

Samuel Strawder

Samuel T. Allen
Defts Attys

6th

And for a further Plea in this behalf by leave of the Court first had and obtained the defendant says Actio non because he says that the note mentioned in the plaintiffs declaration was given in payment of two shares of Capital Stock of the said Sterling and Rock Island Rail Road Company and that was all and the only consideration either given or received for said note and the defendant avers that he had subscribed for said two shares of said Capital Stock of said Company previous to

giving of said note and he avers that the said Rail Road Company had no power or authority under its said Charter and the laws of the land to receive and endorse and transfer said note in manner and form as the said plaintiff hath in his said declaration alleged but the defendant avers and says that the receiving and transferring and endorsing said note in manner and form as aforesaid is in violation of the laws of the land and of the articles of the said Sterling and Rock Island Rail Road Company Corporation and that the transfer and endorsement of said note in manner and form aforesaid is fraudulent and void in law all of which the said Reynolds Wilder & Co and all claiming any interest in said note well knew at the time they and each of them received said note and this the defendant is ready to verify wherefore he prays Judgment &c

Samuel Strawder

Samuel R. Allen

Defts Attys

7th
11

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And for a further Plea in this behalf by leave of the Court first had and obtained the said Defendant says actio non because he says that the note mentioned in the plaintiffs declaration was given in payment of Two shares of the Capital Stock of the Sterling and Rock Island Rail Road Company which the defendant had previous to giving said note subscribed for and that was all & the only consideration given or received for said note and the defendant avers that the said Miles S. Henry had no power or authority under the Charter of said Company or any amendment to said Charter of said Company or by virtue of the laws of the State nor had the said Miles S. Henry any Authority from said Company or the Board of Directors of said Company as President or otherwise to transfer and endorse said note in the manner and form as the said plaintiff has alleged in his said declaration but the defendant avers and says that the said note was transferred and endorsed without any authority whatever from said Company or the Board of Directors of said Company and said transferring and endorsing said note is therefore fraudulent and void in law all of which the said Reynolds Wilder & Co and all claiming any interest in said note well knew or

the time they and each of them received said note and this defendant is ready to verify wherefore he prays Judgment &c

Samuel Strawder
Samuel R Allen
Defts Attys

8th

And for a further plea in this behalf by leave of the Court first had and obtained the defendant says actio non because he says that the note in the plaintiffs declaration mentioned was given in payment of five shares of the Capital Stock of the said Sterling & Rock Island Railroad Company which the defendant had previous to giving his said note subscribed for to the capital stock of the said Sterling & Rock Island Railroad Company and that was all and the only consideration either given or received for said note and the defendant avers & says that he was induced to make execute and deliver the said note in the plaintiffs declaration mentioned to the said Sterling and Rock Island Railroad Company by means of false and fraudulent representations of the said Sterling & Rock Island Rail Road Company its officers and agents in this to wit, the defendant avers that at the time and before he executed and delivered said note to the said Sterling & Rock Island Rail Road Company the said Company and its officers and agents falsely and fraudulently represented

7th
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And for a further Plea in thisbehalf by leave of the Court first had and obtained the said Defendant says actio non because he says that the note mentioned in the plaintiffs declaration was given in payment of Two shares of the Capital Stock of the Sterling and Rock Island Rail Road Company which the defendant had previous to giving said note subscribed for and that was all & the only consideration given or received for said note and the defendant avers that the said Miles S. Henry had no power or authority under the Charter of said Company or any amendment to said Charter of said Company or by virtue of the laws of the State nor had the said Miles S. Henry any Authority from said Company or the Board of Directors of said Company as President or otherwise to transfer and endorse said note in the manner and form as the said plaintiff has alleged in his said declaration but the defendant avers and says that the said note was transferred and endorsed without any authority whatever from said Company or the Board of Directors of said Company and said transferring and endorsing so note is therefore fraudulent and void in law all of which the said Reynolds Wilder & Co and all claiming any interest in said note well knew at

to this defendant that all the Capital Stock required to build construct and procure the right of way and procure the motive power and every other equipment necessary to build and run said Railroad had been subscribed for and in good faith taken and that the Company was going to build and equip the said Rail road immediately and that the Cars would be running through from Sterling to Rock Island within Eighteen Months or less from the date of said note and the defendant says that he relied on said representations as being true and so relying on said representations as being true and in consideration thereof he was induced to, and did make execute and deliver said note to the said Company and by the means thereof the said Company procured and obtained said note and the defendant avers that the aforesaid representations are false and untrue that the amount of Capital Stock required to build construct and procure the motive power of said Rail Road has not been subscribed for nor has it been taken nor has the Sterling and Rock Island Railroad been built although it is more than Eighteen Months since said note was given but on the contrary the work on said Rail road has been suspended and is in fact really abandoned All of which the said Reynolds Milsen & Co. and all who claiming any interest in

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said note well knew at the time they and each of them received said note and this defendant is ready to verify wherefore he prays judgment &c

Samuel. Strander
Samuel. R Allen
Defts Attys

9 And for a further plea in this behalf by leave of the Court first had and obtained the defendant says actio non because he says that the note mentioned in the plaintiffs declaration was given in payment of two shares of the Capital stock of the said Sterling & Rock Island Rail Road Company that the defendant had previously subscribed for and that was all and the only consideration either given or received for said note and the defendant avers that he was induced to make execute and deliver said note to the Rock Island Railroad Company by means of the false and fraudulent representations of said Sterling & Rock Island Rail Road Company its officers and agents in stating that all the Capital stock required to build construct and procure the right of way and buy the motive power and every other equipment necessary to build said Railroad had been subscribed for and in good faith taken and that the company was going to build and equip said Rail Road immediately

and the cars would run through from Sterling to Rock Island within Eighteen months or less from the date of said note and the defendant says that he relied on said representations as being true and so relying upon said representations as being true at the time he executed and delivered said note to said company he thereby was induced by said false and fraudulent representations aforesaid to make and deliver said note to said Rail Road Company and by means thereof the said Company procured and obtained said note. The defendant avers and says that the aforesaid representations are fraudulent false and untrue and that the amount of Capital Stock required to build construct procure the right of way and procure and buy the motive power and the other necessary equipments for said Railroad has not been subscribed for and taken and that the said Railroad has not been built and that the work thereon has been suspended and that the said Company has abandoned the work on said Rail Road and will not build said Rail road from the city of Sterling in Whiteside County in the State of Illinois to Rock Island in the County of Rock Island & State aforesaid

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according to the articles of association or incorporation of said company wherefore the consideration for which said note was given has entirely failed and there is no consideration for said note whatever all of which the said Reynolds Milder & Co and all claiming any interest in said note well knew at the time they and each of them received said note and this the defendant is ready to verify wherefore he prays Judgment &c

Samuel Thrawder
Samuel R Allen Attys

10th " And for a further plea in this behalf by leave of the Court first had & obtained the defendant says actio non because he says that he was induced to make execute and deliver the said note mentioned in the plaintiffs declaration to the Sterling & Rock Island Rail Road Company by means of false and fraudulent representations of the said Sterling and Rock Island Rail Road Company and its officers & agents made to this defendant before and at the time said note was executed and delivered to said Company and that the said note was procured and obtained by the said Sterling & Rock Island Rail Road Company from this

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defendant by fraud and circumvention practised upon this defendant by the said Company its officers & Agents all of which the said Reynolds Milder & Co well knew and all others that claim any interest in said note at the time they and each of them received said note and this the defendant is ready to verify wherefore he prays judgment &c

Samuel Strawder
Samuel R Allen Deft's Attys

11th

And for a further plea in this behalf by leave of Court first had and obtained the defendants says actio non because he says that he ought not to be charged with the said debt or claim by virtue of the said supposed writing obligatory because he says that the said supposed note or writing obligatory was obtained from him by the said Sterling & Rock Island Rail Road Company and its officers and agents by fraud covin and misrepentation all of which the said Reynolds Milder & Company and all others claiming any interest in said note well knew at the time they and each of them received said note and this he is ready to verify wherefore he prays judgment &c

Samuel Strawder
Samuel R Allen Deft's Atty

12th

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And for a further plea in this behalf by leave of the Court first had and obtained the defendant says actio non because he says that he never received any valuable or legal & lawful consideration for said note whatever all of which the said Reynolds Milder & Co and all persons claiming under them or having any interest in said note well knew at the time they and each of them received said note and this the defendant is ready to verify whereof he prays judgment &c

Samuel Strawder
Samuel R Allen
Defts Attys

13th

And for a further plea in this behalf by leave of the Court first had and obtained the defendant says actio non because he says that there is not nor on the day of the commencement of this suit nor ever since was there in existance any such corporation called the Sterling & Rock Island Rail Road Company as by the said note mentioned in the plaintiffs declaration is supposed all of which the said Reynolds Milder & Co and all claiming under them knew well at the time they and each of them received said note and this defendant is ready to verify wherefore he prays judgment if the said Plaintiff ought to have or maintain his aforesaid

action against him &c

Samuel Strawder
Samuel R Allen
Defts Attys

14th And for a further plea in this behalf by leave of the Court first had and obtained the defendants says actio non because he says that the said Board of Directors of the said Sterling & Rock Island Rail Road Company did not previous to the making and delivering of said note mentioned in said plaintiffs declaration nor have the said Company even demanded of this defendant the full sum of the said Capital Stock that he subscribed for, to wit the ten shares that this defendant subscribed for to the said Sterling and Rock Island Rail Road Company as aforesaid All of which the said Reynolds Wilder & Co. and all who claim any interest in said note under them well knew at the time they and each of them received said note and this the defendant is ready to verify wherefore he prays Judgment &c.

Samuel Strawder
Samuel R Allen
Defts Attys

15th And for the further plea in this behalf by leave of the Court first had and obtained the defendants says actio non because he says that heretofore to wit on the 7th day of July AD 1857

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the said Sterling & Rock Island Rail Road Road Company by its officers and agents requested this defendant to subscribe for and take two shares of the Capital Stock of the said Company each share being one hundred dollars the said two shares amounting in all to the sum of Two Hundred dollars and the defendant avers that upon the solicitation of the said Sterling & Rock Island Rail Road Company its officers and agents he did heretofore to wit on the seventh day of July AD 1857 upon the stock books of subscription of said Rail Road Company subscribe for and did agree to and did take Two shares of the Capital Stock of said Sterling and Rock Island Rail Road Company and did agree to pay to the said Sterling & Rock Island Rail Road Company for said Two shares of the Capital Stock of said Company the said sum of Two Hundred dollars to be paid in such manner and in such proportions and at such times as the Board of Directors of said Sterling and Rock Island Rail Road Company from time to time direct and this defendant avers that after he had subscribed for said two shares of the said Capital Stock of the said

Sterling & Rock Island Rail Road Company upon the stock subscription Books of the said Rail Road Company as aforesaid, the said Sterling & Rock Island Rail Road Company by its Officers and Agents requested this defendant to make execute and deliver to them the said Sterling & Rock Island Rail Road Company his this defendants promissory note payable at the expiration of five years from the first day of September A.D. one thousand eight hundred and fifty seven for said sum of Two hundred dollars with interest thereon at the rate of ten per cent per annum that is to say that the said defendant should as interest on said note pay ten cents on each and every dollar of the said Two hundred dollars for each and every year for the said five years that said note was to run before it became due to wit from the first day of September AD 1857 and thereupon this defendant avers that it was then and there to wit at the said County of Rock Island unlawfully usariously and corruptly agreed by and between this defendant and the said Sterling & Rock Island Rail Road Company that this defendant should make and deliver his said promissory note to the said Sterling and Rock Island Rail Road

Company for the said sum of Two Hundred dollars which said sum of two Hundred dollars was for and in consideration of the Two Shares of Capital Stock of said Railroad Company according to the request of the said Rail Road Company as aforesaid and this defendant avers that afterwards to wit on the Twenty fifth day of August in the year of our Lord one thousand eight hundred & fifty seven the said defendant did in pursuance of said unlawful usurious and corrupt agreement aforesaid to wit at the County of Rock Island make execute & deliver to the said Sterling & Rock Island Rail Road Company his said promissory note for the sum of Two Hundred dollars payable at the expiration of five years from the first day of September A.D. ONE thousand eight hundred and fifty seven with interest thereon at the rate of ten per cent per annum which said interest is to be paid semi annually in each year to wit on the first day of March and the first day of September in each and every year interest and principal to be paid at the office of the said Sterling & Rock Island Rail Road Company at Sterling in said County of Whiteside and State of Illinois aforesaid and this defendant avers that the said note is the same note mentioned in the plaintiffs declaration And the said defendant avers that

the interest or profits agreed to be paid by the terms of said contract as stated in said note is more than ten per cent interest on cash and every dollar mentioned in said note for each year that said note is to run before it becomes due and this defendant avers that the paying interest on said note semi annually as required by the terms of the said contract in said note gives to the holder of said note fifty cents more profits or interest on the amount that said note calls for each year than to pay ten per cent interest on the amount of said note calls for at the end of each year the said fifty cents being the amount of interest that the Ten dollars would acquire or draw for six months of each year And this defendant avers that the sole and only consideration of and for said note was the said Two shares of the Capital stock of the said Sterling and Rock Island Rail Road Company so subscribed for and taken by this defendant as afore said and that there was no other or different consideration of or for said note. and the defendant avers that the demanding and receiving said note by the said Sterling and Rock Island Rail Road Company in manner and form as aforesaid was and

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is in violation of the laws of the land and of the articles of the said Sterling and Rock Island Rail Road Company's Corporation and that the said contract requiring this defendant to pay the interest semi annually that is to say on the first day of March and on the first day of September in each and every year as mentioned in said note is usurious and void and that the plaintiff is not entitled to recover any interest on said note whatever all of which the said Reynolds Milder & Co and all under them claiming any interest in said note well knew at the time that they and each of them received said note and this the defendant is ready to verify. Wherefore he prays judgment whether the said plaintiff ought to have or maintain his aforesaid action against him

Samuel Strawder
Samuel R Allen
Defts Attys

Be it further Remembered that on the 20th day of January AD 1863 the Plaintiff by A Webster his attorney filed in the office of the said Circuit Clerk County and State aforesaid his Demurer and Replication to the pleas heretofore set forth by the ~~Defendants~~ Defendants attorneys which is in the words and figures following to wit

State of Illinois
Rock Island County } ss: Of the January term AD 1863 of the Circuit Court of said County

Charles M Knox
vs
Amos Golden

And now comes the Plaintiff in the above entitled cause by A Webster his attorney and as to Defendants Pleas in this behalf pleaded (except the pleas by him firstly & thirteenthly above pleaded) says that the said pleas and each of them are not sufficient in law to be replied unto — Wherefore the said Plaintiff prays Judgment &c

By A Webster Plffs atty

And now comes the above named Plff by his attorney and as to said Defendants Thirteenth plea by him above pleaded says Precludi non because he says that on the day of the commencement of this suit there was in existance a corporation called the Sterling & Rock Island Rail Road Company as by the note mentioned

in the Plaintiffs Declaration is supposed — And this the said Pltff prays may be enquired of by the Country &c

By A. Webster
Pltffs atty

And Be it further Remembered that on the 26th day of January AD 1868 came the Plaintiff by his attorney A Webster & tokes issue as to the pleas of general issue & nul tiel corporation & the demurrer filed on the 20th instant to all other pleas having been argued, It is ordered by the Court that said Demurrer be sustained — And the Defendant by his Attorney moves the Court for a continuance which the Court overrules — & thereupon the Defendants non prosequitur to the pleas of General issue & nul tiel corporations & abides by the remaining pleas. It is therefore considered by the Court that the Plaintiff have and recover judgment on demurrer and his damages by him sustained herein. And it appearing to the Court that this suit is brought upon a note for Payment of money & that the damages rests in computation merely, It is ordered that the clerk assess the same, thereupon the clerk assessed and reported the damages at the sum of $288, which report is accepted by the Court —

It is therefore ordered by the Court that the Plaintiff have and recover from the said Defendant the said sum of $288. damages assessed as aforesaid together with his costs & that he have Execution therefor. And thereupon the said Deft by his said attorneys pray an appeal which the Court allows on Defts filing a bond in 30 days in the sum of $600 security to be approved by the clerk by agreement

Be it further Remembered that in compliance with the forgoing order the Deft by his attorney caused to be filed on the 19 day of February AD 1863 in the office of the Clerk of Circuit Court in the County of Rock Island & State of Illinois a Bond approved by the said Clerk of said Court which is in the words and figures following to wit Know all men by these presents that Amos Golden as Principal and Jacob A. Marshal as security are held and firmly bound unto Charles McKnox in the penal sum of Six Hundred dollars lawful money of the United States for the payment of which well and truly to be made the said Golden & Marshal bind themselves their executors administrators jointly severally and firmly by these presents Witness their hands & seals

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hereunto affixed this Twelfth day of February AD 1863. The consideration of the above obligation is such That whereas the above named Charles M Knox did at the Summer Term of the Circuit Court held in and for the County of Rock Island in the State of Illinois AD 1863 recover a judgment against the above bounden Amos Golden for the sum of Five Hundred and Eighty Eight Dollars as also for his costs in that behalf expended to reverse which said Judgment the said Amos Golden has prayed an appeal from said Circuit Court to the Supreme Court within and for the third Grand Division of said State

Now if said Amos Golden shall prosecute said appeal and pay or cause to be paid the amount of said Judgment and all Judgment cost interest and damages which the said Supreme Court shall adjudge against him in case the judgment of the said Circuit Court shall be affirmed and abide the order and judgment of said Supreme Court in this behalf then this obligation is to be void otherwise to remain in full force and effect

Amos Golden (Seal)

Jacob H Marshall (Seal)

State of Illinois } ss
Rock Island County } I, Edward H Bowman
Clerk of the Circuit Court
within and for said County and State aforesaid
hereby certify that the foregoing is a true
full and complete transcript of the Record
of proceedings had in such Cause in said
Circuit Court, as also a full complete and
true Copy of the several Original papers
on file therein, as entire as the same now
remain of Record or on file in my Office.

In testimony whereof I have
hereunto set my hand and
affixed the Seal of said Circuit
Court at Rock Island this 19"
day of March AD 1863

Edward H Bowman
Clk

Fees for transcript of Record paid
by S. Strawder $11.25

The State of Illinois } To the Supreme Court
Rock Island County } at Ottawa - - - - -

Amos Golden Appellant
vs
Charles M. Knox Appellee } Errors

And the said Amos Golden now comes and says that in the Record and proceedings aforesaid there is manifest error in this to wit:

1st " The Court erred in sustaining the Demurrer to the special Pleas.

2nd " The note is void for want of power in the Company to make the contract by which it received said note.

3rd " There was no consideration for said note

4th " The note was obtained by fraud

5th " The Company had no Power under or by virtue of the laws of the State to receive said note in payment of the Capital stock of said company nor to transfer and endorse the same.

6th " The contract to pay the interest Semi-annually is against the policy of the Laws of the State and is therefore void

7th " The Court erred in not overruling the demurrer

8th " The Court erred in overruling the motion for a continuance of the case until the next term thereof

9th " The Judgment is manifestly against the law and evidence in the case.

10th " The said Judgment was given in favor of the said Charles M. Knox whereas by the laws of the land it ought to have been given in favor of the said Amos Golden. Wherefore the said Amos Golden prays that the said Judgment may be reversed annulled and held for nothing and that he may be restored to all things he has lost by means thereof

Samuel Strawder &
Samuel R. Allen attorneys
for said Amos Golden

State of Illinois } ss. of the April Term A.D. 1863
3rd " Second Division } of the Supreme Court

Amos Golden Appellant
vs
Charles M. Knox Appellee

And now comes the Appellee in the above entitled cause by A. Webster his atty and as to the

Errors assigned on the foregoing Record by the Appellant says that there is no Error in said Record in manner & form as in the foregoing assignment of Errors is set forth Wherefore the said Appellee says that the judgment of the Court below should be affirmed & that of this he prays the judgment of this Court &c

A. Wibirt
Atty for
Appellee

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Golden
vs
Knox

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Plaintiff's cost of suit

Filed April 21st 1863
L. Leland
Clerk