

No. 13115

Supreme Court of Illinois

Stedman

vs.

Hunt

71641  7

STATE OF ILLINOIS,
SUPREME COURT,
Third Grand Division.

No. 2.

Stedman
vs
Hunt

1860

13715

Bureau County Circuit Court

Pleas before the Hon^{ble} Theophilus L Dickey
Judge of the ninth judicial circuit of the circuit
court of the state of Illinois, at the March Term
of the said circuit court in and for the county
of Bureau, begun and held at the court house
in Princeton in said county on Tuesday the sixteenth
day of March in the year of our Lord One Thousand
Eight hundred and fifty Two.

Present Hon^{ble} Theophilus L Dickey Judge
Austin H. Olds Clerk
Edmond M. Fisher Sheriff
Burton C. Cook Atty.

To wit on the fourth day of February A D
1852. Plaintiff filed his affidavit in the words
and figures following to wit:

State of Illinois
Bureau County

Bureau County Circuit
Court of the March Term
A D 1852

Amos C. Steedman

vs

Attachment

Elijah Hunt

John Dement agent for the above
named Plaintiff, being duly sworn deposes and
says that the said defendant Elijah Hunt is justly
indebted to the said Plaintiff Amos C. Steedman in the

Sum of about Eight hundred and twenty dollar
as enclosed
upon a bill of exchange drawn by one A. J. Smith
upon Buckingham and McCulloch for Eight hun-
dred dollar, in favour of one J. H. Hunt dated
September 23 A.D. 1851 payable three days after sight
and protested for non-payment, acceptance being waived
and that the said Elijah Hunt is not a resident of
the State of Illinois but a resident of the State of
Ohio as affiant is informed and believes; and
affiant prays that a writ of attachment may
issue in the above entitled cause according
to the form of the Statute in such case made
and provided.

Subscribed and sworn to before
me this 4th day of February
A.D. 1852 Justin H. Olds Clerk

John Dement

Upon which writ of attachment issued as follows
to wit:

State of Illinois }
Barren County } The People of the State of Illinois to the Sheriff
of ~~Barren~~ ^{Said} County, Greeling:
Whereas John Dement Agent of Amos C. Stedman
 hath complained on oath, to Justin H. Olds clerk of the Circuit
Court of said County, that Elijah Hunt is justly indebted
to the said Amos C. Stedman to the amount of Eight hundred
and twenty dollar; and oath having been also made,
that the said Elijah Hunt resides out of this State, so that
the ordinary process of law cannot be served on him.
And the said Amos C. Stedman having given bond and security,
according to the directions of the act in such case made
and provided.

We, therefore, command you, that you attach
so much of the estate, real or personal, of the said

Elijah Hunt to be found in your County, as shall be of value sufficient to satisfy the said debt and costs, according ^{to} the said complaint; and such estate so attached in your hands to secure, or so to provide that the same may be liable to further proceedings thereupon, according to law, at a term of said Circuit Court to be holden at Princeton within and for the County of Buncombe on the third Tuesday of March next; so as to compel the said Elijah Hunt to appear and answer the Complaint of the said Amos C. Steedman; and that you also summon as garnisher to be and appear at the said Court on the said of next, then and there to answer what may be objected against ~~when~~ and when you shall make known to the said Court, how you have executed this writ; And have you then and there this writ.

Witness Justin H. Olds Clerk of our said Court, and the Seal thereof at Princeton in said County, this fourth day of February in the year of our Lord One thousand Eight hundred and fifty two.
Justin H. Olds Clerk

(Sheriff's return to the above writ)

By virtue of this writ to me directed I have this 5th day of February 1852 Seized and attached the following described real estate of the within named Elijah Hunt to wit: The North west quarter of section No thirteen, also the South East quarter of section number twenty one, also the East half of the South West Quarter of section number thirteen, also the East half of the North West quarter of section number twenty four, also the South West quarter of the South East quarter of section number fifteen. All of the above lands are in

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township number seventeen north of range number seven East of the fourth principal meridian in Bureau county and state of Illinois, amounting in all to five hundred and twenty acres. And I have so provided that the above described real estate may be liable to proceedings thereupon according to law as within I am commanded

E. M. Fisher shff

Bu Co Ills

State of Illinois }
Bureau County }
The people of the state of Illinois to
the sheriff of Lee County Greeting
Whereas John Demant agent of Amos C
Stedman hath complained on oath to Justin H. Olds
Clerk of the circuit court of said county, that Elijah
Hunt is justly indebted to the amount of Eight
Hundred and twenty dollars; and oath having
been also made, that the said Elijah Hunt
resides out of this state, so that the ordinary
process of law cannot be served upon him.
And the said Amos C Stedman having given bond
and security, according to the directions of the
act in such case made and provided.

We therefore command you that you attach
so much of the estate, real or personal, of the
said Elijah Hunt to be found in your county,
as shall be of value sufficient to satisfy the said
debt and costs, according to the said Complaint
and such estate so attached in your hands to secure
or so to provide that the same may be liable to
further proceedings thereupon, according to
law, at a term of said circuit court, to
be holden at Princeton within and for said
County of Bureau on the third Tuesday of March
next; so as to compel the said Elijah Hunt to ap-
pear and answer the Complaint of the said

Amos Steedman; and that you also summon
Charles Demant as Garnishee to be and appear at-
the said court on the third Tuesday of March next,
then and there to answer to what may be objected
against when and where you shall make
known to the said court, how you have executed this
writ. And have you then and there this writ.

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Witness Justin H. Olds, clerk of our said
court, and the seal thereof, at Princeton
in said county, this fourth day of
February in the year of our Lord one
Thousand Eight hundred and fifty two
Justin H. Olds clerk

(Sheriff's return on the above writ)

By virtue of the within writ I have this seventh day
of February A^d 1852, attached as the property of the within named
Elijah Hunt a certain Military Land Warrant for one hundred
and sixty acres of land issued in the name of Charles Booth
dated September 4th 1848, assigned to Elijah Hunt and have
also this day served the within writ by reading the same
in the presence and hearing of the within named
Charles Demant, the said Elijah Hunt not found in
my County

Dated Dixon Lee County Illinois

Feb 7. 1852

Fees Service	4/-	50
" attached	4/-	50
return		10
		<u>\$1-10</u>

A L Porter Sheriff Lee Co Ills

In Vacation to wit: on the 17th day of September 1832
the plaintiff filed his declaration which is as follows
to wit:

Amos C. Goodman

vs Attachment

Elijah Hunt

Amos C. Goodman plaintiff herein by W. W. Heaton his attorney complains of Elijah Hunt defendant herein who was summoned to answer the said Plaintiff in a plea of trespass on the case or promises.

For that whereas one A. J. Smith heretofore, to wit, on the twenty third day of September A. D. 1832 at Newark in the State of Ohio to wit, at Bureau County in the State of Illinois made his certain bill of exchange in writing and directed the same to Messrs Buckingham & McCulloch partners doing business under the name style and firm of "Buckingham & McCulloch" and thereby required the said Buckingham & McCulloch to pay to the order of one J. H. Hunt Esq. Eight hundred dollars, three days after sight thereof & the said A. J. Smith then and there indorsed the said bill to one Elijah Hunt; and the said Elijah Hunt after word to wit on the day and year aforesaid then and there indorsed the same to the plaintiff, and the same was then and there presented to the said Buckingham and McCulloch for acceptance and the said Buckingham and McCulloch then and there refused to accept the same, of all which ~~of all which~~ the defendant then and there had due notice to wit:

And to wit on the day and year aforesaid at Newark to wit at Bureau County in the State of Illinois aforesaid the said A. J. Smith made his other certain Bill of exchange in writing and directed the same to Messrs Buckingham & McCulloch partners doing business

under the name and style of Buckingham & Mc
Culloch ~~parties~~ doing business under the name
and style of Buckingham & McCulloch and thereby
required the said Buckingham and McCulloch to
pay to the order of one J. H. Hunt Eight hundred dol-
lars, three days after sight thereof acceptance being
waived. And the said J. H. Hunt then and there
indorsed the said bill to the defendant and the de-
fendant then and there indorsed the same to the
plaintiff. And afterwards to wit on the day and
year aforesaid at New York to wit at Bureau County
Illinois the said bill of exchange was presented and
shown to one of the said Messrs Buckingham and
McCulloch and payment thereof demanded for
the said sum of money therein specified according
to the tenor and effect thereof; acceptance thereof
being waived: but the said Buckingham &
McCulloch did not, nor would at the time when the
said bill of exchange was so presented to them for
payment or at any time afterwards pay the said
sum of money therein specified or any part thereof,
but wholly neglected and refused so to do, all of
which the said defendant then and there had
due notice, by means whereof the said defendant
then and there became liable to pay said plaintiff
the said sum of money in the said bill of exchange
specified, when in the said defendant should be
thereunto afterwards requested

And whereas also the said defendant on the
day and year aforesaid at to wit at Bureau
County in the State of Illinois aforesaid was indebted
to the plaintiff in the further sum of Eight hundred
dollars, for the price and value of goods then and
there bargained and sold by the plaintiff to the
defendant at his request

And in the further sum of Eight hundred dollars for money then and there paid by the plaintiff for the use of the defendant at his request. And for the further sum of Eight hundred dollars for money then and there received by the defendant for the use of the plaintiff.

And thereupon the defendant afterwards, on the day and year aforesaid in consideration of the promises respectively, then and there promised to pay the said several ~~moneys~~ moneys respectively to the plaintiff on request. Yet he hath disregarded his said promises and hath not paid any of the said moneys or any part thereof to the plaintiff's damage of one thousand dollars & thereupon he brings suit.

W. W. Heaton

Plffs atty

Copy of Bill declared on
" No 123 \$ 800. Newark Ohio 23^d September
" 1851. — Three days after sight pay to the order
" of J H Hunt Esq

acceptance waived

" Eight Hundred Dollars value received, and charge
" the same to account of "
" To Messrs Buckingham & Mculloch "A. J. Smith"
" 43 Front Street New York City "

(Presented October 25 1851)

On the back of said bill are the following indorsements
" J H Hunt " Elijah Hunt " also the additional words
" Eight hundred dollars "

Now before the Hon^{ble} Theophilus L Dickey
judge of the ninth judicial circuit of the Circuit Court
of the State of Illinois, at the September term of said
Circuit Court in and for the County of Bureau
begun and held at the Court house in Princeton
in said County on Tuesday the twenty seventh day
of September in the Year of our Lord one thousand
Eight hundred and fifty two

Present	Theophilus L Dickey	Judge
	Justin H. Olds	Clerk
	Edmund M. Fisher	Sheriff
	W. C. Cook	State's atty

(Do not on the second day of said term)

Amos C. Stedman

vs Attachment

Elijah Hunt

Now comes the said Defendant by Richmond
his attorney and moves the Court to quash the writ
of attachment in this case

(And on the third day of said term)

Amos C. Stedman

vs

Elijah Hunt

Now comes the Plaintiff by Wheaton his attorney
and Defendant also comes by Richmond his attorney, and
Plaintiff moves the Court for leave to amend the affidavits
and writs herein; which motion is sustained by the
Court and said Plaintiff has leave to amend his

Said writs and affidavits, and said defendant's motion to quash is overruled.

(To wit on the seventh day of said term)

Amos C Stedman

vs

Attachment

Elijah Hunt

Now comes the plaintiff by W. W. Heaton his attorney and files his amended affidavit herein as follows to wit: And the cause comes up on the said defendant's demurrer to said plaintiff's declaration. And the court being fully advised in the premises considers that said demurrer be sustained; whereupon the plaintiff enters his motion for leave to amend his said declaration. Which said motion is sustained and said plaintiff has leave to amend his said declaration. And on motion of said defendant by his said attorney, a rule is taken on said plaintiff to file his amended declaration herein by the first day of December next.

(To wit, on the 12th day of said term)

Amos C Stedman

vs

Attachment

Elijah Hunt

Now comes the plaintiff by Cook his attorney and files his amended declaration in the words and figures following to wit:

Amos C Stedman plaintiff by W. W. Heaton his attorney complains of Elijah Hunt defendant herein, who was summoned to answer the the said plaintiff in a plea of trespass on the case upon promises,

And for that whereas One A. J. Smith at Newark
in the state of Ohio on the 23^d day of September AD 1851
made his certain bill of Exchange in writing and
directed the same to Messrs Buckingham and McCulloch
who were then and there partners doing business in the
City of New York by the name and style of Bucking-
ham & McCulloch, and thereby then and there
required the said Buckingham & McCulloch to pay
to the order of one J. H. Hunt Eight hundred dollars
three days after sight of said bill of Exchange and
the said A. J. Smith then and there by the terms
of the said bill of Exchange obtained the acceptance
by the said Buckingham & McCulloch ^{on the 15th day of October 1851} and the said
J. H. Hunt afterwards to wit on the day and year
aforesaid at the County aforesaid endorsed and
delivered said bill of Exchange to the defendant, and
the plaintiff avers that the said defendant thereafter
to wit on the 15th day of October 1851
to wit at the County aforesaid endorsed and
delivered said bill of Exchange which was then
and still is unpaid to the plaintiff, and the plaintiff
avens that afterwards to wit on the 22^d day of October
AD 1851 said bill of Exchange was presented and
shown to said Buckingham and McCulloch at their
place of doing business in the City of New York,
and that afterwards to wit on the 28th day of
October AD 1851 Demand of the said bill ^{of Exchange} was
demanded from said Buckingham and McCulloch
at their place of doing business; and said Bucking-
ham & McCulloch there refused and neglected to
pay the same and have always since refused
and neglected so to do, of all which the said
defendant thereafter to wit on the day and
year aforesaid at the County aforesaid had notice
by means whereof the said defendant then and there
became liable, and in consideration thereof then and

there presented the plaintiff to pay him the sum of money in said bill of exchange mentioned, when he should be thereto thereafterwards requested. Yet though often requested said defendant hath never paid the same or any part thereof.

And for that whereas One A. J. Smith heretofore to wit on the twenty third day of September AD 1857 at Newark in the state of Ohio to wit at Bureau County in the State of Illinois made his certain bill of exchange in writing and directed the same to Messrs Buckingham and McCulloch partners doing business under the name style and firm of Buckingham & McCulloch, ^{and thereby requiring the said Buckingham and McCulloch} to pay to the order of one J. H. Hunt Eight hundred dollars, three days after sight thereof and the said J. H. Hunt then and there endorsed the said bill to one Elijah Hunt and the said Elijah Hunt after wards to wit on the day and year aforesaid then and there endorsed the same to the plaintiff and the same was then and there presented to the said Buckingham and McCulloch for acceptance and the said Buckingham & McCulloch then and there refused to accept the same, of all which the defendant then and there had due notice.

And to wit on the day and year aforesaid at Newark to wit at Bureau County in the State of Illinois aforesaid the said A. J. Smith made his other certain Bill of Exchange in writing ^{and} directed the same to Messrs Buckingham and McCulloch partners doing business under the name ^{and thereby requiring the said Buckingham and McCulloch} and style of Buckingham & McCulloch to pay to the order of one J. H. Hunt Eight hundred dollars three days after sight thereof, and by terms of the said bill of exchange the said A. J. Smith then and there obtained the acceptance of the same and released the payer of the same from all necessity

of having the same accepted by the said Buckingham, & McCulloch, and the said S. H. Hunt then and there endorsed the said bill to the defendant and the defendant then and there indorsed the same to plaintiff.

And afterwards to wit on the day and year aforesaid at New York to wit at Bureau County in the State of Illinois the said bill of Exchange was presented and shown to ~~one of the~~ said Messrs Buckingham and McCulloch and payment thereof demanded for the said sum of money therein specified according to the tenor and effect thereof, acceptance thereof being waived; but the said Buckingham & McCulloch did not, nor would at the time when the said bill of Exchange was so presented to them for payment or at any time afterwards pay the said sum of money therein specified or any part thereof but wholly neglected and refused so to do. And three days afterwards said bill of Exchange was again presented to said Buckingham and McCulloch for payment ~~and~~ ^{for} payment of the same ~~was then~~ and there refused.

All of which the said defendant then and there had due notice, by means of which the said defendant then and there became liable to pay the said plaintiff the said sum of money in the said bill of Exchange specified when he the said defendant should be thereunto afterwards requested.

And whereas also the said defendant on the day and year aforesaid at to wit at Bureau County in the State of Illinois aforesaid was indebted to the plaintiff in the further sum of Eight hundred dollars for the price and value of goods then and there bargained and sold by the plaintiff to the defendant at his request.

And in the further sum of Eight Hundred dollars for money then used and there paid by plaintiff for the use of the defendant, at his request.

And for the further sum of Eight Hundred dollars for money then and there received by the defendant for the use of the plaintiff.

And therefore the defendant afterwards on the day and year aforesaid in consideration of the premises respectively, then and there promised to pay the said several moneys respectively to the plaintiff on request. But he hath disregarded his said promises and hath not paid any of ^{the} said moneys or any part thereof to the ~~plaintiff~~ ^{plaintiff}, damage of One Thousand dollars, and therefore he brings suit.

W^m W. Henton
Plff's atty

Copy of bill declared on

" No 123 \$ 800. Newark Ohio 23^d September A.D. 1851

" Three days after sight Pay to the order of

" J H Hunt Esq

" Acceptance waived "

" Eight Hundred Dollars value received and "

" Charge the same to account of "

" To Messrs

" A. J. Smith "

" Buckingham & McCalloch

" 43 Front Street New York City "

(Presented October 22 1851)

On the back of said bill are the following endorsements " J H Hunt " " Elijah Hunt " also the additional words " " Eight Hundred Dollars "

In Vacation to wit on the 1st day of Dec
1852. Defendant filed his demurrer
to plaintiffs amended declaration in
the words and figures following to wit

Amos C. Stedman

vs

Attachment

Elijah Hunt

And the said Defendant comes
and defends the wrong and injury when &c
and says that the said counts in said dec-
laration, and each of them are severally
(not jointly) insufficient in law and the
defendant is not bound to answer the same,
and that the said defendant is ready to verify
whereupon he prays judgment &c.

And for special Cause of demurrer
said defendant says that

The said 1st Count does not show any
diligence or excuse for the want thereof in the
presentation of said bill of Exchange for pay-
ment

And the third Count does not state
by whom the acceptance was waived

Each and every ^{of said} counts are otherwise
insufficient and defective

Richmond & Merriam
for Deft

Hear before the Hon.^{le} Edwin S. Leland
judge of the ninth judicial circuit of the State of
Illinois at the January term of the said Circuit
Court in and for the County of Bureau began
and held at the Court house in Princeton in said
County on Monday the tenth day of January in the
year of our Lord One Thousand Eight hundred and
fifty three

Present Hon.^{le} E. S. Leland Judge
Edward M. Fisher Clerk
Osmond Smith Sheriff
W. H. L. Wallace State atty

To wit on the first day of said term

Mrs C Stedman

vs

Attachment

Olijah Hunt

This day the plaintiff comes by M. Ballou
his attorney and the defendant by Dickey his attorney
and by agreement of said parties it is considered
by the court that this cause be continued to
the next term of this court

Plas before the Hon^{le} Edwin S. Leland judge
of the ninth judicial circuit of the State of Illinois
at the March term of the said Circuit Court in
and for the county of Bureau begun and held
at the Court house in Princeton in said County
on Monday the twenty eighth day of March in the
Year of our Lord one Thousand Eight hundred and
fifty three

Present Hon^{le} Edwin S. Leland Judge
Edward M. Fisher Clerk
Omya Smith Sheriff
W H L Wallace States atty

(Is not on the fourth day of said Term)

Amos C. Stedman

^{vs}
Olyah Hunt

Now comes the Plaintiff by Cook
his attorney and files his exceptions to the de-
positions of E Sanford and James L Birkey in the
words and figures following to wit:

1. And now comes the said Plaintiff and
moves to suppress the depositions of E Sanford and
James L Birkey taken in this cause and excepts
to each of said depositions and each of the in-
terrogatories and each answer thereto because

1st The witnesses have not answered each
and every of the interrogatories

2 Each interrogatory is leading and
each answer irrelevant

3 The depositions are neither of them prop-
erly certified

Glover & Cook
for P^{ty}

(So mit on the 1st day of said Term)

Amos Steadman

vs

Elijah Hunt

Now comes the Plaintiff by Cook his attorney, and the defendant by Richmond his attorney, and the Court, after argument of counsel, being fully advised in the premises, considers that the said motion to suppress the said deposition be overruled, to which the said Plaintiff by his said attorney excepts and files his bill of exceptions in the words and figures following to wit:

Be it remembered that on this 2^d day of April 1853 being one of the days of said term the motion of the Plaintiff to suppress the depositions of C Sanford and James S Birney came on to be heard and the Court having examined the said depositions overruled the motion to suppress the same and overruled the exceptions to said depositions taken by said Plaintiff to which ruling and decisions of the Court the Plaintiff then and there excepted and says this his bill of exceptions, he signed sealed and made part of the record which is done

C. S. Deland *Seal*

Judge &c

(So mit on the tenth day of said Term)

Amos C Steadman

vs

Elijah Hunt

Now comes the Plaintiff by Cook his attorney and files an Affidavit herein, and

thereupon enters his motion for a continuance of
this cause; and the court considers that said
motion be sustained; that this cause be con-
tinued to the next term of this court; and that
said Plaintiff pay the costs accruing at the
present term of this court.

Pleas before the Hon^{ble} Edwin S. Leland
judge of the ninth judicial circuit, of the circuit court
court of the State of Illinois, at the October Term of
the said circuit court in and for the County of
Monroe and State of Illinois begun and held at the
Court house in Princeton in said County on Tuesday
the fourth day of October in the year of our Lord
One Thousand Eight hundred and fifty three.

Present Hon^{ble} Edwin S. Leland Judge
Edward M. Fisher Clerk
Gwynn Smith Shff
W H L Wallace State atty

(To wit on the fourth day of said term)

Amos C. Steadman

vs

Attachment

Elijah Hunt

Now comes the defendant by ^{Richmond} Dickey
his attorneys and files his demurrer to first ^{second} and
counts of said Plaintiff's amended declaration filed
herein which is in the words and figures, following
to wit:

And the said Elijah Hunt by Richmond
and Dickey comes and defends the wrong and

injury &c and as to the first and second Counts of said declaration respectively as the same are amended and filed on the 4th day of April 1853 says Actio non because he says that each of said Counts respectively and the matters set forth in each of them respectively are not sufficient in law for the Plaintiff thereby to maintain his aforesaid action; and that said defendant is not bound by law to answer the same respectively and that he is ready to verify—wherefore &c
Richmond & Dickey
for Deft

And for special Causes of Demerits to each of said Counts sets out the following:

1st Because the name of the alleged drawer of said bill of exchange is not set out in full—his Christian name is not given—his initials only being given.

2 Because the names of the drawers are not set out in full—neither the Christian names nor the firm names of said demerits are given—the firm name only being given.

3 Because the Christian name of the payee is not set out—

4th Because there is no allegation that said bill of Exchange purported to be given for value received nor that the bill was duly protested.

5th Said bill of Exchange is not alleged to have been shown to the drawer within a reasonable time.

6th There is no allegation that said bill of exchange was presented for payment on the day when it became due.

And for further plea to the third (Common Count) Count—defendant says that he did not promise and undertake as Plaintiff has alleged

in said Count, and of this he must surmise upon the
country

Richmond & Dickey depts.

Plff doth the like

J. O. Glover

7th There is no allegation in Narr. that the bill
was duly protested

8th Construction of Allegation in the bill, "acceptance
waived" That the drawer waives acceptance - but not
that the endorser waives it & such paper is not a
bill of Exchange

(To wit on the fifth day of said Term)

Amos C. Steadman

vs

attachment

Olijah Hunt

Now come the parties aforesaid by their attorneys
aforesaid, and the Court, being fully advised in the
premises, considers that said demurrer be sustained
as to said first Count and overruled as to said second
Count of the said amended declaration; and on motion
of said plaintiffs attorney leave is given to amend
his said declaration by inserting therein the year
after the words "the 28th of October" which amendment
is made by said plaintiff. The defendant thereupon
moves the court for a continuance of this cause, which
motion is overruled by the Court. The defendant
thereupon files his plea to first and second Counts
as amended of said plaintiffs declaration in the words
and figures following to wit:

"And said defendant Olijah Hunt by Dickey & Wallace
his attorneys comes and defends the wrong and injury
wherein and says that he did not undertake and
promise in manner and form as said plaintiff
hath in the first and second Counts as amended of

of said Plaintiff's declaration complained against
said defendant and of this he puts himself upon
the country ~~for trial~~

Dickey & Wallace attys for deft

Plaintiff doth the like

Glover atty

(To wit on the sixth day of said term)

Amos C. Steadman

vs

Attachment

Elijah Hunt

∴ Now come the parties aforesaid by their
attorneys aforesaid, and the Court orders that a jury
be empannelled to try the said issues herein joined
between the said parties; and a jury comes of twelve
good and lawful men to wit; Charles J. Allen, George
Clark, Philo Stenard, Lewis Anthony, Elijah Little, John
Hicks, George Detro, Isaac Hecaton, Perry H. Ripen,
James Porterfield, John L. Amant, and Allen D. Horton, who
are duly elected tried and sworn well and truly
to try the said issues herein and a true verdict
render according to the evidence. It is considered
by the Court by consent of the parties herein, that said
jury have leave to separate, after they shall have
agreed upon their verdict and after having signed
and sealed the same.

(To wit on the seventh day of said term)

Amos C. Steadman

vs
Elijah Hunt

Now come the parties aforesaid by their
attorneys aforesaid; and the jury empannelled
as aforesaid; the said jury upon their oath say
"we of the jury do find the issues joined herein in
favour of the defendant". And the Plaintiff

by his said attorney moves the court for a new trial herein, as follows to wit:

Now comes the plaintiff after verdict and before trial, and moves the court to grant a new trial in this case and for cause assigns

1st The verdict is against ^{the} evidence

2^d The verdict is against law

3^d The court misinstructed the jury as to the law in the case

Wherefore the plaintiff prays as above

By Elmer Cook & J. D. Taylor

his attorneys

foreman It is considered by the court that said motion for a new trial be overruled. It is therefore considered by the court that the said defendant have and recover of the said plaintiff all his costs and charges in and about his defence in this behalf expended and that he have execution therefor

And the plaintiff by his said attorneys moves the court for an appeal to the Supreme Court of the State of Illinois, which said motion is sustained by the court and said appeal allowed on condition that said plaintiff file his appeal bond herein by the first day of January next, conditional as the law directs in the sum of five hundred dollars with Charles Belmont or Charles S. Kelsey as security, said plaintiff having tendered his bill of exceptions and being examined and considered by the court is signed and sealed by the judge and filed of record and is in the words and figures following to wit:

(To wit on the twelfth day of said term)

Amos C. Stebbins

vs

Elijah Hunt

Now come the motion aforesaid by their attorneys aforesaid, and after argument of counsel and the court being fully advised in the premises It is considered by the court that said motion for a new trial be overruled. It is therefore considered by the court that the said defendant have and recover of the said plaintiff all his costs and charges in and about his defence in this behalf expended and that he have execution therefor

And the plaintiff by his said attorneys moves the court for an appeal to the Supreme Court of the State of Illinois, which said motion is sustained by the court and said appeal allowed on condition that said plaintiff file his appeal bond herein by the first day of January next, conditional as the law directs in the sum of five hundred dollars with Charles Dement or Charles E. Kebey as security, said plaintiff having tendered his bill of exceptions and being examined and considered by the court is signed and sealed by the judge and filed of record and is in the words and figures following to wit:

Amos C. Newman

vs
Elijah Hunt

Assumpsit

Be it remembered that upon the trial of this cause,

The plaintiff gave in evidence a Bill of Exchange in the words and figures following to wit:

Presented Oct-22, 51

"
No 123

\$ 800 Newark Ohio 23^d Sept 1851

Three days after sight Pay to the Order of
J. H. Hunt Esq

Acceptance Waived

Eight Hundred Dollars Value received and
Charge the same to account of

To Messrs. Buckingham & McCulloch } J. I. Smith "
43 Front Street New York City } "

which bill was endorsed as follows viz:

" J. H. Hunt " Elijah Hunt " Eight Hundred Dollars "

" Draft "A" referenced to in the deposition, annexed to foregoing

" Commission

Attest We Corning
Amos C. Newman

Commissioner "

The plaintiff also gave in evidence a protest of
which the following is a copy, viz:

State of New York }
United States of America }

I Alexander Robertson Rodgers, Notary Public, duly
admitted and sworn, dwelling in the City of New York,
do hereby certify, that on the 28th day of October in the
Year of our Lord one thousand eight hundred and fifty-
one, at the request of the American Exchange Bank
the original Bill of Exchange hereto annexed was
presented to one of the drawers and payment thereof
demanded, which was refused.

Whereupon, I the said Notary, at the request
aforesaid, did Protest and by these presents do

publicly and solemnly Protest, as well against the Drawn, Drawee and Endorsers of the said Bill of Exchange, as against all others whom it doth or may concern, for exchange, re-exchange, and all Costs, damages, and interest, already incurred, and hereafter to be incurred, for want of payment of the said Bill of Exchange.

In Testimonium Veritatis:

A. B. Rodgers

Notary Public

No 49 William Street

To which protest the above recited Bill of Exchange was attached

The Plaintiff also read in evidence the Depositions of Edmund Austin, James W. McCulloch and Benjamin H. Buckingham taken in the City of New York in answer respectively to the following Interrogatories viz:
1st Look upon the draft here shown you marked (A) and state whether the same was ever presented to the Drawee thereof for acceptance. State all you ^{may} know on the subject.

2^d State if you know whether the drawer of said draft had any funds in the hands of the drawee of said draft for the payment thereof either at the time it was presented for acceptance or between those dates.

To which interrogatories said Edmund Austin answered as follows viz:

First "That the draft hereto annexed Marked (A) was presented to the drawee thereof for acceptance at the office of Buckingham & McCulloch No 43 Front Street in the City of New York, on the 22^d day of October 1851. The said draft was not accepted, acceptance thereof being waived by said draft.

Second

To the second Interrogatory he saith - that at the date of said draft viz, September 23. 1851 there were funds in the hands of the drawers thereof sufficient to pay the same, but that at the time said draft was presented for acceptance viz; October 22^d 1851, there were no funds in the hands of said drawers to pay the said draft; and that after the Eighth day of October 1851, there were no funds of said drawer in the hands of said drawers

Edmond Austin

And said James W McCulloch answered as follows viz:

To the first Interrogatory he saith - that the said draft Marked A was presented to the drawers at their Office No 43 Front Street in the City of New York on the 22^d day of October 1851 acceptance being waived, said draft was not accepted.

To the second Interrogatory he saith - that at the date of the said draft there were funds in the hands of the drawers sufficient to pay said draft - that at the ~~date~~ said draft was presented there were no funds in the hands of the drawers - the same having been exhausted on or before the 8th day of October 1851

James W McCulloch.

And the said Benjamin H Buckingham answered as follows viz:

To the first Interrogatory he saith, that of his own knowledge he does not know whether the said draft was ever presented to the drawers thereof for acceptance; it may have been presented to my partner Mr McCulloch, but I have no recollection of the circumstance

Draft of A. J. Smith were presented to Buckingham and McCulloch, at their place of business in the City of New York, for payment and payment refused for want of funds.

To the Second Interrogatory he saith - That on the twenty-third day of September 1851 there were funds, the amount of the draft in the hands of the drawer, that neither on the Eighth and twenty-second days of October 1851 nor on any intermediate days were there any funds to pay said draft in the hands of the drawer, and furthermore this deponent saith not.

W. H. Buckingham

The Plaintiff then called John Dement as a witness, who was sworn and testified, that on the 10th of October 1851, he and Charles Dement and the Plaintiff were partners dealing in Real Estate and Land Warrants at Dixon in Lee County Illinois. That upon that day upon going into their office he found Charles Dement and the defendant in conversation, from which conversation it appeared that Charles Dement and the defendant had previously travelled together upon the Illinois River and had formed a slight acquaintance, and that defendant at that time was wanting to enter some government lands with Land Warrants, and was negotiating with Charles Dement about purchasing Warrants. Witness stated that he himself had never met defendant before: that defendant represented that his funds were in a bank draft for which he had been offered one per cent premium, and that he must get that premium for it.

Witness also stated that the defendant was accompanied by a young man said to be his son:

that he, witness, seeing the draft upon the table picked it up, and examined it, and remarked to defendant, that the paper did not appear to be a bank draft; that it did not appear to be drawn by a Bank, nor upon a Bank; to which defendant replied that Mr. Smith the drawer of the draft was a private banker and that his credit and standing were as good as any Banker in Ohio; That witness also remarked to defendant that he appeared to be the party purchasing lands, but that the draft was payable to and endorsed by T. H. Hunt; Defendant answered that the draft was drawn to and endorsed by his son who was present and expressed a willingness to endorse it himself, and did so upon transferring it.

Witness also stated that the firm of Dement & Stedman had not as many warrants as defendant wanted and that he told defendant that he could get the one or two more that were wanted in town but defendant said he preferred to buy entirely of Dement and Stedman as he had some acquaintance with them, and preferred relying on their responsibility.

That witness then went and purchased the additional warrants necessary to make up what defendant wanted.

That Dement and Stedman purchased the draft, being the same draft given in evidence by the plaintiff allowing one per cent premium, the price being \$808; that the land warrants did not amount to the draft, and they paid the balance in land office money, defendant saying that he wanted to enter some small tracts, smaller than he could get warrants for; That thereupon witness went with defendant to the land office, and assisted him in entering lands with the warrants and the money.

Witness also stated that defendant during

the conversation spoke of Smith as a banker of high standing, and the draft as one that would doubtless be paid; and spoke of having himself had money transactions with Smith at New ~~ark~~ ^{ark}, Ohio; and spoke of Newark as a place where he had transacted business; but did not remember that defendant had spoken of any particular place as his place of residence or usual place of business; and that defendant's conversation left upon his mind ~~these~~ ^{place} as being defendant's place of residence or business except Newark Ohio, and that he supposed Newark to be his place of business and that his residence was there or in that vicinity.

Witness also stated ~~that~~ ^{as} that defendant spoke of his son being engaged in improving a farm or something of that sort, in Lasalle County, in the vicinity of the town of Lasalle.

Witness also stated that said draft was sold and assigned by said defendant to said firm of Dement and Steedman for the land warrants and money above mentioned; that upon receiving it he the witness having no money correspondent in the City of New York endorsed the draft and forwarded it to J. H. Burch Banker at Chicago to be sent forward for collection.

Witness also stated that after the protest of the draft in due course of mail and according to the best of his recollection on the 6th of November 1851 he received through Mr Birch of Chicago the draft protested with notices, one for himself, one for the defendant, one for J. H. Burch and one for A. J. Smith; that on that day or within a day or two - but as they received their eastern mail at Dixon in the morning, and the mail

for the east left in the evening, and it was their usual custom to answer letters on the day of receiving them, he presumed upon the same day, he enclosed the notice for Smith to him at Newark Ohio in a letter; and also enclosed to the defendant the notice for him in a letter directed to him, at Newark Ohio, advising him that Dement and Steadman had had to take up the draft and requesting him to provide for its payment; That the notice, stated in substance, that a draft, dated September 23, 1851, drawn by A J Smith, on Messrs. Buckingham and McCulloch New York naming the street &c for Eight hundred dollars, to the order of J H Hunt and endorsed (in the one to left) by him, had been protested for non payment and that the holder looked to him for payment;

That at the time of forwarding said notice, witness had no knowledge or intimation, nor did he suspect that the defendant's residence or place of business was elsewhere than at Newark Ohio, nor did either of his partners so far as he knew or believed, have any other information on the subject than he had himself; and that he forwarded said notice to the defendant at Newark, believing it to be his proper post office address.

Witness also stated that in a day or two or three after receiving said protest and notice, supposing from what had been said by the defendant at the time of selling the draft about his sons getting up a farm in Tusalle County, that said J H Hunt lived in the vicinity indicated but not knowing the precise locality, he the witness started in a buggy to find said J H Hunt and gave him the notice for him; that he did not

reach the vicinity of said J. H. Hunt's supposed residence on the day he left Dixon, but stayed over night on the way; that after getting into LaSalle county he enquired along the road for the younger Mr Hunt and first got word of him as he supposed at Gray Grove and from there followed on as directed to the house of ~~Hezekiah~~ ^{Hezekiah} Merritt about three miles north of ^{town} of LaSalle; that upon enquiring, Merritt informed him that the young Mr Hunt was his Merritt's son in law, that he did not live in LaSalle County but in Ohio, and had returned home with his father, that defendant lived in Licking County, Ohio some 8-10 or 12 miles from Newark and that Newark was not his nearest Post Office ~~at all~~ that there was a Post Office nearer to defendant's residence named Fredonia where defendant usually received his letters; that some other Post Office the name of which witness had forgotten was near to the residence of the Loring man than Fredonia that witness at the time took down carefully on a slip of paper the Post Office address of the defendant, and also of J. H. Hunt as given to him by Mr Merritt; that he, the witness then went home to Dixon but whether directly home on the route he came, or whether by LaSalle and Peru he could not tell with certainty as was accustomed to travel considerably in his business transactions, and was frequently at Peru and LaSalle, he could not tell certainly whether he went there that time or not; but his impression was that he did ~~not~~ go to LaSalle; that upon getting home or soon after he wrote to the defendant informing him of the

of the draft and that they looked to him for payment and mailed the letter addressed to the defendant at Fredonia; That he also wrote to T. H. Hunt directed to the Post Office given as his residence by Mr Merritt, and that he directed both the letters as he took down their respective addresses upon paper at Mr Merritt's house; Witness stated that he could not tell precisely how long after he got the information from Mr Merritt, it was that he mailed the letters as above stated, but it was somewhere from three to five days and that he supposed it would be somewhere from the 13th to the 20th of November when they were forwarded.

Witness also stated that he got no answer to either of these letters nor to the one previously sent to defendant; that afterward, he supposed about the last of November or first of December he wrote to defendant again directed to Fredonia Licking County Ohio but received no answer; That subsequently in the latter part of December, his brother Charles Dement wrote to defendant addressed to Fredonia, and to which an answer was received from a man signing himself D. Humphrey as attorney for the defendant. That all the letters written to the defendant were written in the firm name of Dement and Stedman.

Witness also stated that after it was ascertained that suit would have to be brought to collect the draft he sold his interest in it to his partner, Stedman, who raised him therefore one third of the amount of the draft disvesting himself of all interest in the draft.

that his own object in selling was to avoid litigation, and he presumed that one object with Mr Stedman in buying was to be able to use him as a witness. That subsequently the firm of Dement and Stedman was dissolved, and the effects divided, the result of a large business, so that each partner took his own interest separate, and that witness was in no way liable on the draft nor interested in the event of this suit. The statements of the witness, that he had divested himself of all interest in the subject matter of this suit were made upon his voir dire, before testifying in chief; and releases from the plaintiff and Charles Dement were also presented.

On cross examination John Dement stated that he had written but one letter to defendants addressed to Newark; that after that he had written two letters to defendant and his brother Charles had written one to him, and they were all addressed to Fredonia Licking County Ohio; that he never wrote but one letter to J. H. Hunt and that was on his return from Meritts, and that letter was not addressed to Fredonia but to some other Post Office the name of which witness could not remember.

Here the defendants counsel exhibited to witness a letter dated Dixon December 17th 1851 and Post marked at Dixon December 17th addressed to J. H. Hunt Fredonia Ohio which letter is as follows:

Dixon 17 December 1857

Mr J. A Hunt Esq

Dear Sir. Some time since we wrote you that the draft you sold to us for \$800 drawn in your by A J Smith of Newark Ohio had been protested, this draft was endorsed by you and Elijah Hunt your father. We have received no answer from you or your father, but in due course of mail A. J. Smith sent us another draft drawn on another house in New York for \$810, which we suppose the proceeds was intended to apply upon the amount due us on the first draft protested, we accordingly sent forward the second draft and have been informed from New York that the safe fate has attended that. Consequently we must ask you to make us some kind of arrangement that looks more like honest and fair dealing.

You will recollect that you and your father stated that you knew that the draft was good and worth a premium and we paid you \$808 for the draft. Now be pleased to make us some kind of payment which will amount to the debt interest and damages.

We request that neither you nor your father please write us immediately what we are to depend upon. We sent the copy of the protest to your father and to A. J. Smith.

Worremain Your Obedient Servants

Dement & Stedman

And Witness, stated upon examining the letter that it was written by himself; that he might have written the letter upon that subject to the young man instead of to the defendant.

Defendants counsel also exhibited to the

Witness a letter of same date and post mark, directed to the defendant at Newark Ohio - which letter is as follows:

Dixon 17th December 51
Elijah Hunt Esq

Some time since we wrote you that the draft of A J Smith of Newark on New York for \$800 which you sold us about 15th of Oct last had not been paid and was protested, and that we looked to you for payment of the amount interest and damages. Since when we ~~have~~ not heard from you, but in about the time that we should have an answer A J Smith sent us a draft on another firm in New York for \$810, as we understood with a view to have the proceeds placed to credit of you and son on account of former protested draft. We have forwarded said last mentioned draft for collection and it has also been protested for non payment as doubtless you might well expect as it is notorious that now said Smith has been swindling upon a large and general scale. You will recollect that you stated that said Smith's draft was first class and exacted one per cent premium of us which we paid you. We wish to hear from you and for you to make some prompt arrangements to have us reimbursed of our \$808 paid you with interest and damages which now amount to some 25 \$ dollar.

We remain your obedient servants
Dement and Steedman

The witness stated that this letter was in his hand writing; that he must have written to both the defendant and his son on the subject but that it had escaped his recollection that he had written more than one letter upon that subject or that he had written a second letter addressed to the defendant at Newark.

Upon being asked ~~how~~ how he happened to address the letter to the defendant at Newark after having learned that the defendant's post office was Fredonia, he said the only explanation he could give was that it must have escaped his recollection at the time of writing; that he had been informed at Meritts that Fredonia was the Post Office of the defendant, the memorandum which he had taken having been mislaid. Witness also said he had written separate letters to the drawer and each of the endorsers and that no one of those letters was addressed to two persons. He had never as he recollected addressed a letter to Elijah Hunt or J H Hunt in the alternative.

Defendant's counsel then produced to the witness a letter dated and post-marked at Dixon on the 7th of November 1851. Address on the back to Elijah Hunt or J. Hunt Newark Ohio, which letter is as follows to wit:

Elijah Hunt Dixon 7th November 1851

Messrs J. H. Hunt

By the enclosed protest you will see that the draft you sold us of \$ 800 drawn by J I Smith has been protested for non-payment. The draft has been returned to us and we having sold and assigned it, have had

to take it up and pay protest and damages.

Will you please attend to this matter immediately and write us,

We have sent Mr A J Smith a copy of the protest. You will recollect that you told us that you were personally acquainted with Mr Smith and that he was abundantly responsible and one of your first bankers. We are greatly disappointed in this matter and hope you will soon attend to this matter by which we will be greatly obliged.

We remain your most
obedient servants

Demant & Steedman

Which letter also contained a notice partly written and partly written as follows viz:

Witness, stated the letter to be the one spoken of in his examination in chief as the first letter addressed to the defendant and the notice, to be the same received with the protest of the draft and forwarded by him to the defendant at Newark Ohio and that he was mistaken in relation to the manner of addressing it.

Upon reexamination of the witness, by plaintiffs counsel, he stated that he was confident that after getting the information from ~~Franklin~~ Merritt as stated in his examination in chief and returning home, that the letter then written to defendant and to his son respectively were directed according to the memorandum made at Mr Merritts and that his recollection was that the place given him by Mr Merritt, as the defendants residence was Fredonia Licking County Ohio; That the circumstances of going to Lazzells Co. getting the information from Merritt taking the memorandum with a pencil, and returning home and writing, served to guide his recollection, but that as to some of the other letters written he had to depend more upon his general recollection.

The foregoing letters, copied in the cross examination, were not read at the time but the statement of the witness respecting them were called out.

Upon the foregoing testimony the plaintiff rested his case.

Defence

The defendant then read in evidence the Depositions of E. Sanford and James D. Birkey taken at Newark Licking County Ohio on the 2^d day of March 1853 in answer to the following interrogatories viz:

1st What is your name age and occupation

2^d Are you acquainted with Amos C. Steadman and Elijah Hunt the parties to this suit, or either of them and when, where, and how long have you known them respectively.

3^d Where does Elijah Hunt the defendant reside, and where did he reside in the months of September, October, November and December A.D. 1851, and when and where was the Post Office at which he usually received his letters and other communications, coming through the mail? State whether said Post Office was or was not the nearest post office to his then residence and if not what Post office was nearer.

4th Do you or not know any thing of a certain Bill of Exchange drawn by A. J. Smith on Buckingham and McCulloch, dated Newark Ohio September 2^d 1851 in favour of E. J. Hunt (or J. H. Hunt or J. Hunt) for Eight Hundred dollars, on three days sight and afterwards endorsed by the payee and Elijah,

Mount? If you state the true name of the payee
and ~~to whom it was~~ delivered, by whom and
to whom it was endorsed and transferred, at
what time and place? State particularly and
fully if you know and your means of
knowledge

5th

In what manner was said bill of exchange
purchased from said A. J. Smith or obtained,
and what was the standing and pecuniary business
credit at that time and afterwards? Did
he or not afterwards continue to do business
and meet his pecuniary liabilities? If yes,
up to what time did he or not fail in business
and pursue payment? If so when, and what was
his credit and standing in business before that time,
and what has it been since, and what was his business
and where was his place of business, if any change
state what change and when it occurred. State
your means of knowledge and whether or not you
had an intimate acquaintance with Smith as a
business man, and what was the nature and
extent of your business intercourse with him.

6th

Did said A. J. Smith after the drawing of
said bill of exchange mentioned in the fourth
interrogatory, draw another bill of exchange
payable to Dement & Stedman of Dixon Illinois
or to either of them or payable to Amor C. Stedman
for about the sum of \$800, if yes, for what a-
mount or whom, in whose favour, and when
was that bill of exchange drawn, when was it
payable, what was done with it so far as your
personal knowledge extends, to whom was it sent or
delivered. State whether Elijah Hunt the defendant

or any of the endorser of the first named bill of Exchange had any knowledge of the last bill being drawn or sent if yes, what knowledge was which of them knew of it.

7th Do you know any thing of a sale or transfer of the bill mentioned in question fourth, at Dayton in October 1851 if yes, who sold it? and to whom, and by whom was it endorsed and to whom, and what consideration if any took place between the parties to said sale about the time of said sale and transfer touching the Question of the place of residence and Post Office address of Elijah the defendant, State particularly what was said who said it and to whom and in whose presence

8 Did A J Smith draw ^{any} but one bill of Exchange dated 23rd day of September 1851 on Buckingham and McCulloch for the sum of \$ 800 and payable to the order of a man by the name of Hunt.

To which Interrogatories the Witness E Sanford answered as follows to wit:

To the first Interrogatory he answers as follows:
My name is Elijah Sanford, my residence is the town of Newark, County of Licking & State of Ohio. My age is 37 next June - my occupation is Book settler.

To the second Interrogatory he answers as follows:
I do not know Mr Stedman - Mr Hunt I have known by sight for the last four or five years perhaps longer, I have known Mr Hunt in Newark.

To the third Interrogatory he answers as follows:

I do not more than by hearsay I have understood that he lives in McKean Township Licking County

To the fourth Interrogatory he answers as follows

I know nothing whatever relative to the matter except what I have heard.

To the fifth interrogatory he answers as follows:

As to the first Clause of the question I know nothing, I know nothing about the bill of exchange. On the 23rd day of September 1851 A. J. Smith's standing and credit as a banker was as good as that of any ~~other~~ Banker in Ohio. I have done business with him, bought drafts of him and they were ^{always} honored. We continued to do business from that date up to about the 10th of November 1851 & after. On the latter date I purchased drafts of him on New York and they were honored. I deposited with him up to the 27th day of November 1851, the day he failed. His credit up to the time of his failure the 27th day of November 1851 was as good as that of any Banker in Ohio. He was a private Banker in Newark Ohio. He did business at but one place so long as I knew him. I believe I was as fully acquainted with him, as any business man in Newark perhaps more so. I did business with him - deposited with him, bought drafts of him, and a general business intercourse. The extent of my business with him was from \$1,000 to 10,000 per year, running through a period of eight years. His credit and standing since the 27th of November 1851, has been that of a broken Banker largely insolvent.

To the sixth interrogatory he answers as follows:

I have no knowledge about that.

To the seventh interrogatory he answers as follows:
I have no knowledge about that

To the Eighth Interrogatory he answers as follows:
I know nothing about that.

And further saith not
O Sanford

And to the same Interrogatories the witness
James L. Birkey answered as follows:

To the first interrogatory on the part of the
Plaintiff he answers as follows:

My name is James L. Birkey, I am 38 years
old, my residence is Newark — My occupation
is that of a Merchant

To the second Interrogatory he answers as
as follows:

I am not acquainted with Amos C. Stetman
but I am with Elijah Hunt. I have known Elijah
Hunt since 1849. I have known him in Licking
County.

To the third Interrogatory he answers as follows:
Elijah Hunt, the defendant resides in McKean
Township, Licking County Ohio, about 12 miles from
Newark. I believe his residence to have been at
that place during the months of September, October,
November and December, 1851. I don't know at
what Post Office defendant got his letters by mail

Frederonia and Lyloania are and were at that time the nearest Post offices to his residence, Lyloania is about two miles from his residence and Frederonia is about three miles.

To the fourth interrogatory he answers as follows:

I have no knowledge of the matter.

To the fifth interrogatory he answers as follows:

I know nothing of the obtaining of the Bill of Exchange, A. J. Smith's standing and pecuniary business credit on the 23^d of September and up to about the 18th of November 1851 was equal to any Banker in the state, and he had the reputation up to that time of meeting all his liabilities promptly. He did afterwards fail in business on the 29th day of November 1851. His standing in business and credit was good up to that time, the 18th November. Since his failure, his standing has been like that of any other insolvent man — he has had no credit — His place of business was in Newark Ohio, and he never changed his place of business after having engaged in the business of private Banker in this place. I had a very intimate acquaintance with A. J. Smith as a business man. I did a very large business in his line — dealt largely of money, purchased largely of Exchange — borrowed large amounts of money and did an average business with him from the year 1846 until the time of his failure amounting to from \$75,000 to \$100,000 per year.

to the sixth interrogatory he answers as follows:

I know nothing about it.
To the seventh and eighth interrogatories he answers as follows

I cannot answer any thing about it

And further saith not

James S Birney

The Defendant then produced Truman H Hunt as a witness who was sworn and testified (after a release from defendant to the witness was produced that he is the son of defendant; that def. lived in McKean township Licking county Ohio about 12 miles from Newark the county seat, at the time of the selling of the draft and up to the present time, and that the post office in McKean township is at Fredonia about three miles from his fathers residence at which place his father usually got his letters, but that there was a new post office nearer to his fathers residence, called Sylvan which was established about the time of the selling of the draft, and that since then his father sometimes got letters at that Post Office and at which his father sometimes got letters; and that his father was not accustomed to get letters at Newark; that he never knew of his getting any there except the two above mentioned. That his father was a farmer, and generally sold his grain and sometimes done his trading at Newark, and visited Newark ^{as} often as once in two weeks and sometimes more frequently. Witness also stated that in the fall of 1851 his father came west and left

more with him where to get ~~the~~ money, with which
he directed him to buy a draft from J. Smith
to bring west for his father to buy lands with;
that the money was his father's and the draft
for his father; that after his father had come west
he went to the Bank, and asked Mr Smith for a
draft giving him the money — that Mr Smith
asked him his name and he gave it to him
and Smith filled up the draft with his name
and that that was the occasion of the draft being
in his own name; that he left for the west about
15 days after his father, whom he met in Illinois,
and with whom he went to Dixon; That at Dixon
his father preferred to go to Col Dement to buy land
warrants with which to enter lands, as he said he
had previously travelled with Col Dement on a
Steam Boat and formed some acquaintance with
him. That ~~on the way~~ ^{on the way} to Dement's office or
at the steps they met Col Dement and that on the
steps of the office Col Dement introduced his
father to Charles Dement; that it was not Charles
Dement but Col Dement with whom his father was
previously acquainted. That his father sold the draft
for eight dollar premium getting land warrants
and money with which he entered lands, with
~~the~~ assistance from Dement; that upon selling the
draft, he endorsed it and his father also.
The Witness Hunt also stated that at some time
during the conversation Col Dement picked up the
draft and remarked that it was not drawn on
any Bank, but on a banker house. Defendant said
Smith was a cashier of a Bank and a private
Banker of as good standing as any banker in the
State of Ohio or in the County of Licking, but Witness
could not recollect which expression was used.

Dement then said we have an agent in New York and we can telegraph him on the subject, and we will take your Post Office address, and if there is any thing wrong we will let you know. Defendant thereupon told Col Dement that his Post office address was Fredonia Licking County Ohio, Col Dement was standing up at the time and Charles Dement was sitting at a table. Whether Charles Dement took a memorandum of the address witness did not know. Col Dement he thought did not. Witness also stated that he had previously been engaged in improving a farm in Lasalle County, near the town of Lasalle, that he had returned to Ohio in the Spring of 1851 intending to live there two or three years, and then come back, that in the Spring of 1852 he returned to Lasalle County where he now resides; that he and his father got back to Ohio about 15 days after entering the land at Dixon, and that he lived in at part of his father's house; that somewhere from the 1st to the 5th of January 1852, his father and himself saw in a New^{ark} paper an advertised letter, for the same name as his father; that his father went to Newark and brought home the letter. It is stated in the testimony of Col Dement as dated Nov^r 24 1851 which was the first letter he saw or knew of his father's having from Col Dement or Dements and Stedman that some three or four days afterwards he got the letter to himself, Dated Dec 17, which is stated in Col Dement's testimony, and that in some days afterwards and it might be two or three weeks after he got that letter he first saw his father have the letter to him of December 17 which is also stated

in Col Dement's testimony. Witness stated that the one letter was all he ever got from the parties and the two to his father were all that he ~~as his father~~ ever knew or heard of his, his father getting, that he and his father lived in the same house, and that he would probably have known it if his father had received any other letters in relation to the draft, and that he never answered the letter to himself, and that he never knew of his father's answering either of the letters to him.

He also stated that on the night of, or night previous to Smith's failure, according to general rumor he left the county. He supposed some few might know where he was, but witness did not know, and people generally did not know what had become of him. Witness also stated that a letter usually went by mail from Lasalle to Fredonia in from five to eight days.

Defendant next gave in evidence the three letters copied in connection with the testimony of Col Dement.

Defendant also proved that ~~the~~ ^{the} Meritts lived about forty miles from Dixon and two or three miles from Lasalle, and that there was a daily mail from Lasalle East by way of Chicago & that this was known to Col Dement when he was at Meritts.

The foregoing statement contains all the evidence in the case.

The plaintiff's counsel asked the court instruct the jury as follows excepting that part contained in the 1st & fourth instructions, in brackets,

As to the plaintiff the Court is asked to instruct the jury —

1st If the bill of exchange offered in evidence by the plaintiff was shown to the payees on the 23^d day of October 1851, then it became due on the 28th of the same month, and the notarial protest offered in evidence by the plaintiff proves that due demand was made when the bill became due and that it was not paid - and if notice of such nonpayment was given to the defendant in due time [as explained by the other instructions in the case] the plaintiff would be entitled to a verdict for the amount of the draft with interest from the time it became due

Given

2^d If the jury believe from the evidence that notice of the nonpayment of the draft was received by the parties to whom the defendant endorsed it, in due time, and that thereupon the holder, in season for the mail of the next day - or the next mail thereafter if the mail did not go on the next day, mailed notice of the non-payment to the defendant addressed to his usual post office for receiving letters, such notice will be sufficient and in due time.

Given

3^d If the defendant at the time of endorsing the draft, represented to the parties to whom he endorsed it, that his place of business was Newark Ohio, and the holder had no other information as to his place of residence or post office address, a notice duly mailed to that place would be sufficient whether the defendant received it or not

Given

Given

4th If the Holders of the bill, at the proper time for giving notice, did not know the proper Post Office address, but made reasonable inquiry to ascertain his proper Post Office address; and then in due time, [as explained by the other instruction, in the case], mailed such notice to the defendant directed to such Post Office, such notice would be sufficient.

5th The Holders were only required to make such inquiry, in such quarters and of such persons, as their information and reasonable and just diligence would require

Refused

6th If the Holders of the draft, upon such inquiry ascertained the proper Post Office address of the defendant; and thereupon mailed a notice to the defendant within a reasonable time, according to the usual course and mode of dealing and with reference to general convenience utility and the plain principles of natural justice, it would be sufficient Notice

Given

7th If the Holders did not in fact ascertain the true Post Office address of the defendant, upon due inquiry, then they would be excused from giving notice at all

Given

8th The bill on its face purports to be drawn upon partners "Buckingham & McCulloch" and they will be presumed to be partners until the contrary appears

Given

9th If the jury believe from the evidence in which the bill is addressed to the drawees viz "Buckingham & McCulloch" that they were address as partners, it is sufficient proof of partnership

The court refused to give the first and fourth instructions as asked and until changed by inserting the facts upon which plaintiff relied to constitute due notice and thereupon plaintiff's counsel made the interlineations in brackets to which refusal to give said instructions as asked, the Plaintiff, counsel then and there excepted.

The court gave the 1st & 4th instructions as altered, and also the 2^d, 3^d, 5th & 8th & 9th instructions asked by plaintiff, and refused to give the 6th instruction asked by plaintiff's counsel to which refusal plaintiff's counsel then and there excepted.

~~Plaintiff's counsel also asked the court to give the following qualification~~

The Defendant Counsel asked the Court to instruct the jury as follows:

1st That if the jury believe from the evidence that Defendant at the time of endorsing said bill of exchange gave to the endorsees thereof his post office address correctly and for the express purpose of enabling them to give him notice in case of the dishonor of said bill and that the said endorsees did not send a notice by mail to the correct address as early as the post of the next day, although they may have, in good faith,

Given

Sent a notice to a post office about ten or twelve miles from the residence of defendant, yet this would not be sufficient to charge the defendant.

If, after receiving the post office address of defendant for the above and express purpose of giving him the earliest notice of the dishonor of the bill (said Stedman & Dement being immediate purchasers from defendant) had forgotten the proper address and in consequence thereof failed to give the required notice, such mistake would be their misfortune and not defendant's fault and under such case defendant is not chargeable.

2 If the jury believe from the evidence that John Dement and plaintiff and Charles Dement, purchased said draft from Elijah Hunt; and Elijah Hunt after endorsing said bill delivered ^{it} to them, or one of them; and if the jury further believe that at the time said endorsee, (Dement & Stedman) first received notice of the dishonor of said bill they were ignorant of the post office address of said Hunt. And a few days afterwards John Dement within three miles of the Town of LaSalle and at a distance of some forty miles from the home and place of business of said Dement and Stedman; ascertained the post office address of said Hunt; it in such case became the duty of said John Dement to send a notice by mail from the post office nearest to the place where he was when he got the information at farthest by the mail of the next day; unless he adopted some equally expeditious mode of sending; And if Dement under such circumstances instead of mailing a letter at the nearest

Given

Post office, mailed from there to five days
and mailed it at Dixon, on a route no
more expeditious than the LaSalle route.
Defendant in such case would not be charge-
able.

3^o If the holder of a bill of Exchange is at
the time he receives notice of the non-payment
by the drawee ignorant of the place of residence
of a prior indorser, but upon inquiry ascertains
the place of residence and that it is in a different
town or city, it is his duty to mail a notice
directed to said prior indorser by the mail
of the same or the next day, otherwise the in-
dorser is not liable to him, and it is immate-
rial whether said holder is at home ^{or away from home} at
the time he ascertains said place of residence
unless he should be in some place where he
could not by the exercise of reasonable dili-
gence deposit a notice in a post office so
soon as above mentioned. In that case
he must do it as soon thereafter as he
can by the exercise of reasonable diligence,
or the prior indorser is discharged.

4th That the want of funds in the hands
of ^{the} New York men, the drawers, has nothing to
do with the issue on trial.

All of which instructions were given
by the Court, and to the giving of each
and all of said instructions asked by
defendants counsel, the Plaintiffs counsel
then and there excepted.

Plaintiff's counsel also asked the court to give the following qualification to first part of defendants first instruction, to wit:

"Unless the defendant furnished his address in writing or printed, or it was written down by Dement and Hedman, it would not be giving his address within the meaning of this charge."

Which qualification the court refused to give to which refusal plaintiff's counsel then and there excepted. and to all which the plaintiff ~~the~~ excepts, and now here prays the court to sign and seal this his bill of exceptions which is done in open court

Ed Leland 21st
Judge &c

In vacation to wit: on the 31st day of Dec. 1853, the plaintiff filed his appeal bond herein in the words and figures following to wit:

Know all men by these presents that We Amos C Hedman and principal and Charles Dement as security both of the county of Lee and State of Illinois, are held and firmly bound unto Elijah Hunt, in the penal sum of Five Hundred Dollars current money of the United States for the payment of which well and truly to be made we bind ourselves our heirs, executors and administrators, jointly severally and firmly by these presents. Witness our hands and seals this 31st day of December A D 1853

The condition of the above obligation is such that so far as the said Elijah Hunt did on the fifteenth day of October A.D. 1853 in the Circuit court in and for the county and State aforesaid recover a judgment against the above bounden Amos C. Stedman in a certain suit of attachment, for costs of suit from which said judgment of the circuit court the said Amos C. Stedman has prayed for and obtained an appeal to the supreme court of the said State.

Now if the said Amos C. Stedman shall duly prosecute his said appeal with effect, and shall moreover pay the amount of the judgment, interest, damages, and costs rendered or to be rendered against him in case the said judgment shall be affirmed in the said supreme court, then this obligation to be void otherwise to remain in full force and
~~effect~~

Approved by me this 31st day of December 1853
Ed. M. Fisher clerk

Amos C. Stedman *Recd*
Chas. Dement *Recd*

State of Illinois }
Bureau County }

I Edward M. Fisher clerk of the circuit court of said county do hereby certify that the foregoing abstract contains a true and perfect copy of the original affidavit of the plaintiff, the writ issued thereupon the declaration and amended declaration of the plaintiff and the defendants pleas thereto, together

with all the orders of the court, and the
plaintiff's bill of exceptions, ^{in the above entitled case} as the same ap-
pear of record and are file in my office
Witness my hand and the seal
of said court at my office in
Princeton in said county this 24th
day of May A.D. 1854

Edward M. Fisher Clerk
By J. H. Oels Deputy

Clerks fees

Copys 139 folio 13.90
Cust & Seal 25
\$14.15

And now comes the said plaintiff in error and
says that in the record of proceedings aforesaid
and in the rendition of the Judgment aforesaid
there is manifest error in this & viz

- 1st The court erred in refusing to give the 1st & 4th in-
struction asked by the plaintiff as asked ~~and~~
in the 1st instance
- 2^d The court erred in refusing to give the 6th in-
struction asked for by the p^{ty}
- 3^d The court erred in giving the 1st instruction asked
by defendant
- 4th The court erred in giving the 2^d instruction
asked for by defendant
- 5th The court erred in giving the 3^d instruction

asked for by defendant

6 The court erred in overruling the motion for a
new trial

7 The court erred in refusing the judgment
aforesaid in manner aforesaid

Blehorn

att. for pty

Amos C. Stebbins

vs. 2

Elijah Hunt -

Record

Filed June 9th 1854.

S. Leland Clerk

By P. H. Leland Depy.

Filed July 28. 1854.
S. Leland Clerk.

Stedman v Hunt

The circuit court erred in giving the third instruction asked by the defendant in the court below. Our evidence tended to show that, when Stedman received ~~the~~ notice of the dishonor of the bill he was ignorant of the residence of Hunt & upon enquiring after using reasonable diligence failed to discover it and addressed a notice to Hunt at Newark where the best evidence he could get seemed to fix his residence.

The court held that after all this was done if Stedman ^{or servant} afterwards discovered the residence of Hunt they must have addressed a notice to him by the next mail after learning his residence. This is not the law. I cite the decision of the Supreme Court of the U.S. in *Lambert et al v Ghieslin & Howard* 552. Abundance of authority might be cited to sustain this position but I deem it unnecessary as this is the leading case.

B. C. Cook
per atty

Stedman & Hunt

Points for Seepersedus

" " "

Amos L. Steadman

Elijah Hunt

Special from Bureau

This was a suit commenced by Attachment
declaration upon a bill of exchange of which
the following is a copy

\$800

Newark Ohio 23 September 1857

Three days after sight pay to the order of
J. H. Hunt Esq. acceptance waived eight hundred
dollars value received and oblige the same
to account of

A. J. Smith

To Messrs Buckingham
& McCulloch 43 front st

New York City on the back of which bill
are the following endorsements J. H. Hunt
Elijah Hunt

The 1st Count of the declaration
counts against defendant as 2 endorser of
the bill of exchange above presentation for
payment to the drawee on the 22nd day of
October 1857, & demand of payment 3 days
after refusal to pay and notice to defendant

2nd Count is a special count against defendant
as endorser of the bill of exchange.

3rd Common counts for money & for goods sold.

Plea general issue, verdict for defendant

Plaintiff offered in evidence
1 The bill of exchange of foraine

2 A protest, showing presentment to drawee
& protest on the 28th day of October AD 1854

3 Deposition Edward Austin, James W McCullough
& B H Buckingham, who each testified that
on the 22nd day of October AD 1854, the bill of
exchange of foraine was presented to the
drawee, and payment refused and
protestue on the 28th that at the date of
the bill, Sept 23 1851 the drawee had funds
in the hands of the drawee sufficient to
have paid the bill, but that after the 8th day
of October 1851, there were no funds of the drawee
in the hands of the drawee.

The plaintiff called John Woment who
testified that on the 16th day of September 1851
the pty, Charles Lemont & the witness were
doing business as partners in Dixon & Co
in buying & selling land warrants paying
taxes and the like, that on that day witness
^{was present at}
~~overheard~~ a conversation between Charles Lemont
& the defendant from which it appeared that
Charles Lemont & the defendant had previously
travelled together upon the All River & had become
slightly acquainted, defendant was at the time
negotiating with Charles Lemont about the
purchase of some land warrants
witness had overheard defendant before
defendant at that time stated that his

funds were in a bank draft, and he had
been offered one per cent premium for it and
he must have that premium. Defendant
was accompanied by a young man said to
be his son, witness seeing the draft upon the
table picked it up & looked at it & remarked
to defendant that it did not appear to
be a bank draft, that it did not appear
to be drawn by a bank nor upon a bank
to which defendant replied that Mr Smith the
drawer of the draft was a private banker
and that his credit standing was as good
as any banker in Ohio. Witness then remark-
ed to defendant that he appeared to be
the party purchasing land & the draft
was made payable to & endorsed by J. H.
Hunt. Defendant said the draft was drawn & was
endorsed by his son and expressed a
willingness to endorse it himself & did
so upon transferring it. Clement & Stearns
have not warrants enough to make up
the amount & witness told defendant
that he could proceed the remainder in
town, but defendant preferred to deal
with Clement & Stearns as he had some ac-
quaintance with them & preferred relying on
their responsibility. Clement & Stearns then
purchased of defendant the draft since
on allowing premium they paid for the
draft \$808. During the conversation defendant
spoke of Smith as a banker of high standing
and the draft as of one that would doubtless
be paid. Defendant spoke of having money

transactions with Smith at Newark Ohio and spoke of Newark as a place where he had transacted business, but did not remember that he spoke of any place as his usual place of business or as his place of residence.

That Defendants Annotation depends upon the mind of witnesses no place so being Defendants place of business or residence except Newark Ohio and that witnesses suppose Newark to be his place of business and that his residence was there or in that vicinity.

Defendant told witnesses that his son was engaged in improving a farm or something of that sort in Cassell County near the town of Cassell.

The draft was forwarded to New York and protested for nonpayment. On the 6th day of November according to the best recollection of witnesses he received through J. H. Birch of Chicago through whom the draft had been sent forward, a notice of the protest of the bill. This notice was received in due course of mail and he also at the same time received a notice for ^{J. H. Hunt} ~~himself~~ and one for A. J. Smith and one for Defendant that on that day or within a day or two but as they received their eastern mail at Dixon in the morning and the mail for the east left in the evening and as it was their usual custom to answer letters on the day of receiving them he presumed upon the same day.

witness enclosed the notice for Smith to
him in a letter to Newark Ohio in a letter
and also enclosed to the defendant the
notice for him in a letter directed to him
at Newark Ohio advising him that Semmes
& Steadman had had to take up the draft
and requesting him to provide for its payment
that the notice stated in substance that
a draft dated September 23 1857 drawn by A. J.
Smith on Messrs Buckingham & McCullack
New York naming the sum of eight hun-
dred dollars to the order of J. A. H. M. A. and
endorsed (in the one to def) by him had been
protested for non payment and that the
holder looked to him for payment

That at the time of forwarding said notice
witness had no knowledge or intimation nor
did he suspect that the defendants residence
or place of business was elsewhere than at
Newark Ohio, nor did either of his partners so
far as he knew or believe have any more infor-
-mation on the subject than he had himself
and that he forwarded said notice to the
defendant at Newark believing it to be his
proper post office address

That in a day or two or three after
receiving said notice supposing from what
had been said of defendant at the time
of selling the draft that said J. A. H. M. A.
lived in the vicinity of LaSalle, witness started
in a buggy to try & find him. He did not reach
the vicinity of said J. A. H. M. A. supposed residence
on the same day he left Newark but stayed over

night on the way, he enquired along the road
and at different places till he came to H. Merrill
3 miles north of Ladalle who told witnesses
that since J. H. Hunt lived in Fredonia Ohio
some 8, 10 or 12 miles from Newark, and that
Newark was not his nearest post office
that there was another post office nearer to
defendants residence than Fredonia. Witness took down
carefully on a piece of paper the post office
address of both defendant & J. H. Hunt as given
by Mr. Merrill. Witness then went home to
Lexon but whether directly home or by way
of Ladalle & Peru he could not recollect.
His impression is he did go to Ladalle, at that
time, when he got home or soon after he wrote
to defendant informing him of the protest
of the draft & mailed the letter to him at
Fredonia, thinks he wrote in from there
a few days after he got to Lexon & should
think it was from the 12th to 20th when
they were forwarded.

Witness got no answer to either
of the letters he had written to defendant
about the last of Nov or first of Dec he wrote to the
defendant again at Fredonia & received no
answer that about the last of December
Charles Bennett wrote to defendant at Fredonia
Ohio & received an answer from a man signing
himself W. Humphrey atty for deft all the
letters written were signed Bennett & Steadman.

Before the suit was brought witness
sold out his interest in the matter to the
plaintiff and now had no interest in

the question on cross examination without
stating that he had written but one letter
to defendant at Newark and after that he
had written two letters to deft at Andover
and Charles Sumner one. That he had now
written but one letter to J. H. Hunt that that
one was addressed to him ^{now} at Andover but at
some other past office the name of which wit-
ness had forgotten

Deft here produced a letter addressed
to ~~Wm~~ Hunt Andover Ohio which letter is as
follows

Wm 17th Dec 1857

Mr J. H. Hunt Esq

Dear Sir Some time since we wrote You
that the draft You sold to us for \$800 drawn in
Your favor by A. J. Smith Newark Ohio had been
protested, This draft was endorsed by You and
Elijah Hunt Your father. We have received
no answer from either You or Your father
but in due course of mail A. J. Smith
sent us another draft drawn on another
house in New York for \$810. which we sup-
pose the proceeds you to apply upon the sum
due us upon the first draft. Protested

We accordingly sent forward the
second draft and have been informed
from New York that the same fate had
attended that consequently we must
ask You to make some arrangement that
looks more like Equity & fair dealing

You will recollect that You and
Your father stated that You knew that
the draft was good and worth a premium

and on paid Con \$808 for the draft you be
pleased to make us some kind of payment
which will amount to debit interest and
damages We request that either you or
your father will please write us immediately
what we are to depend upon We send the
copy of the protest to your father and D. H.
Smith

We remain Your obedient
servants Edmund & Edmund
witnesses states that the letter was written by
him & he might have written the letter to
the Youngman instead of as per
depts Counsel then exhibited to witnesses
a letter addressed to defendant at Newark
Ohio of the same date and similar in
substance to letter above recited

He witnesses that this last letter was in his hand
writing and that he must have written to both
the defendant and his son on the subject
but that it had escaped his recollection that
he had written a second letter addressed to
the defendant at Newark

witnesses states that he had never as he re-
collected addressed a letter to Elijah Hewitt or
J. H. Hewitt in the alternative

depts Counsel then introduced a letter
dated & post marked Dixon 7th of November 1857
addressed to Elijah Hewitt or J. Hewitt Newark
Ohio which letter is as follows

Dixon 7th November 1857

Elijah Hewitt

J. H. Hewitt By the enclosed protest you will
see that the draft you sold us of \$800. does

by J. Smith has been protested for nonpayment.
The draft has been returned to us and we
having sold and assigned it have had to take
it up and pay protest and damages well. We
please attend to this matter immediately
and write us.

We have sent Mr. J. Smith a
copy of the protest. You will recollect that
you told us that you were personally ac-
quainted with Mr. Smith that he was
abundantly responsible and one of your first
bankers. We are greatly disappointed in this
matter and hope you will soon attend
to this matter of which we shall be greatly
relieved.

We remain your most
obedient servants

Samuel H. Johnson

which letter contained a notice of protest
of the draft in the usual form.

Witness stated that this was the first
letter referred to in his testimony and he
was mistaken in the manner in which
it was addressed.

Upon reexamination by plaintiff witness
stated that he was confident that after getting
the information from Murritt near Salt Lake
as stated in his examination in chief
he wrote on returning home to dept & to his
son and to the address of each as given
him by Murritt, that his recollection is positive
from the circumstance of his going to Salt Lake
getting the address making a note of it in
pencil & returning & writing.

Plaintiff rested.

Sept called in evidence the deposition of E Sanford & James L. Birney, a motion had been made to suppress said depositions which had been overruled and the plaintiffs excepted.

Said depositions tended to show that on the 23 day of September 1851 J H Smith was in good standing & credit as a banker & so continued up to ~~the~~ ^{on 27th Nov 1851} November 1851 ~~when~~ he failed. That defendant resided in ~~Frank~~ McKean township about 12 miles from Newark Ohio & died in Autumn of 1851. Fredonia & Sylvania were his nearest post office one about three & the other about two miles from his residence.

Sept called J H Smith who testified that at the time of selling the draft & up to the present time defendant lived in McKean Township 12 miles from Newark Ohio, his usual post office was Fredonia sometimes at Sylvania a new post office & that his father was not accustomed to get letters at Newark. That his father was a farmer & generally sold his grain & done his trading in Newark. He visited Newark as often as once in two weeks & some times often. Witness bought the draft in question with his father's money and by his father's direction and the draft was made out in witness's name by Smith. Witness & his father came over at Dixon's express to call on Col Henry as he had previously travelled with Colom.

Remmit on a Steamboat & knew him
that Cal Remmit introduced him to Charles
Remmit. it was the Cal. & not Charles dept
had travelled with. Sept saw the draft for
\$8. premium and witness & dependant endorse
it. dependant recommended the drawer of the
draft as of good standing & responsible
Sept gave his past office address to Remmit
Frederick Linking Co Ohio dont know that
it was taken down in writing. Witness also
stated that he was engaged in improving a
farm near Lasalle but that he lived in
Ohio in a part of his fathers house about
15 days after selling the draft dependant and
witness got back to Ohio and some where from
the 1st to 5th January 1832. They saw a letter directed
to dependant advertised in Newbern they got
it this was the letter above mentioned dated
Nov 7th 1831 Three or four days afterwards he got
the letter to himself dated December 17th 1831
and some day afterwards his father got
the one addressed to him dated same date
Witness never received any other letters
as know of his fathers receiving any
other letters from Remmit & Stumman or
either of them. Never know of either of the
letters being answered. Smith left the country
the night before his failure people generally did
not know when he went

The above letter was given in evidence & dep. proved
that H. Merritt lived 40 miles from Seixon
on the road to Lasalle 2 or 3 miles from
Lasalle, that there was a daily eastern mail

from La Salle via Chicago & that cannot show
it when he was at Merriett

This was all the evidence

For the plaintiff the court was asked to
instruct the jury as follows,

1st

If the bill of exchange offered in
evidence by the plaintiff was shown to the payee
on the 22nd day of October 1851 then it became due on
the 28th of the same month and the notation pro-
ffered in evidence by the Plaintiff proves that
due demand was made when the bill became due
and that it was not paid and if notice of such
non-payment was given to the defendant, in due
time [as explained by other instructions in the case]
the plaintiff would be entitled to a verdict
for the amount of the draft with interest from
the time it became due,

4th

If the holders of the bill
at the proper time of giving notice did not
know the proper post office address but made
reasonable inquiries to ascertain the proper
post office address and then in due time [as
explained by the other instructions in the
case] mailed such notice to the defendant as
directed to such post office such notice would
be sufficient,

6th

If the holders of the draft upon
such inquiry ascertained the proper post office

address of the defendant and thereupon mailed a notice to the defendant within a reasonable time according to the usual course and order of dealing and with reference to general convenience and utility, and the plain principle of natural justice it would be sufficient notice,

The court refused to give the first and fourth instructions as asked until changed by inserting the facts upon which plaintiff rested to constitute due notice and thereupon plaintiff's counsel made the interlineation in brackets to which refusal to give the instructions as asked the plaintiff's counsel then and there excepted,

The court gave the 1" & 4" instructions as altered and refused to give the 6" instruction asked by plaintiff's counsel to which refusal plaintiff's counsel then and there excepted,

The defendant's counsel asked the court to instruct the jury as follows,

1" That if the jury believe from the evidence that defendant at the time of endorsing such bill of exchange gave to the endorsee thereof his post office address correctly and for the express purpose of enabling them to give him notice in case of dishonor of said bill and that the said endorsee did not send a notice by mail to the correct address as early as the post of the next day although they may have in good

given

in good faith sent a notice to a post office
about ten or twelve miles from the residence
of defendant, yet this would not be sufficient
to charge the defendant. If after receiving the
post office address of defendant for the avowed
and express purpose of giving him the earliest
notice of the dishonor of the bill (said Steadman
and Clements being immediate purchasers from
defendant) had forgotten the proper address
and in consequence thereof failed to give the
required notice such mistake would be
their misfortune and not defendant's fault
and under such case defendant is not chargeable

2"

If the jury believe from the
evidence that John Clement and plaintiff and
Charles Clement purchased said bill from Elijah
Hunt and Elijah Hunt after endorsing said
bill delivered it to them or one of them and if the
jury further believe that at the time said
endorsers (Clements & Steadman) first received notice
of the dishonor of said bill they were ignorant
of the post office address of said Hunt and a few
days afterwards John Clement within three miles
of the town of LaBalle and at a distance of some
forty miles from the town and place of business
of said Clements & Steadman ascertained the
post office address of said Hunt. It in such
case became the duty of said John Clement to
send a notice by mail from the post office
nearest the place where he then was when
he got the information at furthest by the
mail of the next day unless he adopted

given

Now equally expeditiously made & sending
and if Cement under such circumstances
instead of mailing a letter at the nearest
post office waits from three to five days and
then mails it at Shipon on a route no more
expeditious than the Yaballe route dependant
in such case would not be changeable.

3"

Given
If the holder of a bill of exchange
is at the time he receives notice of the non-
payment by the drawer ignorant of the place
of residence of a prior indorser but upon inquiry
ascertains the place of residence and that it
is in a different town or city it is his duty
to mail a notice directed to said person
prior indorser by the mail of the same or the
next day otherwise the indorser is not liable
to him and it is immaterial whether said
holder is at home or away from home at the
time he ascertains the place of residence unless
he should be in some place where he could
not by the exercise of reasonable diligence
deposit a notice in the post office so soon
as above mentioned, In that case he must
do it as soon thereafter as he can by the
exercise of reasonable diligence or the prior
indorser is discharged.

4

Given
That the want of funds in the
hands of the New York men the drawers has
nothing to do with the issue on trial.

All of which instructions

were given by the court and to the giving of each and all of said instructions asked by the defendant's counsel the plaintiff's counsel then and there excepted.

Plaintiffs counsel also asked the court to give the following qualification to the first part of defendant's first instruction, to wit
Unless the defendant furnishes his address in writing or printed or it was written down by Clement and Steadman it would not be giving his address within the meaning of the charge.

Which qualification the court refused to give to which refusal plaintiffs counsel then and there excepted and as to all which the plaintiff excepts and now here prays the court to sign this his bill of exceptions which is done in open court,

Ed Leland Trial
Judge

Filed
Aug 28. 1884
Ed Leland Clerk

Abstract

Steadman is Plaintiff

STATE OF ILLINOIS, }
SUPREME COURT, }

ss. The People of the State of Illinois,

TO THE SHERIFF OF THE COUNTY OF

Bureau

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 *Bureau* county, before the Judge thereof, between *Amos C. Stedman Plaintiff*
and Elijah Hunt

defendant, it is said that manifest error hath intervened, to the injury of the said

Amos C. Stedman

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; *as we have heretofore commanded you* THEREFORE, WE COMMAND YOU, that by good and lawful men of your county, you give notice to the said *Elijah Hunt*

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 ~~Monday~~ *Thursday* *April* 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 *Elijah Hunt*
notice, together with this writ.

WITNESS, The Hon. WALTER B. SCATES, Chief Justice of our said Court, and the Seal thereof at Ottawa, this *13th* day of *March* in the Year of Our Lord One Thousand Eight Hundred and Fifty-Seven.

L. Le Clair

Clerk of the Supreme Court.

By J. B. Rice Deputy

Elijah Hunt Not Found in My Books
Apr 8th 1857 L. R. Walcott Shipton of
Dunbar Co. N. Y. gr

Amos B. Steadman
vs
Elijah Hunt

Seire facias

Filed April 11. 1857
L. Leland
Clerk

STATE OF ILLINOIS, }
SUPREME COURT, } ss.

The People of the State of Illinois,

To the Sheriff of the County of

Bureau

Greeting:

Because, In the record and proceedings, and also in the rendition of the judgments of a plea which was in the Circuit Court of Bureau County, before the Judge thereof, between Amos Stedman

plaintiff; and Elijah Hunt

defendant, it is said that manifest error hath intervened, to the injury of the said Amos C. Stedman

as we are informed by his complaints the record and proceedings of which said judgments 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 Elijah Hunt

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 first Tuesday after the third Monday in April next, to hear the record 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 Elijah Hunt

notice, together with this writ.

Witness, The Hon. John D. Caton, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this 22nd day of March in the Year of Our Lord One Thousand Eight Hundred and Sixty

L. Leland

Clerk of the Supreme Court.

by J. B. Rice Deputy

The within named Elijah Hunt not found in
my Census April 15th 1860 D. B. Norton
Sheriff Bu Co. Ill.

2
Amos C. Stedman

No. 2 vs.
Elijah Hunt

SCIRE FACIAS.

FILED April 23, A. D. 1860

L. Deland
Clerk.

Return.

10

Amos C. Steadman }
 vs } Appeal from Bureau
 Elijah Hunt }

This was a suit commenced by attachment declaration on a bill of exchange of which the following is a copy

\$ 800, Newark Ohio 23rd September 1851
 Three days after date sight pay to the order of
 J. H. Hunt Esq. acceptance waived eight
 hundred dollars value received and charge the
 same to the account of J. I. Smith
 To Messrs R. C. Kingham &
 McCulloch 43 front St.
 New York City on the back of which bill are
 the following endorsements J. H. Hunt, Elijah
 Hunt

The first count of the declaration
 counts against the defendant as 2^d endorser
 of the bill of exchange over presentment for
 payment to the drawee on the 22^d day of
 October 1851 & demand of payment three days
 after refusal to pay and notice to defendant

2^d count is a special count against defendant
 as endorser of the bill of exchange

3^d common count for money and for goods
 sold,

Plea. general issue,
 Verdict for defendant,

Plaintiff offers in evidence,

1st The bill of exchange aforesaid

2nd A protest showing presentment to drawers and
a protest on the 28th day of October A.D. 1851

3rd Deposition of Edwin Austin James W. McCulloch
and B. H. Buckingham who each testified
that on the 22nd day of October A.D. 1851 the
bill of exchange aforesaid was presented to
the drawee and payment refused and
protested on the 28th, That at the date of the
bill Sep 22nd A.D. 1851 the drawer had funds
in the hands of the drawee sufficient to
have paid the bill but that after the 8th
day of October 1851 there were no funds of the
drawers in the hands of the drawee,

The plaintiff then called
John Clement who testified that on the 15th
day of September 1851 the plaintiff Charles Clement
and the witness were doing business as partners
in Lipson Ill. in buying and selling canal
warrents paying taxes and the like, That on
that day witness was present at a conversation
between Charles Clement and the defendant from
which it appeared that Charles Clement &
the defendant had previously traveled
together upon the Ill. river and had become
slightly acquainted with each other.
Defendant was at that time negotiating with
Charles Clement about the purchase of some
land warrents, witness had never met
defendant before. Defendant at that time
stated that his funds were in a bank
draft and he had been offered one per cent

premium for it and he must have that premium. Defendant was accompanied by a young man said to be his son. Witness seeing the draft upon the table picked it up and looked at it and remarked to defendant that it did not appear to be a bank draft that it did not purport to be drawn by a banker nor upon a bank to which defendant replied that Mr Smith the drawer of the draft was a private banker and that his credit and standing was as good as any banker in Ohio. Witness then remarked to defendant that he appeared to be the party purchasing same and the draft was made payable to and endorsed by J H Hunt. Defendant said the draft was drawn to and endorsed by his son and expressed a willingness to endorse it himself and did so upon transcribing it. Clements and Steadman had not warrants enough to make up the amount and witness told defendant that he could procure the remainder in town but defendant preferred to deal with Clement & Steadman as he had some acquaintance with them and preferred relying on their responsibility. Clements and Steadman then purchased of defendant the draft and on allowing premium they paid for the draft \$80 & during the conversation defendant spoke of Smith as a banker of high standing and of the draft as one that would doubtless be paid. Defendant spoke of having money transactions with Smith at Newark Ohio and spoke of Newark as a place where he had transacted business but did not

remember that he spoke of any place as his usual place of business or as his place of residence. That defendant's conversation left upon the mind of witness no place as being defendant's usual place of business or residence except Newark Ohio and that witness supposed Newark to be his place of residence business and that his residence was there or in the vicinity. Defendant told witness that his son was engaged in improving a farm or something of that sort in LaSalle County near the town of LaSalle.

The draft was forwarded to Newark and protested for non payment on the sixth day of November according to the best recollection of witness he received through J H Birch of Chicago through whom the draft had been sent forward and to whom it had been endorsed a notice of the protest on the bill this notice was received in due course of mail and he also at the same time received a notice for G H Hunt and one for J J Smith and one for defendant then on that day or within a day or two but as they receive their eastern mail at Dixon in the morning and the mail for the east left in the evening and as it was then usual custom to answer letters on the day of receiving them he presumed upon the same day witness enclosed the notice for Smith to him in a letter to Newark, Ohio, and also enclosed to the defendant the notice for him in a letter.

adventured to him at Newark Ohio advising him that Leements and Meadman had had to take up the draft and requesting him to provide for its payment. That the notice stated in substance that a draft dated September 23^d 1851 drawn by J I Smith on Messrs Buckingham and McCulloch New York naming the street and for eight hundred dollars to the order of J H Hunt and endorsed (in the one to defendant) by him had been protested for non payment and that the holder looked to him for payment. That at the time of forwarding said notice witness had no knowledge or intention nor did he suspect that the defendant's residence or place of business was elsewhere than at Newark Ohio. Nor did either of his partners so far as he knows or believes have any more information on the subject than he had himself and that he forwarded said notice to the defendant at Newark believing it to be his proper post office address.

That in a day or two or three after receiving said notice supposing from what had been said by defendant at the time of selling the draft that the said J H Hunt lived in the vicinity of Latale. Witness started in a buggy to try and find him he did not reach the vicinity of said J H Hunt supposed residence on the same day he left Eliz on but stayed over night on the way he enquired along the road at different

points till he came to H Merritt three miles north of LaSalle who told witness that since G H Hunt lived in Fredonia Ohio some 8, 10, or 12, miles from Newark and that Newark was not his nearest post office, that there was another post office nearer to dependant's residence than Fredonia. Witness took down carefully on paper the post office address of both dependant and G H Hunt as given by Mr Merritt. Witness then went home to Dixon but whether directly home or by way of LaSalle and Peru he could not recollect his impression is that he did go to LaSalle at that time. When he got home or soon after he wrote to dependant informing him of the protest of the draft and mailed the letter to him at Fredonia. Thunka he wrote in from three to five days after he got to Dixon and should think it was from the 12th to the 20th of November when they were forwarded.

Witness got no answer to either of the letters he had written to dependant. About the last of Nov or first of December he wrote again to dependant at Fredonia and received no answer. That about the last of Dec Charles Clement wrote to dependant at Fredonia Ohio and received an answer from a man signing himself as D Humphrey atty for dependant. All the letters written were signed Clement and Steadman. Upon the suit was brought witness took out his interest in the matter to the

plaintiff and now have no interest in
the question. On cross examination witness
stated that he had written but one letter
to defendant at Newark and after that he
had written two letters to defendant at
Fredonia and Charles Sementon.
That he had never written but one letter
to G H Hunt that that one was directed
to him not at Fredonia but at some
other post office the name of which
witness had forgotten.

Dep here produced
a letter addressed to G H Hunt Fredonia
Ohio which letter is as follows

Lexon 17 dec 1851

Mr G H Hunt Esq

Sir some time
since we wrote you that the draft you
sold us for \$800, drawn in your favor
by J I Smith Newark Ohio had been
protested. This draft was endorsed by
you and Elijah Hunt your father. We have
received no answer from either you or your
father but in due course of mail J I Smith
sent us another draft drawn on another
house in New York for \$810 which we
suppose the proceeds were to apply upon the
sum due us upon the first draft protested.
We accordingly sent forward
the second draft and have been informed
from New York that the same party has
attended that consequently we must ask

you to make some arrangement that looks
more like equity and fair dealing.
You will recollect that you and your
father stated that you knew that the
draft was good and worth a premium
and we paid you \$808, for the draft.
Now be pleased to make us some kind of
payment which will amount to cost
interest and damages. We request that either
you or your father will please write us
immediately what we are to depend upon
we sent the copy of the protest to your father
and to A J Smith.

We remain your obedient
servants Slements & Steadman

Witness stated that the letter
was written by him and he might have
mailed the letter to the young man
instead of defendant. Defendants counsel then
requested to witness a letter addressed to
defendant at Newark Ohio of the same date
and similar in substance to the letter
above recited. The witness stated that this
last letter was in his hand writing and
that he must have written to both the
defendant and his son on the subject, but
that it had escaped his recollection that he
had written a second letter, addressed to
the defendant at Newark. Witness stated
that he had never as he recollected addressed
a letter to Elijah Hunt or to G H Hunt in
the alternative.

Dependants counsel then introduced a letter dated and post marked Lisbon 7th 9 November 1851 addressee to Elizabeth Hunt or G Hunt Newark Ohio which letter is as follows

Lisbon 7 Nov 1851

Elizabeth Hunt

G H Hunt

By an enclosed protest you will see that the draft you sent to us of \$ 800, drawn by S I Smith has been protested for non payment. The draft has been returned and we having sold and assigned it have had to take it up and pay protest and damages will you please attend to this matter immediately and write us

We had sent Mr S I Smith a copy of the protest. You will recollect that you told us that you were personally acquainted with Mr Smith that he was abundantly responsibly responsible and one of your first bankers we are greatly disappointed in this matter and hope that you will soon attend to this matter by which we shall be greatly obliged,

We remain your most obedient servants

Slements & Steadman

Which letter contained a notice of protest of the draft in the usual form witness stated that this was the first letter referred to in his testimony and that he was

Mistaken as to the manner in which it was addressed, upon reexamination by plaintiff's witness stated that he was confident that after getting the information from Merritt near Gasala as stated in his examination in chief he wrote on returning home to defendant and to his son and to the address of clerk as given him by Merritt, that his recollection is positive from the circumstance of his going to Gasala getting the address making a note of it in pencil and returning & writing; Plaintiff, rested.

Defendant read in evidence the depositions of E Sanborn and James L. Burke, a motion had been made to suppress said depositions which had been overruled and the plaintiffs excepted. Said depositions tended to show that on the 23rd day of September 1851 J. J. Smith was in good standing and credit as a banker and so continued up to the 8th of November 1851 he failed on the 27th of November 1851. That defendant resided in Mc Kean Township about 12 miles from Newark Ohio and died in Autumn of 1851.

Freedom and Lybanna were his nearest post offices one about three and the other about two miles from his place of residence.

Defendant called G. A. Hunt who testified that from the time of selling the draft to the present time defendant lived in Mc Kean Township 12 miles from Newark Ohio, his usual post office was Freedom.

Sometimes at Byloamer or New post
office and that his father was not
accustomed to get letters at Newark,
That his father was a farmer and generally
sold his grain and did his trading at
Newark he visited Newark as often as once
in two weeks and sometimes oftener, the witness
bought the draft in question with his father's
money and by his father's direction and the
draft was and the draft was made out in
witness man by Smith, witness and his
father came west, Defendant purposed to call
on Col Clement as he had previously traveled
with Colonel Clement on a steam boat and
knew him, That Col Clement introduced him
to Charles Clement, it was the Col and not
Charles that defendant had traveled with
defendant sold the draft for \$8, premium
and witness and defendant endorsed it
Defendant recommended the drawer of the draft
as of good standing and responsible, Defendant
gave his post office address to Clement's Greasier
Living in Ohio don't know that it was taken
down in writing, Witness also stated that he
was engaged in improving a farm near Galena
but that he lived in Ohio in a part of his
father's house about fifteen days after selling
the draft defendant and witness got back to
Ohio and somewhere from the first to the
fifth of January 1852 they saw a letter
directed to defendant advertised in Newark
they got it this was the letter above mentioned
dated Nov 7th 1851, Three or four days afterwards

He got the letters to himself dated Dec 17, '55
and some days afterwards his father got the
one directed to him dated same date. Witness
never remembers receiving any other letters or
knows of his father receiving any other letters
from Clements or Steadmans either of them.
Never knew of either of the letters being answered.
Smith left the country the night after his
failure people generally did not know where
he went.

The above letters were
given in evidence and Dependant proved that
before H Merritt lived forty miles from Dixon
on the road to LaSalle 2 or three miles from
LaSalle. That there was a daily eastern
mail from LaSalle via Chicago and that
Clements knew it when he was at Merritts.

This was all the evidence,

For the plaintiff the
court was asked to instruct the jury
as follows

1st If the bill of exchange offered
in evidence by the plaintiff was shown to the
payer on the 22nd day of October 1851 then
it became due on the 28th of the same month
and the Notarial protest offered in evidence
by the plaintiff proves that due demand
was made when the bill became due and
that it was not ~~due~~ paid and if notice
of such non-payment was given to the

defendant in due time [as explained by other instructions in the case] the plaintiff would be entitled to a verdict for the amount of the draft with interest from the time it became due

4

If the holders of the bill at the proper time of giving notice did not know the proper post office address but made reasonable inquiries to ascertain the proper post office address and then in due time [as explained by the other instructions in the case] made such notice to the defendant directed to such post office such notice would be sufficient.

6"

If the holders of the draft upon such inquiry ascertained the proper post office address of the defendant and thereupon made a notice to the defendant within a reasonable time according to the usual course and order of dealing and with reference to general convenience and utility and the plain principles of natural justice it would be sufficient notice.

The court refused to give the first and fourth instruction as asked until changed by inserting the facts upon which plaintiff rested to constitute due notice and thereupon plaintiff's counsel made the interlineations in brackets to which refusal to give the instructions as asked the plaintiff's counsel then and there objected.

The court gave the 1st 4th instructions as attached and refused to give the 6th instruction asked by the plaintiffs counsel to whom refused plaintiffs then and there excepted.

The defendants counsel asked the court to instruct the jury as follows

1st That if the jury believe from the evidence that defendant at the time of endorsing such bill of exchange gave to the endorsee thereof his post office address correctly and for the express purpose of enabling them to give him notice in case of the dishonor of said bill and that the said endorsee did not send a notice by mail to the correct address as early as the post of the next day although they may have in good faith sent a notice to a post office about ten or twelve miles from the residence of defendant, yet this would not be sufficient to charge the defendant. If after receiving the post office address of defendant for the avowed and express purpose of giving him the earliest notice of the dishonor of the bill (since Steadman and Clements being immediate purchasers from defendant) had forgotten the proper address and in consequence thereof failed to give the requisite notice such mistake would be their misfortune and not defendants fault and under such case defendant is not chargeable

2nd If the jury believe from the evidence that John Clement and plaintiffs and Charles Clement

given

given
purchased said bill from Elijah Hunt
and Elijah Hunt after endorsing said bill
delivered it to them or one of them and if the
jury further believe that at the time said
endorsers (Slements and Meadman) first
received notice of the dishonor of said bill
they were ignorant of the post office address
of said Hunt and a few days afterwards
John Slement within three miles of the town
of Gasalar and at a distance of forty miles
from the town and place of business of said
Slements and Meadman ascertained the post
office address of said Hunt it in such case
became the duty of said John Slement to send
a notice by mail from the post office where
~~the~~ he then was when he got the information
at furthest ~~when he got the~~ by the mail
of the next day unless he adopted some equally
expedient mode of sending and if Slement
under such circumstances instead of sending
a letter from the nearest post office waited
from three to five days and then mailed a
letter from Lisbon on a route no more
expedient than the Gasalar route defendant
in such case would not be chargeable.

3"

If the holder of a bill of exchange is at
the time he receives notice of the non-payment
by the drawer ignorant of the place of residence
of a prior endorser but upon inquiry ascertains
the place of residence and that it is in a
different town or city it is his duty to mail
a notice directed to such prior endorser

by the mail of the same or the next day
otherwise the endorser is not liable to him and
it is immaterial whether said holder is at
home or away from home at the time he asserted
the place of residence unless he should be
in some place when he could not by the
exercise of reasonable diligence deposit a
notice in the post office so soon as above
mentioned, In that case he must do it as soon
thereafter as he can by the exercise of reasonable
diligence or the prior endorser is not liable

4" That the want of funds in the hands of the New York
men the drawers had nothing to do with the
issue on that.

All of which instructions were given
by the court and to the giving of each and all of said
instructions asked by the defendants counsel the
plaintiffs counsel then and then excepted.

Plaintiffs counsel also asked
the court to give the following qualifications to the
first part of the defendants first instructions
to wit unless the defendant furnishes his address
in writing or printing or it was uttered down
by Clements & Steadman it would not be giving his
address within the meaning of this charge.
Which qualification the court refused to give to
which refusal plaintiffs counsel then and then
excepted, and as to all of which the plaintiff
excepts and now here prays the court to sign
this his bill of exceptions which is done in
open court.

C. S. Leland, 32 years
Judge

Stedman vs Hunt
Abstract