

14372

No. _____

Supreme Court of Illinois

Baker

vs.

Williams.

STATE OF ILLINOIS,
SUPREME COURT,
Third Grand Division

14372
No. 178

Baker

vs
Williams

1863

178

Rudolphus J. R. Baker,

v. .

Charles Williams.

Appeal from the Circuit-Court of
the County of Rock Island; the Hon. Ira
O. Wilkinson, Judge, presiding.

Messrs. Samuel Shawder and Samuel R.
Allen for the appellant:

Mr. A. Webster for the appellee.

Mr. Justice Preese: This case is similar in all
respects to the two cases preceding,
and the judgment is therefore affirmed.
Judgment affirmed.

178-8

Paper

17

Williams,

Opinion by
Pence J.

Follow 176

77 in report.

OK

Revised Book 13
p 62,

1
I came before the Honorable Ira O. Wilkinson
Judge of the sixth District of the state
of Illinois at a term of the Circuit
Court begun and held at The Court
House within and for the County of
Rock Island on the second Monday
the twelfth day of January in the year
of our Lord one thousand eight hundred
and sixty three

Present Honorable Ira O. Wilkinson = Judge

Chas. A. McLaughlin Sheriff

Edward H. Bowman Clerk

Be it Remembered that on the 4th day of
December 1862 there issued forth of the Office
of the Clerk of the Circuit Court in the City
of Rock Island and State of Illinois
a writ of Summons which is in the
words and figures following to wit:

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

The command given
to summons Rodolphus J. R. Baker if to
be found in your County personally to be
and appear before the Circuit Court of
said County of Rock Island on the
first day of the next term thereof to be
holden at The Court House in Rock Island
on the second Monday of January next
then and there to answer unto Charles
Williams of a plea of trespass on the
case upon promises to his damages in
the sum of four hundred dollars as
he says; And have you then and there

this writ and make due return thereon in
what manner you execute the same

Witness Edward H Bowman Clerk
of our Circuit Court and the seal thereof
affixed at Rock Island this fourth day
of December in the year of our
Lord one thousand eight hundred and
sixty two Edward H Bowman Clerk

On the back of the foregoing writ the
following endorsement & returns appear to
have been made in words & figures following
to wit: I have served the within writ by
reading the same to the within named defendant
Rodolphus J R Baker this 26th day of
December AD 1862

O A McLaughlin

Sheriff of Rock Island County
By David Hawes (deputy Sheriff)

Be it further Reminded that on the
4th day of December AD 1862 there was
filed in the office of the Clerk of the
Circuit Court in the City of Rock
Island and State of Illinois a nomination
or declaration which is in the words
and figures with a note attached follow-
ing to wit

(Copy of note attached)

\$300.⁰⁰

Cordova August 25th 1857

For value received I promise to
pay to the Sterling & Rock Island
Rail Road Company or Order the

"Sum of Two Hundred Dollars at the expiration of Five years from the first day of September 1857 with interest thereon at the rate of Ten per cent per annum payable Semi Annually in each year on the first day of March and September. Principal and interest payable at the Office of said Company at Sterling in the County of Whiteside and State of Illinois

Rodolphus L. R. Baker"

Be it further Reminded that on the back of said note appears the following endorsement in words and figures following to wit:-

Interest cancelled to September 1st 1858"

"Pay Reynolds Wilder & Co or order
"Sterling & Rock Island Rail Road"

By M. J. Henry
President"

"Without Recourse"

Reynolds Wilder & Co)

Filed 26th January 1863

C. H. Bowman Clerk

4
State of Illinois } Of the January Term
Rock Island County } AD 1863 of the Circuit
Court of said County

Charles Williams Plaintiff
in this suit by A. Webster his Attorney
Complains of Rodolphus J. R. Baker
Defendant in this suit commenced &c
of a plea of Trespass on the case
on promises: For that the defendant on
the 25th day of August AD 1857 at
Cordova to wit at the County of Rock
Island & State of Illinois by his
promissory note of that date for
value received promised to pay
at the expiration of three years
from the first day of September
AD 1857 to the Sterling and Rock
Island Rail Road Company under
the style of Sterling & Rock Island Rail
Road Co or order the sum of Two
Hundred Dollars with interest thereon
at the rate of ten per cent per
annum payable semi annually in
each year on the first day of March
& September. Principal & Interest payable
at the Office of said Company
at Sterling in the County of Whiteside
and State of Illinois - And that the
said Company afterwards to wit on
the day & year last aforesaid
to wit the 25th day of August
AD 1857 at the County aforesaid

5
Indorsed the said note on the back
thereof (as Sterling & Rock Island
Rail Road per M. S. Henry President)
And assigned the same and ordered
it to be paid to Reynolds Milder & Co
or order - of all of which the said
defendant then and there had notice
And afterwards to wit on the day and
year last aforesaid at the County
last aforesaid the said Reynolds
Milder & Co endorsed the said note
on the back thereof and assigned
the same without recourse to the
plaintiff of all of which the said
defendant then and there had
notice and said Plaintiff avers that
said note long since became due
and payable. By reason whereof the
defendant became liable and then
and there in consideration of the
premises promised the plaintiff
to pay him the amount of the
said note according to the tenor
and effect thereof and of the
said endorsement thereof And also
for that whereas the defendant on
the 1st day of December in the
year of our Lord One thousand
Eight Hundred and sixty two
at the County of Rock Island
aforesaid was indebted to the
plaintiff in Four Hundred dollars
for goods bargained and sold by the
plaintiff to the defendant at his request.

And in Four hundred Dollars for
 work done and materials for the
 same provided by the plaintiff
 for the defendant at his request
 And in Four Hundred Dollars
 for money paid by the Plaintiff for
 the use of the defendant at his re-
 quest. And in Four Hundred
 Dollars for money received by defendant
 for the use of the plaintiff. And in
 Four Hundred Dollars for money
 due from the defendant to the plaintiff
 on an account stated between
 them. And whereas the defendant
 afterwards to wit on the day and
 year and at the place last after
 wards in consideration of the
 premises respectively promised to the
 Plaintiff to pay him the said last
 mentioned several moneys respectively
 on request. Yet the defendant has
 disregarded his promises and has not
 paid to the plaintiff any of the
 aforesaid moneys or any part there-
 of to the plaintiffs damages of Four
 Hundred Dollars and thereupon he
 brings suit. &c

A. Webster

Plaintiff's Atty

The only cause of action in
 this suit is the promissory note
 of which the following is a copy

A. Webster Plff Atty

(Copy of Note sued on)
\$200. Cordova August 25/1857

For value received I promise to pay
to the Sterling & Rock Island Rail Road
Company or order the sum of Two
Hundred Dollars at the expiration of
Five years from the 1st day of September
AD 1857 with interest thereon at the rate
of Ten per cent per annum payable semi
annually in each year on the 1st day
of March and September Principal and
interest payable at the office of said
Company at Sterling, in the County of
Whiteside and State of Illinois &c

Radolphus J. R. Baker

Endorsed

"Interest cancelled to Sept 1st 1858"
Also "Pay Reynolds Wilder & Co or order".
"Sterling & Rock Island Rail Road"
"per M. S. Murey President"
Also "Without Recourse"
"Reynolds Wilder & Co"

8
And afterwards at the January Term
of said Court to wit on the fourteenth
day of January AD 1863 the following
proceedings were had before the said
Judge of the said Court and entered
of Record in the Common Law Record
Book in the Office of the said
Circuit Clerk in the County and State
aforesaid to wit;

Charles Williams

vs

Rudolphus R Baker

} This day came the
Plaintiff by Attorney

his attorney on his motion

It is ordered by the Court that the defendant
be ruled to plead by tomorrow morning

And be it further Reminded
that on the 17th day of January AD 1863
there was filed in the office of the
said Circuit Clerk County and State
aforesaid, Pleas in said cause which
are in the words & figures following
to wit

State of Illinois
Rock Island County

Rudolphus R Baker

Ats
Charles Williams

} In Circuit Court

} Pleas

1
And now comes the
defendant Rudolphus R Baker by
Samuel Strawder & Samuel R
Allen his attorneys and defends
the wrong and injury to him &c
and says that he did not assume

9
and promise to pay and undertake in manner and form as the said Plaintiff hath thereof in his said declaration complained against him and of this ^{the} defendant puts himself upon the country.

And the said Plaintiff doth Samuel Strawder the like - By Attest ~~Attest~~ Samuel R Allen depts attys

9
And for a further plea in this behalf by leave of the Court first had and obtained for that purpose the said defendant says actio non that the said Plaintiff ought not to have or maintain his said action aforesaid against him because he says that heretofore to wit on the sixth day of July AD 1857 the ^{Said} Sterling and Rock Island Rail Road Company by its officers and agents pretended to be an incorporated Company legally and lawfully organized under and by virtue of the laws of the land under a general statute of the State known as an act to provide for a general system of Rail Road incorporation and the ~~amendatory~~ acts thereto and as such a Company under the name and style of Sterling and Rock Island Rail Road Company by its officers and agents requested this defendant to subscribed for and take Two shares of Capital Stock of said Company each share bring one hundred dollars the Two shares amounting to the same

10
of Two Hundred dollars, And the
Defendant says upon the solicitation
of said Company by its officers and
Agents he did to wit on the day and
year last aforesaid upon the Stock
Books of subscription of said
Company subscribe for and did
agree to take and did take Two
Shares of the said Capital stock
of the said Company for said Two
Shares of the Capital stock of said
Company the said sum of Two
hundred dollars to be paid at such
times and in such installments as the
Board of Directors of said Company
might from time to time direct
they the Board of Directors giving
the lawful notice of the time and
place of paying the same and the
Defendant says that after he had sub-
scribed for two shares of the Capital
stock of the said Company upon the
Stock Book of said Company as
aforesaid the said Company by its
officers and Agents requested this
Defendant to make execute and
deliver to said Company his this de-
fendants promissory note payable at the
expiration of five years from the first
day of September AD 1857 for said sum
of Two hundred dollars with interest thereon
at the rate of ten per cent per annum
or ten cents on each dollar in said
note mentioned for each and every year

11
that said note is to run before it becomes
due and payable which said interest money
in said note mentioned is to be paid semi
annually in each year that is to say
on the first day of March and the
first day of September in each year
and thereupon and in pursuance
of said request of
said Company the said defendant
did to wit on the twenty fifth day of
August in the year of our Lord one
thousand eight hundred & fifty seven
to wit at Gordon in said County and
execute and deliver to the said Company
his said defendant's promissory note calling
for the sum of Two Hundred Dollars to
be paid five years from and after the
first day of September in the year
of our Lord one thousand eight
hundred and fifty seven with interest
at the rate of ten per cent per annum
or ten cents on each and every dollar mentioned
in said note for each and every year that
said note was to run before it became due
and which interest on said note is to be
paid semi annually to wit on the first day
of March and on the first day of
September in each and every year &
which is the same note mentioned in
the plaintiffs declaration and the de
fendant avers and says Company did
to wit on the twenty fifth day of August
in the year of our Lord one thousand
eight hundred and fifty seven
to wit at the said County of Rock

Island demand of and receive of
 and from this defendant that said
 promissory note mentioned in the
 Plaintiffs declaration in consideration
 of and in full payment of and for
 the said Two shares of Capital of the
 said Company which this defendant
 had subscribed for as aforesaid and
 which said Two shares of the Capital
 Stock aforesaid was the sole and
 only consideration given or received
 for said note and that there was no other
 or different consideration for said note
 and the defendant avers and says that
 the requesting and receiving of the
 said note by the said note by the
 said Company in manner and form
 as aforesaid was and is in violation of the
 laws of the land and of the articles of
 the said Stirling and Rock Island
 Rail Road Company Corporation
 and that the said note is fraudulent
 and void in law all of which the
 said Reynolds Wilder & Co well knew
 at the time they received said note
 and all who claim any interest in
 said note well knew at the time
 they and each of them and every of them
 received said note and this defendant
 is ready to verify wherefore he prays Judg-
 ment &c

Samuel Strader

Samuel R Allen

Defts Attys

And for a further plea in this behalf by leave of the Court first had and obtained the defendant says etio now became he says that the note mentioned in the plaintiffs declaration was given in payment of two shares of the Capital Stock of said Sterling and Rock Island Rail Road Company and that was the only and all the consideration given or received for said note and that said two shares of said Capital Stock had ~~been~~ subscribed for by this defendant previous to giving said note and that the amount of Capital Stock required to construct and procure the right of way and motive power and every other appurtenance for the completing and running of the said Sterling and Rock Island Rail Road has not been subscribed for nor has it been taken to wit the sum of Six hundred thousand dollars that amount being the amount required as estimated by competent engineers as appears in the articles of association of said Company which articles of association of said Company are now on file in the office of Secretary of State in Springfield State of Illinois all of which the said Reynolds Wilder & Co and all persons that claim any interest in or to said note well knew at the time they and each of them received said note and that the defendant is ready to

verify and wherefore he pray judgment
 &c.

Samuel Strauder

Samuel H. Allen Defts Attys

4

And for a further plea in this
 behalf by leave of the Court first
 had and obtained the defendant
 says a etio now because he says that
 the note mentioned in the plaintiffs
 declaration given in payment
 of two shares of the Capital Stock
 of the said Sterling and Rock Island
 Rail Road Company and that was the
 only and all the consideration either
 given or received for said note
 and the defendant avers that he
 had subscribed for said two shares
 of the Capital Stock previous to giving
 said note and the defendant avers
 that the amount of Capital Stock re-
 quired to construct and procure
 the right of way and motive power
 and every other appurtenance for
 the completing and running the said
 Sterling & Rock Island Rail Road by
 its Charter and the amendments to
 said Charter of said company has
 not been subscribed for nor has it
 been taken to wit the sum of
 two hundred and fifty thousand
 dollars all of which the said
 Reynold Wilder & Co and
 all that claim any interest in

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

Samuel Strawder,
Samuel R. Allen depts attys

5

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

the amendments to the original
 Charter of said Sterling & Rock
 Island Rail Road Company
 and that the work on said
 Sterling & Rock Island Rail
 Road is now & has been for
 some time suspended and
 indeed the profits of building
 said Sterling and Rock Island
 Rail Road is abandoned all of
 which the said Reynold Wilder
 & Co and all who claim any interest
 in said note well knew at the
 time they and each of them
 received said note & this the
 defendant is ready to verify
 Therefore he prays judgment &c
 of the plaintiff ought to have or
 maintain his aforesaid action
 against him

Samuel Strawder
 Samuel R. Allen Sept. 40

6

And for a further plea in this behalf
 by leave of the Court first had &
 obtained the defendant says actio
non because he says that the
 note mentioned in the plaintiff's
 declaration was given in
 payment of two shares of the
 capital stock of the said
 Sterling & Rock Island Rail
 Road Company and that was
 the all and the only consideration either

17
given or received for said note and the defendant avers that he had subscribed for said Two Shares of the Capital Stock of said Company previous to the giving of said note and he avers that the said Railroad Company had no power or authority under its said Charter and the laws of the land to receive and endorse and transfer said note in manner and form as the said plaintiff hath in his declaration alleged but the defendant avers and says that the receiving, and transferring and endorsing said note in manner and form as aforesaid is in violation of the laws of the land and of the articles of said Sterling and Rock Island Rail Road Company Corporation and that the transfer and endorsement of said note in manner and form aforesaid is fraudulent and void in law - all of which the said Reynolds Wilder and Company and all claiming any interest in said note well knew at the time they and each of them received said note and this the defendant is ready to verify to wherefore he prays judgment &c

Samuel Strander

Samuel R. Allen Sept 25th

7
And for a further plea in this behalf by leave of the Court first had and obtained the said defendant says actio non because he says that the note mentioned in the plaintiffs declaration was given in payment of Two Shares of the Capital

Stock of the Sterling & Rock Island
 Rail Road Company which the
 defendant had previous to giving
 said note subscribed for and that
 was all and the only consideration
 either given or received for said
 note and the defendant avers that
 the said Miles S Henry had no
 power or authority under the Charter
 of said Company or any amendment
 to said Charter or by virtue of the
 laws of the State nor had the said
 Miles S Henry any authority from
 said Company or the Board of
 Directors of said Company
 as President or otherwise to transfer
 and endorse said note in manner
 and form as the said plaintiff has
 alleged in his said declaration but
 the defendant avers and says that the
 said note was transferred and
 endorsed without any authority
 whatever from said Company or
 the Board of Directors of said Com-
 pany and said transferring and
 endorsing said note is therefore
 fraudulent and void in law all of
 which said Reynolds Miller and
 Company and all claiming any
 interest in said note well knew at
 the time they and each of them
 received said note and this
 the defendant is ready to verify

Wherefore he prays judgment &c
Samuel Strawder
Samuel R Allen
Defts & Apprs

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

20
And its officers and Agents falsely
and fraudulently represented to this
defendant that all the Capital Stock
required to build Construct and
procure the right of way and
procure and buy the motive power
and every other equipment need-
-ary to build and run said Rail-
road had been subscribed for
and in good faith taken and
that the Company was going to
build and equip the said Rail
Road immediately and that the
cars would be running through
from Sterling to Rock Island
within Eighteen Months or less
from the date of said note and
the defendant says that he relied
on said representations as being
true and so relying on said
representations being true and
in consideration thereof he was in-
-duced to and did make execute
and deliver unto the said Company
And by means thereof this said
Company procured and obtained
said note And the defendant avers
that the aforesaid representations
are false and untrue that the
amount of Capital Stock re-
-quired to build construct and
procure the motive power of said
Rail Road has not been subscribed

21
for nor has it been stated, nor has
the Sterling and Rock Island Rail
Road built although it is more than
Eighteen months since said note
was given but on the contrary the
work on said Rail Road has been
suspended and in fact really abandoned
All of which the said Reynolds
Wilder & Co and all who claim any
interest in said note well knew at
the time they and each of them received
said note and this the defendant is
ready to verify wherefore he prays judg-
ment &c Samuel Strawder
Samuel B. Allen *seafortit*

9
And for a further plea in this behalf
by leave of the Court first had and obtained
the defendant says et cetera now that the
note mentioned in the plaintiffs
declaration was given in payment
of two shares of the Capital Stock
of the said Sterling & Rock Island
Rail Road Company that the defendant
had previously subscribed for and that
was all and the only consideration
given or received for said note
and the defendant ~~was~~ that he was
induced to make and execute and
deliver said note to the Sterling &
Rock Island Rail Road Company
by means of the false and fraudulent
representations of the said Sterling
and Rock Island Rail Road Company

its officers and agents in stating that all the Capital Stock required to build construct and procure the right of way and buy the motive power and every other equipment necessary to build said railroad had been subscribed for and in good faith taken and that the Company was going to build & equip said Rail Road immediately and that the Cars would run through from Sterling to Rock Island within Eighteen months or less from the date of said note and the defendant says that he relied on said representations as being true and relying upon said representations as being true at the time when he executed and delivered said note to the said Company he thereby was induced by said false and fraudulent representations to make and deliver said note to the said Rail Road Company and by means thereof the said Company procured and obtained said note the defendant avers and says that the aforesaid representations are false fraudulent and untrue and that the amount of Capital Stock required to build construct procure the right of way and procure and buy the motive power and the other necessary equipments for said Rail Road has not been subscribed

23
for and taken and that the said
rail road has not been built and
that the work thereon has been sus-
pended and that the said Company
have abandoned the work on said Rail
Road from the City of Sterling in
Whiteside County & State of Illinois to the
City of Rock Island in the County of
Rock Island & State aforesaid according
to the Articles of association or in-
corporations of said Company. Therefore
the consideration for which said note was
given has entirely failed and that there
is no consideration for said note
whatever. All of which the said Reynolds
Wilder and Co and all claiming any
interest in said note well knew - At
the time they and each of them
received said note and this the
defendant is ready to verify.

Therefore he prays Judgment &c.
Samuel Strawder

Samuel R Allen Deft's attys

10
And for a further plea in this behalf by
leave of the Court first had and obtained
the defendant says actio non because
he says that he was induced to make ex-
ecute and deliver the said note mentioned
in the plaintiffs declaration to the
said Sterling and Rock Island Rail
Road Company by means the false
and fraudulent representations of the
said Sterling and Rock Island Rail
Road Company and its officers and

Agents made to this defendant before and at the time said note was executed & delivered to said Company and that the said note was procured and obtained by the said Sterling & Rock Island Rail Road Company from this defendant by fraud & circumvention practiced upon this defendant by the said Company its officers and agents all of which the said Reynolds Miller & Co. well know and all others that claim any interest in said note at the time they had each of them received said note and this the defendant is ready to verify wherefore he prays judgment &c.

Samuel Strawder
Samuel R. Allen

Deft's Atty

11 And for a further plea in this behalf by leave of the Court first had and obtained the defendant says ~~action non~~ because he says that he ought not to be charged with the said debt or claim by virtue of the said supposed writing obligatory because he says that the said supposed note or writing obligatory was obtained from him by the said Sterling and Rock Island Rail Road Company and its officers and agents by fraud

Corin and misrepresentation,
 All of which the said Reynolds
 Weber & Co and all others claiming
 any interest in said note, ^{well knew at the time they and} each of
 them received said note and this he
 is ready to verify wherefore he prays judgment &c.
 Samuel Strawder
 Samuel R Allen Defts Attys

12

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

Samuel Strawder

Samuel R Allen

Defts Attys

13

And for a further plea in this behalf
 by leave of the Court first had and
 obtained the defendant says action
 because he says that there is not nor
 on the day of the commencement of
 this suit nor ever since was there
 in existence any such Company
 or Corporation called the Sterling
 and Rock Island Rail Road
 Company as the said note men-

tioned in the plaintiffs declaration
all of which the said Reynolds
Milder & Co and all claiming any
interest in said note well knew
at the time they and each of
them received said note and
this the defendant is ready to
verify wherefore he prays judgment
He,

Samuel Strander
Samuel R Allen

- Depts Attys -

14

And for a further plea in this
behalf by leave of the Court first
had and obtained the defendant
says actio non because he says
that the said Board of Directors
of the Sterling and Rock
Island Rail Road Company
did not previous to the making
and delivery of said note men-
tioned in the plaintiffs declaration
nor have the said Company
demanded of this defendant the
full sum of the said Capital
stock that he subscribed for to
wit the Two Shares that this
defendant subscribed for
the Sterling & Rock Island
Rail Road Company as
aforesaid all of which
the said Reynolds Milder
& Co knew and all claiming
any interest in said note

27

well knew at the time that they
and each of them received said
note this the defendant is ready
to verify wherefore he prays judgment
Samuel Shaw
Samuel R. Allen Defendant

Be it further Remembered that on the 20th day of January AD 1868 the Plaintiff by A. Webster his attorney filed in the office of the said Circuit Clerk County and State aforesaid his Demurrer and Replication to the pleas heretofore set forth by the Defendants attorneys which is in the words and figures following to wit

State of Illinois }
 Rock Island County } sp. Of the January term
 AD 1868 of the Circuit
 Court of said County

Charles Williams }

vs

Rodolphus M Baker }

And now comes the Plaintiff in the above entitled cause by his atty and as to Defendants pleas in this behalf pleaded (except the pleas by him firstly and thirteenthly above pleaded) says that the said Pleas and each of them are not sufficient in law to be relied unto and therefore the said Plff prays Judgment &c.

By A Webster
 Plffs Atty

And now comes the above Plff by his atty and as to said Defendant Thirteenth Plea by him above pleaded says precludi non because he says that on the day of the commencement of this suit there was in existence a corporation called the Sterling & Rock Island Rail Road Company

as by the note mentioned in the
Plffs Declaration is supposed

And this the said Plffs pray
may be enquired of by the country
re

By

A Webster

Plffs Atty

And be it further remembered that on
the 26th day of January A.D. 1868 came
the Plaintiff by his attorney A Webster
& takes issue as to the pleas of general
issue & nul teel corporation & the
Demurer filed on the 20th instant
to all other pleas having been argued.
It is ordered by the Court that the
said demurer be sustained. And the
Defendant by his attorney moves the
Court for a continuance which the
Court overrules & therefore the Defendant
enters non prosequitur to the pleas of General
issue & nul teel corporation & abides
by the remaining pleas. It is therefore
considered by the Court that the
Plaintiff have and recover judgment
on Demurer and his damages
by him sustained herein And
it appearing to the Court that
this suit is brought upon a note
for payment of money & that the
damages rest in computation
merely. It is ordered that the clerk
assess the same, thereupon the
clerk assessed and reported
the damages at the sum \$288,
which report is accepted by the Court -

37
It is therefore ordered by the Court that the Plaintiff have and recover from the said Defendant the said sum of \$288 damages assessed as aforesaid together with his costs & that he have execution therefore And thereupon the said Defendant by his said Attorney prays an appeal which the Court allows on Defendants filing a Bond in 30 days in the sum of \$200. security, to be approved by the Clerk by agreement.

Be it further Remembered that in compliance with the foregoing order the Defts by his Attorneys caused to be filed on the 16th day of February A.D. 1868 in the Office of the Clerk of Circuit Court in the County of Rock Island & State of Illinois a Bond approved by the said Clerk of said Court which is in the words and figures following to wit:
"Know all men by these presents that Rudolphus J. R. Baker as principal and Albert J. Coe as security are held and firmly bound unto Charles Williams in the penal sum of Six hundred dollars good and lawful money of the United States for the payment of which well and truly to be made the said Baker and Coe bind themselves their heirs executors & Administrators jointly severally and firmly by these Presents. Witness their hands

and seals this eleventh day of February
 A.D. 1863 The Condition of the above
 obligation is such, That whereas the
 above named Charles Williams did at the
 January Term of the Circuit Court held
 in and for the County of Rock Island
 & State of Illinois A.D. 1863 recover a
 judgment against the above bounden
 Rudolphus R. Baker for the sum of
 Two hundred and eighty Eight dollars
 as also for his costs in that behalf
 expended said Rudolphus R. Baker
 has prayed an appeal from the
 said Circuit Court to the Supreme
 Court within and for the said Grand
 Division of said State. Now if
 the said Rudolphus R. Baker shall
 duly prosecute said appeal
 and pay or cause to be paid the
 amount of said judgment and
 all judgments costs interest and
 damages which said Supreme
 Court shall adjudge against him
 in case the judgment of the said
 Circuit Court shall be affirmed &
 abide the order and judgment of
 the said Supreme Court in this
 behalf then this obligation to be void
 otherwise to remain in full force
 and effect

Rudolphus R. Baker (Sd)

A. S. Coe

Seal

33
State of Illinois } ss
Rock Island County }

J. Edward A
Broman Clerk of the

Circuit Court within and for said County and
State aforesaid hereby certify that the foregoing
is a true full and complete transcript of the
Record of proceedings had in such cause in
said Circuit Court, as also a full complete and
true copy of the several original papers on
file therein, as entire as the same now remain
of Record or on file in my Office.

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

Edward A Broman
Clerk.



Fees for transcript of Record paid
by S. Strander Defendants atty \$11.95

State of Illinois } To the Supreme Court
Rock Island County vs; } at Ottawa

Rudolphus S. R. Baker appellant }
vs } Errors
Charles Williams appellee }

And the said

Rudolphus S. R. Baker now comes and
says that in the Record and proceedings
aforesaid there is manifest error to wit;

1st The Court erred in sustaining
the demurrer to the Special Pleas -

2 The note is void for want of
power in the Company to make the con-
tract by which it received said note,

3 There was no consideration
for said note.

4 The note was obtained by fraud

5 The Company had no power
under or by virtue of the laws of the State
to receive said note in payment of the
Capital Stock of said Company nor
to transfer and endorse the same

6 The contract to pay the in-
terest semi annually is against
the policy of the Laws of the State
and is therefore void.

7 The Court erred in not over-
ruling the demurrer.

8

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

9

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

10

The said Judgment was given in favor of the said Charles Williams whereas by the laws of the land it ought to have been given to Rodolphus S. R. Baker. Wherefore the said Rodolphus S. R. Baker prays that the said Judgment may be reversed annulled and he be restored to all things he has lost by reason thereof.

Samuel Strawder
Samuel R. Allen Attys
For said Rodolphus S. R. Baker

State of Illinois }
Third Grand Jurisdiction } as April Term A.D. 1863
Rodolphus S. R. Baker }
vs }
Charles Williams }

And now comes the Appelle in the above entitled case by his attorney and in the errors by the Appellant appearing on the foregoing record says that

no such errors exist in said
Record wherefore the said Appellee
says that the judgment of the
Circuit Court ought to be
affirmed - And if this may the
judgment of this court —

A. Webster

Atty for Appellee

178

Baker

3

Williams

Recd & assgt.
of Euro

Recd April 21st 1863

L. L. Leland
Cash