

No. 13662

Supreme Court of Illinois

Hoyt

vs.

Jaffray

71641  7

STATE OF ILLINOIS,
SUPREME COURT,
Third Grand Division.

No. 110

Stacy

1362

Prepared

Supreme Court of Illinois
Third and Dearborn
Ottawa June Term 1862

John R. Saffray, Esq
Deft in Error

vs

Charles L. Hoyt,

Plaintiff in Error

And now at this day come the
said defendants in Error and
move to set aside the order granting
a continuance in the above entitled
cause.

May 3, 1862.

Robt. Cook
Clerk
of Court

Supreme Court of Illinois
Third Grand Division

John R. Raffray, Etal.
Defts in Error

^{Advs.}
Charles H. Mont.
Plff in Error

Single questions of Defendants in Error
On

Motion to Suspend Continuance

Rule 56 of this Court dispenses with the necessity of any notice whatever being served by the defendant in Error of his intention to enter his appearance & have the Cause proceed to a hearing unless the plff in Error shall use reasonable diligence to have the *Sci fea* served ten days before the term &c

It would seem that proof of such diligence should come from the plff in Error, any other rule would encourage wits of Error for the purpose of delay merely

We think that diligence has not been shown in this case -

1. The writ of Error & Scire fac were issued Dec 18th 1861. four months prior to the first day of the present term

2 The Scire fac has never been returned, nor is there any proof that it has not been served or that there has been any effort whatever to serve it -

3. The Defts in Error reside at New York, this appears from the record from the fact that the instrument sued on bears date at that place

- Rule 30 is designed expressly to meet such cases by providing for service by publication - This publication need only be for 4 consecutive weeks - three months had elapsed before the Counsel for ~~the~~ ^{was} Plaintiff in Error informed ~~that~~ by one of the Counsel for ~~the~~ ^{was} Plaintiff in Error of his intention to argue the Cause at this term - This Counsel must have misled him, he prepared his brief, the Cause was passed by Consent on the first call and when the Counsel for Defendant

Error so advised Mr. Wafer. He had
no means of knowing whether
Review had been made, or not
Either by publication or otherwise

4- Certainly the fact that the
Council for left in Error, informed
the opposite Council, that he
should be in readiness for trial
at the present term, can hardly
be urged as a reason why it
should not be so agreed, nor
does it relieve the Peff in Error
from the duties which the rules
of Court impose & upon them -

- ~~Count~~ of diligence affirmatively
appears, and under rule 36, there
is therefore no necessity of any
note whatever -

E. Adams
of counsel

Supreme Court of the
Throckmold Division

John R. Taffray Esq
Deft in Error
Ad.

Charles L. Noyes
Plff in Error

Motion to Set aside Con-
and
Suggestions

Oct 110

Filed May 3. 1872
J. Leland
Clerk

Supreme Court of Illinois
Third Grand Division

April Term. A.D. 1872.

John. R. Jaffray, Esq.
Defts. in Error

vs.

Charles Hoyt.
Plaintiff in Error

} No 110

State of Illinois. S.S.

Emerg. A Stems being
duly sworn deposes and says
that he is one of the Counsel for
the above named defendants in
Error; that this defendant has on
several occasions, since the fixing
of the Superseda, in this Cause
and at least one month prior to
the first day of the present term of
this Court, informed Mr. Wagner, one
of the Attorneys for the Plaintiff in
Error, that said defendants in Error
would be prepared to argue this
Cause at the present term of this
Court and intended so to do

: that briefs have been prepared and printed on this cause by both parties and that said Weyner was informed several weeks prior to the first day of the present term of this Court that said defendants in Error were making preparations for the argument of this cause

: that said cause was passed by consent upon the first call of the docket. and that said defendants in Error are merchants doing business in the City of New York

Sworn & Subscribed before
me this 2^d day of May
A. D. 1802
J. Deland
Ck.

Emery Astors

Supreme Court. Ills
~~~~~

John R. Peffay Esq.  
Depts in Crew

vs.

Charles Hoyle  
Peffay Crew  
~~~~~

Affidavit
~~~~~

Chs. 110

Filed May 2<sup>d</sup> 1862  
S. Ireland  
Clk.

Motion for a  
continuance

STATE OF ILLINOIS, }  
SUPREME COURT, } ss.

The People of the State of Illinois,

To the Clerk of the ~~Court of Common Pleas of the County of Kane~~ <sup>Place of the City of Aurora</sup> ~~Court for the County of Kane~~ Greeting:

Because, In the record and proceedings, as also in the rendition of the judgments of a plea which was in the ~~Court of Common Pleas of the County of Kane~~ <sup>Place of the City of Aurora</sup> ~~Court for the County of Kane~~ Country, before the Judge thereof, between John R. Jaffray, Arthur W. Jaffray, Richard W. Jaffray and Edward S. Jaffray partners doing business under the name & style of J. R. Jaffray & sons

plaintiff, and Charles L. Hoyt

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

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

Witness, The Hon. John D. Catton, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this eighteenth day of December in the Year of Our Lord One Thousand Eight Hundred and Sixty one



J. Leland

Clerk of the Supreme Court.

Wm. Rice Dept

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Charles L. Hoyt

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No.

vs.

John R. Jaffray & Co

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**WRIT OF ERROR.**

This writ of Error is made  
a supersedeas and as such  
is to be obeyed by all con-  
cerned.

L. Leland Clerk  
by J. B. Rice Secy

FILED December 18<sup>th</sup> A. D. 1861

L. Leland

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Clerk.

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Know all Men by these presents that we  
Charles L Hoyt as principal and Charles  
Hoyt as surety, are held and firmly  
bound unto John R. Jeffray Arthur W.  
Jeffray Richard W. Jeffray and Edward  
S. Jeffray in the penal sum of Two  
Thousand dollars lawful money of the  
United States for the payment of which  
sum we bind ourselves our heirs  
executors administrators and assigns  
each and every of them firmly by these  
presents. Witness our hands and seals  
this Eleventh day of December A.D. 1861  
The condition of the above obligation  
is such that whereas the above obligees  
did at the last October Term A.D. 1861  
of the City of Aurora County of Kane & State of Illinois  
of the Court of Common Pleas, recover a  
Judgment against the above bounden  
Charles L Hoyt for the sum of Eleven  
Hundred and forty three dollars and  
seventy two cents upon which Judgment  
the said Charles L Hoyt is about to  
sue out of the Supreme Court of the  
State of Illinois a writ of error.  
Now therefore if the said Charles L  
Hoyt shall prosecute his <sup>said</sup> writ of error  
with effect and shall pay the said  
Judgment costs interest and damages

in case the said judgment shall be affirmed then and in that case this obligation shall be null and void otherwise to remain in full force and effect

Charles L. Hoop *(seal)*  
Hoop *(seal)*

State of Illinois  
Cook County

Leander Wagner being first duly sworn doth depose and say that the above bond <sup>was</sup> executed in the presence of this affiant, and that he knows by general repute that the above bounded Charles Hoop the surety is worth from from fifty to seventy five thousand dollars - and this affiant from his own knowledge knows the said Hoop to be a wealthy man believes him to be out of debt and worth from thirty to fifty thousand dollars. L. Wagner

Subscribed and sworn to before me this 11<sup>th</sup> Dec 1861.

J. L. Church *clerk*  
Circuit Court Cook County Illinois

110  
John R. Coffey *et al.*

Charles L. Hoop  
Bond

Filed December 18. 1861  
L. Leland  
Clerk

1  
United States of America }  
State of Illinois }  
Harris County }  
City of Aurora } ss

Pleas. Before the Honorable  
- Mr. Benjamin F. Parks  
The Judge of the  
Court of Common Pleas  
of the City of Aurora  
at a regular Term of said the Court  
of Common Pleas of the City of Aurora  
begun and held at the Court Room in  
the City of Aurora, in said County & State  
on the <sup>(the 21<sup>st</sup> day)</sup> third Monday of October in the  
year of Our Lord One Thousand Eight Hun-  
-dred and Sixty One

Present The Honorable Benjamin F. Parks  
The Judge of said Court  
" Charles J. Metzger State Attorney  
" Demarens Clark Sheriff of Harris County  
Attest  
Charles P. Johnston Clerk

The Court opened by proclamation

Be it remembered that hereupon  
to wit on the 9<sup>th</sup> day of October A. D. 1861,  
the following among other proceedings were had

2

and filed in said Court

Bond for Costs

John B. Gaffray Arthur W. Gaffray  
Richmond W. Gaffray & Edward  
S. Gaffray partners in trade and  
doing business under the name &  
style of J. B. Gaffray & Sons

} Home County  
Court of Comm  
on Pleas of the  
City of Amora

vs  
Charles L. Hoyt

I do hereby

enter myself security for costs in this cause and  
acknowledge myself bound to pay or cause  
to be paid all costs which may accrue  
in this action either to the opposite party  
or to any of the officers of this Court in

date this fourth day  
of October A.D. 1861

J. D. Harvey

Bond for Costs

Home County Court of Common Pleas  
of the City of Amora  
J. B. Gaffray et al

vs  
Charles L. Hoyt

Security

Filed and Approved the 9<sup>th</sup> day of  
October A D 1861

W P Johnston clerk  
J. D. He Arvey  
J. P. Atty

County of Warren } Court of Common Pleas of the City of Aurora  
City of Aurora } ss  
Hame County }

John. B. Jaffray, Arthur. W. Jaffray  
Richard. W. Jaffray, Edward. S. Jaffray  
partners in trade and doing business  
under the name and style of J  
B. Jaffray and Sons Plaintiffs

Assumpsit

vs.  
Charles. L. Hoyt

Defendant

The Clerk of said Court will issue a summons  
in the above cause directed to the Sheriff of Hame  
County in a plea of trespass on the case upon  
promises returnable at the October term of said  
Court A. D. 1861, to the damage of the plaintiffs of  
Two Thousand Dollars

J. D. Harrop Plaintiffs attorney

To Charles. P. Johnston esq: Clerk

Aurora Oct 4<sup>th</sup> 1861

Receipt for summons Hame County Court of  
Common Pleas of the City of Aurora October  
term A. D. 1861

John. B. Jaffray  
et al

vs

Char. L. Hoyt

filed at this 9<sup>th</sup> day of October 1861  
 C. P. Johnston Clerk

V. D. Harvey

Plaintiff Attorney

Summons for the Court of Common Pleas  
 State of Illinois }  
 County of Stone }  
 City of Anna }

The People of the State of Illinois to  
 the Sheriff of said County, Greeting:

We command you that you summons

Charles L. Hoyt

if he shall be found in your county personally to  
 be and appear before the Court of Common Pleas  
 of the City of Anna in said County on  
 the first day of the next term thereof to be held  
 at the Court house in the City of Anna in  
 said County on the third Monday of October  
 A. D. 1861 to answer unto

John R. Jaffray, Arthur Jaffray Richmond  
 W. Jaffray & Edward S. Jaffray partners in  
 trade and doing business under the name  
 and style of J. R. Jaffray and Sons  
 in a suit of

Transpass on the case upon promises  
 to the damage of the said Plaintiffs as they  
 say in the sum of Two Thousand dollars

And have you then and there this  
 writ with an endorsement thereon in what

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manner you shall have executed the same  
Witness C. P. Johnston Clerk of  
our said Court and the seal thereof  
at Aurora Jeffersonia this 9<sup>th</sup> day of  
October A.D. 1861

Charles P. Johnston Clerk

The Court of Common Pleas of the City of  
Aurora October Term A.D. 1861

J. R. Jaffray Son Peff

vs  
Charles S Hoyt Deft

Summon for Deft

Filed Oct 21<sup>st</sup> 1861

C. P. Johnston Clerk

Fees 1 sum 50

1 mile 5

at 10/65

J. D. Harvey Peff Atty

Executed this writ October 10<sup>th</sup> 1861 within  
the City of Aurora Kane County and State  
of Illinois by reading to Charles S. Hoyt

D. Clark Sheriff

By J. D. Andrews Deputy

### Declaration

Court of Common Pleas of the  
State of Illinois } City of Aurora  
City of Aurora }  
Kane County }

of the October Term in the year  
of Our Lord one thousand eight hundred and  
Sixty one

John. B. Jaffray Cuttino. W. Jaffray Richman  
W. Jaffray and Edward S. Jaffray partners  
in trade doing business under the name and  
style of J. B. Jaffray & Sons Plaintiffs in this  
suit by C. D. Harvey their Attorney complain  
of Charles L. Hoyt, Defendant  
in a plea of trespass on the case upon promises  
for that whereas the said Defendant heretofore  
to wit on the thirtieth day of March in the  
year of Our Lord one thousand eight  
hundred and Sixty One at New York to wit  
at the City of Aurora T'aine County and  
State of Illinois made his certain promisory  
note and then and there delivered the same  
to plaintiffs in and by which said note  
said defendant by the name style and  
description of C. L. Hoyt  
promised to pay to the order of said plaintiffs  
by the name style and description of J. B.  
Jaffray & Sons & six months after the date  
thereof which period has now elapsed the  
sum of Eleven Hundred and thirty nine  
dollar and ninety two cents at N. B. Millers  
Bank Aurora Ill. with current rate of Ex-  
change on New York for value received  
by means whereof and by force of the Statute

in such case made and provided the said defendant became liable to pay said plaintiff said sum of money mentioned in said note and being so liable in consideration thereof then and there undertook and promised to pay the same to said plaintiff according to the tenor and effect true and intent and meaning of said note to wit at the place aforesaid

And whereas also the said defendant afterwards to wit on the 14<sup>th</sup> day of October in the year of Our Lord one thousand eight hundred and sixty one to wit at the City of Ansonia in said County became and was indebted to the plaintiff in a large sum of money to wit Two thousand Dollars for money before that time lent and advanced to and paid laid out and expended for said defendant by said plaintiff at said defendant request and for money before that time had and received by said defendant to and for the use of said plaintiff and also in a like sum for goods wares and Merchandise before that time sold and delivered by said plaintiff to said defendant at special instance and request and also in the like sum for the labor care and diligence of said plaintiff before that time done and performed by said plaintiff for said defendant and at the like

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motion and request of said defendant and  
being so indebted said defendant in consid-  
-ation thereof then and there undertook and  
promised to pay said plaintiffs said last  
mentioned sum of money when thereunto  
afterwards requested

Yet the said defendant not regarding  
his said promises and indentations but conti-  
-uing etc although often requested so to do has  
not paid said plaintiffs either of said sums of  
money or any part thereof but so to do has  
hitherto wholly neglected and refused and  
still does neglect and refuse to the damage  
of said plaintiffs of Two Thousand Dollars  
and therefore they bring suit etc

J. D. Harvey Atty for Plaintiffs

Copy of Note and account sued upon  
Copy of Note sued upon  
\$ 1139.  $\frac{92}{100}$

New York March 30<sup>th</sup> 1861

Six months after date I promise  
to pay to the order of Messrs J. B. Jaffray  
& Sons Eleven Hundred Thirty nine  $\frac{92}{100}$   
Dollars value received at H. H. Millers  
Bank New York with current rate of  
Ex on N.Y.

Signed C. L. Hoyt

Copy of Account declared upon  
1861

Charles L. Hoyt

To J. B. Jaffray & Sons Dr

Oct 4<sup>th</sup>

|                  |         |
|------------------|---------|
| To money lent &c | \$ 2000 |
| " goods sold &c  | 2000    |
| " labor done &c  | 2000    |
| " money had &c   | 2000    |

J. B. Jaffray Et al

vs  
Charles L. Hoyt

Gono

J. D. Harvey atty for Piffs  
Filed October 9<sup>th</sup> 1861

C. P. Johnston clerk

And afterwards to wit on the  
23<sup>rd</sup> day of October A. D. 1861 it being one of  
the days of the regular October term of our  
said Court of Common Pleas of the City of  
Annora the following among other proceed-  
ings were had and entered of record in said  
Court in said cause to wit

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Charles L. Hoyt  
at  
John R. Jaffray  
Arthur W. Jaffray  
Richard W. Jaffray  
Edward S. Jaffray

The Court of  
Common Pleas of  
the City of Aurora  
Oct Term AD 1861

And the said  
Defendant by L. R. Wagner his Attorney  
Comes and defends the wrong and injury  
& and says. Actio non because he says  
that he did not undertake and promise  
in manner and form as the said plaintiffs  
hath above thereof complained against  
him and that he may may be  
inquired of by the country &c

L. R. Wagner  
Deft Atty

Charles L. Hoyt  
at  
J R Jaffray et al

Filed  
Filed Oct 23. 1861  
C. P. Johnston  
Clerk

Wagner  
Atty

And afterwards to wit on the 25<sup>th</sup>  
day of October A.D. 1861 it being one of the  
days of the regular October term of our  
said Court of Common Pleas of the City  
of Ansonia the following among other  
proceedings were had and entered of record  
in said Court in said cause to wit

11

John. B. Jaffray Deftm W.  
Jaffray Richmond. W. Jaffray  
& Edward. S. Jaffray partners  
in trade and doing business  
under the name and style  
of J. B. Jaffray & Sons

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vs  
Charles. L. Hoyt

Assumpsit

This day come  
the plaintiffs by J. D. Harvey their Attorney  
and the defendant by Wagner his Attorney  
also come we've a Jury and submit this  
cause to the court for trial and issue being  
joined herein and the court having heard  
the evidence adduced finds the issue joined  
for the plaintiffs and assess their damage to  
the sum of Eleven hundred and forty three  
Dollars and 72/100 Dollars

Thereupon come the defend-  
-ant and enters his motion for a new trial  
herein and the court being fully advised  
overrules said motion

Therefore it is considered  
by the court that said plaintiffs have and  
recover of said defendant their damage of  
Eleven hundred and forty three Dollars &  
Seventy two cents in form aforesaid aforesaid  
and also their costs and charges by them  
about this suit expended and have

execution therefor

And afterwards to wit on the 1<sup>st</sup> day of November A. D. 1861, it being one of the days of the regular October term of our said Court of Common Pleas of the City of Anna the following among other proceedings were had and entered & entered in said court in said cause to wit

John B. Jaffray  
Arthur W. Jaffray  
et al<sup>vs</sup>

vs  
Charles L. Hoyt

Assumpsit

This day comes the Defendant by Wagner his Attorney and excepts to the decision of the Court in overruling the motion for a new trial and rendering judgment herein as heretofore entered. It is ordered by the Court that he have Ten days to file his bill of exception herein.

And afterwards to wit on the 7<sup>th</sup> day of November A. D. 1861 an Execution and full Bill did issue out of and under seal of said Court as follows to Wit

It is La for Plaintiffs Damages

State of Illinois  
County of Adams } so  
City of Annona

The People of the State of Illinois to the Sheriff of said County greeting.  
We command you that of the lands and tenements goods and chattels of Charles L. Hoyt defendant in your county you cause to be made the sum of Eleven Hundred and forty three dollars and seventy two cents which John B. Jaffray, Arthur W. Jaffray, Richmond W. Jaffray & Edward S. Jaffray partners in trade and doing business under the name and style of J. B. Jaffray & Sons plaintiffs lately in the Court of Common Pleas of the City of Annona at a term thereof begun and held at the City of Annona in said County on the third Monday of October A. D. 1861 last past recovered of against the said Defendant and which by the said Court was adjudged to the said plaintiffs for their damages and also the further sum of Five dollars and forty ~~five~~ cents which were adjudged to the said plaintiffs for their costs and charges in that behalf expended whereof the said defendant is convicted as appears to us of Record and have you these monies ready to render to the

Said plaintiffs for their Damages and costs  
of said and make return of this writ  
with an endorsement thereon in what man-  
-ner you shall have executed the same in  
ninety days from the date hereof

Witness Charles P. Johnston Clerk  
of our said Court and the seal  
thereof at the City of Amherst  
of said this Seventh (7) day of  
November A.D. 1861

Charles P. Johnston Clerk

The Court of Common Pleas  
of the City of Amherst  
Li. Fa. No. Case No.

Fee Book B. 265

Date Nov 7<sup>th</sup> 1861 Return 25<sup>th</sup> Nov 1861

J. B. Jaffray <sup>Deft</sup>  
et als

vs  
Charles L. Hoyt <sup>deft</sup>  
et al

|          |             |
|----------|-------------|
| Damages  | 1143.72     |
| Costs    | 5.40        |
| Fee Bill | <u>2.50</u> |
|          | \$1151.62   |

Contract from October 25<sup>th</sup> 1861

Filed Nov 26<sup>th</sup> 1861

Charles P. Johnston Clerk

Against deft J. D. Harvey Deft Atty

135 Received the execution this 7<sup>th</sup> day of November  
 A.D. 1861 at 3 O'clock P.M.

D. Clark Sheriff of Ham County  
 By J. D. Andrews Deputy

Sherriffes  
 1 ser 50  
 1 mile 5  
 2 wh.  $\frac{10}{65}$

This is to certify that on the 25<sup>th</sup>  
 the day of November A.D. 1861 I demanded  
 of the within Charles L. Hoyt money  
 or property to satisfy this execution which  
 the said Hoyt refused to turn out and  
 being unable to find any property in my  
 County with which to satisfy the same  
 I hereby return the same wholly unsatisfied  
 dated this 25<sup>th</sup>, D. Clark Sheriff of Ham County  
 Nov. 1861 By J. D. Andrews Deputy

Copy of Fe B ill  
 The Court of Common Pleas  
 of the City of Aurora  
 October Term A.D. 1861

J. B. Jaffray et al vs } Assumpsit

Charles L. Hoyt } Piffs Costs clarks fees  
 Doc 10 ap & aty 15 file 2 pas 15 sermo & file 40 80  
 rule to plea 20. mo maine July 20 and sub to 40  
 court 20, and Jud 20, ent Jud 25, doc 10 75  
 saty 15 and ex 20, mtr & costs 80 copy 20 saty 15 100  
 ex file 45 doc 10 wh 10 saty 15 80  
 \$3.75

Docket

Sheriff Clark su<sup>d</sup> Same 50 mile 5 ret 10

11

65  
\$ 5.40

Defendants Costs & Clerk fees

Apr 4 Atty 15 file fees 5 mo for new trial 20 40

ord 20. ord mo denied 20 ord Except 20. ord 20 80

ord file Bill of Except 20. Fee Bill & file 40 60

cut usual 35 doc 10 ret 10 saty 15 70  
\$ 2.50

I Charles P. Johnston Clerk of the Court of  
Common Pleas of the City of Aurora  
do hereby certify that the above is a true  
copy from my full Book

Charles P. Johnston Clerk

State of Illinois }  
County of Kane } ss  
City of Aurora }

The People of State of Illinois  
to the Sheriff of Kane County greeting;

We command you that if the  
above Fee Bill amounting to Two Dollars  
and fifty cents shall not be paid within  
thirty days after being by you demanded  
you cause the same to be levied on the goods  
and chattels lands and tenements of the said

Charles L. Hoyt

in your county according to the statute in  
such case made and provided

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And make return of this writ within  
ninety days. as the law directs with an assess-  
ment hereon in what manner you shall  
have executed the same

Witness W. P. Johnston clerk of the  
Court of Common Pleas of the City  
of Aurora and seal thereof at the  
City of Aurora in said County this  
1<sup>st</sup> day of November A. D. 1861

W. P. Johnston Clerk

The Court of Common Pleas  
of the City of Aurora

No. Case No 46  
See Book B page 265

J. B. Jaffray  
vs et al  
Charles L Hoyt

See Bill vs def

Fee

1 ser 50

1 mile 5

Ret  $\frac{10}{65}$

I return this fee in property  
found Nov 25 1861

D. Clark Sheriff  
by J. D. Andrews Deputy

And afterwards to wit on the 5<sup>th</sup>  
day of December A. D. 1861 the following bill  
of exceptions was filed in said Court  
in said Cause as follows to wit

John. B. Jaffray  
Arthur. W. Jaffray  
Richard. W. Jaffray  
& Edward. S. Jaffray

vs  
Charles. L. Hoyt

The Court of Common  
Pleas of the City of  
Anna October Term  
A. D. 1861

Be it remembered that upon  
the trial of the above entitled cause (a Jury  
having been waived and the case submitted  
to the court) the plaintiff to prove his cause  
offered in evidence a note as follows to wit

\$1159.92

New York March 30<sup>th</sup> 1861

Six months after date I promise to  
pay to the order of Messrs J. B. Jaffray & Sons  
Eleven hundred thirty nine &  $\frac{92}{100}$  Dollars  
value received at H. H. Miller Bank Anna Ill  
due With current rate of Ex on my  
due Oct 3 1861

C. L. Hoyt

Filed Oct 5<sup>th</sup> 1861

Chas. P. Johnston

Clk

The defendant objected to the introduction  
of the note on the ground it called for  
Exchange on New York the counsel for  
the plaintiff then remarked that the legisla-  
-ture at the late session had passed a law  
making such an instrument a promissory

note the defendant Counsel then remarked very well it could be taken advantage of hereafter by motion for a new trial, the Court then assessed the Damage at \$1143.72 The indictment being all the evidence in the case on either side

On the 25<sup>th</sup> day of October it being one of the days of said term the defendant made a motion for a new trial which the Court denied and gave Judgment on the assessment

On the first day of Nov. A.D. 1861 it still being one of the days of said term the defendant came in and prayed an exception to the Judgment of the Court in overruling the defendant's motion for a new trial and asked that it might be entered as of the time of the overruling of the motion for a new trial the plaintiff objected the defendant's Counsel remarked that he was not aware that the motion had been denied the Counsel of the plaintiff remarking that he had and was at all times ready to produce evidence showing the consideration of the note and signature the Court denied the right to defer to file the exceptions as of the 25<sup>th</sup> day of October but allowed them to be entered as of the first day of November, 1861, and denied to the plaintiff

after Judgment the right to put in proof  
 as to the consideration and signature to  
 all of which rulings of the Court on the  
 first day of November A D 1861, <sup>then and there</sup> the  
 defendants accepted and prayed that this  
 his bill of Exceptions may be signed and  
 allowed by the Court which is done <sup>and</sup>

B. F. Parks, <sup>Secy</sup> Judge  
 of the Court of Common  
 Pleas of the City of  
 Aurora

The Club will file this bill as  
 of Nov 9<sup>th</sup> 1861.

B. F. Parks Judge

Filed December 5<sup>th</sup> 1861  
 with an order from the Judge  
 to be filed as of Nov 9<sup>th</sup> 1861

C. P. Johnston  
 Club

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State of Illinois }  
Hane County } ss  
City of Aurora }

I Charles P. Johnston clerk  
of the Court of Common Pleas  
of the City of Aurora in said City County  
and State do hereby certify that the above  
and foregoing transcript contains a true  
and correct copy of all the proceedings  
and papers now on file in said Court  
in a cause wherein John B. Jaffray  
Arthur W. Jaffray Richmond W. Jaffray  
and Edward S. Jaffray partners in trade  
and doing business under the name and  
style of C. B. Jaffray Sons Plaintiffs and  
Charles S. Hoyt Defendant as appears to  
of record

Witness my name and seal  
of said Court at the City of  
Aurora aforesaid this 6<sup>th</sup> day  
of December A D 1861  
Charles P. Johnston  
clerk



And the said defendant assigns the  
following errors in the rulings of the  
Court.

First. The Court erred in overruling the

