

No. 12843

Supreme Court of Illinois

Page.

vs.

Davidson.

71641  7

262-89

Abner B. Page

vs

E. Davidson

89

TCBQ

1284

Abner B Page

vs

Elijah Haviland

} In the Supreme Court
April Term 1839

Argument for Defendant in
Error by J G Kirkpatrick &
H W Mead

This is an action on the case in the nature of
writ brought to recover damages for an
injury to the reversionary interest of the landlord
against his tenant

The first six Counts, count upon
the lease, and describe the defendant as a
tenant of the plaintiff — the 7th Count is in
Trove

The defendants filed three pleas

1st That Plaintiff was not seized of a reversionary
interest &

2. That the lease was the property of defendant

~~These pleas were demurred to & the~~

3 The General Issue

The two first pleas were demurred
to & the demurres sustained

The case was tried upon the
general issue & a verdict & judgment for
plaintiff below.

Defendants in Error make the following points

I The action was rightly brought & will be
2 Chitty Pleadings 785. Note (y)
12. Sergeant & Rawle 272
~~3 Harrington (Alabama) 344~~
1 Rhode Island 272
13 Penn State Rep 438

2.

II By producing the written lease the
reversionary interest is shown as between
the landlord & Tenant, and the tenant
~~stands on Evidence 720. Note (i)~~
cannot dispute the landlord's title
Strother & al vs Barr & al 5 Bing 136, in
English Com Law Rep 391

And this case decides all the
questions in the case at bar

The pleas were obviously bad, not
1st only because they amounted to the general
issue, but because they denied the title of

the landlord, which could not be done

2^d. No ~~objection~~ could arise to ~~Plt~~ in
error by ~~holding~~ them bad because
all the proof ~~it~~ could have made under them, was
permitted under the general issue

III. Trover was a proper remedy in this
case & would be

Starrs vs Goshing 3. Harring. (Mass.) 340
1 Chitty Pleadings 149, 147, 152

IV. The only other question is as to title.
By the Will. By that instrument — Mrs England
having married — the executor was to lease
the farm until the youngest child became of
age. The youngest child is not yet of age
& this suit was commenced in March 1857

But by the ~~first part~~ of the Will, this
very farm, in case the widow married, was
to be divided ~~by~~ let or sold by his execu-
tors as his other lands & divided as afore-
said. The aforesaid, meant, that the

lands were to be divided among his heirs
when the youngest child became of age —
— or the land was to be sold & the proceeds
divided, when the youngest child became of
age, as the speculator should elect

Until the youngest child became of
age, the speculator was not required to make
any division, and he was the sole director
& owner in Trust for the benefit of the
estate. His title or right had not ex-
pired, & could not expire until the
youngest child became of age

But I insist, the tenant could not
dispute the title of his landlord until he
first surrendered possession, & ~~replaced the~~
& accounted for the injuries he had com-
mitted upon the estate

Kirkpatrick & Mead
for Repts in Error

262
Abner B Page

vs
Elijah Davidson

Argument for
Defendants

by

A. B. Kirkpatrick &
J. M. Need

Filed April 30, 1859
L. Leland
Clerk

1 State of Illinois }
Warren County }

Was before the Honorable
John S. Thompson Judge of the tenth Judicial
Circuit of the State of Illinois, at a Circuit
Court begun and held at the Court House
in Mount Pleasant within and for the County
of Warren and State of Illinois, on the third
Monday in the month of September in the
Year of our Lord one thousand Eight hundred
and fifty Eight it being the twentieth day
of said month,

Present Hon John S. Thompson Judge
James D. Stewart State Attorney
William Safety Clerk
Charles M. Mills Sheriff

Elijah Harrison }
vs } Trespass
Abner B. Harrison }

Be it remembered that
heretofore, to-wit; on the 4th day of March
AD 1857, a summons issued in said
cause which reads in the words and
figures following, to-wit;

"State of Illinois } The People of the State of
Warren County } Illinois, to the Sheriff
of said County Greeting

We Command You to Summon Abner
B Page if to be found in Your County
personally or by his agent and appear before the
Circuit Court of the County of Warren
on the first day of the next term thereof
to be holden at the Court House in
Morrisonville on the third Monday of
the Month of March Inst, to answer
the complaint of Elijah Davidson of a
plea of Trespass on the case & his damages
the sum of Eight hundred dollars, as
he says, and have You then and there
this writ, and make return thereon in
what manner You execute the same

Witness W^m Safety Clerk of our
said Court Circuit Court at
Morrisonville this 14th day of March
in the Year of our Lord one thousand
Eight hundred and fifty seven,
W^m Safety Clerk

Upon the return of which said Summons
the Sheriff made the following endorsement
which reads as follows, to wit;

"I did on the 5th day of March serve
the within by reading the same to Abner
B Page
C. M. Mills Sheriff"

And afterwards sent; on the 6th day of
March A. H. [unclear] the plaintiff by his
attorney [unclear] Declaration herein
which reads the words and figures
following, to wit;

"State of Illinois } Warren Circuit Court
Warren County } March Term AD 1857

Abner B Page was summoned to answer
Elijah Davidson of a plea of Trespass on
the case and thereupon the said Elijah
Davidson by A. J. Kirkpatrick ^{his attorney} complains
For that whereas the said defendant before
& at the time of committing of the grievances
hereinafter recited mentioned held and
enjoyed a certain tract of land described
as follows, to wit: The South West quarter
of section eighteen in Township Eleven
North of the base line of Range One West
of the fourth principal meridian in
Warren County, State of Illinois with
the appurtenances thereto belonging as
tenant thereof of the said plaintiff by the
name & style of Elijah Davidson Executor

of the last will of Richard D Ragland
 dec'd, to-wit: at the County of Warren aforesaid,
 said, Yet the said defendant contriving
 & wrongfully & unjustly intending to injure
 prejudice and aggrieve the said plaintiff
 in his overhanging estate & interest of &
 in the said land & the appurtenances
 whereto the same is now in the possession
 of the said defendant as tenant thereof to
 the said plaintiff as aforesaid; to-wit: on
 the first day of December A.D. 1855, and
 on divers other days and times, between
 that day and the day before the commence-
 ment of this suit, at the County of Warren
 aforesaid wrongfully and unjustly
 felled and prostrated & caused & procure
 ed to be felled cut down and prostrated
 divers trees, to-wit: One hundred oaks,
 twenty Hickory trees, one hundred ~~Oaks~~
 Saplings and one hundred other trees
 of the said plaintiff of great value, to-wit:
 of the value of three hundred dollars,
 the said trees having been in & upon
 said land & being carried away the
 same & converted and disposed thereof
 to his own use, whereby the said plain-
 tiff hath been & still is greatly injured
 prejudiced & aggrieved in his overhanging

interest & Estate to & in the said land as above described with the appurtenances to wit: at the County of Warren aforesaid

And whereas also before and at the time of the committing of the grievances by the said defendant, hereinafter more fully set forth in other Messages & premises to the appurtenances situate in the County of Warren & State of Illinois and described as follows, to wit: The South West quarter of Section Eighteen in Township Eleven North of the base line in Range One West of the fourth principal Meridian was in the occupation of the said defendant as tenant thereof to the said plaintiff by the name & style of Elijah Davidson Executor of the last Will of Richard Rayland dec^d. the reversion thereof then & there still be longing to the said plaintiff, to wit: at the County of Warren aforesaid Yet the said defendant well knowing the premises and contriving wrongfully & unjustly intending to injure, prejudice & aggrive the said plaintiff in his reversionary interest of and in the said Messages and premises whilst the same so were in the possession & occupation of the said defendant

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as the lessee of the said plaintiff as
aforesaid, whilst the said plaintiff
was so interested therein as aforesaid, to-wit,
on the first day of December A.D. 1855,
and on divers other days & times be-
tween that day & the day before the
commencement of this suit at the
County of [unclear] aforesaid wrongfully
& unjustly without the leave or licence
of and against the will of the said
plaintiff pulled down, demolished
stove away from the said Messuage
& premises a certain Hewed log Barn
& also a Frame Corn Crib of great value
to-wit; of the value of Two hundred
dollars then standing thing erected
thing in and upon said premises
and took and carried away the
same and converted and disposed
of the same to his own use, whereby
the said plaintiff hath been & is greatly
injured, grieved & aggrieved in
his real property interest & estate
of [unclear] the said Messuage & premises
with the appurtenances, to-wit; at the
County of [unclear] aforesaid
And whereas also before & at
the time of the committing of the

premises by the said defendant as
 hereinafter mentioned a certain
 other farm & appurtenances situated
 in the County of Macon aforesaid and
 described as follows, to wit: the South
 West quarter of Section Eighteen in Town
 ship number eleven North of the base
 line of range number one West of the
 fourth principal meridian was in pos-
 session & occupation of a certain person
 to wit: Adam Shellman as tenant
 thereof to the said plaintiff, to wit: at
 the County of Macon aforesaid, Yet
 the said defendant well knowing the
 premises but contrary & wrongfully
 and unjustly intending to injure
 prejudice & aggrieve the said plaintiff
 in his reversionary interest & estate
 of and in the said farm & appurtenances
 was in the possession & occupation
 of the said defendant as such tenant thereof
 to the said plaintiff as aforesaid and
 whilst the said plaintiff was so inter-
 ested therein as aforesaid, to wit: on
 the first day of July, A.D. 1855, & on
 divers other days & times between
 that day and the day before the
 commencement of this suit at the
 County of Macon aforesaid, wrongfully

& unjustly without the leave or license
 of & against the will of the said plaintiff
 felled cut down & prostrated & caused
 & procured to be felled, cut down & pros-
 trated divers other trees, to wit: One
 hundred, Ashes, twenty Elms, twenty
 apple trees, twenty Walnut trees and
 one hundred other trees of the said
 plaintiff of great value, to wit: of the
 value of three hundred dollars, then
 standing growing & bring in & upon
 the said land and took and carried
 away the same & converted and disposed
 thereof to his own use, by means of which
 said several premises the said plaintiff
 hath been and is ~~very~~ greatly in-
 jured, prejudiced and aggrieved in his
 real & personal estate and interest of & in
 the said last mentioned farm & appen-
 tenances, & is in the possession of the said
 Adam Shullman as tenant thereof
 to the said plaintiff as aforesaid, to wit:
 at the County of Warren aforesaid,

14th June

And whereas also the said defendant
 before & at the time of the committing of
 the grievance hereinafter next men-
 tioned held & enjoyed a certain
 other farm lands & premises situated

in the County of Warren & State of Illinois and described as the South West quarter of Section Eighteen in Township Number One North of the base line in Range Number One West of the fourth principal meridian as tenant thereof to the said plaintiff according to the tenor and effect of a certain lease in writing made & entered into by & between the said plaintiff & the said defendant of which the following is a copy, to wit:

"Articles of Agreement Made & entered into on this seventeenth day of July, Eighteen hundred and fifty five between Elijah Davidson Executor of the last will of Richard Rayland dec'd and Abner B Page as follows, the said E Davidson has this day leased to the said Page the farm on which the said Rayland resided on the South West quarter of Section Eighteen in Township Number One North of the base line of Range Number One West of the fourth principal meridian for the term of four Years, from the first day of March next for the sum of two dollars per acre, to be paid on or before the first day of January in each Year, the said A B Page is to have

full possession of the houses & out
 buildings together with all the im-
 provements and shall have liberty
 to use any down timber what is not
 suitable for saw timber or making
 rails, for fire wood, but shall not
 cut any green or standing timber for
 that purpose but in case any repairs
 shall be necessary to be made it shall
 be the duty of the said Page to inform
 the said Davidson who will have
 the same made & paid for out of the
 rent The said Page also agrees to pay
 all taxes or assessments which may
 at any time be levied on said land
 either by the State of Illinois or the County
 of Warren within the said term of four
 years from the said first day of March
 next and to deliver to the said Davidson
 or the person entitled to the peaceable
 possession of said premises at the
 expiration of the said term of four years
 In testimony whereof the said parties
 have hereunto set their hands this day
 and date as above written

(Signed) Elijah Davidson
 A B Page

Yet the said defendant not regarding

the said several stipulations of the
 said lease & continuing & wrongfully
 & unjustly intending to injure & pre-
 judice & against the said plaintiff in
 his possession & interest of & in the
 said premises that the said & one
 remain the possession of the said defendant
 as tenant of to the said plaintiff
 as aforesaid, to-wit: on the first day
 of March A.D. 1856, & on divers other
 days & times between that day & the
 day before the commencement of this
 suit at the County of Warren aforesaid
 wrongfully & unjustly & without the
 leave or license of & against the will of
 the said plaintiff, felled cut down &
 prostrated & caused & procured to be
 felled cut down and prostrated divers
 other trees, to-wit: One hundred oaks,
 fifty Hickory trees, One hundred
 Saplings and One hundred other
 trees of the said plaintiff of great value
 to-wit: of the value of five hundred dollars
 then standing, growing & being in &
 upon said land as above described
 took and carried away the same
 & converted & disposed thereof to his
 own use, when the said plaintiff
 hath been & is greatly injured

prejudiced and aggrieved in his reversionary interest of & in the said farm, land & premises, to wit; at the County of Macon aforesaid

3rd Count

And whereas also the said defendant before & at the time of the committing of the premises hereinafter next mentioned held & enjoyed a certain other farm with the appurtenances situated in the County of Macon & State of Illinois and described as follows, to wit; The South West quarter of Section Eighteen in Township Eleven North in Range One West of the fourth principal Meridian as beamed then of to the said plaintiff, according to the tenor & effect of a certain lease in writing made & entered into by & between the said plaintiff & the said defendant of which a copy is herein before inserted in Count Number four of the said petition, Yet the said defendant in regard to the said lease & contrived & wrongfully & unjustly intending to injure, prejudice & aggrieve the said plaintiff in his reversionary interest of & in the said

prejudiced and aggrieved in his reversionary interest of & in the said farm, land & premises, to-wit: at the County of Macon aforesaid

3rd Count

And whereas also the said defendant before & at the time of the committing of the premises hereinafter next mentioned held & enjoyed a certain other farm with the appurtenances situated in the County of Macon & State of Illinois and described as follows, to-wit: The South West quarter of Section Eighteen in Township Eleven North in Range One West of the fourth principal Meridian as beamed then of to the said plaintiff, according to the tenor & effect of a certain lease in writing made & entered into by & between the said plaintiff & the said defendant of which a copy is herein before inserted in Count Number four of the said petition, Yet the said defendant in regard to the said lease & contrived & wrongfully & unjustly intending to injure, prejudice & aggrieve the said plaintiff in his reversionary interest of & in the said

farm with the appurtenances whereto
 the same so was in the possession of the
 said defendant as tenant thereof to the
 said plaintiff as aforesaid, to wit; on
 the first day of March A.D. 1856 & on
 divers other times between that day
 & the day of the commencement of this
 suit at the County of Warren aforesaid
 wrongfully & unjustly & without the
 leave or license of & against the will
 of the said plaintiff, pulled down
 demolished & tore away from the said
 farm a certain other hundred log barn
 and also a certain other frame corn
 crib of great value to wit; of the value
 of one hundred & fifty dollars, then stan-
 ding & being erected & being in & upon the
 said farm & took & carried away the
 same & converted and disposed thereof
 to his own use, whereby the said plaintiff
 hath been & still is greatly & substantially in-
 jured, prejudiced & aggrieved in his rever-
 endary estate & interest of & to & in the
 said farm with the appurtenances, to
 wit; at the County of Warren aforesaid,
 And whereas also the said
 defendant to wit; the said defendant, to wit; on the first
 day of March A.D. 1856, at the County
 of Warren & the County of Illinois was & from

6th Count

then but that he has been & still is tenant
 to the said plaintiff of a certain other
 farm with the appurtenances situated
 in the County of Warren & State of Illinois
 and described as follows, to-wit: The
 South West quarter of Section Eighteen
 in Township Eleven North of Range One
 West of the fourth principal meridian
 and by reason whereof during all that
 time it was the duty of the said defendant
 as such tenant as aforesaid to manage
 use and cultivate the said farm with
 the appurtenances in a good & husband
 like manner & according to the custom
 of the country where the said farm
 with the appurtenances were so situated
 as aforesaid, to-wit: in the County of Warren
 aforesaid, Yet the said defendant not
 regarding his duty in that behalf but
 contrary & fraudulently intending to
 deceive & defraud the said plaintiff did
 not manage & cultivate the said farm with the
 appurtenances during the continuance
 of the said last mentioned tenancy nor
 did the said defendant use the said last
 mentioned farm with the
 appurtenances in a tenant like & proper
 manner but to the contrary thereof he
 the said defendant during the continuance
 of the last mentioned tenancy so improperly

15 behaved and conducted himself in
that behalf used the said last men-
tioned premises with the appurtenances and
the trees, crops, contents, goods & chattels
therein contained like & improper
manner that the reason thereof the said
last mentioned farm with the appurte-
nances, from the day & Year first in
this count aforesaid then & then became
and were and still are ruinous, broken
down, destroyed, demolished & greatly
dissipated and the trees of the said
plaintiff growing in upon the said
last mentioned farm & premises then
& then became and were cut down pro-
trated, felled & were thereof greatly damaged
& damaged & spoiled, to wit: at the
County of Warren aforesaid to the damage
of the said plaintiff of five hundred dollars,

And whereas also the said plaintiff
hereof to wit: on the seventh day of July
A.D. 1855 at the County of Warren aforesaid
was lawfully possessed as of his own prop-
erty of certain trees, logs, felled timber
& green timber & goods & chattels, to wit:
One hundred oak trees, fifty Hickory trees
One hundred saplings & one hundred other
trees, and ten thousand feet board
measure of green timber, ten thousand

full board measure of frame timber &
 one hundred saw logs of great value
 to wit; of the value of five hundred dollars
 and being so possessed of the said trees
 logs, frame timber, shewn timber, goods
 & chattles, the said plaintiff afterwards
 to wit; on the day & Year last above men-
 tioned at the County of Warren aforesaid
 casually lost the said trees, logs, frame
 timber & shewn timber & goods & chattles
 out of his possession; and the same after-
 wards, to wit; on the day & Year last aforesaid
 at the County of Warren aforesaid came to
 the possession of the said defendant by
 finding. Yet the said defendant well
 knowing the said trees, logs, frame timber
 shewn timber goods & chattles to be the
 property of the said plaintiff & of right to
 belong & appertain to him but continuing
 fraudulently intending craftily & subtly
 to deceive & fraud the said plaintiff
 in the said chattles not as Yet delivered
 the said trees, logs, frame timber shewn
 timber & goods & chattles or any or either
 of them or thereof to the said plaintiff
 although of him requested so to do & that
 he thereto wholly refused so to do & afterwards
 to wit; on the day & Year last aforesaid

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at the County of Waukegan aforesaid con-
 vited and disposed of the said trees,
 logs, frame timber & other timber & goods
 & chattels for his own use, whereupon
 the said plaintiff sues that he is injured
 & that he has sustained damage to the amount
 of eight hundred dollars & thereupon
 he brings this suit

A. G. Kirkpatrick, Plff, atty

The following is a copy of the bill of particu-
 lars or account sued on,

Plt's Count

Decr 1855 - Abner B Page

To Elijah Danderson Dr
 To one hundred oaks, twenty Hickory
 trees, one hundred Sapling & one
 hundred other trees not enumerated
 of the value of \$300.00

355 To one Stewed log beam & frame
 corn crib of the value of \$200.00

Defendant

July 1, 1855 To one hundred oaks, twenty Elms
 twenty apple trees, twenty Walnut
 trees & one hundred other trees not
 enumerated of the value of \$300.00

4th Count To one hundred oaks, fifty Hickory
 March 1, 1856 trees, one hundred saplings & one
 hundred other trees not enumerated
 of the value of \$ 500.00

5th Count

1856 To one hundred log barn of frame
 corn crib of the value of \$ 150.00

at

1856 To demolishing one barn & corn
 crib & destroying goods & chattles
 and cutting down & felling trees
 to the damage of \$ 500.00

6th Count

July 7, 1855 To one hundred oak trees, fifty Hickory
 trees, one hundred saplings, one
 hundred other trees, not enumerated
 10,000 feet board measure of hewn
 timbers, 10,000 ft board measure
 of frame timbers & one hundred saw
 logs, which was casually lost by me
 & found by me of the value of \$ 500.00

And after the tour, on the seventeenth
 day of August 1857, the defendant by
 his attorney filed his Denunciation to the
 plaintiffs & caution filed herein
 which reads in the words and figures
 following, to wit;

State of Illinois } Warren Circuit Court
 Warren County } 10 March Term AD 1857

Abner B. [unclear]

Edgar [unclear] &c

And the said
 defendant Paine & Griffith, his attys
 comes and defends the wrong and injury
 when &c, And says that the said Decla-
 ration and the matter therein contained
 in manner and form as the same are
 above stated and set forth, are not suffi-
 cient in law for the said plaintiff to have
 and maintain his aforesaid action thereof
 against him the said defendant, and he
 the said defendant is not bound by law
 to answer the same, And this he is ready
 to verify, Whereupon by reason of the
 insufficiency of the said Declaration
 in this behalf the said defendant prays
 Judgment that the said plaintiff
 may be barred from having or maintain-
 ing his aforesaid action thereof against
 him &c Paine & Griffith

And the said defendant according to
 the form of the Statute in such case made
 and provided states and shows to the

court been the following cause of Demurrer
 to the said Declaration, to the said Decla-
 ration 1st For that in said Declaration
 there is no allegation in said Declaration
 that the said plaintiff is or was Executor
 of all and singular the Goods, the goods
 and Chattels, rights and credits which
 were of the said Richard H. Raylaw
 deceased, nor that the will of the said
 Richard H. Raylaw dec^d, was in due
 form of law (Probated) and committed to
 the said plaintiff after the decease of him
 the said Richard H. Raylaw, but in lieu
 thereof there is the following allegation men-
 tioned in the said Declaration that is to
 say "Elijah Anderson Executor of the last
 will ~~and Testament~~ of Richard H. Raylaw
 dec^d" And that the said Declaration
 is in other respects uncertain in form
 and insufficient &c

2nd And the said defendant according to the
 Statute in that behalf made and provided
 shall and doth to the court here the
 following cause of Demurrer to the
 said Declaration, For that it does not
 appear what pecuniary interest the
 said plaintiff has in the said premises
 described in said plaintiff's Declaration

And that the said Declaration is in
 other respects uncertain informal and
 insufficient

Stuffetts atty for Deft

And the Court on the 24th day of
 March 1845 the Court caused an order
 to be entered of Record in said cause which
 reads in the words and figures following-
 to wit;

Elijah Davidson }
 vs. } Trespas on the case
 Abner B. Page }

This day came the defendant
 by his counsel and enters his Demurrer to
 plaintiffs Declaration filed herein, which
 was heard and overruled by the Court, then
 came the plaintiff by his attorney & enters
 his motions for a rule on the defendant
 to appear by tomorrow morning, which
 motions were heard & allowed, And now
 comes the defendant & enters his motions
 for a continuance herein which motion
 is confessed by the plaintiffs counsel, and
 this cause is continued at the defendants
 costs. Hereupon it is considered by the
 Court that the plaintiff have & recover of
 the defendant his costs by him at the

present before this Court expected &
may have mentioned therefor

And afterwards, to-wit: on the 25th day of
September A D 1857, at a term of the Court
then held, the defendant by his attorney
filed his plea ^{in 341} 27 34 which read in the
words and figures following to-wit:

State of Illinois } Warren Circuit Court
Warren County } September Term A D 1857

2, And the said defendant comes and
defends the wrong & injury to the first six
counts in Piffs Decl, when he read says that
the said Elijah Davidson Executor of the
Estate of Richard A. Rayland dec'd, was not
at the time of the said several supposed
grievances set out in the first six counts
of the said Plaintiffs Declaration seized
of a real & any interest in & and to
the land mentioned in said counts of said
Decl. as aforesaid comes in said Decla-
ration and of this he puts himself upon
the Country.

Paine & Griffith
Attorneys
Standing & Reed
Defts. Attys

3. And for further Plea in this behalf
 the said defendant says actonon to the
 first six counts in Pffs Deed because he
 says that the land described
 in said Declaration at the time
 when he was in close, soil and freehold
 of the said defendant wherefore the said
 several & supposed grievances in the first
 six counts in plaintiffs Declaration
 were committed by defendant as he law
 fully might &c And thus &c

Primer & Guffitt
 Harding & Reed
 Defts attys

And afterwards to wit, on the same day
 to wit, the 25th day of September 1857
 the plaintiff by his attorney filed his
 Answer to the Defendants pleas XX2+3
 which reads in the words & figures follow-
 ing, to wit,

State of Illinois } Warren Circuit Court
 Warren County } September T. 1857

Elijah Davidson }
 vs } Case
 Abner B. Reed }

And the said plaintiff

3. And for further Plea in this behalf
 the said defendant says action on the
 first six counts in Refs. Deed because he
 says that the land described
 in said Declaration at the time
 when he was in close, soil and freehold
 of the said defendant wherefore the said
 several supposed grievances in the first
 six counts in plaintiffs Declaration
 were committed by defendant as he law
 fully might &c And thus &c

Primer & Griffith
 Harding & Reed
 Defts attys

And afterwards, to-wit, on the same day
 to-wit, the 25th day of September 1857
 the plaintiff by his attorney filed his
 Answer to the Defendants pleas XX2+3
 which reads in the words & figures follow-
 ing, to-wit,

State of Illinois } Warren Circuit Court
 Warren County } September T. 1857

Elijah Davidson }
 vs } Case
 Abner B. Reed }

And the said plaintiff

as to the ~~plea~~ of the said defendant by
him ~~pleaded~~ & ~~thoroughly~~ above pleaded
says that ~~the same~~ and the matters therein
contained, the manner & form as to the
same are above pleaded and set forth
are not sufficient in law nor are either
of ~~these~~ ~~pleas~~ sufficient in law
to preclude the said plaintiff from
having or maintaining his aforesaid
action thereof against the said defen-
dant and the said plaintiff is not bound
to answer the same and thus the said
plaintiff ~~is~~ ~~bound~~ to reply, wherefore
he prays judgment &c

A. S. Kirkpatrick
P. A

And afterwards, ~~being~~ on the 25th day of
of October A.D. 1854, the defendant by his
attorney and solicitor his place ~~that~~ to the
the ~~pleas~~ ~~replied~~, ~~whereby~~ ~~it~~ ~~was~~
in the ~~case~~ ~~of~~ ~~the~~ ~~defendant~~, ~~and~~

~~where~~ ~~upon~~ ~~the~~ ~~case~~ ~~was~~ ~~decided~~ ~~in~~ ~~favor~~ ~~of~~ ~~the~~ ~~defendant~~
~~where~~ ~~upon~~ ~~the~~ ~~case~~ ~~was~~ ~~decided~~ ~~in~~ ~~favor~~ ~~of~~ ~~the~~ ~~defendant~~

25,

And afterwards, to wit; on the 6th day of October A D 1857, the Court caused an order to be entered herein which reads in the words and figures following, to wit;

Elijah Davidson }
Abner B. P. }

This day again this cause coming on to be heard on the Deference to the Defendants second and third pleas filed herein, which was heard and sustained by the Court,

And afterwards, to wit; on the 7th day of October A D 1857, an order was entered of Record which reads in the words and figures following, to wit;

Elijah Davidson }
Abner B. P. } Trespass on the Case

This day came the defendant by his counsel and enters his motion supported by affidavit for a continuance herein which said motion was heard and allowed at the defendants costs. The Court is considered by the Court that the said plaintiff has and

account of the same from the said defendant
his costs by him in this behalf at this
term of the court laid out and expended
and may have execution therefor &c

And afterwards, to-wit: on the 26th day of
October Month A.D. 1858, at a term of the
Court then held, an order was entered of
Record in this cause, which reads in the
words and figures following to-wit:

Elijah Davidson }
vs. } Presides on the case
Abner B. [unclear]

This day came the
defendant and moves the Court and files
his affidavit for a continuance herein
and after being advised in the premises
it is ordered by the Court that the motion
be allowed and this cause be continued
untill the next term of this Court at the
defendant's request. Therefore it is considered
by the Court that the plaintiff recover
of the said defendant, his costs by him
in this behalf at this term of this Court ex-
pended and may have execution therefor

And afterwards, to-wit: on the 22^d day

27

of September 1858, at a term of the court then holden, an order was entered of Record in said cause, which reads in the words and figures following, to-wit:

Elijah Davidson	} To pass on the case
Abner B. P.	

This day came the plaintiff by his attorney and moves the court to suppress the defendants Depositions filed herein

And afterwards, to-wit: on the 27th day of September 1858, an order was entered of Record in said cause, which reads in the words and figures following to-wit:

Elijah Davidson	} Case
Abner B. P.	

This day again came on this cause for hearing on the plaintiffs motion to suppress the defendants Depositions, After being advised in the premises it is ordered by the Court that the motion be overruled.

And afterwards to wit; on the 28th day
of September AD 1858, the above said
attendant of court in said Court advised
said in the words figures following
to wit;

Elijah Davidson

And afterwards to wit; on the 28th day
of September AD 1858, the defendant
by his attorney ~~was~~ files his plea No
1, which reads in the words figures
following to wit;

State of Illinois, } Main Circuit Court
Main County, } September Term AD 1858

Elijah Davidson }

vs
Abner P. P. }

And said defendant
comes before the court & injury below
to be a jury he is not guilty of
the charge & passes as advised
in said declaration & of this he swears
himself in the County &c

For Giffitts, Goudy, Harding & Reed
And the pty doth the title for depts
By W. H. his atty

And afterwards, Court; on the 28th day of September A D 1858, an order was entered of Court in this cause which reads in the words & figures following

Abner

} Trepass on the case

This day came the parties and their attorneys and issued being joined for trial put themselves upon the country, thereupon came a Jury Court; David Smith, Horatio Allingham, John Brown, Moses R Jones, Charles Javiers, Henry R. Jones, Cyrus L Buck, Joseph Tinkham, Charles Ray, Edwin Ramsay, John W Giddings and William Clark who having been elected tried and more will and truly to try the issue joined herein after hearing the evidence on the part of the plaintiff and also part of the evidence on the part of the defendant were permitted to disperse under charge of the Court and required to meet the Court at 8 O'clock tomorrow morning

And afterwards, Court; on the 29th day of September A D 1858, an order was entered

of Record in said cause which reads in
the words and figures following, to-wit;

Elijah Davidson	}	Trespass on the case
Abner B. Page		

This day again came
the Jury empanelled herein on Yesterday
and after hearing part of the evidence
were permitted to disperse, and required
to meet the Court at 8 o'clock tomorrow
morning

And afterwards, to-wit; on the 30th day
of September A.D. 1858. an order was then
entered of Record in said cause which
reads in the words and figures following
to-wit;

Elijah Davidson	}	Trespass on the case
Abner B. Page		

This day again came
on the same hearing, and also came
the Jury empanelled herein, and upon
their oath they say "We the Jury find the
defendant guilty of the Trespass and
assess the plaintiffs damages at the

31. Sum of Eighty four dollars and fifty cents, thereupon came the defendant by his attorney and moves the Court for a writ of Habeas Corpus and in arrest of Judgment

And upon the Court's on the Second day of the term 1858, an order was entered which reads in the words and figures following, to wit;

Elijah Davidsons }
vs } Trespas on the law
Abner B. Fay }

This day again came on this case for hearing on the defendants motions for a new trial and in arrest of Judgment, after being advised in the premises it is ordered by the Court that the motions be respectfully overruled — Therefore it is considered by the Court that that the plaintiff recover of the defendant the sum of Eighty four dollars and fifty cents, the amount so found by the Jury aforesaid together with his costs by him in this suit expended and may have Execution therefor, thereupon came the defendant by his attorney and prays the Court to allow appeal to the Supreme Court, which is allowed upon the defendants

entering into a bill with Hiram Baldwin
as security for the sum of Three hundred
dollars, and bill of exceptions to be
filed within thirty days from this date,

And afterwards to wit; on the 16th day of
October A.D. 1858 a Bill of Exceptions
was filed in said cause which reads in
the words and figures following, to wit;

State of Illinois } Circuit Court
County of Warren } September Term A.D. 1858

Elijah Davidson }
vs }
Abner B. Page }

Be it remembered
that on the trial of this cause the plaintiff
in support of the issues on his part
proved the execution of a lease and
offered the same to the jury which
was rejected, to wit;

The agreement made & entered
into on the 16th day of July eighteen
hundred and fifty five between Elijah
Davidson the owner of the last mill
of Richmond Ragland dec^d and
Abner B. Page as follows, The said

E. Danderson has this day leased
to the said Page the farm on which
the said Danderson resided on the South
West quarter of Section Eighteen in
Township 24 North Range Eleven North of
the 1st Meridian Number one West
of the 1st Meridian for the
term of years from the first day
of March for the sum of two doll
ars per acre to be paid on or before
the first day of January in Each Year
the said E. Page is to have full possess
ion of the houses & out buildings together
with all the improvements, and shall
have liberty to use any down timber
which is not suitable for saw timber or
making rails for fire wood, but shall
not cut down any green or standing
timber for that purpose, but in case
any repairs shall be necessary to be
made it shall be the duty of the said
Page to inform the said Danderson who
will have the same made and paid
for out of the rent. The said Page also
agrees to pay all taxes or assessments
which may at any time be levied on
said land either by the State of Illinois
or the County of Warren within the said
term of years from the first day

of Mass. and to deliver to the
 said Defendant or the person entitled
 to the peaceable possession on said
 premises at the expiration of the said
 term of four Years In testimony whereof
 the said parties have hereunto set their
 hands this day and date above written
 (Signed) Elijah Davidson
 A B Page

To the introduction of which the defen-
 ant objected but the court overruled
 the objection and allowed the same
 to be read. In evidence, to which decision
 the defendant then and there accepted

The Plaintiff in further support of the issues
 called David A. Gould, as a witness who
 testified that he cut some green timber
 from the premises described in the lease for
 the defendant and under his directions
 & command in November 1855, he cut
 four large logs, one a large Burr
 one three feet in diameter, which made
 one saw log, four new black oak 2 1/2
 feet in diameter. Each of which made
 two saw logs. That these trees were worth
 \$15 each when cut into lumber, that he cut
 79 trees from 6 to 8 inches in diameter

in another place. The witness then stated that he obtained two or three of the last named trees from defendant, the plaintiff then asked what did the defendant want the trees for by you at? to which the defendant answered, but the court overruled the objection which decision the defendant then accepted. The witness replied that the defendant wanted to charge me \$10 each for the trees, that he would not take less than \$5 each. The defendant asked the court to uphold the evidence which the court refused to do, and the defendant then and there accepted. The tops of the trees and for saw logs were cut into cord and hauled several miles to Moosmouthe and sold to E. C. Babcock by defendant for \$5.50 per cord, the wood before cut on the ground was worth \$2 per cord, the small trees were used for poles and fire wood, they were thrifty trees & useful to the farm. The defendant took up part of a floor from the kitchen & used for a well curb on his own farm a half mile off where he resided, which were worth \$5. The witness resided on on the R. & a farm which is described in the complaint of defendant. This witness testified that he cut up

two or three hundred defendants directions
 and that the defendants had rails made of the
 logs of the trees. These trees were called what is
 down timber and contained two or three
 good rail cuts, defendant had them split
 into rails, & used the rails, each of these trees
 was worth \$8.00. On cross examination
 the witness said the trees were cut in fall
 of 1855, & winter of 1856, that defendant
 told him to cut down the trees and they
 were made into saw logs and sold by
 defendant, the small trees were cut
 from within the enclosure in a road
 the opening through which the road
 was travelled was not over twenty feet
 wide & defendant said he wanted to
 make the road wider, the trees cut for
 saw logs were worth \$8 in the woods
 standing.

57. Plaintiff then called John
 Stewart who testified that he was acquainted
 with the farm, same described
 in the complaint which Richard A. Rayland
 lived in at the time & occupied as his
 home farm. He went at the request of
 Gould who was at work for defendant
 in winter of 1856 & shepherded him cut trees
 while they were cutting, defendant came

37 then & insisted there were some saplings
& the top of a large black oak whose body
was gone, & that other green trees
had been cut afterwards & went with
Gordon to count them - near a hundred,
the large ones were worth \$5 each, the
smaller ones from 50 cents to \$1 each
there was a log stable on the premises built
of heavy logs very high 22 by 24 feet, the
logs were mostly round except the bottom
ones, the roof had blown off the barn -
the logs were mostly hauled off by defendant
they were worth 5 cents a foot running
measured & then must have been about
60 logs, On cross ~~examination~~ examination he
stated that the barn was worth nothing
for a barn after the roof was blown off
& it was blown off before the defendant
hauled the logs away, the logs were worth
something worth \$15 or 20¢ defendant
afterwards hauled off the logs to a saw
mill, about a mile distant, & after
being sawed up sold them, On cross
examination the witness said that the
timber was thick & cutting some out
might be an advantage to the place

The defendant then proposed
to prove to the jury that instead of the
log stable owned by defendant

he built a fence as good on the premises in place of it, to which the Plaintiff objected because it was irrelevant & the court sustained the objection & refused to allow the defendant to make such proof, to which decision the defendant then & there excepted,

The defendant then proposed to prove that a portion of the timber cut down by Gould & Stewart was for the purpose of repairing the fences on the place where such repairs were necessary & was used for that purpose but the plaintiff objected was irrelevant & for several other reasons & the court sustained the objection & refused to allow such proof to which decision the defendant then & there excepted

The plaintiff then called Jerome Murphy, who testified that he knew the Plaintiff, defendant took from him in the fall of 1855. Gould & Stewart, the witness helped Gould cut down his trees, defendant came there & asked about having them sawed in lumber & sending to Knox County to build a house, the trees were worth from \$2. to \$4 each

39 On cross examination said that the
log barn was worthless as a barn
except for logs unless it was repaired
they were 20 years old & the lower
part of them rotten and the balancer
was broken and logs,

Then called M. L.
Hullback testified that defendant
told him he was going to haul the logs
from the farm & afterwards when
hauling home told the witness they
were the same logs & that he was going
to make a cellar, at that time the logs
were good for nothing to the place as a
stable or barn, but were worth five cents
per foot for lumber, and these logs he
sold in March for timber.

The defendant moved to exclude
this evidence from the jury, but the court
overruled the motion, to which the defen-
dant then & there excepted. The Plain-
tiff then asked "What was the value
of the logs?" to which the defendant
objected, but the court overruled the
objection & permitted the question to
be proposed, to which the defendant
then excepted. The witness answered
that they were worth 5 cents per foot
running & measured, there was 16 logs

It was further proved that
the defendant had a saw
log cabin, or building on
the farm, which was used
for a Black Smith Shop

40

on a side of the barn was 18 by 22
feet, defendant told this witness that
he hauled part of these logs home and
he told this witness that he was going
to haul part of them to Moomouth, #

The defendant then in support
of the issues on his part read in evidence
a Will with the certificates thereto without
objections, which reads as follows, to-wit:

"In the name of God Amen, I Richard
A. Rungland of the County of Warren
and State of Illinois being of sound mind
and memory and concerning the un-
certainty of life, with the certainty of death
I do hereby make ordain and publish
this my last will and testament, and
revoke all others by me heretofore made
and First, I give and bequeath my
body to be buried to be buried in a
plain ~~grave~~ in like manner and my
soul to God who own it, Second, I order
that a sufficient part of my personal property
(of such as ~~shall~~ ^{shall} be sold and
all my just debts be paid, Third, I give
and bequeath to my beloved wife
Nancy Rungland and all my household
and kitchen furniture of every name

former, and the farm on which I now
live to be for proper use, benefit and
 behoof so as she remains my
widow. Fourth, It is my desire
that all my personal property of every
name and description except such
as I have given to my beloved wife be
sold and equally divided between
wife and my children and the
American Colonization Society except
my oldest daughter Mary Ann Smith
who has received at and since her
marriage with Stephen Smith one
hundred dollars, and after the several
other legacies shall each receive one
hundred dollars, the balance to be
equally divided as aforesaid.

Fifth, It is my desire that as soon
as my Youngest ~~Child~~ Son shall arrive
at lawful age, all my lands, tenements
and improvements on Real Estate
of which I am possessed (except the farm
be either directed and set apart to each
of my heirs in equal value or that the
same be sold and the proceeds and
the proceeds equally divided between
them as shall seem best to my executors
and upon the death or marriage of
Nancy my wife my widow the farm

on which I wish to be divided by lot
or sold by my executors as my other
lands and divided as aforesaid
but should her death or marriage
take place before the Youngest heir
arrives at lawful age I desire that my
executors lease the farm for the Supp
ort of the family during their minority

Sixth, It is my desire that my
family remain together and that my
son George Royland take charge of the
farm and assist his mother to rear
his brothers and sisters under the
advice of my executors

Seventh, and lastly I hereby appoint
my beloved friends Isaac Murphy, Peter
Butter, and Elijah Danderson my executors
of all my Estate Real, personal or mixed
of which I may die seized and possessed
and request that they serve also as Guar-
dians of my children and that they
take the proper steps to transmit to the
treasury of the ^{Mass} Colonization Society
one equal share of all my property
as soon as the final divisions are
made. I do this whereof I hereunto
set my hand and affix my seal at
Warren County this twenty fifth day

of July in the Year of our Lord one thousand Eight hundred and thirty nine
 Signed and sealed R. H. Rayland (Seal)
 in the presence of
 D. J. Lennan
 S. R. Haswell
 J. H. Rayland

I certify that the above
 last will and testament of Richard H. Rayland
 was duly proven on the 25th day of Novem-
 ber AD 1839, by D. J. Lennan and S. R.
 Haswell, two of the subscribing witnesses to
 the same, Given under my hand and
 seal at Monmouth this 25th day of
 November AD 1839.

George L. Sanphin P. P. W. C. (Seal)

We and each of us do solemnly swear
 and truly declare and affirm that this
 writing contains the true last will and
 testament of the within named Richard
 H. Rayland deceased so far as we know
 or believe and that we will well and
 truly execute the same by paying first
 the debts and then the legacies mention-
 ed therein as far as his goods and
 chattels will amount to and the law
 charge thereon and that we will make
 and perfect inventory of all such goods

and challenge rights and credits as may come to our hands or knowledge belonging to the Estate of said deceased and render a fair and just account of our executorship when thereunto required by law to the best of our knowledge and abilities

Isaac Murphy

Peter Butler

Elijah Davidson

Upon the back of the foregoing instrument is an Endorsement which reads in the words and figures following, to wit:

"Filed this 25th day of November A.D. 1839, Geo. C. Lauphus P.P. N.C. Recorded on Page 290. 1. 2. of Book A."

It was then admitted that the said Rayland died seized & in the actual possession as his homestead of the land described in the Declaration & which is also the land described in the lease and is also described on the part of the plain-
tiff and that the plaintiff was duly appointed executor of the Probate Court of Warren County by an order of the last will of the said Rayland & that at the commencement of the suit was the only surviving executor, that the widow of said Rayland

444 married ten Years before the commencement
of the suit ~~the~~ Adam Arrowsmith, and
that the said Richard H. Rayland left
as his children & only heirs George
Rayland, Mary Smith, Sarah Rayland,
John L. Rayland, Joel E. Rayland, Robert
Rayland, Daniel W. Rayland & Lucinda
Rayland, that Sarah married one
Bumett seven or eight Years before
& that Lucinda married one Hammett
that the children are all of age except
Daniel W. Rayland, who will become
of age in the month of March 1860;
that Lucinda Hammett four or five
Years ago before leaving her children
her heirs at law & George Rayland died
four Years ago leaving one child his
heir at law. It was further admit-
ted that the land for which the suit
is brought & of which complaint is made
is the farm of Rayland & so called in
the Will & that the plaintiff claims to
recover by virtue of his being surviving
executor as aforesaid & by virtue of his
lease & has no other claim or title to
the land. The defendant then
offered in evidence the following Deeds,
to wit; John L. Rayland to Adam

45 Shelman conveying an undivided
47 stated 15th Feb, 1854 & Adam Shelman
to defendant conveying the same land
dated 28th July 1855; to the introduction
of which the plaintiff objected & the Court
sustained the objection & refused to
admit the Deeds or either of them in
evidence to which the defendant then
then excepted. The defendant then
proposed to prove that Robert Ragland
& Sarah Burnett two of the heirs conveyed
in fee by Deed properly acknowledged
two undivided sevenths of the land
described in the Declaration to Joel
E Ragland on the 28th day of May
1855, & that the said Joel E Ragland
another of said heirs conveyed by deed
properly acknowledged three undivided
~~one~~ sevenths of said land to defendant
on the 29th day of May 1855 to which
the plaintiff objected & the Court sustained
the objection & refused to admit the
evidence to which the defendant then
then excepted.

The defendant then called
as a witness a man named Laycomb who testified
that he had known the Ragland family
since 1835 & the barn had been built a great

while at least 45 Years, the beam was not worth repairing in 1856. but the timber was worth 5 cents per foot running measured, and if the logs not good, the beam would not be worth repairing for a beam but was worth 5 cents per foot for timber. Corin said it was not.

This was all the evidence,

The Plaintiff the plaintiff then asked & the court gave the following instructions to the Jury, to each of which the defendant objected, but the court overruled the objection & gave them to the Jury to which decision the defendant then & there accepted

Plaintiffs Instructions

Instructions for Plaintiff. If the Jury believe from the evidence that the defendant leased the premises described in the plaintiffs Declaration of the Plaintiff for four Years, as set forth in the lease read in evidence, and that the defendant committed the grievances complained of in the Declaration the plaintiff is entitled to recover

Given

47 2 If the Jury believe from the evidence that
the lease was made and that defendant
holds under it, then the plaintiff has
as to this defendant a reversionary interest
in the premises, and is entitled to recover
in this case, if he has proved an injury
to such reversionary interest if committed
by the defendant

3 By the will read in evidence in this case
the heirs have no right to exercise ownership
over the land until it shall have been
divided or sold by the Executor according
to the terms of the will

4 That in this case the plaintiff if he recovers
will hold the money recovered in trust
for the purposes entitled to receive it,
under the will, as much so as if it was
a suit upon a note of hand for money
belonging to such devisees

5 That the heirs are heirs and can be no
heirs to receive the farm as such, but the
heirs take as devised under the will
and can inherit or take the property
only by the will & in the manner named
in the will,

Guinn

6. That the will read in evidence in this case does not affect the right of the plaintiff to recover.

Guinn

7 If the plaintiff has proven the facts alleged in the Declaration his right to recover in this case cannot be defeated by the will.

The defendant then asked the Court to give the following instructions to the Jury, Court;

Defendants Instructions

Guinn

1 Unless the Jury believe from the evidence that the plaintiff was the owner of the aversory interest at the time of the injury complained of in the premises described in the Declaration they will find for the defendant.

Refused

2 If the Jury believe from the evidence that the only claim title held by the plaintiff to the premises described in the Declaration was by virtue of his being executor of Richard A. Rayland and that his interest title terminates with the lease by him to defendant, then they will find for the defendant.

Refused

3 The Plaintiff cannot maintain this action by virtue of any right or power conferred by the will read in evidence

Refused

4 The will read in evidence does not confer any right upon the plaintiff to maintain an action for damages to the reversionary interest in the premises described in the Declaration,

Refused

5 By the will read in evidence and the admitted facts, the legal title to the premises would descend to the heirs of Richard St Rayland according to the provisions of the will, and if the Jury believe from the evidence that the plaintiff's right to the land as executor terminates with the lease by the plaintiff to defendant, then the plaintiff cannot recover for damage done to the land & freehold

Refused

6 If the Jury believe from the evidence that the plaintiff's interest in the land in suit was limited and expired in March 1860 at the time of the determination of the lease to the defendant, the Jury are instructed that the plaintiff is entitled

forever at all, is only entitled to recover nominal damages

7 If the jury believe from the evidence of the jury to determine the right & value of the testimony in determining the credibility of the testimony of a witness the jury have a right to take into consideration his demeanor & conduct on the stand and his feelings toward either party to the suit

8 If the jury believe from the evidence that the only interest the plaintiff has in the premises is conferred by the will on the executor thereof and that the Youngest child of R. H. Rayland will be twenty one years of age, when the lease to defendant expires, then if the jury find for the plaintiff they will find nominal damages only

And the court gave them numbered one, but refused to give instructions numbered, Two, Three, Four, Five and Six

To which decision of the court in refusing to give said instructions, the defendant then & there excepted

After the return of the verdict the defendant moved the court to grant a new trial but the court overruled the motion & refused to grant a new trial to which defendant then & there excepted.

And forasmuch as the foregoing facts do not appear of Record, the defendant prays that his Bill of Exceptions be ~~signed~~ signed & sealed by the court made a part of the Record which is accordingly done.

John S. Thompson (Plat)

And afterwards, to-wit: on the 2^d day of October A.D. 1858. the defendant filed his Appeal Bond which reads in the words and figures following, to-wit:

"Know all men by these presents that we Abram B. Page and Simon Baldwin are held and firmly bound unto Elyah Davidson in the penalty of Three hundred dollars for the payment of which well and truly to be made we and our heirs our executors and administrators, jointly, severally and jointly by these presents Witness our hands and seals the 2^d day

of October Anno Domini one thousand
Eight hundred and fifty Eight. The
condition of the above ^{obligation} ~~contract~~ is such
that Whereas John Davidson died on
the 2nd day of October 1858, in the Circuit
Court within and for the County of Warren
and State of Illinois recover a Judgment
against the above bounden Abner B
Paz for the sum of eighty four dollars
fifty cents and costs of suit from which
Judgment of said Circuit Court the said
Abner B Paz has prayed for and obtained
an appeal to the Supreme Court of said State
Now if the said Abner B Paz shall
duly prosecute his said appeal with
effect and shall moreover pay the amount
of the Judgment costs, interest and damages
rendered and to be rendered against
him in case the said Judgment shall
be affirmed in the said Supreme Court
then the above obligation to be null and
void otherwise to remain in full force
and virtue

Approved by me }
this 2^d day of October }
1858 - Wm. L. Safford }
Clerk

A B Paz Esq.
Hiram Baldeem Esq.

State of Illinois }
Warren County }

I William Safety Clerk
of the Circuit Court within and for the
County and State aforesaid, do hereby
certify that the foregoing is a true full
and complete copy of the Record in said
cause as appears to me from the Record
and files of said cause,

Given under my hand and the
Seal of said Court at my office
in the City of Hannibal this
13th day of April A.D. 1859
Wm Safety Clerk

State of Illinois, 3rd Grand Division
Supreme Court April Term 1859

Abner B. Page &

vs

Appeal from Warren
Elijah Davidson

And the said Abner B. Page
Appellant comes by his attorney &
says that manifest error hath in-
tervened in the proceedings whereof
the foregoing is a record and for
error therein he assigns the following;

1. The Circuit Court erred in sustaining the demurrer to the second and third pleas and each of them

2. The Circuit Court erred in refusing to grant a new trial

3. The Circuit Court erred in refusing to set the judgment &

4. The Circuit Court erred in rendering judgment against the Appellant in favor of the Appellee.

Wherefore he prays judgment &c.

Gordy, Judd & Boyd

Appellants Attorneys

And now comes the said defendant says that in the record & proceedings aforesaid and in the judgment aforesaid, no such errors hath intervened as are above alleged and this he prays may be enquired of by the Court

By Kirkpatrick & Mead

his Attorneys

200 87.
Abner B. Page
vs J. Appeal from
Warren
E. Davidson

~~A~~ 262

~~A. B. Page~~

Record

M

and April 21, 1858
Leland
Clark