

No. 13039

Supreme Court of Illinois

Gallup

vs.

Smith

STATE OF ILLINOIS,

SUPREME COURT,

Third Grand Division

No. 151.

Gallup

vs

Smith
Gallup

vs
Smith

Overman

In re Lorenzo M Smith

Palmer Gallup, sued by
the name of Paul Gallup -

In Hingham -

State of Illinois
Lee County

Page 1.

Now before the Honorable John
V. Custance, Judge of the Twenty second Judicial
Circuit of the State of Illinois, and also presiding
Judge of the Lee County Circuit Court in the
State aforesaid, and at a Term thereof begun
and holden at the Court House in DeJou in
said County on the second Monday (being the
eighth day) of November Anno Domini One
Thousand Eight Hundred and Fifty eight, and
of the Independence of the United States the
Eighty second

Present

Honorable John V. Custance
Judge of the 22nd Judicial Circuit of the State
of Illinois.

Robert O. Powell, State Attorney

Geo. Wheeler, Sheriff of said Lee County

Thos. J. Doornman, Clerk of the
said Lee County Circuit Court.

Be it remembered that hereupon to wit on the
27th day of October A.D. 1858 Lorenzo M. Smith
in propria persona filed in the office of the
Clerk of said Court his certain invoice, which
is in the words and figures following to wit:

(Page 3) Witness. George E Haskell, Clerk of our said Court, and the Seal thereof, at Dixon aforesaid this 28th day of October A D 1858



George E Haskell Clerk
for Joseph Ball D.C.

And afterwards, to wit, on the 24th day of October A D 1858 said writ was returned unto the Court aforesaid by said Sheriff endorsed as follows, to wit,
"Served by returning the within to Paul Gallup this 29th day of October 1858. Term & Service 50, Return, 10 - 65"

And heretofore, to wit on the 24th day of October in the year aforesaid, said plaintiffs, "in propria persona": filed in said cause ~~their~~ ^{his} certain declaration which is in the words and figures following, to wit,

"State of Illinois,"
County of Lee, ss

"Lee County Circuit Court"
November Term A D 1858

"Lump M Smith plaintiff in this
"suit, complains of Paul Gallup defendant
"who was summoned, &c; in a plea of trespass
"on the case on promises; For that whereas the
"said defendant heretofore, to wit on the
"second day of June A D 1858 at the County of
"Lee aforesaid, was indebted to the said plain-

(Page 4) " tiff in the sum of One Hundred Dollars for meat
" drink and lodging by the said plaintiff
" before that time found and provided. At-
" the special instance and request of the said
" defendant, for one Austin Gallup, and being
" so indebted, he the said defendant in con-
" sideration thereof, afterwards to wit, on the
" day and year last aforesaid, at the County
" and State aforesaid. For that the said plain-
" tiff had before that time found and pro-
" vided other meat and drink lodging and
" other necessaries for the said Austin Gallup
" he the said defendant undertook, and then
" and then faithfully promised the said
" plaintiff to pay him the said last mentioned
" sum of money when he the said defendant-
" should be thereunto afterwards requested,
" yet the said defendant notwithstanding his said
" promises and undertakings but contriving to
" although often requested to do, hath not
" paid said plaintiff said sum of money above
" mentioned, but so to do, hath hitherto wholly
" neglected & refused and still doth neglect
" and refuse, to the damage of said plain-
" tiff of One Hundred (\$100) Dollars and there-
" fore he brings this suit &c"
" Lorenzo M. Smith Plaintiff "

"Copy of Account sent me"

(Page 5). 1858 June 2nd

Paul Gallup To "

"Lem Smith Jr"

"To 25th weeks board and lodging for "
"A Gallup at \$3.50 per week \$88.50."

And afterwards to wit on the 10th day of November A.D. 1858 the said Defendant filed his certain pleas in Abatement herein in the words and figures following, to wit;

Palmer Gallup said
by the name of Paul Gallup

Ads

Lemuel M. Smith

Lee County Circuit Court
November Term A.D. 1858

Plea in Abatement

The said Defendant prays judgment of the Summons and Declaration in this cause & that the same ^{may be} quashed because he says that he was named and called by the name of Palmer Gallup and by the said Christian name of Palmer hath always been called and known, without this that the said Defendant ever was named called or known by the Christian name of Paul as the said Plaintiff hath above thereof supposed and this he is ready to very verify; wherefore he prays judgment of the said Summons and Declaration and that the same may be quashed

Palmer Gallup

(Page 6) State of Illinois,
Lee County ss

Palmer Gallup the above de-
fendant being duly sworn doth depose
& say that the above plea subscribed by
him is true in substance & in fact &
further saith not to

Subscribed & sworn
before me this 10 day
of November 1838.

L J Boardman Clk
for Joseph Ball DC.

Palmer Gallup

And afterwards to wit,
on the 16th day of November of the year last afore-
said the said Plaintiff by ~~Wood~~ Macay and
Wood his Attorneys filed his certain Appli-
cation to the said Defendant plea in State-
ment in the words and figures follow-
ing to wit

State of Illinois,
Lee County)

Of the November Term 1838
Of the Lee County Circuit Court

Lorenz M Smith)

vs
Paul Gallup)

Replication to plea

And the said Plaintiff saith
his said summons and Declaration by reas-
on of anything said by the Deft. in his plea
above alleged, ought not to be quashed, because
he says said Deft is and always has been as well

(Page 8) "Known by the Christian name of Paul, as well
"as the Christian name of Palmer and of this
"he puts himself upon the Country &c"

"Macey & Wood."

"Atty for Plt."

And afterwards at the said November Term of
said Court to wit on the third day of December in
the year of Our Lord One thousand eight hundred and
fifty eight, the said 3^d day being one of the regular
days of said November Term, the following entry
appears to us of Record in this behalf:

"Lorenzo McNitt

Paul Gallup

} Memorandum

On this day comes the Plaintiff by Wood
his attorney, & on motion of the said Defendant by Edsell
his attorney, this case is continued generally."

And afterwards at the said November Term
to wit on the tenth day of December aforesaid
the same being one of the regular days of said
November Term the following entry appears to us
in the above entitled cause

"Lorenzo McNitt

Paul Gallup

} Memorandum

On this day again comes the said Plaintiff
by Wood & Patrick his attorneys & the Defendant
by Edsell his attorney, and now on motion of

(Page 9)

And Defendant, he has leave to withdraw
his plea in Abatement filed November 10th
last past, and leave is given him to plead
over by the first day of the next term of
this Court "

And afterwards to wit on the 2nd day of
May AD 1859, the said Defendant by leave
of the Court: filed his Plea to the Action
of the said Plaintiff in the words and
figures following to wit:

See to Circuit Court
May Term AD 1859

Palmer Gallup sued
by the name of Paul Gallup

vs
Lorenzo M. Smith

Plas

And now comes the said
Defendant by Jas. H. Correll his Attorney
and Defendant & says Veritas non because
he says he did not undertake & promise in
manner & form as said Plaintiff hath
thereof in his said Declaration complained
against him, and of this he put himself
upon the Country &c

(Page 10) ^{2nd} And for a further plea in this behalf said
Defendant says Actio non because he says
that at the said time when he he had
fully paid said plaintiff said sum
of money, mentioned in said Declaration,
& this said Defendant is ready to verify;
wherefore he prays judgment he

^{3rd} And for a fur-
ther plea in this behalf the Defendant says
Actio non because he says that at the time
of ~~the~~ before the commencement of this
suit said plaintiff was and still is,
indebted unto said Defendant in a
large sum of money to wit one Hundred
Dollars for goods wares and Merchandise
sold and delivered by said Defendant
to said plaintiff at plaintiff's request &
for money paid laid out and expended
by said Defendant to and for the use
of the said plaintiff at the special in-
stance & request of said plaintiff;
and for the balance of divers accounts
between the said parties before then found
due and in arrears to the said Gallup
from the said Smith on an accounting
by and between them, which said sums
of money so due and owing from
the said Louizo M Smith exceeds the
damages sustained by the said Smith
by reason of the non-performance by

(Page 11) him the said Gallup by the of the several above supposed promises and undertakings in the said Declaration mentioned and out of which said sum of money so due and owing to the said Gallup. he the said Gallup is ready and willing and hereby offers to set-off and allow to the said Smith to full amount of damages sustained by him as aforesaid, according to the form of the statute in such case made and provided and this he is ready to verify wherefore he prays judgment if the said Smith ought to have and maintain his action aforesaid there against him; and he also prays judgment for the balance due from the said Smith to him the said Gallup

James H. Osall
Atty for Defendant

And afterwards to wit, on the 4th day of May A.D. 1859 the said plaintiffs by Hockey and Wood his Attorney filed his Replication to Plaintiff Defendants pleas last above mentioned in the words and figures following to wit:

Louise M. Smith }

Paul Gallup }

"Of the May Term A.D. 1859
Of the Circuit Court of Lee County

The Plaintiffs, as to the first

(Page 12) Plea of the Defendant, wherein he puts him-
self upon the Country, doth the like.

"And as to the second plea of the Defend-
"ant, the Plaintiff saith, that at the said
"time when &c; he the Defendant had not
"paid said Plaintiff said sum of money
"mentioned in said Declaration, or any
"part thereof, and this he prays may
"be inquired of by the Country, &c.
"And doth doth the like.

"And as to the third plea of the Defend-
"ant by him above pleaded, the said
"plaintiff says that he ought not to
"be precluded by reason of any thing
"in said third plea alleged, because he
"says, that he said Defendant has no
"such set-off, as in manner and form
"in said third plea alleged, and this
"the said Plaintiff prays may be
"inquired of by the Country

"And doth doth the like"

"Mackay & Wood"
Attys for Plffs

(Page 13)

At a regular Term of the said
Lee County Circuit Court begun and holden
at Dixon aforesaid on the first Monday of
May, to wit: on the second day of May in
the year of our Lord, One thousand eight hundred
and fifty nine.

Present
Honorable John V. Bristow Judge
Robert C. Birchell State Attorney
Lester Harding Sheriff of said County
Samuel P. Grandman Clerk said Court

It is remembered, that on the 4th day of May
aforesaid, the same being one of the regular days of
said May Term, the following entries appear
to us of record in this behalf—

"Loranzo M. Smith

Polmer Gallup sued by the name of
Paul Gallup

Answered

On this day
comes the Plaintiff by Mackey & Wood and
Putnick & Kelley his Attorney, and the Defendant
by Coburn his Attorney, and the said Plaintiff
enters his motion for leave on the Defendant
to file a Bill of particulars of set-off, which
said motion is sustained; and now come
a jury of good and lawful men to wit:— Thomas
K. Ireland, John Hunt, William A. Ellison

(Page 14) Henry Osborne, Henry Brownbridge, William
Holburn, Elisha Pratt, O. J. Dyres, Olin Wheel
J. J. Cuddehman, Oliver C. Barker, and
Squire Bristol, who were duly selected
and sworn well and truly to try the
issues joined herein; and at the close of said
Plaintiff's case, the said Defendant moves to
rule out the testimony, ^{which said motion is overruled} to which ruling the said
Defendant by his said Counsel then and there
excepts; and the said Jury having now heard
the evidence and the argument of Counsel
thereon, retire to consider of their verdict: and
afterwards the said Jury return into Court
the following as their verdict to wit:—"We
the Jury find the issue for Plaintiff and assess
the damages at Seventy Eight Dollars" and
thereupon reads the Defendant and enters
his motion for a New Trial"

And afterwards on one of the regular days
of the said May Term of said Court. to wit
on the fourteenth day of May aforesaid, the
following entries appear to us of record in
this behalf:—

Henry C. Smith

James C. Smith died by the name of Paul C. Smith } Plaintiff
again came the said parties by by their said } On this day

(Page 13)

At a regular Term of the said
Lee County Circuit Court begun and holden
at Dixon aforesaid on the first Monday of
May, to wit: on the second day of May in
the year of our Lord, One thousand eight hundred
and fifty nine

Present
Honorable John V. Bristow Judge
Robert C. Brinkell State Attorney
Lester Harding Sheriff of said County
Samuel P. Grandman Clerk of said Court

B: it remembered, that on the 4th day of May
aforesaid, the same being one of the regular days of
said May Term, the following entries appear
to us of record in this behalf—

"Loring M. Smith

Paul Gallup sued by the name of }
Paul Gallup } Plaintiff
comes the Plaintiff by Mackey & Wood and
Gutnick & Kelley his Attorneys, and the Defendant
by Coburn his Attorney, and the said Plaintiff
enters his motion for leave on the Defendant
to file a Bill of particulars of set-off, which
said motion is sustained; and now come
a jury of good and lawful men to wit:— Thomas
McDonald, John Hunt, William W. Ellison

(Page 14) Howze Osborne, Henry Brown, William
Holden, Elisha Pratt, O. F. Lyrie, O. J. Wheeler
J. J. Coudernman, Oliver O. Barker, and
Chester Dierston, who were duly elected
tried and sworn well and truly to try the
issues joined herein; and at the close of said
Hampitts case, the said Defendant moved to
rule out the testimony ^{which said motion is overruled} to which ruling the said
Defendant by his said Counsel then and there
excepts; and the said Jury having now heard
the evidence and the argument of Counsel
thereon, retire to consider of their verdict: and
afterwards the said Jury return into Court
the following as their Verdict to wit:—"We
the Jury find the issue for Plaintiff and assess
the damages at Seventy Eight Dollars" and
thereupon occurs the Defendant and enters
his motion for a New Trial "

And afterwards on one of the regular days
of the said May Term of said Court. to wit
on the fourteenth day of May aforesaid, the
following entries appear to us of record in
this behalf:—

"Loranzo M. Smith

James Galtup died by the name of Paul Galtup } Plaintiff
On this day
again came the said parties by by their said

(Page 17) ~~Attorneys, and the Defendant's motion for a~~
~~New trial hereinbefore made is now by the~~
~~Court overruled. It is now recommended and~~
~~adjudged by the Court, that the Plaintiff have and~~
~~recover of the Defendant the sum of Seventy Eight~~
~~Dollars his Damages by him in this behalf sustained~~
~~together with his costs in this behalf expended and~~
~~that he have Execution therefor.~~

And the said
Defendant now moves on Appeal, which is
granted, on this condition however that he
file a Bond in the sum of Two Hundred Dollars
with James K. Caldwell & Ch. B. Baker as securities
within thirty days from the date hereof: and
now on Motion of said Defendant leave
is given him to have his Bill of Exceptions signed
within thirty days from the date hereof "

(Page 16)

Lorenzo M Smith

vs

Palmer Gallup sued
by the name of Paul Gallup

Lee County Circuit Court
May Term AD 1859

Bill of Exception

Be it remembered that afterwards to wit
on the 14th day of May AD 1859 the same being
one of the regular days of said term, before
the Hon John B Eustace Circuit Judge in
and for the 22nd judicial Circuit came as
as well the said plaintiff Smith by his Attor-
neys Patrick and Kelley as the said Defendant
Gallup, by Jas. K. Edrall his Attorney, and
the jurors of the jury whereof mention is
within made being called likewise came,
and after being ~~called~~ ^{tried} elected and sworn to
try the several issues within joined - the
said Plaintiff by his said Attorneys to
maintain the said issues on his part
called as witness, H. G. Loveland, who being
duly sworn testified as follows:

"L. M. Smith the
"plaintiff commenced keeping the Man-
"sion House about the 7th December 1857.
"on Austin Gallup boarded at that house,
"cant say how long. He, Austin Gallup,
"boarded there a year ago last winter,
"and boarded there before L. M. Smith

(Page 17) Kept the house - Witness boarded at the same
"house - left some time in the Spring of
"1858 and went to the Marks House to board.

"Austin Gallup was employed
"some of the time he boarded at the Mansion
"House by Judd & Gallup - some of the
"time by Gallup the Deft - Price of board
"at that time at the Mansion House was
"\$3.00 per week - that was the price wit-
"ness paid there.

Whereupon the said plain-
tiff to further maintain the said issue
upon his part called as a witness Abiah
Smith who being sworn testified as
follows;

"The Plaintiff L M Smith lives
"in Dixon & keeps the Mansion House -
"commenced keeping it about the first
"week in December 1857 - Witness kept
"at the Mansion House previously.
"Austin Gallup boarded with witness
"at the time he kept the House; and
"also boarded with L M Smith the
"Plff. after he went into the Mansion
"House - Austin Gallup boarded
"there until about the month of June
"following. - Boarding and lodging
"was worth \$3.50 per week. Do not
"know what room Austin Gallup occupied.

Austin Gallup is the brother of Deft -
and was in the employment of Judd and
Gallup at the time.

Gallup and the Deft. - The plaintiff, by his Attorney, asked the witness the following question. - "Who was to pay for Austin Gallup's board at the time he boarded with plaintiff?" Answer - "Gallup the Defendant was to pay for it."

Cross examined by Deft's counsel - Question - "Did you ever hear or know of any agreement between the parties Plff. & Deft., whereby O. Gallup the Deft. agreed to pay the Plff. Smith, for Austin Gallup's board?" Answer - "I never did". - Question - "Did you ever hear the Defendant say he was to pay for it?" Answer - "No". Question - "Why then do you swear that the Deft. was to pay for Austin Gallup's board?" Have you any other means of knowledge?"

Answer - "I have not any other means of knowledge. further than that I understood it so, and supposed it was so".

Whereupon the Defendant by his said Attorney asked the Court to rule out and exclude from the consideration of the jury, the answer of the witness - Abner Smith, to the question put to him by Plff Attorney "inquiring" who was to pay for Austin Gallup's board at the time he boarded with Plff. - & all evidence given by said witness on that

Page 18) point: Which motion was sustained by the Court.

Direct Examination Resumed by Plffs Counsel.

"About the time witness
"gave up the Mansion House to Plff.,
"he witness had a conversation with Deft.
"with regard to settling their previous
"board bill for said Austin Gallup —
"Deft. Deft. declined to settle with witness
"at that time, saying that he might want
"to have more boarding done at the Man-
"sion House."

Cross Examination Resumed by Deft. — Witness has no interest in the Mansion House at this time & has not had since Plff. took the house in Dec /57.

The foregoing being all the evidence given to the jury, the Plff. thereupon rested his case. Whereupon the Defendant by his Attorney moved the Court to rule out and exclude from the consideration of the jury all the evidence given in the case, upon the ground that the same was insufficient in law to go to the jury to be passed upon as making out the plaintiff's case; which motion of the said Deft. ~~Deft.~~ the Court thereupon

(Page 20) overruled; and the defendant then & there-
excepted thereto - The defendant declined
to offer any testimony and the case was
thereupon submitted to the jury upon
the foregoing testimony on the part of
the plaintiff (the same being all the evi-
dence given in the case) without ar-
gument by counsel

The Defendant by
his counsel thereupon asked the Court-
to instruct the jury as follows to wit;

"That unless the evidence
"shows that defendant P Gallup
"promised to pay plaintiff S. M.
"Smith for the board of Susan Gallup
"before & at the time such board was had
"by said Susan the jury should find
"for the defendant" - which instruction
"so asked by Dept - the Court refused
"to give as asked; to which refusal
"the defendant then and there
"excepted"

But the Court - thereupon of its own
motion qualified said instruction
so asked by defendant by inserting
therein the words; "or that he pro-
cured such board to be furnished"
after the words. "Such board was had
by said Susan", and before the words
"the jury should find for the defendant"

(Page 21) so as to make said instruction so qualified read as follows:

"That unless the
"Evidence shows that Defendant, P Hallup
"promised to pay Plff. L M Smith for the
"board of Austin Gallup before or at
"the time such board was had by said
"Austin or that he procured such
"board to be furnished, the jury should
"find for the Defendant".

And the Court then gave said instruction so qualified to the jury; to the giving of which as qualified the Defendant then and there excepted.

And thereupon, at the instance & on the part of the Plff. the Court further instructed the jury as follows;

"If the Plff. has proven that
"he through the concurrence of the Defendant
"furnished board and lodging to Austin
"Gallup on the credit of the Defendant,
"the jury should find for the Plff.
"such amount as said board and
"lodging is proven to be worth".

To the giving of which said instruction on the part of the Plaintiff the Defendant then & there excepted.

The ^{Jury} then retired to consider of their verdict, and afterwards returned into Court with their ^{verdict} ~~verdict~~.

(Page 22) finding for the Plaintiff & assessing his damages at (\$78) seventy eight dollars; whereupon the defendant by his counsel entered his motion for a new trial upon the following ground;

1st "that the Court erred in refusing to exclude the Plff's testimony from the jury."

2nd "The Court erred in refusing to give to the jury Plff's instruction as asked."

3rd "The Court erred in giving said instruction as qualified"

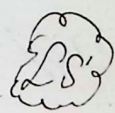
4th "The Court erred in giving instruction on the part of the Plaintiff"

5th "That the verdict is without sufficient evidence to sustain it."

And afterwards to wit on the 14th day of May A.D. 1859, the same being one of the days of said Term, the Court overruled said motion of said Defendant for a new trial; to which the Defendant then and there excepted.

And because the said exceptions and matters hereinbefore recited, do not otherwise appear of record in this cause; therefore on the prayer of said Defendant

(Page 23) by his said counsel the said Circuit
Judge so holding said Court doth on
this day sign & seal this Bill of Excep-
tions; - which is done accordingly

John V. Eustace 
Judge

And afterwards, to wit, on the 6th day of
June A.D. 1859, Palmer Gallup ^{sworn by the name Paul Gallup} the said
+ foregoing Bill of exceptions as well as
defendant filed his Appeal Bond herein
in the words and figures following:
to wit:

"Let the Circuit Court
May Term A.D. 1859"

Loung M. Smith

as
Palmer Gallup sworn
by the name of Paul Gallup"

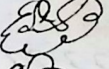
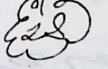
"Appeal Bond"

"Know all men by these presents that
"wee Palmer Gallup, defendant in the
"above entitled cause, sued by the
"name Paul Gallup, as principal,
"and James H. Odell and Eli B. Baker
"as security are held & firmly bound
"unto Loung M. Smith Rff. in this
"suit, in the penal sum of Two Thou-
"sand Dollars for the payment of
"which well and truly to be made

we do hereby jointly & severally and
(Page 24) firmly bind ourselves, our heirs ex=
ecutors & administrators - signed sealed
& delivered this sixth day of June AD
1859.

"The condition of this Bond is
such, that whereas heretofore to wit:
"on the 14th day of May AD 1859 a
judgment was ~~rendered~~ rendered in
the above entitled cause in the
Circuit Court of Lee County in
the State of Illinois at the May
Term AD 1859 of said Court in favor
of said Smith as Plff. and against
said Gallup as Def. for the sum of \$8
& costs of suit, from which judgment
the said Gallup then & there prayed and
an appeal to the Supreme Court of said
State - which prayer for such ap=
peal was allowed for ~~such appeal~~
~~was allowed for such appeal~~ by the
said Circuit Court. Now therefore if
the said Gallup the Defendant in
said suit, shall duly prosecute
his said appeal, and shall well
and truly pay the amount of said
judgment & costs due against him
together with all costs, interest and
damages, that may be adjudged
or shall accrue against him in any

25) "said judgment shall be affirmed; then
"this obligation to be void, otherwise
"to remain in full force and effect

Palmer Gallup 
Jos H Edsall 
E B Baker 

State of Illinois

Lee County Jp - I, Isaac S. Boardman
Clerk of the Circuit Court of Lee
County in the State of aforesaid do here-
by certify the above & foregoing to be a
true, perfect & complete transcript &
copy of the papers filed, & all the pro-
ceedings had & entered of record in
a certain cause lately pending & deter-
mined in said Court on the common
law side thereof wherein ~~Joseph~~ Lorenzo
W. Smith was plaintiff & Palmer
Gallup, sued by the name of Paul,
Gallup was defendant.

In witness whereof I have
herein to set my hand & affixed
the seal of our said Circuit Court
at Dix in said County this 10th
day of June A.D. 1859.

Isaac S. Boardman Clerk
Joseph M. Ball D.C.

Lorrey Mc Smith

FEE BILL, _____
PLAINTIFF'S COSTS. _____

vs.

Palmer Gallup sued by
the name of
Lorrey Mc Smith

Doc case & terms 20	Cost 20	up & atty 45	- 30	attys 15	1 00
Summs & 3 fees 100	- 10	- 7 papers 35	Cost call 20	Sum 20	2 25
Mo for rule to file Bill of particulars 20	Cost out mobile 20	off 20			40
Cost every mo to rule out testimony 20	Cost 20	Cost in end sum 20	Mo for S.D. 20		50
Cost judge 20	for 20	Cost 20	Cost 20	Cost 20	1 10
Cost of 20	Cost 20	Cost 20			85
Sherriff's fees (Wheeler) Summs 65	(Baker) 30				1 95
(Hendrix) 130	- 130				2 60
Sum 300					3 00
Witness " Joseph Ball 5 Aug					5 00
					18 75

I, Isaac P. Boardman, Clerk of the Lex County Circuit Court, do hereby certify that the above and foregoing is a true copy from my Fee Book of Palmer Gallup costs in the above entitled suit.
Witness my hand and the seal of said Court.
Isaac P. Boardman Clerk.
Joseph M. Ball

and you cause the same to be levied of the goods and chattels, lands and tenements of

Cents, shall not be paid within thirty days after being by you demanded

in your County, according to the statute in such case made and provided. And make return of this writ, within ninety days, as the law directs, with an endorsement hereon, in what manner you shall have executed the same

WITNESS Clerk of said Court, and the seal thereof, at in said County this day of A. D. 185

Clerk.

Up & Atty 15 Atty fees 20 Search 40 Attorah 40 Witnesses 25 100
Mort continue 20. Mags Court to witness fees 8 Out of Court 20 60
Atty went to plead over 20 Out of Court out testimony 20 50
Out Exception 20 Out of Court out trial 20, Out of Court Appeal 20 60
Out us to appeal 20 Out of Court Bill of Exceptions 20, Atty fees 20 90
Bill of Court 30 Copy 20 - Imprimis 4.75 525
Sheriff fees (for journey) 100 100
Decket fee 125 125
\$ 11.10

Cost of Transcript & Copy of Court fees

I Isaac P. Boardman Clerk of the Circuit Court of Ver County, do certify that the within is a true copy from my Fee Book of Dependants costs.
Given under my hand and the Seal of said Court.

Received his Execution this day of A. D. 185 at o'clock and minutes M. Sheriff.

FEE BILL FOR COSTS.

Circuit Court.

Fee Book Page Fi. Fa. No.

vs.

Costs—Plaintiff, \$

Defendant,

Total amount, - \$

Judgment, 185

This Writ issued, 185

Return Day, 185

SHERIFF'S FEES.

Levying Execution, - 50c

Advertising Property, - 25

miles travel, -

Commission on \$ -

Returning Execution, - 10

Certificate of Purchase, - 25

Filed in the Circuit Court and approved by me this day of

A. D., 185

Clerk

State of Illinois
Third Grand Division 355.

In the Supreme Court of the State of Illinois
Of the April Term, A. D. 1868

Palmer Gallup, sued
by the name of Paul Gal-
lup, Appellant

v.
Lorenzo M. Smith Appellee

Appeal
Assignment of
Errors.

And now comes the said Palmer Gallup, who was sued by the name of Paul Gallup, Appellant herein, by James H. Edsall his attorney, and says that there is manifest error in the record and proceedings aforesaid, to-wit:

First The said Circuit Court erred in overruling the said motion of appellant to exclude from the consideration of the jury the evidence ~~offered~~ on the part of said appellee.

Second The said Court erroneously refused to give instruction on the part of the appellant as asked.

Third The Court erroneously qualified said instruction

Fourth The Court erred in giving instruction on the part of Appellee.

Fifth The verdict was only a finding as to one issue, whereas more than one issue was joined.

151

Palmer Gallup and
by the name of Paul
Gallup, appellant

vs. M. Smith
appellee

Transcript of Record

Filed April 12. 1866
L. Leland
Clerk

STATE OF ILLINOIS, SUPREME COURT,

THIRD GRAND DIVISION.

APRIL TERM, 1860.

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PAUL GALLUP—Appellant, } *Appeal from Lee.*
vs.
LORENZO M. SMITH, Appellee.

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- 5 Misnomer of appellant plead in abatement.
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"The plaintiff, L. M. Smith, lives in Dixon and keeps the Mansion House ; commenced keeping it about the first week in December, 1857. Witness kept the Mansion House previously.—Austin Gallup boarded with witness at the time he kept the house, and also boarded with L. M. Smith, the plaintiff, after he went into the Mansion House. Austin Gallup boarded there until about the month of June following. Boarding and lodging was worth \$3.50 per week. Do not know what room Austin Gallup occupied. Austin Gallup is the brother of defendant, and was in the employment of Judd & Gallup, and of the defendant."

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Answer : "I never did."

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"We, the jury, find the *issue* for plaintiff, and assess the damages at seventy-eight dollars."

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JAMES K. EDSALL,
for Appellant.

151
Gallup vs Smith
Abstract

Filed May 4, 1880
L. Leland
Clerk

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151

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Abstract

Filed May 4, 1860
L. Leland
Clerk

Edsall Atty.

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Abstract

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