No. 12987

Supreme Court of Illinois

Cook

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vs.

Shipman

71641

In the Supreme Court of April Term
1860

Isaac Cook
vs
Elias Shipman
} Appeal.

Reply to Appellee.

1 Had the bond in this case provided that when the services specified in it were in fact rendered — the $2000 should be paid & made the payment to depend upon the doing the work, there might be some pretext for claiming the money. I call it pretext because on the 6th February this bond is made and it is claimed that by the 14th day of the same month Shipman did work by drafting ordinances of six pages about & doing computation for which he should be paid $2000 — But the payment of the money does not depend upon doing the work but upon the passage of the Ordinances.

2 But where those services have a direct connection with the passage of the ordinance, and an alderman of the City promises "that he would use his en-

deavours to get the ordinance passed" and receives the bond as "an agreement to get the enterprise accomplished that we had talked about" makes a case of it very different from those that the Counsel quoted.

3 The reading of the bond was objected to, and I am not aware of any authority requiring the bill of exceptions to specify the particular grounds of exception unless it could be removed by further proof. In each of the cases cited no exception was made—

The legal effect of the bond is that two thousand dollars is to be paid upon the passage of both ordinances for the one without the other would be useless—

4 2nd as to the estoppel Cook had paid the money but Shipman had done no act in consequence of Cooks at that time admitting that the line was correct— it was competent as an admission but no estoppel & the Court erred

in instructing the jury that Cook V Could not now be heard to object to a recovery of said second installment on the ground that such dock liens are not properly located.

In other words the case as laid down in the first instruction amounts to this that although a party may be willing to pay a part of the money due from him under a contract he is estopped thereby from contesting the right of the party to recover the balance.

The question should have been left open to the jury for them to find according to the facts.

3d The Witness said in his testimony "as near as can be with the ordinance" that was the expression of an opinion The Court is aware how difficult it is to get more than the substance of a Witness' examination.

The question & answer are not given It is not to be supposed that the Witness when on the stand made his statement without any questions being propounded to him - And his opinion may have

been asked & given in reply in the very language used. The jury would have the whole before them which this Court has not. The question was one of fact & being such the opinion of the Witness should be excluded.

It is not an immaterial question whether Cook got a water front to the whole or only part of his lot. The two clauses when taken together clearly indicate that Cook was to have a water front & one extending to the centre of the river. & it was a question for the jury whether or not the point of lot 15 did interfere with the intention of the bond or not.

Again it does not appear that this expression of satisfaction of Cook was made before or after the passage of the Order of 28th Feby 1856.

4 Cook by the bond had the exclusive right to dredge the river with what would follow the right to use the earth excavated. If another has that right & can share it with him it is not what he contracted for in his bond.

I stand upon a close fulfillment of a bond that asks a man to pay $1000. for drawing an ordinance of twelve lines—

6. One step towards the passage of an ordinance is to draw it up— that Shipman agreed to do with a view to its passage by the Common Council there was then sufficient evidence before the jury for the Court to give the instruction ~~has~~ that the instruction was aimed at was the fact of Granger an Alderman promising to Cook to use his influence to get it passed— If that was either in part or altogether what induced Cook to give the bond then it rendered it void—

7. The idea that any rational man would give $2000— to get done what the Council talks about as extra work is preposterous— This whole matter properly belonged to the Common Council or its servants— If the public good required it, it should have been done at the expense of the public— If the public good did not require it it should not have been done although Cook was willing to pay for

the extra work. I have often heard of extras but this little bonus of $2000. to get done what the public good required is about as fat an extra as alderman usually get for doing extras for the public. I hope the court of last resort in this State will not aid in enforcing an agreement so evident either to do what the public good did not require or to make Cook pay for what it did require because it incidentally increased the value of his property and that under the pretext that a person shall be paid for services to the Committee of the Common Council when it is proven by their own witness page 70 of the record that "I got him to help me when he had leisure he was not employed by the Committee they had no authority to employ a Clerk. He had no authority from them to act."

In other words he was did the work for the Committee at all but for this immaculate alderman Elisha Granger.

W. Y. Bragg

for Appt

Work

251

In the Supreme Court
April Term 1860.

Isaac Cook

vs

Elias Shipman

Reply to Appellee.

Filed May 16. 1860
L. Leland
Clerk

W. Y. Bush

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IN THE SUPREME COURT,

Third Grand Division,

APRIL TERM, A. D. 1860.

ISAAC COOK, *Appellant.* *VS.* ELIAS SHIPMAN, *Appellee.*	APPEAL FROM Cook County Court OF COMMON PLEAS.

ABSTRACT OF RECORD.

November 19, 1856, Elias Shipman, the appellee, commenced an action of debt against the appellant; and, on the 24th day of November, 1856, filed a narr. containing one count, as follows:

3

IN THE COOK COUNTY COURT OF COMMON PLEAS,

AT THE JANUARY TERM, A. D. 1857.

ELIAS SHIPMAN, *VS.* ISAAC COOK.	

4 Isaac Cook was summoned to answer Elias Shipman, of a plea that he render to him the sum of one thousand dollars, lawful money of the United States, which

he owes to and unjustly detains from him; and thereupon the said Elias Shipman by Wilkinson & McGilvra, his attorneys, complains:

For that, whereas, the said defendant heretofore, to wit: on the sixth day of February, A. D. 1856, by his certain writing obligatory, sealed with his seal, and now shown to this Court, the date whereof is a certain day, to wit: the day and year aforesaid, stipulated and agreed to pay to the said plaintiff the sum of one thousand dollars, lawful money of the United States of America, when the Common Council of the City of Chicago, County and State aforesaid, should have constructed and passed an order, the provisions of which order should authorize or allow the said defendant as owner of lot three in block six, in the old town of Chicago aforesaid, to excavate (under the direction of the city superintendent) the earth in front of said lot, lying and included between the dock lines to lager beer establishment, by the said Common Council, so as to run parallel or nearly parallel with and at a distance of forty feet south, from the south line of said lot, and the centre of the Chicago river to the depth of twelve feet below low water mark.

And the said plaintiff avers that on the fourteenth day of February, A. D. 1856, the Common Council of the City of Chicago aforesaid, passed the following ordinance, viz:

AN ORDINANCE ESTABLISHING CERTAIN DOCK LINES.

That the dock line from the south line of East Kinzie Street, to the west line of North Franklin Street, in front of blocks seven, fourteen, fifteen and six, in the original town of Chicago, be and the same is established as follows, to wit:

Be it ordained by the Common Council of the City of Chicago:

Commencing at a point in the south line of East Kinzie Street, one hundred and twenty-two feet west of the north-west corner of said block seven, thence in a straight line south-easterly to a point twenty feet west of a point in the west line of lot five in block fourteen, which is twenty-four feet south of the north-west corner of said lot five, thence south-easterly to the south-west corner of lot six, in said block fourteen; thence along the south line (produced) of said lot six, one hundred and twenty-eight and one half feet; thence north-easterly in a straight

line *towards* a point in the center line of old North Water Street, eighty-eight feet west of the west line of North Franklin Street, five hundred and ten and one half feet (more or less) to a point whence a line perpendicular to the last mentioned line, will intersect the north line of lot three in said block fifteen at ten feet east from the north-west corner of said lot three in block fifteen; thence north-westerly at right angles to the last described line, seventy-nine feet (more or less,) to a point in the west line (produced) of said lot three, and twelve feet (more or less) north of the north-west corner of said lot three; thence north twenty-eight feet (more or less) on said west line of lot three, (produced) to the centre of East Carrol Street; thence east on the center line of East Carrol and old North Water Streets to the west line of North Franklin Street; as will more fully appear by reference to the map herewith submitted.

Be it further ordained that so much of any and all previous orders, defining dock lines, as conflict or are inconsistent with this ordinance, be, and the same are hereby rescinded.

Which said ordinance establishes the said dock lines so as to run parallel, or nearly parallel with and at a distance of forty feet south from the south line of said lot three in block six in the old town of Chicago aforesaid, as aforesid owned by the said defendant as aforesaid.

7 And the said plaintiff further avers that on the twenty-eighth day of February, A. D. 1856, the Common Council of the City of Chicago aforesaid, passed the following order, to wit:

Ordered, That the owners of property fronting upon the Chicago river, in block six (6), fifteen (15), and fourteen O. T., be and are hereby permitted to do all the excavation in front of their respective premises: provided it shall be done under the direction of the city superintendent, and the precise amount reported to this Council, properly certified by the said superintendent, and that the same be done to the depth of 12 feet below low water.

Which said order authorizes and allows the said defendant as owner of said lot then in block six, in the old town of Chicago aforesaid, to excavate (under the direction of the city superintendent) the earth in front of said lot, lying and included between the dock lines so established as aforesaid, and the center of the Chicago river to the depth of twelve feet below low water mark.

Yet the said defendant (although often requested so to do,) hath not as yet paid to the said plaintiff the said sum of one thousand dollars above demanded, or any part thereof, but hath hitherto wholly neglected and refused, and still refuses and neglects so to do, to the damage of the said plaintiff of five hundred dollars and therefore he brings his suit.

WILKINSON & McGILVRA, *Plaintiff's Attorneys.*

The appellant on the 6th January, 1857, filed three pleas.

10 1st. *Non est factum.*
2d. *Nil debet.*
3d. A special plea, in lieu of which another was afterwards filed. Page

23 December 19th, 1857, appellants filed amended pleas:

IN THE COOK COUNTY COURT OF COMMON PLEAS,
OF JANUARY TERM, A. D. 1857.

ISAAC COOK. *ADS.* ELIAS SHIPMAN,	DEBT.

AMENDED PLEAS.

AMENDED FIRST PLEA.

23 And the said defendant by his attorney, W. T. Burgess, comes and defends the wrong and injury, when, &c. and says that the said bond is illegal and void in this: that at and upon the making of said bond, one Elihu Granger was a member of the Common Council of the City of Chicago, to whom, with others, the subject of certain wharfing privileges, and establishing and altering dock lines of the
24 Chicago river, including the privileges and dock lines appertaining to said lot three in block six, old town, had been by order of said Common Council referred to act upon and report to said Common Council, and was then pending before them as such committee, and said Granger also was at the same time an Alderman of said city, and said plaintiff then was a clerk of said committee, and employed by said City of Chicago, to render for said committee the identical services in said

bond mentioned, and to be therefore paid by said city, a reasonable compensation and reward, and that to procure the assistance of said Granger and of said plaintiff in influencing the action of said committee upon the matters then referred to them as aforesaid, more favorable to the interests of said Cook as owner of said lot six, than otherwise they would have done, and in violation of the duty of said plaintiff as an employee of said city and of said Granger as an alderman thereof, it was agreed between said plaintiff and the said Cook, the said Granger being advised thereof and consenting thereto, that in the event ordinances were passed by said City Council, of the character set forth in said writing obligatory, said Cook should pay said plaintiff the said sum of two thousand dollars, and that said Granger should use his influence as a member of said committee of said Common Council, and said plaintiff as an employee of said city, to procure the passage of such ordinances, and the said defendant avers that the said bond was made and delivered in pursuance of said corrupt agreement, and to carry the same into effect, and for the purpose of illegally procuring action on the part of the Common Council by means of the report of said committee on said subject to them, favorable to the interests of said Cook, and that there was no other consideration whatsoever for the making of said bond than those hereinbefore stated, and this the defendant is ready to verify, wherefore, he prays judgment, &c.

AMENDED THIRD PLEA.

And for a further plea in this behalf, he says *actio non* because he says that the said bond is illegal and void in this, that at and upon the making of said bond one Elihu Granger was a member of the Common Council of the City of Chicago, to whom with others the subject of certain wharfing privileges and establishing and altering dock lines of the Chicago river, including the privileges and dock lines appertaining to said lot three in block six, old town, had been by order of said Common Council referred to act upon and report to said Common Council, and was then pending before them as such committee, and said Granger also was at the same time an alderman of said city, and that to procure the assistance of said Granger in influencing the action of said committee upon the matters there referred to them as aforesaid, more favorable to the interests of said Cook as owner of said lot six, than otherwise they would have done, and in violation of his duty as an alderman of said city, it was agreed between said Cook and said Granger, that in the event ordinances were passed by said city of the character set forth in said writing obligatory, said Cook should pay said Granger, the said sum of two thousand dollars, and that said Granger should use his influence, both as a member of said committee and of said Common Council, to procure the passage of such ordinances, but that to cover up the said agreement and make the same legal upon its

face the contract should be made in the name of and between said Cook and said plaintiff, and the said defendant avers that said bond was made and delivered in pursuance of said corrupt agreement to carry the same into effect, and there was no other consideration whatever for the making of said contract, than that hereinbefore stated and set forth, and that said plaintiff well knew said premises when he received said bond, and that the suit is brought in the name of the said Shipman for the sole use and benefit of said Granger, and not for that of said Shipman; and this the said defendant is ready to verify, wherefore he prays judgment &c.

4 And for a further plea in this behalf said defendant says *actio non*, because he says that the said instrument in said declaration mentioned is not his deed, and of this he puts himself on the country.

W. T. BURGESS, *Plaintiff's Attorney.*

And the said plaintiff as to the last plea above pleaded doth the like.

WILKINSON & McGILVRA, *Plaintiff's Attorneys.*

27 March 10th, 1858, appellee files replications to first and third amended pleas, which are demurred to.

30 Demurrer sustained and leave taken to amend and file several replications.

31 September 15th, 1858, amended replication. Replications to first amended plea.

1. That Shipman was not a clerk of the said committee of the Common Council, and as such, employed by the said city to render for the said city the identical services in the said bond mentioned, to be therefore paid by the said city, *modo et forma*, and conclusion to the country, &c., and prays judgment, &c.

2. That he (Shipman) did not enter into the corrupt and illegal agreement
32 mentioned in said plea, *modo et forma*, and conclusion to the country, wherefore he prays judgment, &c.

3. That the bond was not made and delivered in pursuance of the corrupt agreement mentioned, &c., *modo et forma*, and conclusion to the country, &c., wherefore he prays judgment, &c.

Replications to third amended plea.

1. That the said Shipman and Granger did not make and enter into the corrupt and illegal agreement mentioned and set forth in said plea, *moda et forma*, and concludes to the country, &c. wherefore he prays judgment, &c.

33 2. That the said bond was not made and delivered in pursuance of and to carry into effect the corrupt and illegal agreement between said Shipman and said Granger, in the name of said Shipman for the use of said Granger, as alledged, &c., and *moda et forma*, &c. and concludes to the country, &c. wherefore he prays judgment, &c.

3. That suit is brought for Shipman and not for benefit of Granger, as is alledged, &c. *moda et forma*, &c. and concludes to the country, &c. wherefore he prays judgment, &c.

34 Demurrer to the replications to the first plea, which are overruled, and Cook joins to the country.

Demurrer to the third replication to the third plea. Overruled and defendant Cook joins issue to the country.

35 Demurrer to the first replication to the third plea.

1. Because it is not entitled of any time or of the term when filed.

36 2. That it concludes with a prayer for judgment.

3. In other respects uncertain, informal and insufficient.

Demurrer to the second replication to third amended plea. Same causes as preceding joinder in demurrer and demurrers overruled, and Cook stands by his demurrers—to these replications—and files a *similiter* to the others.

40 February 29th, 1859, Jury trial and verdict of plaintiff, $1,000 debt, and $155 damages, and motion for new trial, and in arrest of judgment.

March 19th, 1859, motion for new trial denied and judgment.

42 March 21st, 1859, appeal prayed—and ten days given to file bond and bill of exceptions.

43 March 26th, 1859, appeal bond filed.

BILL OF EXCEPTIONS.

IN THE COOK COUNTY COURT OF COMMON PLEAS,

ELIAS SHIPMAN, *vs.* ISAAC COOK.	DEBT.

45 Be it remembered that on the trial of this cause before the Hon. John M. Wilson, Judge of said Court and a Jury.

The plaintiff in support of the issues joined herein, offered to read in evidence a certain paper writing in the words and figures following, to wit:

For and in consideration of the benefits accruing to me, and the enhancement in the value of certain real estate owned by me, arising out of certain services rendered and to be rendered by Elias Shipman, of the City of Chicago, to the committee on Harbor and Bridges of the Common Council of the said City of Chicago, in and about the framing and drawing of sundry ordinances, orders and other instruments relative to the settling of certain wharfing privileges, and the altering and establishment of dock lines of the Chicago river, &c.

I, Isaac Cook, of the City of Chicago aforesaid, hereby stipulate, promise and agree, to well and truly pay to the said Elias Shipman the sum of two thousand
46 dollars, with interest at ten per centum per annum after due, in manner following, to wit:

The sum of one thousand dollars to become due and payable to the said Elias Shipman, when the said Common Council shall have constructed and passed an ordinance which in effect, shall change the location of so much of the dock line recently established by said Council, as lies in front of the lot of land hereinafter described, and establish said dock line, so that it will run parallel (or nearly parallel) with and at a distance of forty feet south from the south line of a lot of land by me owned, and being lot three (3) in block six (6) in the original town of Chicago, thereby giving said lot a water front.

The remaining sum of one thousand dollars to become due and payable to the

said Elias Shipman, when the said Common Council shall have constructed and passed an order, the provisions of which order shall authorize or allow me, as owner of said lot 3 in block 6, O. T., to excavate (under the direction of the city superintendent,) the earth in front of said lot, lying and included between the dock lines (to be established as hereinbefore mentioned,) and the center of the Chicago river, to the depth of twelve feet below low water mark.

In testimony whereof, I have hereunto set my hand and seal, this 6th day of February, A. D. 1856.

[SEAL.] I. COOK.

To the reading of which the defendant then and there objected, but the Court overruled the objection, and the defendant then and there excepted, which was noted and the said bond was read to the Jury.

The plaintiff then offered to read certain ordinances passed by the Common Council of the City of Chicago, passed February 14th, 1856, found published at pages 469 to 470, of G. W. and J. A. Thompson's revision of the ordinances of said city, to September 15th, 1856, inclusive, which book is entitled "Municipal Laws," and authenticated by the following ordinance, and city clerk's certificate at the end of said book, viz.:

This ordinance is on pages 473 to 476 of said book, and the certificate of the clerk is as follows:

STATE OF ILLINOIS, } ss.
CITY OF CHICAGO. }

I, H. KREISMANN, Clerk of the City of Chicago, aforesaid, do hereby certify that the above is a true copy of an ordinance entitled "An Ordinance concerning ordinances passed by the Common Council of the City
52 of Chicago, on the 15th day of September, A. D. 1856, and that I am intrusted with the safe keeping of the original, of which the above is a true and certified copy.

Witness my hand and the corporate seal of said city, this 29th day of September in the year of our Lord 1858.

[SEAL] H. KREISMANN, *City Clerk.*

Said ordinance of February 14th, 1856, was then read to the Jury from said book, entitled "Municipal Laws."

AN ORDINANCE ESTABLISHING CERTAIN DOCK LINES.

SECTION 1. *Be it ordained by the Common Council of the City of Chicago.*

That the dock line from the south line of East Kinzie street to the west line of North Franklin street in front of blocks seven, fourteen, fifteen and six in the original Town of Chicago, be and the same is hereby established as follows, to-wit:

Commencing at a piont in the south line of East Kinzie street one hundred and
53 seventy-two feet west of the north-west corner of said block seven: thence in a straight line south-easterly to a point twenty feet west of a point in the west line of lot five, in block fourteen, which is seventy-four feet south of the north-west corner of said lot five: thence south-easterly to the south-west corner of lot six, in block fourteen: thence along the south line (produced) of said lot six one hundred and twenty-eight and one-half feet: thence north-eastwardly in a straight line towards a point in the center line of old North Water street, eighty-eight feet west of the west line of North Franklin street five hundred and ten and one-half feet (more or less) to a point whence a line perpendicular to the last mentioned line will intersect the north line of lot three, in said block fifteen, at ten feet east from the north-west corner of said lot three, in block fifteen.

Thence north-westwardly, at right angles, to the last described line seventy-nine feet (more or less) to a point in the west line (produced) of said lot three, twelve feet (more or less) north of the north-west corner of said lot three: thence north twenty-eight feet (more or less) on said west line of lot three (produced) to the center of East Carroll street: thence east on the center line of East Carroll and old
54 North Water streets to the west line of North Franklin street, as will more fully appear by reference to the map herewith submitted.

SEC. 2. *Be it further ordained*, That so much of any and all previous ordinances, defining dock lines as conflict or are inconsistent with this ordinance, be and the same are hereby rescinded.

Passed February 14th, 1856.

To the reading of which the defendant objected. The Court overruled the objection and the defendant then and there excepted, which was noted and said ordinance was read to the Jury.

The plaintiff then introduced as a witness

J. T. PUTNAM, who was duly sworn, and testified:

The books which I here produce are the records of the Common Council of the City of Chicago. I am in the office of the City Clerk; this book is the original record. In it I find an order passed February 28th, 1856.

The plaintiff here offers to read said order; the defendant objects, the Court overrules the objection and the defendant then and there excepts, which is noted, and said order is read from said original record of the proceedings of said Common
55 Council, as follows:

ORDERED, That the owners of property fronting upon the Chicago river in blocks six (6), fifteen (15) and fourteen (14) O. T., be and are hereby permitted to do all the excavation in front of their respective premises, provided it shall be done under the directions of the city superintendent, and the precise amount be reported to this Council, properly certified by said superintendent, and the same be done to the depth of twelve feet below water.

Passed February 28th, 1856.

The plaintiff then introduced

ALEXANDER WOLCOTT, as a witness, who being sworn,

A map, (a copy of which is hereto annexed, marked "Exhibit A," and made a part of this bill) was then shown and handed to said witness, who then testified:

"I am a surveyor by profession. I have examined the map here shown me in connexion with the said ordinance of February 14th, 1856; the dock lines as laid down on the map correspond as near as can be with the ordinance. I am acquainted with lot three, in block six, old town.

56 There is a dock line as shown on said map, which runs forty feet south from and parallel with the south line of lot three, aforesaid.

The plaintiff then introduced

ELIHU GRANGER, who is duly sworn, and testified:

"I was an Alderman of the City of Chicago during the month of February, 1856, and a member of the standing committee, of the Council, on Harbor and Bridges."

The said map shown to witness Wolcott was here shown and handed to said Granger, who examined the same, and then testified as follows :

Some time after the passage of the ordinance of February 14th, 1856, establishing the dock lines, was passed, Cook, the defendant, the plaintiff and myself were together in my office; this map or one like it was shown to Cook, who examined it, and the dock lines, as laid down on it, were pointed out and explained to Cook by the plaintiff, who was acting as clerk in my office. I do not recollect the expression that Cook then used about the lines, but he seemed highly elated at his front coming to the water. Cook then gave plaintiff two notes of $500 each in payment of the first installment on the bond in suit; these notes have been paid as I understand it.

Cross Examined.

57 I do not recollect the precise expression which Cook used about the lines when the map was shown him at the time he gave the notes, but he seemed highly elated at his front coming to the water, and expressed himself entirely satisfied.

Here the witness is shown the bond read in evidence.

The first I ever saw of it was when Mr. Cook handed it to me to hand to Mr. Shipman; my impression is that he said to me at the time: 'Here is an agreement between Shipman and I. I have made an arrangement with him to assist me about this matter of changing dock lines—won't you hand it to him.' I don't think I examined it; I think he told me this was 'an agreement to get the enterprise accomplished that we had talked about.' I took it and handed it to Shipman; I did not know what it contained. I have no recollection of seeing the inside of it until it was shown to me on the former trial of this cause, when I was a witness on the stand. Before this bond was handed to me to hand to Shipman, Cook had had

several talks with me about changing these lines so as to give him a water front. At the first time I had some talk with him about it, he asked me why the devil he
58 could not have a water front. I said at first there was private property between him and the river; that was pretty much all that was said at that time. I said I should not feel authorized in putting the city to any further expense, which would he necessary in making any change. This was all that was said at this time that I now recollect.

The next conversation I recollect of, I don't know whether he broached the subject or I did. I think I told him at that time I had thought of a way that a water front might be given him without working any injury to other parties, provided, an arrangement could be made with D. S. Lee, who owned lot three, in block fifteen, to cut off a sharp angle of that lot. He said he would give almost anything if he could have that done; I think he said he would be willing to give $5,000 to have a water front in that shape.

The substance of what I then said, that the change from what we then had in contemplation, would cost a great deal of labor, but I thought it might be done, and if it was done I thought it would be better than as we had contemplated. I think the committee had then the ordinances drawn with the line straight across; it was
59 drawn, or was in contemplation, nothing more was said at that time.

I think we had some more conversations either then or at some other time. I said that if he could get Mr. Shipman to do all the work outside of what I considered my duties as member of the committee of the Common Council, drawing the papers, documents, &c., I would use my endeavors to get the ordinance passed to establish it. I said I would use my exertions, as I thought it would be a benefit to the city. The papers and documents to be got up were the conveyances from the city to Cook of half of the street; from Cook to the city a bond to pay money under ordinance about wharfing privileges. There was a very extensive computation of the amounts to be paid by property holders, and that had to be changed by making this alteration of the original plan. There would be a good deal of negotiating back and forth with Mr. Lee. Don't think of anything else that would have to be done in consequence of the change.

The duties of the committee, to whom this matter was referred, was to take the
60 superintendence of an improvement of that kind, decide where the lines should be and report to the Common Council their decision thereon. Don't remember of ever hearing any price mentioned as between Cook and Shipman, and did not read the bond; I handed it to Shipman the first time I saw him. I don't remember

that I ever saw it again until I saw it in Court here. I was not present when Cook and Shipman made the arrangement and knew nothing about it, except as appears by the bond.

Re-Examined.

The line that was contemplated was straight; the point of land I spoke about is marked by dotted lines on the map. I cannot state the amount of time expended by Shipman; all that I know as to what he did I learned in connection with my duties as a member of the committee on harbor and bridges of the Common Council. He drew the ordinance and made the computations which is shown me, commencing on page 462 of Thompson's Revised Ordinances, of the City of Chicago, of 1856.

70 A great portion of this labor had to be gone over again in consequence of the alteration.

Re-Cross Examination.

Shipman had aided me in making this computation before the change of line. I got him to help me when he had leisure; he was not employed by the committee, they had no authority to employ a clerk. He had no authority from them to act.

The basis of this computation was laid by the original ordinance, and we had to apply it to the quantities as ascertained by actual measurements, except in some cases. The ordinance had to be changed, and the computation in part.

This was all the evidence in the cause.

71 The defendant moved the Court to exclude from the Jury the bond, ordinances and order, read to them severally, and the Court refused to do so as to each, to which the defendant then and there excepted, and it was noted.

The Court upon the request of the plaintiff gave the following instructions in writing, viz:

1. That the recital in the bond as to the consideration for which Cook agreed to pay Shipman the $2,000, is *prima facie* the true consideration therefor, and the burden of proof rests upon Cook to prove a different and illegal consideration, and unless such affirmative proof has been made by said Cook, the Jury must find for the plaintiff, provided they also find that the ordinance and order mentioned in said bond, and upon which the said payments in said bond were to become due respectively, were passed.

Given.

That if Cook at the time he gave his notes for the first installment of $1,000 in said bond mentioned, acquiesced in said dock lines as then established, and accepted them as a full compliance with the requirements of said bond with full know-
72 ledge of the location of said dock lines, he cannot now be heard to object to a recovery of said second installment, on the ground that such dock lines are not properly located.

Given.

To the giving of which the defendant then and there excepted, which was noted.

The counsel for the defendant then requested the Court to give the following instructions in writing, viz:

1. That by the terms of the bond introduced in evidence in this cause, the water front intended to be given to lot 3, in block 6, was at right angles with the south front of said lot clear and unobstructed, from thence due south to the main channel of the river, and if the dock lines, as laid, left any land owned by individuals within that space not appropriated for navigable purposes, then the law is for the defendant, and he is entitled to a verdict.

Refused.

2. That under the bond introduced in this case, it is necessary for the plaintiff to prove that the dock lines, as laid out by the ordinances, do in fact give said

Cook a water front to the said lot 3, between it and the center of the river, and that the opinions of the witness as to matters of fact are not evidence.

Refused.

73 **3.** That under the bond introduced in this case it is necessary to entitle the plaintiff to recover, that the defendant should have had the exclusive right to excavate the land in front of said lot 3, and that as the order gives the owner of lot 15, the same right to excavate as said Cook in the front of said last mentioned lot, and that if the front of that lot extends over the same space as that of said Cook's, then the plaintiff is not entitled to recover.

Refused.

4. That the contract in this cause being for the payment of money upon the contingency that a certain ordinance and order should be passed by the Common Council of the City of Chicago, touching a matter within the powers of that body, it is void upon its face, and no recovery can be had thereon, and the law is for the defendant.

Refused.



Refused.

Which the Court refused and thereupon so marked them, to the refusal of which the defendant then and there excepted, which was noted.

And the Jury having brought in their verdict the defendant moved for a new trial and filed his motion therefore as follows, to-wit:

The defendant moves for a new trial in this cause for the following reasons:

1. Because the Court admitted improper testimony and afterwards refused to exclude the same.

2. Because the testimony was insufficient under the issues in the cause.

3. Because the Court gave the instructions severally asked for by the plaintiff.

75 **4.** Because the Court refused to give the instructions severally asked for by the defendant.

5. Because the verdict was contrary to law and the evidence in the cause.

And also moved in arrest of judgment. Which motions afterwards, coming on to be heard, were argued by counsel; and the Court, being fully advised, overrules and denies the same and renders judgment upon the verdict, to which rulings of the Court upon said motions, the said defendant then and there excepted, which was noted.

And inasmuch as the several and various matters, rulings and exceptions, aforesaid, do not appear of record in said cause the said defendant tenders this his bill of exceptions to the Court, now here in open Court this 20th day of March, 1859, to be signed, sealed by the Judge thereof according to the statute, and it is accordingly so done.

JOHN M. WILSON. [SEAL]

Filed March 29th, 1859.

ERRORS ASSIGNED.

1. The demurrer to the 1st and 3d replication to the 3d amended plea should have been carried back to the Narr.

2. The reading of the bond in evidence to the Jury being variant from the Narr.

3. In allowing the ordinance of February 14th, 1856, to be read to the Jury.

4. The order of February 21st, 1856, to be read.

5. In refusing to exclude said bond, ordinance and order from Jury.

6. In giving the instructions for the plaintiff below.

7. In refusing the instructions of defendant below.

8. In refusing motion for new trial.

9. In denying motion in arrest.

10. The declaration sets forth no good and legal cause of action.

11. The judgment was for plaintiff below, whereas it should have been for defendant below.

W. T. BURGESS,

For Appellant.

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Book vs Shipman

Abstract

Filed Apr. 19, 1860

L. L. Eland

Clerk

Jameson & Morse, Printers, 14 La Salle Street, Chicago.

SUPREME COURT OF ILLINOIS.

ISAAC COOK, APPELLANT,
vs.
ELIAS SHIPMAN, APPELLEE,

Appellee's points.

I.

The bond or agreement upon which judgment was recovered by the plaintiff below, was not void for illegality in its consideration. The case is simply this. The committee of the common council of the city of Chicago had determined to recommend the passage of an ordinance changing certain dock lines upon the Chicago river, and had accordingly been to a good deal of labor and expense, such as making extensive surveys, computations, and drafting of the ordinance, &c. At this stage of the proceedings Cook applied to Granger, who was an alderman and a member of this committee, with a view of obtaining such a change of the plan then adopted, as should afford a water front to his lot. Granger not feeling "authorized in putting the city to any further expense in making the change," told Cook "that if he could get Shipman (who was not an official or in any manner connected with the city government) to do *all the work outside* of what he (Granger) considered his duties as member of the committee," drawing papers, document, &c., "he (Granger) would use his endeavors to get the ordinance passed, to establish" such water front, "as he thought it would be a benefit to the city," (see testimony of Granger in Record itself, as set forth in the bill of exceptions) Cook accordingly employed Shipman to assist him, and entered into the bond in suit, by which he agrees to pay Shipman two thousand dollars, in two equal instalments, "for and in consideration of benefits accruing to me (Cook) and the enhancement in value, of certain real estate owned by me (Cook), arising out of certain services rendered and to be rendered by Elias Shipman, of the city of Chicago, to the committee on harbor and bridges, of the common council of the city of Chicago, *in and about the framing and drawing of sundry ordinances, orders and other instruments, relative to the settling of certain wharfing privileges, and the altering and establishment of dock lines of the Chicago river*," &c. This service was not in its nature illegal or against public policy, within any of the most stringent

cases to be found in the books. It in no part consisted either in influencing, or in attempts at influencing the common council, either by proper or improper appliances, to pass the required ordinance to effectuate the desired change.

II.

If therefore, the consideration for the payment of the $2,000, was not in and of itself illegal, the mere fact that the payment of each instalment respectively, was made contingent upon the passage, 1st, of the ordinance establishing the dock lines, 2d, of the ordinance permitting an excavation of the river in front of the lot, did not render the bond void. In other words, an obligation to pay money based upon a consideration in its nature legal, is not rendered nugatory, merely from the fact that such payment is made contingent upon the result of an election, the decision of a court establish a given point of law, the passage of a law or ordinance by a legislative body, or the occurrence of any similar event. Thus in *Williams vs. Smith*, 3 *Scam.* 524, it was held, that a promissory note for the payment of $500, "when William Henry Harrison should be elected President of the United States," was valid, and not void as against public policy, as claimed by the defendant, and it was sustained upon the distinct ground that for aught appeared, the consideration of the note was in itself legal, and the mere fact that the payment was made contingent upon the happening of the event of Harrison's election, did not vitiate the note. So in *Markham vs. Stevenson*, 15 *Ill.* 209, a contract for the sale of land, claimed by the vendor under a patent title, upon which there was an outstanding tax title, for $400 only, if the supreme court should thereafter by a decision, sustain tax titles over patent titles, and for $800 should the decision be the reverse, was sustained as valid in all its parts.

III.

There was no variance between the declaration and the bond, read in evidence. The declaration does not assume to describe the instrument, but states simply its legal effect, and that part only for which a recovery was claimed, viz.: the last payment of $1,000.

Chittenden vs. French, 21 *Ill.* 598.
Henry vs. Cleveland, 14 *Johns* (*N. Y.*) 400.

Besides, no question of variance was raised at the trial, and it is too late to raise such question now, see

3 *Hill* (*N. Y.*) *Rep.'s* 237.
15 *Johnson* 210.
17 *Wend.* 71.

There was a mere general objection to the reading of the bond in evidence, that was not sufficient, had a specific objection on the ground of variance been made, and the court's attention called to it, if well taken it might have been remedied by amendment.

2 *Hill* (*N. Y.*) 603.

The bond or writing introduced was in fact under seal, the seal being placed at the right hand of Cook's name, and so it appears in the original record, which we ask the court to inspect. But for some unaccountable reason this seal in the printed abstract, is placed at the left side of the page, where it would be likely to escape attention.

IV.

As to instructions given and refused, we say:

1*st.* If we are right in the foregoing, as to the validity of the bond on its face, then the instructions given for the plaintiff below were obviously correct.

2*nd.* By an examination of the map forming part of the bill of exceptions in the original record, the court will perceive that the first instruction asked by the defendant in the court below, was incorrect; besides, Cook having acquiesced in, and accepted the line as laid, and paid the first instalment, he was concluded from objecting to its location afterwards.

3*rd.* The bond describes definitely where the dock line was to be located, and the ordinance introduced together with the testimony of the surveyor Woolcott, show conclusively that the line was in fact located as the bond described (see *testimony of Woolcott, in Record,*) and whether such location operated to give Cook a water front to his entire lot or not is immaterial, but it did in fact give such front, but here again it may be repeated that Cook was concluded by his acquiescence and acceptance. Hence the second instruction asked by the defendant below, was properly refused. Besides, something about opinions of the witness upon matters of fact, not being evidence, wholly irrelevant to any feature of the case, was tacked on to this instruction, and this of itself would vitiate it as tending to confuse.

4*th.* The 3d instruction asked is absurd. It has reference to the angle made by the dock lines as shown by the map, if indeed it is at all intelligible. The ground of the complaint is, that the owner of lot 15, by dredging the mud from the bottom of the river in front of his wharf, thus rendering his wharf accessible by boats and vessels, might possible

to some extent confer the same benefit upon that part of Cook's wharf which lay in part opposite.

5th. The proposition contained in the 4th instruction asked, is answered in the first and second points above.

6th. The 5th instruction asked was based upon no evidence, there was no evidence tending to show that "Shipman should be employed by the defendant *to procure the passage of certain ordinances touching the lands of the defendant.*" (See *testimony of Granger in bill of exceptions in record,*) for this reason, therefore, it was properly refused.

19 *Ill.* 29, 510; 20 *Ill.* 115, 478.

But aside from this, the instruction, if based upon evidence, does not go far enough to vitiate the bond; it does not involve the idea that Shipman's services "in procuring the passage" of the ordinances, constituted any portion of the consideration of the bond.

7th. The 6th and last instruction refused, was obviously incorrect; the simple fact that Cook was induced to hire a man at his own expense to do the extra work, by Granger's promise that if he should do so he would endeavor to procure a passage of the ordinance, by no means excused Cook from paying for such service.

V.

The ordinances read in evidence were properly authenticated, (see *authentication set forth in bill of exceptions in record*, also, *sec.* 15, *ch.* 12, *Charter of* 1851 *of city of Chicago*). Besides, the objection to the reading of the ordinances was general, and if the defendant desired to exclude them on the ground of defective authentication, he should have pointed out specifically by his objection, wherein the defect consisted, and thus allow the plaintiff an opportunity to supply the defect.

FARWELL, SMITH & THOMAS,
Attorneys for the Appellees.

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Supreme Court

Isaac Cook
appellant
vs
Elias S. Chapman
appellee

Points for appellee

Filed Apl. 28. 1840
V. Deland
Clk.

Farwell. Smith
& Thomas
Attorneys

Printed by Beach & Barnard, 14 Clark Street, Chicago

SUPREME COURT OF ILLINOIS.

Third Grand Division,
APRIL TERM, A. D. 1860.

ISAAC COOK, vs. **ELIAS SHIPMAN.**	APPEAL FROM COOK COMMON PLEAS.

APPELLANT'S POINTS.

I.

The bond declared on and introduced in evidence is contrary to public policy, illegal and void.

The money, $1000, is payable when the Common Council shall have passed a certain order for the appellant, Cook.

Rowe vs. Truax, 21 Barb. 362, was an action upon an agreement in which Gregg was to use his influence, efforts and labor in procuring the passage of a law, by the Legislatnre of the State of New York, having for its object, relief to the undersigned; and, in case Gregg failed to secure the passage of the law, then they were not to pay anything. The Court says, page 333: "What is this, but a contract to procure an enactment of a private statute? what else, but an agreement in respect to lobby services, and, in

effect, providing for the sale of the personal influence of Gregg to procure the passage of a private law? and, being so, it is void, as inconsistent with public policy."

This case is, also, to the point that, although the services performed by Shipman for the committee were legal and proper, the worth of which, under other circumstances, he might recover from Cook; yet, the two being mixed together, forming but parts of one and the same transaction, he cannot recover; and, particularly, in this case, where there is no count, but on the illegal contract.

See, also, the following cases :

Wood vs. McCann, 6 Dana, 370.
Pingrigg vs. Washburn, 1 Aiken 268.
Shaw vs. Reed, 30 Maine, 105.
Fuller et al vs. Dane, 18 Pick. 472.
Gray vs. Hook, 4 Comstock, 449.
Harris vs. Roof's Executors, 10 Barb. N. Y. Rep'ts, 492.
McGregor vs. Manager, &c. 16 Eng. Law and Eq. 180.
Marshall vs. Baltimore, &c. 16 Howard's U. S. Rep. 334.

The bond should have been excluded from the jury, and the 4th, 5th and 6th instructions should have been given.

II.

The first instruction should have been given. It is the proper, legal construction of the contract.

III.

The bond read in evidence was variant from the narr. The description of the bond in it, makes no allusion to the prerequisite of the passage of the ordinance of 14th February, 1856, it alledges that the ordinance was passed, but does not say that the payment of the second $1000, by Cook, depended as much upon that as upon the order of Feb. 28, 1856.

W. T. BURGESS,

For Appellant.

Printed by Beach & Barnard, 14 Clark Street, Chicago

SUPREME COURT OF ILLINOIS.

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W. T. BURGESS,

For Appellant.

251

Cook

vs

Shipman

Apollos Points

Filed May 10. 1860

S. Leland

Clerk

Printed by Beach & Barnard, 14 Clark Street, Chicago

SUPREME COURT OF ILLINOIS.

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APRIL TERM, A. D. 1860.

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effect, providing for the sale of the personal influence of Gregg to procure the passage of a private law? and, being so, it is void, as inconsistent with public policy."

This case is, also, to the point that, although the services performed by Shipman for the committee were legal and proper, the worth of which, under other circumstances, he might recover from Cook; yet, the two being mixed together, forming but parts of one and the same transaction, he cannot recover; and, particularly, in this case, where there is no count, but on the illegal contract.

See, also, the following cases :

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McGregor vs. Manager, &c. 16 Eng. Law and Eq. 180.
Marshall vs. Baltimore, &c. 16 Howard's U. S. Rep. 334.

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W. T. BURGESS,

For Appellant.

25-1-158

Cook

v

Shipman

Apopka Point

Filed May 10. 1860

L. Leland

Clerk

United States of America
State of Illinois County of Cook ss.

Pleas before the Honorable John M. Wilson Judge of the Cook County Court of Common Pleas within and for the County of Cook, and State of Illinois, at a regular term of the Cook County Court of Common Pleas begun and holden at the Court House in the city of Chicago in said County on the first Monday being the Seventh day of February in the year of our Lord One Thousand Eight Hundred and Fifty nine. and of the Independence of the United States the Eighty Third.

Present

Hon John M. Wilson Judge
Lewis Hoyne Prosecuting Attorney
John Wentworth Sheriff of Cook County

Attest

Peter Kimball Clerk.

Be it remembered that heretofore, to wit: on the 19th day of November in the year of our Lord one thousand eight hundred

and fifty six. there issued out of the office of the Clerk of the Cook County Court of Common Pleas. The People's writ of Summons. which said Summons with the Sheriffs return thereon is in the words & figures following. to wit:

State of Illinois } ss. The People of the State
County of Cook } of Illinois. To the Sheriff of
said County. Greeting:

We Command you that you Summon Isaac Cook if he shall be found in your County. personally to be and appear before the Cook County Court of Common Pleas of said County on the first day of the next term thereof, to be holden at the Court House, in the City of Chicago. in said County on the first Monday of January next. to answer unto. Elias Shipman. in a Plea that he render unto the said Elias Shipman his debt in the sum of One Hundred dollars. which he owes to and unlawfully & wrongfully detains from him to the damage of the said plaintiff as he says in the sum of Five Hundred Dollars.

And have you then and there this

writ, with an endorsement thereon, in what manner you shall have executed the same.

Witness Walter Kimball
Clerk of our said Court
and the seal thereof, at the
City of Chicago, in said
County, this 19th day of
November A.D. 1836

Seal

Walter Kimball Clerk

Served by reading to the within named defendant Isaac Cook this 19 November 1836.

John L. Wilson Sheriff
By George Swan Dep
Deputy

And afterwards, to wit, on the 24th day of the month & year last aforesaid. Elias Shipman by his attorneys filed in the office of the clerk of said Court his certain declaration in these words figures following, to wit,

State of Illinois
Cook County ss.

Elias Shipman
vs
Isaac Cook

In the Cook County Court
of Common Pleas
at the January Term A.D. 1857.

Isaac Cook was summoned to answer Elias Shipman, of a plea that he render to him the sum of one thousand dollars lawful money of the United States, which he owes to and unjustly detains from him; and thereupon the said Elias Shipman by Dickinson & McGilvra his attorneys complains.

For that whereas the said defendant heretofore, to wit on the sixth day of February A.D. 1856. by his certain writing obligatory, sealed with his seal, and now shown to this Court, the date whereof is a certain day, to wit: the day and year aforesaid stipulated and agreed to pay to the said plaintiff the sum of one thousand dollars, lawful money of the United States of America, or that the Common Council of the city of Chicago, County and State aforesaid should have constructed and passed an order, the provisions of which order should authorize or allow the said defendant as owner of Lot three in Block six in the old Town of Chicago aforesaid, to excavate (under the direction of the city Superintendent) the earth in front of said Lot lying and included between the dock lines to have been established by the said Common Council, so as to form parallelograms or

nearly parallell with and at a distance of forty feet South from the South line of said Lot. and the center of the Chicago River to the depth of twelve feet. below low water mark.

And the said plaintiff avers that on the fourteenth day of February A. D. 1856. the Common Council of the city of Chicago aforesaid passed the following Ordinance viz.

An Ordinance establishing certain Dock lines.

Be it ordained by the Common Council of the city of Chicago.

That the dock line from the South line of East Kinzie Street, to the West line of North Franklin Street, in front of Blocks Seven. Fourteen, Fifteen & Six. in the original Town of Chicago. be and the same is established as follows. to wit:

Commencing at a point in the South line of East Kinzie Street. One Hundred & Seventy two feet West of the North West corner of said Block Seven. thence in a straight line, South Easterly to a point twenty feet. West of a point in the West line of Lot Five in Block Fourteen which is Seventy four feet South of the North West corner of said Lot Five: thence South Easterly to the South West corner of Lot Six, in said Block Fourteen: thence along the South line (produced) of said Lot six. One Hundred & Twenty Eight and one half

feet: thence North Easterly, in a straight line, to a
a point in the center line of Old North Water Street
Eighty eight feet west of the West line of North Franklin
Street: Five Hundred & ten & one half feet (more or less)
to a point where a line perpendicular to the last mentioned
line, will intersect the North line of Lot three
in said Block Fifteen at ten feet East from the North
West corner of said Lot three in Block Fifteen:
thence North Westerly, at right angles to the last
described line, Seventy nine feet (more or less) to a
point in the West line (produced) of said Lot three, one
hundred feet (more or less) North of the North West corner
of said Lot three: thence North Twenty Eight feet
(more or less) on said West line of Lot three, produced
to the center of East Carroll Street: thence East
on the center line of East Carroll and Old North
Water Streets to the West line of North Franklin
Street: as will more fully appear, by reference
to the map herewith submitted.

Be it further Ordained that so much of any and
all previous orders, defining dock lines, as conflict
or are inconsistent with this Ordinance, be, and
the same are hereby rescinded.

Which said Ordinance establishes the said dock lines
so as to run parallell, or nearly parallell with and
at a distance of forty feet South from the South
line of said Lot three in Block Six in the Old
Town of Chicago, aforesaid, as aforesaid owned

wholly neglected and refused, and this upon and neglects so to do. To the damage of the said plaintiff of five hundred dollars and therefore he brings his suit.

Gilbertson & McGilvra
Plffs Attys.

(Copy)

(Copy of Instrument sued on.)

For and in consideration of the benefits accruing to me and the enhancement in the value of certain real estate owned by me arising out of certain improvements and to be undertaken, and to be assured by Elias Shipman of the City of Chicago to the Committee on Harbor & Bridges of the Common Council of the said City of Chicago in and about the framing and drawing of certain Ordinances, Orders and other instruments relating to the settling of certain wharfing privileges and the altering and establishment of dock lines of the Chicago River &c.

I Isaac Cook of the City of Chicago aforesaid, hereby stipulate, promise and agree to well and truly pay to the said Elias Shipman the sum of Two Thousand dollars with interest at ten per centum per annum after due in manner following, to wit:

The sum of One Thousand dollars to become due and payable to the said Elias Shipman, when the said Common Council shall have constructed and passed an Ordinance, which, in effect shall change the location of so much of the dock line, recently established by said Council, as lies in front of the lot of land hereinafter described: and establish said dock line, so that it will run parallel or nearly parallel with and at a distance of Forty feet South from the South line of a lot of land by me owned and being Lot Three (3) in Block Six (6) in the Original Town of Chicago. thereby giving said lot a water front.

The remaining sum of One Thousand dollars to become due and payable to the said Elias Shipman when the said Common Council shall have constructed and passed an order, the provisions of which order shall authorize or allow me, as owner of said lot three in Block 6. A. T. to excavate (under the direction of the city Superintendent) the earth in front of said lot, lying & included between the dock line (to be established as herein before mentioned) and the center of the Chicago River, to the depth of twelve feet below low water mark

In testimony whereof I have hereunto set my hand and seal this 6th day of February A. D. 1836

Signed L. Cook

and afterwards. to wit: on the 6th day of Jany. in the year of our Lord one thousand eight hundred and fifty seven. Isaac Cook by his Attorneys files in the office of said Clerk of the said Court his certain Plea & affidavit of merits in the words & figures following to wit:

In the Cork County Court of
Common Pleas
of January Term 1857.

Isaac Cook
ads
Elias Shipman

1st And the said defendant by his Attorneys Farnsworth & Burgess comes and defends the wrong and injury when &c. and says that the said writing obligatory in the said declaration mentioned is not his deed and of this he puts himself upon the country &c.

2nd And for a further Plea in this behalf. he says actio non. because he says that he does not owe and is not indebted unto the said plaintiff hath above thereof declared against him and of this he puts himself upon the country &c.

third And for a further Plea in this behalf he craves

copy of said writing obligatory and it is read to him as follows. Know all men by these presents that I Elias Shipman of the City of Chicago. in consideration of the benefits accruing to me and the enhancement in the value of certain real Estate owned by me arising out of certain services rendered and to be rendered by Elias Shipman of the City of Chicago. to the committee on Harbor & Bridges of the Common Council of the said City of Chicago. in and about the framing and drawing of sundry Ordinances orders and other instruments, relative to the letting of certain wharfing privileges and the altering & establishment of Dock lines of the Chicago River &c. I. Isaac Leork of the City of Chicago aforesaid. hereby stipulate promise and agree to well & truly pay to the said Elias Shipman, the sum of Two Thousand Dollars with interest at ten per centum per annum after due, in manner following to wit:

The sum of one thousand dollars to become due and payable to the said Elias Shipman, when the said Common Council shall have constructed & passed an ordinance, which, in effect shall change the location of so much of the Dock line, recently established by said Council, as lies in front of the lot of land hereinafter described and establish said Dock line, so that it will run parallel (or nearly parallel with and at a distance of forty feet South from the South line of a lot of land by me owned and being Lot three (3) in Block

Lot (6) in the Original Town of Chicago. thereby giving said Lot a ratio front.

The remaining sum of one thousand dollars to become due and payable to the said Elias Stiles-worn, when the said Common Council shall have constructed and placed an order, the provisions of which order shall authorize or allow me as owner of said Lot three in Block 6. C. T. to excavate (under the direction of the city Superintendent) the earth in front of said lot, lying and included between the dock line (to be established as hereinbefore mentioned) and the centre of the Chicago River. to the depth of twelve feet below low water mark.

In testimony whereof. I have hereunto set my hand and seal this 6th day of February A. D. 1836.

Signed D. Cook Seal

And thereupon he says actio non. because he says that the said Bond is illegal and void in this. that at and upon the making of said Bond one Elisha Granger was a member of the Common Council of the City of Chicago. to whom with others the subject of certain wharfing privileges and establishing & altering dock lines of the Chicago River including the privileges & dock lines appertaining to said Lot three in Block 6

New Town, had been by order of said Common Council referred to Act upon and report to said Common Council, and was then pending before them as such committee & said Granger was at the same time an Alderman of said City, and that to procure the assistance of said Granger in influencing the action of said Committee upon the matters then referred to them, as aforesaid more favorable to the interests of said Cook as owner of said lot &c. than otherwise they would have done and in violation of his duty as an Alderman of said City — it was agreed between said Cook & said Granger, that in the event ordinances were passed by said City of the character set forth. in said writing obligatory, said Cook should pay said Granger the said sum of two thousand dollars and that said Granger should use his influence, both as a member of said Committee & of said Common Council to procure the passage of such ordinances. but that to cover up the said agreement and make the same legal upon its face the contract should be made in the name of & between said Cook and said Plaintiff — and the said defendant avers that said Bond was made & delivered in pursuance of said corrupt agreement to carry the same into effect. and there was no other consideration whatever for the making of said Contract than that herein before stated and set forth. and that

said Plaintiff well knew said premises when he received said Bond. and that this suit is brought in the name of said Shipman for the sole use and benefit of said Bryan and not for that of said Shipman, and this the defendant is ready to verify wherefore he prays Judgt &c.

Farnsworth & Bangs
for Deft

In the Cook County
Court of Common Pleas

Elias Shipman
vs
Isaac Cook

State of Illinois }
County of Cook } ss.

Isaac Cook, said defendant being duly sworn says that he has a good defence upon the merits in this cause as he is advised and verily believes.

Subscribed & sworn to
before me this sixth
day of January A. D. 1857.

I. Cook

Charles A. Holden
Notary Public

Seal

And afterwards to wit, on the 29th day of the month of June aforesaid. Elias Shipman by his Attorneys filed in the office of the Clerk of said Court his similiter, ~~and demurrer to Plea~~ in the words & figures following to wit:

State of Illinois }
Cook County } ss.

Elias Shipman } In the Cook County Court of
vs } Common Pleas
Isaac Cook } of the February Term A. D. 1837.

And the said Plaintiff as to the Plea of the said Defendant by him first and second by above pleaded, and whereof he hath put himself upon the Country, doth the like.

Skinner & McGibeny
Plffs Attys.

State of Illinois }
Cook County } ss.

Elias Shipman } In the Cook County Court of
vs } Common Pleas at the February
Isaac Cook } Term A. D. 1837.

And the said plaintiff as to the said plea of the said defendant by him third by above pleaded, doth that the same, and the matters therein contained in manner and form as the same are above pleaded and set forth, are insufficient in law to bar or preclude him the said plaintiff from having or maintaining his aforesaid action thereof against the said Defendant, and that the said Plaintiff is not bound by law to answer the same. And this he the said plaintiff is ready to verify, wherefore by reason of the insufficiency of the said plea in this behalf, the said plaintiff prays judgment and his debt aforesaid, together with his damages by him sustained, on occasion of the detention thereof to be adjudged to him &c.

And the said Plaintiff states and shows to the Court here, the following causes of demurrer to the said third plea, that is to say.

1st Because the said defendant by his said third plea has admitted the execution of the Bond or instrument under seal, sued on and is therefore estopped from denying either the consideration thereof or that it was made with the said Plaintiff as appears upon its face

2nd Because the matter which appears as an estoppel forth; the execution of said instrument under seal appears on the face of the declaration; and the said defendant is therefore estopped from denying

the consideration thereof. or that it is in fact was made with and was to the said Plaintiff as appears upon its face.

2nd Because by the execution of said instrument the said defendant is estopped from pleading any of the facts set forth in said third plea. and is precluded from giving evidence to establish said facts. And also that the said third plea is in other respects uncertain, informal and insufficient &c.

Wilkinson & McGilvra
Plffs Attys.

And afterwards. to wit, on the 12th day of March in the year aforesaid, said day being one of the days of the February Term of said Court. the following among other proceedings were had and entered of Record in this Court. Viz:

Elias Shipman
vs
Isaac Cook

And now comes the said Plaintiff by Wilkinson & McGilvra his Attorneys, and the said defendant by Lander & Burgess his attor

says also court. and on argument of the demurrer to defendants plea. filed in this cause. by the Counsel of the said parties, and the Court now here being fully advised in the premises. it is ordered that the said demurrer be overruled.

And afterwards. to wit. on the day & year last aforesaid. Elias Shipman by his attorneys. filed in the office of the clerk of said Court, his certain Replication in the words & figures following. to wit:

State of Illinois }
Cook County } ss.

Elias Shipman } In the Cook County Court of
vs Common Pleas.
Isaac Cook } of February Term A. D. 1857.

And the said plaintiff as to the plea of the said defendant by him thirdly and lastly above pleaded. says precludi non. because he says. that the said writing obligatory in the said declaration mentioned. was obtained fairly and honestly by the said Plaintiff, and not illegally by the said Plaintiff and one Elihu Granger, or without a good. sufficient and valuable consideration, or for the use and benefit of the said Elihu Granger, or for an illegal

consideration moving either from the said Plaintiff or any other person. or that the same was made and delivered in pursuance of any corrupt agreement. in manner and form as the said Defendant hath in his said third and last plea above pleaded, alledged.

And this the said Plaintiff prays may be inquired of by the Country.

Wilkinson & McElvea
Plffs Attys.

And afterwards. to wit. on the 18th day of the month & year aforesaid. Isaac Cook by his Attorneys filed in the office of the clerk of said Court. his certain demurrer. in the words & figures following to wit.

In the Cook County Court
of Common Pleas
of February Term A. D. 1857.

Isaac Cook
vs
Elias Shipman

And the said Defendant as to the said Replication of said Plaintiff to the third plea of the Defendant. that the same is insufficient in law, and he demurs thereto. and prays Judgment &c

Turner & Bangs
for Defts

Afterwards, to wit: on the 17th day of the month of June aforesaid, said day being one of the days of the February Term of said Court. the following among other proceedings was had and entered of Record in this Court, to wit:

Elias Shipman
vs Debt.
Isaac Cook

And now again come said parties by their said attorneys, and the Court after hearing the arguments of Counsel on said Defendants demurrer to said Plaintiffs Replication to Defendants 3d plea herein. being now fully advised therein. Sustains said demurrer and doth order that said Plaintiff reply to said plea by to-morrow morning.

Afterwards, to wit, on the 18th day of the month and year aforesaid, Elias Shipman by his attorneys filed in the office of the Clerk of said Court, his certain Replication, in the words & figures following. to wit:

Elias Shipman
vs
Isaac Cook

Cook County Court of Common Pleas
Feby Te 1837.

And as to the third plea of said defendant above pleaded, the said Plaintiff says that said Bond was not made and delivered in pursuance of said corrupt agreement or any such corrupt agreement as that named in said plea, or to carry the same or any such into effect, and that the said Bond was not made, executed and delivered, in the manner and for the purposes named in said plea, and that said suit is not brought for the use and benefit, named in said Plea.

And this the said Plaintiff prays may be inquired of by the Country.

By his Attys

Pritchett & McGilvra

And defendant doth the like

By Farnsworth & Burgess.

And afterwards. to wit: on the day & year last aforesaid, said day being one of the days of the February Term of said Court, the following among other proceedings were had & entered of Record in this Court. to wit:

Elias Shipman

vs

Isaac Cook

Debt.

And now again come said parties

by their Attorneys aforesaid. and issue being joined therein. It is ordered that a Jury come, and thereupon come a Jury of good and lawful men, to wit:

Byron Felt N. P. White James Turner Ira Reynolds
Ethel Cummings Christian Olson William Sawyer P. A. Barker
W. W. Hamilton J. Packard H. A. Shepard and Asa Gains

who being duly elected tried and sworn well and truly to try the issue joined as aforesaid, after hearing the testimony adduced, argument of Counsel and instructions of the Court, retire to consider of their verdict, and afterwards come into Court and say, we the Jury find the issues for the plaintiff, and that the said defendant is owing and indebted to the said plaintiff as charged in his said declaration to the sum of One thousand dollars. and we assess said plaintiffs damages by occasion of the detention of his said debt to the sum of One Hundred and Four dollars and nine cents.—

And said defendant thereupon enters his motion herein for a new trial in this cause, which said motion is overruled by the Court, and said defendant enters his exceptions therein.

Therefore it is considered that the said plaintiff do have and recover of the said defendant his debt of one thousand dollars and also his damages of One hundred and four dollars and nine cents. in form aforesaid by the Jury here assessed, and also his costs and charges by him about his suit in this behalf expended and have execution therefor.

Debt $1000.00
Damages 104.09

And thereupon said defendant prays an appeal to the Supreme Court of the State of Illinois, which is allowed on his filing and approving Bond in the sum of Two Hundred Dollars with security to be approved by the Judge of this Court. Said Appeal Bond and Bill of Exceptions to be filed in ten days from this date.

And afterwards, to wit: on the 19th day of December in the year aforesaid. Isaac Cook by his attorney filed in the office of the Clerk of said Court his amended Plea in the words & figures following. to wit:

In the Cook County Court of
Common Pleas
of January Term 1857.

Isaac Cook
ads
Elias Shipman

Debt

Amended Plea

Amended first Plea

And the said defendant by his attorney H. T. Bengsh comes and defends the wrong and injury when &c and says that the said Bond is illegal & void in this that at and upon the making of said Bond one Elihu Granger was a member of the Common Council of the City of Chicago to whom with others the subject of certain wharfing privileges and establishing and altering

dock lines of the Chicago River including the fractional dock lines appertaining to said Lot Nine in Block six of Town had been by order of said Common Council referred back upon report to said Common Council and was then pending before them as such committee and said Granger also was at the same time an Alderman of said city and said Plaintiff then was a clerk of said Committee employed by said City of Chicago. to render for said Committee the identical service in said bond mentioned & to be therefor paid by said city - a reasonable Compensation & reward. And that to prevent the assistance of said Granger & of said Plaintiff in influencing the action of said Committee upon the matter thus referred to them as aforesaid. more favorable to the interests of said Cook as owner of said Lot six than otherwise they would have done and in violation of the duty of said Plaintiff as an employee of said city & of said Granger as an Alderman thereof, it was agreed between the said plaintiff & the said Cook, the said Granger being advised thereof & consenting thereto - that in the event Ordinances were passed by said City Council of the character set forth in said writing obligatory said Cook should pay said Plaintiff the said sum of two thousand dollars, and that said Granger should use his influence as a member of said committee of said Common Council & said plaintiff as an employee of said city. to prevent the passage of such Ordinances. And the said defendant avers that the said Bond was made and delivered

in furtherance of said corrupt agreement and to carry the same into effect & for the purpose of illegally procuring action on the part of the Common Council by means of the report of said Committee on said subject to them favorable to the interests of said Cook and that there was no other consideration whatsoever for the making of said bond. than those hereinbefore stated and this the defendant is ready to verify wherefor he prays judgment &c.

Amended third Plea.

And for a further plea in this behalf he says actionem, because he says that the said bond is illegal and void in this, that at and upon the making of said Bond one Elihu Granger was a member of the Common Council of the City of Chicago. to whom with others the subject of certain wharfing privileges and establishing & altering dock lines of the Chicago River including the privileges & dock lines appertaining to said Lot three in Block six Ogden Town. had been by order of said Common Council referred to act upon and report to said Common Council and was then pending before them as such committee & said Granger also was at the same time an Alderman of said City, and that to procure the assistance of said Granger in influencing the action of said Committee upon the matters then upon to them as aforesaid more favorable to the interests of said Cook as owner of said Lot six than otherwise they would have done and in violation of his duty as an Alderman of said City. it was agreed between

said Cook & said Bonyer that in the event ordinances
were passed by said City of the character set forth in said
writing obligatory said Cook should pay said Bonyer
the said sum of Two thousand dollars and that said
Bonyer should use his influence, both as a member
of said Committee & of said Common Council to pro-
cure the passage of such ordinances but that to cover
up the said agreement and make the same legal upon
its face the Contract should be made in the name of
and between said Cook and said Plaintiff and the
said Defendant avers that said Bond was made
& delivered in pursuance of said Corrupt agreement
to carry the same into effect, and that no or other
consideration whatever for the making of said con-
tract than that herein before stated ever set forth.
And that said plaintiff well knew said premises when
he received said Bond and that this suit is brought
in the name of said Shipman for the sole use and benefit
of said Bonyer and not for that of said Shipman.
And this the said Defendant is ready to verify, wherefore
he prays judgment &c.

4 And for a further plea in this behalf said Deft says
actio non because he says that the said instrument
in said Declaration mentioned is not his deed & of
this he puts himself on the Country

H. J. Bangs Deft Atty

And the said Plaintiff as to the last plea above pleaded doth
the like

Whitmore & McElroy
Plff Attys

And afterwards, to wit: on the 10th day of March, in the year of our Lord one thousand eight hundred and fifty eight. Elias Shipman by his attorneys, filed in the office of the Clerk of said Court, his Replication in the words & figures following, to wit:

State of Illinois
Cook County } ss.

Elias Shipman
vs
Isaac Cook

In the Cook County Court of Common Pleas of the Feb Term A. D. 1858.
Debt

And the said Plaintiff as to the said amended plea of the said defendant by him above pleaded, says that the said plaintiff by reason of any thing by the said defendant in that plea alleged ought not to be barred from having and maintaining his aforesaid action thereof against the said defendant because he says that the said Bond is not illegal and void as alleged in said plea, but says that the same is legal and valid, and of this he puts himself upon the Country &c.

William T McGibra
Plffs Attys.

And the said Plaintiff as to the said amended third plea of the said defendant by him secondly above pleaded, says that the said Plaintiff by reason

of any thing by the said defendant in that plea alledged. ought not to be barred from having and maintaining his aforesaid action thereof against the said defendant, because he says that the said Bond is not illegal & void as in said Plea is alledged, but says that the same is legal and valid in every part and particular, and of this he puts himself upon the Country &c.

Williamson & McGilvra
Plffs Attys

And afterwards, to wit, on the 18th day of June in the year last aforesaid, Isaac Cook by his Attorney files in the office of the Clerk of said Court his certain Demurrer, in the words & figures following, to wit:

In the Cook County Court of Common Pleas.

Isaac Cook
and
Elias Shipman

June Special Term
A. D. 1858.

Debt.

And the said Defendant as to the said Replication of the said plaintiff to the said amended first plea says that the same & the matters therein contained are not sufficient in Law to be answered unto.

And for cause of Demurrer shows that the said

Plaintiff hath not in & by said New traversed either one of the several material facts tending to defeat the action of said Plaintiff alleged in said plea. Viz whether or not the said plaintiff was a Clerk of the Committee employed to do the work as therein alleged. whether or not Granger was an Alderman & a member of said Committee, and whether or not it was agreed between said Court & said plaintiff as therein alleged, and whether or not said bond was given in pursuance of that agreement.

In which & in other matters said replication is uncertain informal & insufficient wherefore he prays Judgment &c.

And as to the said Replication to the said amended third plea said defendant says that the same is insufficient in law & he demurs thereto. & for cause of demurrer shewed that the said defendant hath not traversed either one of the several material facts tending to defeat the action of said Plaintiff alleged in said plea, viz: whether or not that said Granger was a member of Common Council.

Whether or not he was a member of the Committee therein alleged & referred to.

Whether or not it was agreed between said Court & said Granger for the purposes therein alleged or therein stated. Whether or not the said Bond was made in pursuance of that agreement.

Whether or not he knew those facts when he received the Bond.

Whether or not the suit is brought for the use of said Bangor.

& all which matters said Replication is uncertain informal & insufficient

W. T. Penguss
for dfft

And afterwards, to wit, on the 15th day of September in the year aforesaid, said day being one of the days of the September Term of said Court, the following among other proceedings were had and entered of Record in this Court to wit:

Elias Shipman
vs Debt.
Isaac Cook

This day comes said Plaintiff by Wilkinson his attorney and said defendant by Pengs his attorney also comes and said plaintiff confesses demurrer of said defendant to replication of said plaintiff to said defendants plea herein pleaded to plaintiffs declaration, and thereupon on motion of said plaintiff leave is given him to file several replications herein to said defendants plea.

And afterwards, to wit: on the day & year last aforesaid. Elias Shipman, by his Attorney filed in the office of the Clerk of said Court his certain amended Replications, in the words & figures following to wit:

Cook County Court of Common Pleas

Elias Shipman
vs
Isaac Cook

Amended Replications to first & third Amended Pleas.

And the said plaintiff as to the amended first plea of the said defendant by him above pleaded protesting &c. says Precludi non, because he says that he the said plaintiff at the said time when &c. was not a clerk of the said committee of the said Common Council and as such employed by the said City of Chicago to render for the said committee the identical services in the said bond mentioned to be therefor paid by the said City in manner and form as in said amended first plea alleged, and this he prays may be inquired of by the Country &c wherefore he prays Judgment &c.

And for further Replication to said amended first plea the said plaintiff by leave of the Court first had and obtained protesting &c says. Precludi non. because he says that he and said defendant at the said time when &c. did not make and

into into the corrupt and illegal agreement mentioned and set forth in said amended first plea in manner and form as therein alleged, and that he prays may be enquired of by the Country &c. wherefore he prays Judgment &c.

And for a further Replication to said amended first plea the said plaintiff by leave of the Court first had and obtained, protesting &c. says precludi non because he says that the said Bond and writing obligatory in said declaration mentioned was not made and delivered in pursuance of the corrupt agreement mentioned and set forth in said amended first plea in manner and form as in said plea alleged and that he prays may be enquired of by the Country &c. wherefore he prays Judgment &c.

And the said plaintiff as to the said amended third plea of the said defendant by him above pleaded protesting &c. says precludi non because he says that the said defendant and the said Elihu Granger did not make and enter into the corrupt and illegal agreement mentioned and set forth in said amended third plea in manner and form as in said plea alleged and that he prays may be enquired of by the Country &c. wherefore he prays Judgment &c.

And the said plaintiff for further Replication to said amended third plea by leave of the Court first had and obtained, protesting &c. says precludi non because he says that the said Bond and

writing obligatory in said declaration mentioned was not made & delivered in pursuance of and to carry into effect the corrupt and illegal agreement between the said defendant and said Elihu Granger in the name of said plaintiff for the use and benefit of said Granger as alleged and set forth in said amended third plea in manner and form as in said plea alleged, and this he prays may be enquired of by the Country &c. wherefore he prays Judgment &c.

And the said plaintiff for further Replication to said amended third plea by leave of the Court first had and obtained protesting &c. says precludi non because he says that this suit is brought for the sole use and benefit of said plaintiff and not for the use and benefit of said Elihu Granger as in said amended third plea mentioned and set forth in manner and form as in said plea alleged and that he prays may be enquired of by the Country &c. wherefore he prays Judgment &c.

L. D. Wilkinson
Pltffs Atty

And afterwards, to wit: on the 19th day of the Month of June last aforesaid came Court by his attorney, filed in the office of the Clerk of said Court his certain demurrer in the words & figures following, to wit:

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In the Cook County Court
of Common Pleas

of September Term
A. D. 1858.

Elias Shipman
vs
Isaac Cook

And the said Defendant by H. T. Bangus his attorney comes & as to the replication of the plaintiff by him firstly replied to the amended first plea of said Defendant says the same and the matters therein alleged are insufficient in Law & he demurs thereto and for cause of Demurrer assigns that the said Replication is double in this it tenders an issue upon whether the services were the same & whether he was to be paid by the city therefor as charged in the plea.

2nd That the same is uncertain

3d That there is an omitting of the time when the same was filed.

4th That it concludes both with a verification & a prayer for judgment.

5th And is in other respects uncertain informal & insufficient wherefore he prays judgment &c.

And the said Defendant as to the amended replication by the plaintiff Secondly above replied to the first amended plea of the Defendant says that the same and the matters therein contained are not sufficient in Law for the said plaintiff to have or maintain his aforesaid action thereof against him & he

demurs thereto. and for cause of demurrer assigns first that the said replication is not entitled of any time nor of the term when filed.
Second that the same is double
Third, that it concludes with a prayer for judgment.
Fourth, that it is in other respects uncertain, informal & insufficient. ——— wherefore he prays judgment &c.

And as to the said amended replication by the said plaintiff thirdly above replied to said first amended plea of said Defendant said defendant says that the same and the matter therein contained are not sufficient in law for the said plaintiff to have or maintain his aforesaid action thereof against him and he demurs thereto & for cause of demurrer shows that first, that the said Replication is not entitled of any time nor of the term when filed.
Second that the same concludes with a prayer for judgment
Third, that the same is in other respects uncertain informal & insufficient. Wherefore he prays Judgment &c.

And as to said Replication of said Plaintiff by him fourthly replied to the said third amended plea of said defendant by him thirdly above pleaded said defendant says that the same and the matter therein contained are not sufficient in law for the said plaintiff to have or maintain his aforesaid action thereof against this defendant and he demurs thereto and for cause of demurrer shows first that the said replication is not entitled

of any time or of the term when filed.
2nd That it concludes with a prayer for judgment &c.
3d That it is in other respects uncertain. informal & insufficient. Wherefore he prays judgment &c.

And as to said Replication of said plaintiff by him secondly above replied to the said third amended plea of said Defendant - said Defendant says that the same and the matters therein contained are not sufficient in law for the said plaintiff to have or maintain his aforesaid action thereof against him, & he demurs thereto. For cause of demurrer shows that the said replication is not entitled of any time or of the term when filed.
2nd That it concludes with a prayer for judgment &c.
3d That it is in other respects uncertain informal & insufficient - Wherefore he prays judgment &c.

And as to said replication of said plaintiff by him thirdly replied to said amended third plea of said defendant - said defendant says that the same and the matters therein contained are not sufficient in law for the said plaintiff to have or maintain his aforesaid action thereof against this defendant and he demurs thereto - for cause of demurrer shows. 1st that the said Replication is not entitled of any time nor of the term when filed
2d That it concludes with a prayer for judgment &c.
3d That it is in other respects uncertain, informal and insufficient. Wherefore he prays judgment &c
H. T. Burgess for deft

And afterwards. to wit: on the day and year last aforesaid. Elias Shipman by his attorney filed in the office of said Clerk of said Court his joinder in demurrer. in the words & figures following, to wit:

Cook County Court of Common Pleas

September T. A. 1858.

Elias Shipman

vs

Isaac Cook

And the said plaintiff says that the said first amended replication to said amended first plea is insufficient in law wherefore he prays Judgment &c.

And the said plaintiff says that the second amended Replication to the said first amended plea is insufficient in law, wherefore he prays Judgment &c.

And the said plaintiff says that the said third amended Replication to said first amended plea is insufficient in law. wherefore he prays Judgment &c.

And the said plaintiff says that the said first amended Replication to the said third amended plea is insufficient in law. wherefore he prays Judgment &c.

And the said plaintiff says that the said second amended Replication to the said third amended plea

And afterwards, to wit: on the day and year last aforesaid, said day being one of the days of the September Term of said Court, the following among other proceedings were had & entered of Record in this Court. to wit:

Elias Shipman

vs Debt.

Isaac Coats

And now on this day again comes as well the said plaintiff by his Attorney Wilkinson as the said defendant by Burgess his Attorney and Counsel being heard upon the several demurrers of the said defendant to the several replications of the said plaintiff to the several pleas of the said defendant herein pleaded to said plaintiffs declaration in this cause. And mature deliberation being thereupon had and the premises fully and entirely it appears to the Court that the said several demurrers of the said defendant by him in law to the said several replications of the said plaintiff to the said several pleas of the said defendant, herein pleaded, are not sufficient in law. to bar the said plaintiff from having and maintaining his said action against the said defendant, the said several demurrers of the said defendant are therefore overruled, with leave to the defendant to plead over, and the said defendant electing

to issue by his demurrer to 1st & 3d replications of the said plaintiff, to amended 3d Plea and issues being joined on remaining pleas, it is ordered that a Jury come. Whereupon comes the Jury of good and lawful men. to wit:

C. J. Reed Peter Rockett. Hezian Lewis. James Pethey. Thomas Mabry St. Blinston. Sanford Hale. S. A. Rossiter. L. B. Colburn. Robt Ethridge. S. J. Harris & D. Henderson.

who being duly elected tried and sworn to try the issues joined aforesaid after hearing the evidence. adduced. the hour of adjournment having arrived upon agreement of parties it is ordered that the Jury may separate and meet the Court at nine o'clock to-morrow morning.

And afterwards. to wit: on the 30th day of the month and year aforesaid. said day being one of the days of the Sept. Term of said Court. the following among other proceedings were had and entered of Record in this Court. to wit:

Elias Shipman

vs Debt

Isaac Cook

Now on again comes the parties to this cause by their attorneys aforesaid, and

the Jury impannelled on yesterday for the trial of this Cause also come, and after hearing arguments of Counsel and instructions of the Court retire to consider of their verdict, and afterwards come into Court and say that the Jury find issues for said Plaintiff and find his debt at one thousand dollars and assess his damages for the detention of said debt to the sum of one hundred and fifty five dollars.

And thereupon said defendant by his Counsel submits his motion herein for a new trial in this Cause and in arrest of Judgment.

Now afterwards, to wit, on the 19th day of March in the year of our Lord one thousand eight hundred and fifty nine, said day being one of the days of the February Term of said Court, the following among other proceedings were had and entered of Record, in this Court, to wit:

Elias Shipman
vs
Isaac Cook } Debt

This day come the said parties by their attorneys, and the Court having heard Counsel on said defendants motion for a new

trial of this Cause and for an arrest of Judgment and being fully advised thereon, overrules said motion to which ruling of the Court the said defendant by his Counsel now here excepts.

Therefore it is considered that said Plaintiff do have and recover of said defendant the said sum of One Thousand dollars, and also his damages of One hundred and fifty five dollars together with his Costs and Charges by him in this behalf expended, and have execution therefor.

Debt $1000.00
Damages 155.00
$1155.00

And afterwards to wit: on the 21st day of the Term last aforesaid, said day being one of the days of the February Term of said Court the following among other proceedings were had and entered of Record in this Court to wit

Elias Shipman
vs
Isaac Cook
} Debt.

This day comes the said Defendant by Wm T. Barnes his attorney and prays an appeal of this Cause to the Supreme Court of the State of Illinois which is allowed upon the condition, that said defendant file herein within ten days, his Bill of exceptions and his appeal Bond in the penal sum of Fifteen

hundred dollars with Hugh Maher or Owen McCarthy as surety thereon.

And afterwards. to wit, on the 26th day of the month and year last aforesaid. Isaac Cook filed in the office of the Clerk of said Court. his certain append Bond. in the words & figures following to wit:

Know all Men by these Presents that We Isaac Cook as principal and Owen McCarthy as his Surety of the County of Cook and State of Illinois are held and firmly bound unto Elias Shipman his heirs. executors. administrators and assigns. in the penal sum of fifteen hundred Dollars for the payment of which well and truly to be made unto the said Shipman his heirs executors administrators or assigns we do bind ourselves. our heirs executors and administrators jointly and severally firmly by these presents.

Sealed with our Seals and dated this 23rd day of March A.D. 1859.

Whereas at the February Term A.D. 1859. of the Cook County Court of Common Pleas in certain Cause then depending and undetermined in said Court wherein said Shipman

was Plaintiff and said Cook was defendant. on the 19th day of March A.D. 1857. the same being one of the days of said term. Judgment was entered in said Cause in favor of said Shipman and against said Cook for One thousand dollars debt and One Hundred and fifty five dollars damages and costs of suit from which judgment said Cook hath taken an appeal to the Supreme Court of the State of Illinois.

Now therefore the Condition of this obligation is such that if the said Cook shall duly prosecute his said appeal with effect and shall pay the judgments. Costs. interest and damages in case said judgment shall be affirmed in the said Supreme Court then this obligation to be void otherwise to remain in full force.

A. Cook [Seal]
Owen McCarthy [Seal]
[Seal]

And afterwards to wit. on the 26th day of the month & year last aforesaid. Isaac Cook by his attorney filed in the office of the Clerk of said Court his certain Bill of Exceptions. in the words & figures following to wit.

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In the Cook County
Court of Common Pleas

Elias Shipman
vs
Isaac Cook
} Debt.

Be it remembered that on the trial of this cause before the Hon John M Wilson Judge of said Court and a Jury

The Plaintiff in support of the issues joined herein offered to read in evidence a certain paper writing in the words and figures following, to wit:

For and in consideration of the benefits accruing to me, and the enhancement in the value of certain real estate owned by me, arising out of certain services rendered and to be rendered and to be rendered by Elias Shipman of the city of Chicago to the Committee on Harbor & Bridges of the Common Council of the said City of Chicago in and about the framing and drawing of suitable Ordinances, Orders and other instruments relative to the selling of certain Wharfing privileges and the altering and establishment of dock lines of the Chicago river &c.

I Isaac Cook of the City of Chicago aforesaid hereby stipulate promise and agree to well and truly pay to the said Elias Shipman the sum

45

In the Cook County
Court of Common Pleas

Elias Shipman
vs
Isaac Cook
} Debt.

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I Isaac Cook of the City of Chicago aforesaid hereby stipulate promise and agree to well and truly pay to the said Elias Shipman the sum

of Two Thousand dollars with interest at ten per centum per annum and after due, in manner following, viz:

The sum of one thousand dollars to become due and payable to the said Elias Shipman when the said Common Council shall have constructed & passed an ordinance which in effect shall change the location of so much of the dock line recently established by said Council as lies in front of the lot of land hereinafter described and establish said dock line so that it will run parallel (or nearly parallel) with and at a distance of forty feet South from the South line of a lot of land owned and being Lot Three (3) in Block Six (6) in the Original Town of Chicago, thereby giving said Lot a water front.

The remaining sum of One Thousand dollars to become due and payable to the said Elias Shipman when the said Common shall have constructed and passed an order, the provisions of which Order shall authorize or allow me, as owner of said Lot 3 in Block 6 O. T. to excavate under the direction of the City Superintendent of the Earth in front of said lying and included between the dock line (to be established as herein before mentioned) and the center of the Chicago River to the depth of nine feet below low water mark.

In testimony whereof. I have hereunto set my hand and Seal this 6th day of February A. D. 1856.

J. Cook (Seal)

To the reading of which the defendant then and there objected, but the Court overruled the objection and the defendant then and there excepted, which was noted and the said Bond was read to the Jury.

The plaintiff then offers to read certain ordinances passed by the Common Council of the City of Chicago. passed February 14th 1856. found published at pages 469 to 470. of G. W. & J. A. Thompsons revision of the Ordinances of said City to Sept 15th 1856 inclusive, which book is entitled "Municipal Laws" and authenticated by the following Ordinance and City Clerks Certificate at the end of said Book. viz:

Article 11. Of Ordinances Published in the Municipal Laws and their Authentication.

Sec 1. Be it ordained by the Common Council of the City of Chicago. That the following ordinances severally hereinter by their captions, printed and contained in the preceding pages, that is

to say, in a Book entitled "Municipal Laws" published by C. B. Cook & Co. by order of the Common Council and reporting to be.

"The Charter and Ordinances of the City of Chicago (to Sept 15. 1856 inclusive) together with acts of the General Assembly relating to the City and other miscellaneous acts with an Appendix: Compiled, revised and codified by order of the Common Council by George W. & John S. Thompson Counsellors at Law" be and the same are hereby ordained and passed by the Common Council of the City of Chicago. that is to say:

1. "An Ordinance establishing the City Seal"
2. "An Ordinance concerning assessments for Public improvements"
3. "An Ordinance Concerning Auctions & auctioneers"
4. "An Ordinance Concerning Bridges"
5. "An Ordinance Concerning the City Bridewell"
6. "An Ordinance in relation to City Marshall"
7. "An Ordinance prescribing duties of City Attorney."
8. "An ordinance regulating and prescribing the duties of City Officers"
9. "An Ordinance Concerning Chicago Cemetery & City Sexton"
10. "An Ordinance in relation to Dogs."
11. "An Ordinance Concerning the fire department"
12. "An Ordinance to prevent the sale of Wild game within the City of Chicago during certain seasons of the year"

13. "An Ordinance establishing uniform Grades"
14. "An Ordinance Concerning Gun Powder & Gun Cotton"
15. "An Ordinance relating to Hay & Wood Stands"
16. "An Ordinance Concerning the Harbor"
17. "An Ordinance Concerning the Health Department"
18. "An Ordinance Concerning Licenses"
19. "An Ordinance Concerning the inspection and classifications of Lumber. Lath. Shingles &c"
20. "An Ordinance Concerning Markets and the Sale of Meats and Vegetables"
21. "An Ordinance Concerning offences in the nature of misdemeanors"
22. "An Ordinance Concerning nuisances"
23. "An Ordinance establishing & regulating the Police Department of the City of Chicago."
24. "An Ordinance in relation to Police Justices of the Peace"
25. "An Ordinance Concerning and regulating Public Porters & Runners"
26. "An Ordinance Concerning Ponds."
27. "An Ordinance Concerning Pawnbrokers."
28. "An Ordinance Concerning Parks & Public Grounds"
29. "An Ordinance in relation to Peddlers."
30. "An Ordinance Concerning private drains"
31. "An Ordinance Concerning the Reform School"
32. "An Ordinance supplemental to all ordinances Concerning Rail Roads"
33. "An Ordinance Concerning Streets & alleys."
34. "An Ordinance in relation to Schools & School officers"
35. "Articles One & Two. of "An Ordinance Concerning Misdemeanors and Crafts"

36. "An ordinance regulating the sale of Spirituous Liquors"
37. "An Ordinance in relation to public exhibitions"
38. "An Ordinance Concerning Scavengers"
39. "An ordinance Concerning Lamps & Lamp Districts"
40. "An Ordinance Concerning Vehicles"
41. "An Ordinance for the regulation of Night Watchmen"

Sec 2. All ordinances of the City of Chicago heretofore passed in relation to the subject matter of, or inconsistent with any of the ordinances named in Section one hereof together with an Ordinance "Concerning ordinances and their construction and effect in certain cases" passed July 14th 1851. be and the same are hereby severally repealed: Provided that such repeal shall not affect any act done or any right accruing or accrued or established, or any suit, action or proceeding had or commenced in any civil case before the time when said repeal shall take effect: nor any offence committed, nor any penalty or forfeiture incurred, nor any suit or prosecution pending at the time of such repeal for any offence committed or for the recovery of any penalty or forfeiture incurred under any of the ordinances so repealed.

Sec 3.

And be it further ordained that all the

ordinances of the Common Council of the City of Chicago including this Ordinance contained in the aforesaid Book entitled "Municipal Laws" purporting to contain the Charter and Ordinances of the City of Chicago to Sept 15. 1856. inclusive, together with the acts of the General Assembly relating to the City and other Miscellaneous acts with an appendix Compiled, revised and Codified by order of the Common Council, by George W. & John A. Thompson, Counsellors at Law", be and the same are hereby declared to be printed and published by authority of the said Common Council

This Ordinance shall take effect in ten days from the day of its passage.

Passed September 15th 1856.

Thomas Dyer
Mayor

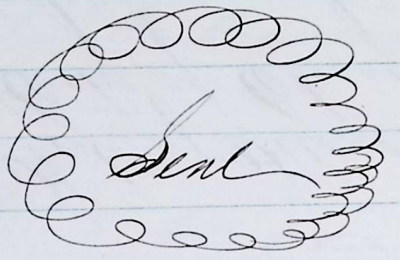
Attest
N. S. Zimmerman City Clerk

State of Illinois }
City of Chicago } ss.

I N. S. Zimmerman Clerk of the City of Chicago aforesaid. do hereby certify that the above is a true copy of an Ordinance entitled "An Ordinance Concerning ordinances passed by the Common Council of the City

of Chicago. on the 15th day of September A. D. 1856. and that I am intrusted with the safe keeping of the original of which the above is a true and certified copy.

Witness my hand and the Corporate Seal of said City this 29th day of September in the year of our Lord 1856.



N. Kleinman City Clerk

Said Ordinance of Feby 14th 1856. was then read to the Jury from said book entitled "Municipal Laws"

An Ordinance Establishing certain Dock lines.

Section 1. Be it ordained by the Common Council of the City of Chicago.

That the dock line from the South line of East Kinzie Street to the East line of North Franklin Street in front of Blocks Seven, Fourteen, Fifteen and Six. in the Original Town of Chicago. be and the same is hereby established. as follows. to wit:

Commencing at a point in the South line of East Kinzie Street One Hundred and Seventy two

feet West of the North West corner of said Block Seven: thence in a straight line South Easterly to a point twenty feet West of a point in the West line of Lot five in Block fourteen, which is twenty four feet South of the North West corner of said Lot five: thence South Easterly to the South West Corner of Lot six in Block fourteen: thence along the South line (produced) of said Lot six One Hundred and Twenty Eight and one half feet: thence North Eastwardly in a straight line to or a point in the center line of Old North Water Street Eighty Eight feet West of the West line of North Franklin Street (removed) and ten and one half feet (more or less) to a point thence a line perpendicular to the last mentioned line will intersect the North line of Lot three, in said Block fifteen at two feet East from the North West corner of said Lot three in Block fifteen.

Thence North Westwardly, at right angles to the last described line Seventy nine feet (more or less) to a point in the West line (produced) of said Lot three twelve feet (more or less) North of the North West corner of said Lot three: thence North Twenty eight feet (more or less) on said West line of Lot three (produced) to the center of East Carroll Street: thence East on the center line of East Carroll and Old North Water Street

to the West line of North Franklin Street, as more fully appear by reference to the map herewith submitted.

Sec 2. Be it further Ordained that so much of any and all previous Ordinances, defining dock lines as conflict or are inconsistent with this Ordinance be and the same are hereby repealed.

Passed February 14th 1856.

On the day on which the defendant objected. the Court overruled the objection and the defendant then and there excepted, which was noted and said Ordinance was read to the Jury.

The Plaintiff then introduced as a Witness. I. S. Patterson. who was duly sworn and testified "The Books which I have produced are the records of the Common Council of the City of Chicago. I am in the office of the City Clerk this book is the original record.

In it I find an order passed Feby 20th 1856. The Plaintiff has offers to read said order, the defendant objects the Court overrules the objection & the defendant then and there excepts which is noted and said order is read from said Original record of the proceedings of said Common

Council, as follows:

Ordered

That the owners of property fronting upon the Chicago River in Block Six (6) fifteen (15) and fourteen (14) O.T. be and are hereby permitted to do all the excavation in front of their respective premises provided it shall be done under the directions of the City Superintendent and the precise amount be reported to this Council properly certified by the Superintendent and the same be done to the depth of 12 feet below water.

"Passed Feby 2d 1836."

The Plaintiff then introduced Alexander Wolcott as a witness who being sworn, a map (a copy of which is hereto annexed marked "Exhibit A" and made a part of this bill) was then shown and handed to said Witness who then testified: "I am a surveyor by profession I have examined the map now shown me in connexion with the said Ordinance of Feb. 2d 1836. the dock lines as laid down on the map correspond as near as can be with the Ordinance. I am acquainted with Lot 5 in Block 16 Alexander. There is a dock line as shown on said

map which runs forty feet South from, and parallel with the South line of Lot three aforesaid.

The Plaintiff then introduced Elihu Granger who is duly sworn and testifies: I was an Alderman of the City of Chicago during the month of February 1856. and a member of the standing Committee of the Council on Harbor Bridges.

The said map shown to witness Wolcott was then shown and handed to said Granger who examined the same and then testifies as follows. "Some time after the passage of the Ordinance of Feby 4th 1856. establishing the dock lines was passed. Cook the draftsman, the Plaintiff and myself met together in my office, this map or one like it was shown to Cook, who examined it, and the dock lines as laid down on it were pointed out and explained to Cook by the Plaintiff, who was acting as Clerk in my office. I do not recollect the expression that Cook then used, about the lines, but he seemed highly elated at his front Coming to the water. Cook then gave Plaintiff two notes of $500 each, in payment of the first instalment on the bond in suit: these notes have been paid as I suppose and understand it.

Cross Examined.

I do not recollect the precise expression which Cook used about the lines when the map was shown him at the time he gave the notes but he seemed highly elated at his front coming to the water. and expressed himself entirely satisfied.

Here the witness is shown the bond read in Evidence. The first I ever saw of it was when Mr. Cook handed it to me to hand to Mr. Shipman. my impression is that he said to me at the time "Here is an agreement between Shipman and I. I have made an arrangement with him to assist me about this matter of changing dock lines now you hand it to him. I dont think I examined it I think he told me this was "an agreement to get the enterprise accomplished that we had talked about. I took it and handed it to Shipman. I did not know what it contained I have no recollection of seeing the inside of it. until it was shown to me at the former trials of this Cause when I was a witness on the stand.

Before this bond was handed to me to hand to Shipman Cook had had several talks with me about changing these lines so as to give him a water front. At the first time I had some talk with him about it he asked me. why the Devil he could not have a water

front. I said at first there was private property between him and the river, that was pretty much all that was said at that time I said I should not feel authorized in putting the City to any further expense which would be necessary in making any change. This was all that was said at this time that I now recollect.

The next conversation I recollect of. I dont know whether he broached the subject or I did. I think I told him at that time I had thought of a way that a water front might be given him without working any injury to other parties. Provided an arrangement could be made with A. S. Lee who owned Lot 3 in Block 15. to cut off a sharp angle of that lot. He said he would give almost any thing if he could have that done. I think he said he would be willing to give $500 to have a water front in that shape.

The substance of what I then said, that the change from what we then had in contemplation would cost a great deal of labor, but I thought it might be done. and if it was done I thought it would be better than as we had contemplated. I think the Committee had then the Ordinance drawn with the line

straight across. it was drawn or was in contemplation. nothing more was said at that time.

I think we had some more conversation either then or at some other time. I said that if he could get Mr Shipman to draw the north outside of what I considered my duties as member of the Committee of the Common Council drawing the papers, documents &c. I would use my endeavours to get the ordinance passed to establish it.

I said I would use my services as I thought it would be a benefit to the City. The papers and documents to be got up were the Convey ances from the City to Cook of half of the Street. from Cook to the City a bond to pay money under ordinance about wharfing privileges. There was a very extensive computation of the amounts to be paid by property holders, and that have to be changed by making this alteration of the original plan.

There would be a good deal of negotiating back and forth with Mr Co. Cook think of any thing else that would have to be done in consequence of the change.

The duties of the Committee to whom this matter was referred was to take the Superi-

tendency of an improvement of that kind, decide where the line should be and report to the Common Council their decision thereon.

Dont remember of ever hearing any price mentioned as between Cook and Shipman did not read the Bond. I handed it to Shipman the first time I saw him. I dont remember that I ever saw it again until I saw it in Court here I was not present when Cook and Shipman made the arrangement and knew nothing about it, and know nothing about it except as appears by the bond.

Re Examined

The line that was contemplated was straight, the point of land I spoke about is marked by dotted lines on the map. I cannot state the amount of time expended by Shipman, all that I know as to what he did. I learned in connection with my duties as a member of the Committee on Harbor & Bridges of the Common Council.

Adopted the Ordinance and made the Computations which is shown me Commencing on page 462 of Thompsons Revised Ordinances of the City of Chicago of 1856. as follows:

An Ordinance Vacating parts of East Water, Old North Water and East Carroll Streets.

Sec. 1. Be it ordained by the Common Council of the City of Chicago, that so much and such parts of East Water Street as lie in front of Block Seven and fourteen in the Original Town of Chicago and so much and such parts of Old North Water Street as lie in front of fourteen, fifteen and Six, in the Original Town of Chicago, and so much and such parts of East Carroll Street as lie in front of Lots two and three in Block Six in the Original Town of Chicago, and only such parts of said Streets as shall be mortgaged to the City of Chicago, as hereinafter provided by the owners of such, or some other person or persons in their behalf, shall cause to be paid or secured to the said City, in such manner as shall be approved by the Mayor or acting Mayor of said City the amount required to be secured to the said City, by mortgage or otherwise, or paid to said City as herein after provided, be and the same are discontinued and vacated.

Sec 2. Before the vacation or discontinuance (herein contemplated) of any parts or portion

of said Front Street take place, a Mortgage of each part or portion shall be executed to said City, by the respective owners of the various parts or portions of land or town lots in said Blocks, which are opposite to, or front on each parts or portions of said Streets as are herein proposed to be vacated, to secure the payment of the sums set opposite the following lots respectively, or in that proportion for any part or portion of a lot fronting on said Street, for such sums as are more specially hereinafter set forth: said Mortgages to be drawn in such form and manner as shall be approved by the Common Council, or the Mayor or acting Mayor, and to be deposited with the Clerk of said City, within such time from the date hereof as shall be determined or required by the Common Council: and said Mortgages to be so drawn as to contain in substance the provisions of the twelfth (12) Section of the "Proposition for selling & leasing privileges on South Water Street and East Water Street South of Randolph Street: passed February 14th 1848. or said sums shall be otherwise secured or paid to said City in such manner as shall be approved by the Mayor or acting Mayor of said City, to wit:

For Lot Two (2) in Block Six (6)	$2000
For Lot Three (3) in Block Six	$4000
For Lot Three (3) in Block Fifteen (15)	$1048
For Lot Four (4) in Block Fifteen	$2072
For Lot Eight (8) in Block Fourteen (14)	$2123

For Lot Seven (7) in Block fourteen $15.87.
For Lot Six (6) in Block fourteen (14) 4.00
For Lot Five (5) in Block fourteen as follows;
For the triangular piece or parcel of said East Water Street hereby vacated (or any portion of it pro rata) on the West line of the South fifteen feet of the West line of the said Lot five (5) (containing 160 Square feet and 20 lineal feet of West front) the sum of $1.28. For the first foot of said Lot five (5) North of and adjoining to said triangular piece or parcel of land measuring on the West line of said Lot (5) $15.23: for the second foot thereof measuring as aforesaid. $15.38.

For the third $15.48.	For the fourth $15.59
For the fifth $15.73.	For the Sixth $15.83
For the Seventh $15.93	For the Eighth $16.08
For the Ninth $16.19	For the tenth $16.28
For the Eleventh $16.43	For the twelfth $16.53.
For the thirteenth $16.64	For the fourteenth $16.78.
For the fifteenth $16.88.	For the sixteenth $16.98.
For the Seventeenth $17.13	For the eighteenth $17.24
For the Nineteenth $17.38.	For the Twentieth $17.48
For the twenty first $17.59	For the twenty second $17.73
For the twenty third $17.84	For the twenty fourth $17.95
For the twenty fifth $18.08	For the twenty sixth $18.19
For the twenty Seventh $18.30	For the twenty eighth $18.41
For the twenty Ninth $18.52	For the thirtieth $18.63
For the thirty first $18.77.	For the thirty second $18.88.

For the thirty third $18.99
For the thirty fifth $19.23
For the thirty Seventh $19.48
For the thirty Ninth $19.72
For the Forty first $19.95
For the forty third $20.19
For the forty fifth $20.43
For the forty seventh $20.65
For the forty ninth $20.89
For the fifty first $21.12½
For the fifty third $21.38
For the fifty fifth $21.61½
For the fifty Seventh $21.84½
For the fifty ninth $22.08½
For the Sixty first $22.01½
For the Sixty third $22.53½
For the Sixty fifth $22.78½
For the Sixty Seventh $23.00½
For the Sixty ninth $23.24½
For the Seventy first $23.49
For the Seventy third $23.73½

For the thirty fourth $19.12
For the thirty sixth $19.36
For the thirty eighth $19.59
For the fortieth $19.84
For the forty second $20.08
For the forty fourth $20.30
For the forty sixth $20.54
For the forty eighth $20.78
For the fiftieth $21.00
For the fifty second $21.24
For the fifty fourth $21.49
For the fifty sixth $21.73
For the fifty eighth $21.95
For the Sixtieth $22.19
For the Sixty second $22.41
For the Sixty fourth $22.64
For the Sixty sixth $22.89
For the Sixty eighth $23.13
For the seventieth $23.38
For the Seventy second $23.60
For the Seventy fourth $23.84

For the first foot front of Lot four (4) in said Block fourteen (14) South of and adjoining the alley through said Block fourteen (14) measuring on the West line of said Lot four (4) $26.06½ for the second foot thereof measuring as aforesaid $26.19½ For the third $26.31 For the fourth $26.46

For the fifth $26.54½. For the Sixth $26.65½ For the Seventh $26.76½ For the Eighth $26.87½. For the Ninth $27.00½

For the tenth $	27.12½	For the Eleventh $	27.23
For the twelfth $	27.35½	For the thirteenth $	27.47
For the fourteenth $	27.58	For the fifteenth $	27.61
For the sixteenth $	27.73½	For the Seventeenth $	27.85
For the Eighteenth $	27.97½	For the Nineteenth $	28.10
For the Twentieth $	28.22½	For the Twenty first $	28.35
For the Twenty Second $	28.48½	For the Twenty third $	28.61
For the Twenty fourth $	28.74½	For the Twenty fifth $	28.85
For the Twenty sixth $	28.97½	For the Twenty Seventh $	29.09
For the Twenty Eighth $	29.22½	For the Twenty ninth $	29.34
For the thirtieth $	29.46½	For the thirty first $	29.57
For the thirty Second $	29.68½	For the thirty third $	29.81
For the thirty fourth $	29.98½	For the thirty fifth $	30.06
For the thirty sixth $	30.16½	For the thirty Seventh $	30.30
For the thirty Eighth $	30.41½	For the thirty ninth $	30.53
For the fortieth $	30.65½	For the forty first $	30.77
For the forty Second $	30.89½	For the forty third $	31.02
For the forty fourth $	31.13½	For the forty fifth $	31.24
For the forty sixth $	31.36½	For the forty Seventh $	31.48
For the forty eighth $	31.57½		

For the forty ninth $	31.71½	For the Fiftieth $	31.83
For the fifty first $	31.94½	For the Fifty Second $	32.06

For the fifty third $32.18½
For the fifty fourth $32.30
For the fifty fifth $32.42½
For the fifty sixth $32.54
For the fifty seventh $32.65½
For the fifty eighth $32.77
For the fifty ninth $32.89½
For the sixtieth $33.01
For the sixty first $33.12½
For the sixty second $33.24
For the sixty third $33.35½
For the sixty fourth $33.46
For the sixty fifth $33.58½
For the sixty sixth $33.69
For the sixty seventh $33.82½
For the sixty eighth $33.94
For the sixty ninth $34.06½
For the seventieth $34.18
For the seventy first $34.30½
For the seventy second $34.41
For the seventy third $34.53½
For the seventy fourth $34.64
For the seventy fifth $34.76½
For the seventy sixth $34.87
For the seventy seventh $34.99
For the seventy eighth $35.11
For the seventy ninth $35.28½
For the eightieth $35.35
For the eighty first $35.47½
For the eighty second $35.58
For the eighty third $35.70½
For the eighty fourth $35.82
For the eighty fifth $35.94½
For the eighty sixth $36.06
For the eighty seventh $36.18½
For the eighty eighth $36.30
For the eighty ninth $36.42½
For the ninetieth $36.54
For the ninety first $36.65½
For the ninety second $36.76
For the ninety third $36.88½
For the ninety fourth $36.99
For the ninety fifth $37.11½
For the ninety sixth $37.23
For the ninety seventh $37.35½
For the ninety eighth $37.47
For the ninety ninth $37.58½
For the One Hundredth $37.69
For the One Hundred and first $37.81
For the One Hundred and second $37.92
For the One Hundred and third $38.03
For the One Hundred and fourth $38.15

For the One Hundred and fifth	$38.27
For the One Hundred and Sixth	$38.39
For the One Hundred and Seventh	$38.51
For the One Hundred and Eighth	$38.63
For the One Hundred and Ninth	$38.75
For the One Hundred and Tenth	$38.87
For the One Hundred and Eleventh	$38.98
For the One Hundred and twelfth	$39.10
For the One Hundred and thirteenth	$39.22
For the One Hundred and fourteenth	$39.34
For the One Hundred and fifteenth	$39.46
For the One Hundred and Sixteenth	$39.58
For the One Hundred and Seventeenth	$39.70
For the One Hundred and eighteenth	$39.82
For the One Hundred and Nineteenth	$39.94
For the One Hundred and Twentieth	$40.06
For the One Hundred and Twenty first	$40.18
For the One Hundred and Twenty Second	$40.30
For the One Hundred and Twenty third	$40.42
For the One Hundred and Twenty fourth	$40.53
For the One Hundred and Twenty fifth	$40.64
For the One Hundred and Twenty Sixth	$40.76
For the One Hundred and Twenty Seventh	$40.88
For the One Hundred and Twenty eighth	$40.99
For the One Hundred and Twenty ninth	$41.11
For the One Hundred and Thirtieth	$41.23
For the One Hundred and thirty first	$41.35
For the One Hundred and thirty Second	$41.47

For the One Hundred and thirty third $41.58
For the One Hundred and thirty fourth $41.70
For the One Hundred and thirty fifth $41.82
For the One Hundred and thirty sixth $41.94
For the One Hundred and thirty seventh $42.06
For the One Hundred and thirty eighth $42.18
For the One Hundred and thirty ninth $42.30
For the One Hundred and Fortieth $42.42
For the One Hundred and Forty first $42.53
For the One Hundred and Forty second $42.65
For the One Hundred and Forty third $42.77
For the One Hundred and Forty fourth $42.89
For the One Hundred and Forty fifth $43.01
For the One Hundred and Forty sixth $43.12
For the One Hundred and Forty seventh $43.24
For the One Hundred and Forty eighth $43.36
For the One Hundred and Forty ninth $43.47
For the One Hundred and Fiftieth $43.58.
For Lot Four (4) in Block Seven (7) $11.427
For Lot Five (5) in Block Seven (7) $10.516.

Sec 3. Be it further enacted by Judiciary determined upon a bill to be filed under the act entitled "An act to adjust and settle the title to the Wharfing privileges in Chicago and for other purposes" Approved February 27th 1847. or upon proceedings had under an act entitled

"An act to amend an act entitled an act to adjust and settle the title to the wharfing privileges in Chicago, and for other purposes" approved February 27th 1847 upon the relation to the wharves and slips in said city" approved February 11th 1853, that upon the discontinuance or vacation of the said parts of said Streets, the fee of the land now contained in the same, is in some other party or parties than the City of Chicago, or the said respective owners of the various portions of land or town lots aforesaid fronting the same, then and in that case this Ordinance shall be null and void, otherwise to remain in full force and effect.

Sec 4.

The fast next adjoining the river upon vacated premises shall be and always remain an open wharf, upon the same conditions and restrictions as contained in the Settlement of the wharfing privileges on the South Side of the Chicago River

Sec 5th

Upon the vacation or discontinuance (as herein contemplated) of any such part or portions of said East Water Street, as lie in front of Lots Four (4) or Five (5) in said Block Seven (7) shall take place, a new Street fifty feet wide from East Kinzie Street to East Carroll Street through said Block

Seven (7) the East line of which new Street shall be on the East line of said Lots Four (4) & Five (5) shall be laid out and opened by the owners of said Lots Four (4) and Five (5) without expense or cost to the City of Chicago.

"Passed February 14th 1856.

B

A great portion of this labor had to be gone over again in consequence of the ordination.

Re Cross Examination

Shipman had aided me in making this computation before the change of line. I got him to help me when he had been told he was not employed by the Committee, they had no authority to employ a clerk. He had no authority from them to act.

The basis of this computation was laid by the original Ordinance and we had to apply it to the quantities as ascertained by actual measurements. We kept it from Cross. The Ordinance had to be changed and the Computation in part.

This was all the evidence in the Case.

The Defendant moved the Court to exclude from the jury the bond Ordinances and order read to them severally, and the Court refused to do so as to each. to which the defendant then and there excepted & it was noted.

The Court upon the request of the plaintiff gave the following instructions in writing viz:

1st. That the recital in the bond as to the consideration for which Cook agreed to pay Shipman the $2000. is prima facie the true consideration therefor and the burthen of proof rests upon Cook to prove a different and illegal consideration and unless such affirmative proof has been made by said Cook the Jury must find for the Plaintiff provided they also find that the Ordinances and order mentioned in said bond and upon which the said payments in said bond were to become due respectively were passed.

That if Cook at the time he gave his notes for the first instalment of $1000. in said bond mentioned, acquiesced in said dock lines as then established and accepted them as a full compliance with the requirements of said bond

with full knowledge of the location of said dock lines he cannot now be heard to object to a recovery of said second instalment on the ground that such dock lines are not properly located.

To the giving of which the Defendant then and there excepted which was noted.

The Counsel for the Defendant then requested the Court to give the following Instructions in writing viz:

1 That by the term of the bond introduced in evidence in this Cause the Water front intended to be given to Lot B. in Block 6 was at right angles with the South front of said Lot claimed and marked thereon due South to the main Channel of the river. And if the Dock lines as laid off any land owned by individuals within that space not appropriated for navigable purposes then the law is for the defendant and he is entitled to a Verdict.

Refused

2 That under the bond introduced in this Case it is necessary for the plaintiff to prove that the Dock lines as laid out by the Ordinances are in fact give said Lot a water front to the Lot B. between it and the centre of the river and that the opinions of the Witnesses as to matters of fact are not evidence.

Refused

3rd Plaintiff

That under the bond introduced in this case it is necessary to entitle the plaintiff to recover that the defendant should have had the excavating right to excavate the land in front of said lot 3. and that as the ordinances the owner of lot 15. the same right to excavate as said Cook in the front of said last mentioned lot. and that if the front of that lot extends over the same space as that of said Cooks then the plaintiff is not entitled to recover.

4th Defendant

That the contract in this case being for the payment of money upon the contingency that a certain ordinance once or can should be passed by the Common Council of the City of Chicago. touching a matter within the powers of that body it is void upon its face and no recovery can be had thereon and the case is for the defendant.

5th Defendant

That if the jury believe from the evidence that there was before the execution of this bond any understanding between Granger then an Alderman of the said City and the plaintiff and defendant that Shipman should be employed by the defendant to procure the passage of certain ordinances touching the lands of the defendant and that the said Granger at the time promised to use his influence or exert himself to secure

the Jurors thereof, one of they further believe that such understanding had any influence upon Cook in giving said Bond and that Shipman was aware of it then the law is for the Defendant.

6th That if the jury believe from the evidence that Granger promised to use his endeavors to procure the passage of Ordinances mentioned in the Bond as Alderman of the City, & that such promise was any part of the consideration or inducements that C. Cook to make the Bond & those facts were known to Shipman then the Bond is illegal & no recovery can be had thereon.

Which the Court refused and thereupon so marked them, to the refusal of which the defendant then and there excepted. which was noted.

And the Jury having brought in their verdict the defendant moved for a new trial & filed his motion therefor as follows. to wit:

The defendant moves for a new trial in this cause for the following reasons.

1st Because the Court admitted improper testimony & afterwards refused to exclude the same.

2nd Because the testimony was insufficient under the issues in the cause.

3d Because the Court gave the instructions severally asked for by the Pff.

4th Because the Court refused to give the

instructions severally asked for by the Defendants 3rd Because the Verdict was contrary to Law and the evidence in the Cause.

And also moved in arrest of Judgment. Which motions afterwards coming on to be heard were argued by Counsel and the Court being fully advised overrules and denies the same & awards judgment upon the Verdict to which rulings of the Court upon said motions the said Defendant then and there excepted which was noted.

And inasmuch as the several and various matters rulings and exceptions aforesaid do not appear of record in said Cause the said Defendant tenders this his bill of exceptions to the Court now here in open Court this 2nd day of March 1859. to be signed sealed by the Judge thereof according to the Statute which is accordingly so done.

John W. Wilson Seal

Blocks 6, 7, 14, 15 in the Original Town of Chicago

Showing Alterations made by passing of an ordinance of the Common Council - Feby 14 - 1856.

Exhibit "A"

Scale 50 ft = 1 inch

KINZIE ST.

Galena & Chicago Union R.R.

N. STATE STREET

N. MARKET ST.

N. FRANKLIN ST.

E. WATER ST.

E. CARROLL ST.

VACATED DOCK LINE 88

former LINE of DOCK

WATER LINE

OLD DOCK NORTH

ALLEY

NORTH BRANCH

CHICAGO RIVER

State of Illinois }
Cook County } ss I Walter Kimball Clerk of the Superior Court of Chicago, (formerly the Cook County Court of Common Pleas) within & for the County & State aforesaid. Do hereby certify the foregoing to be a full, true & correct transcript of all the pleadings on file in my office, & of the proceedings of Court & judgment entered of record in said Court, in the case wherein Elias Shipman is Plaintiff & Isaac Cook is Defendant.

In witness whereof I hereunto set my hand & affix the seal of said Court at the City of Chicago, this 17th day of April A. D. 1869.

Walter Kimball Clerk

In the Supreme court of the State of Illinois—
In the third Grand Division of April Term A.D. 1860—

Isaac Cook
Appellant
vs
Elias Shipman
Appellee
} Appeal from Cook County court of Common Pleas—

And now comes the said appellant by his Attorney William T. Rupp and says that in the record proceedings and pleadings aforesaid there is manifest and material error appearing of record in this

1st That the court below overruled the demurrer of the appellant to the first and second applications to the third amended plea— as the declaration is insufficient and the demurrer should have been sustained to it upon the whole record—

2d That the court below allowed the bond to be read in evidence to the jury— it being variant from the bond set out in the Declaration—

3 That the court below allowed the ordinance of February 14th 1856 - to be read to the jury

4 And the court below further erred in allowing the order of July 21st 1856 - to be read to the jury -

5 And in refusing to exclude said ordinance and order from the jury -

6 And in giving the instructions severally asked for by the plaintiff below

7 And in refusing those severally asked for by the defendant below

8 And in refusing the motion for a new trial -

9 And in denying the motion in arrest of judgment -

10 And that the declaration upon its face sets forth no cause of action

11 And that the judgment of the court below should have been for the defendant below whereas it was given for the Plaintiff below -

And in all which matters there is manifest & material error - Wherefore this appellant prays the judgment of this court that the said proceedings and judgment be annulled vacated & altogether holden for naught and he restored

to all things which he hath lost by oc-
casion thereof &c

W. J. Brent
for Appellee

Supreme Court
Isaac Cook
Appellant
vs
Elias Shipman
Appellee

April Term

April 19 1860

And now comes the said Elias Shipman appellee by Darnell Smith & Thomas his attorneys and say that there is no Error either in the Record and proceedings aforesaid or in the giving up the Judgment aforesaid. Wherefore he prays that the said Judgment may be in all things affirmed &c

Darnell Smith & Thomas
attorneys for said
Appellee

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Shipman

vs

Cook

Fred April 12. 1860

L. Leland

Clk.