

No. 14591

Supreme Court of Illinois

⁰
~~H~~allowell et al

vs.

Dunbar, Imp.

STATE OF ILLINOIS,
SUPREME COURT,
THIRD GRAND DIVISION.

No. 102

1864
J. W. Middleton & Co., Stationers, 196 Lake St.

Donbar

vs

Hickman

Ready

1864

14531

SUPREME COURT OF ILLINOIS,

APRIL TERM, A. D. 1864.

MORRIS L. HALLOWELL & *als.*,
Defendants in Error, }
ADS.
GEORGE DUNBAR, Impleaded, &c.,
Plaintiff in Error. }

Brief for Defendants in Error.

THE PLEADINGS.

We desire to call the attention of the Court to some errors which have crept into the abstract, and, though perhaps not material, requiring correction before the argument is proceeded with.

The state of the pleadings is as follows :

The declaration of the plaintiff below contained three counts. The first and second were *special* counts on the judgment record in question, and the third was the usual *omnibus* count, embracing the common counts. To the first and second counts, the defendant below filed two pleas: 1st, *nul tiel record*; 2d, that defendant,

Dunbar, was not personally served, etc. To the common counts defendant pleaded "*nil debet*," "statute of limitations," etc.

All the pleas, except the first and second, were to the common counts.

To the pleas, plaintiffs below filed replications, and to these the defendant rejoined.

On the 13th of April, 1863, the *rejoinders* of the defendant were stricken out, on plaintiff's motion, and thereupon the plaintiffs *withdrew*, by leave of Court and without objection, their *common counts*. This disposed of all the pleas *except* those to the first and second counts, upon which *issue* was *joined* by defendant below *instantly*, and the cause was thereupon submitted to the Court (MANIERRE, J., presiding,) for trial. It was afterwards, upon the decease of that lamented judge, re-argued before, and judgment rendered by, Judge WILLIAMS.

The cause was tried therefore, and properly, upon the issues joined on the two pleas to the first and second counts, all the other pleadings having been disposed of as above indicated.

The Court will perceive, therefore, that the abstract is extremely inaccurate.

The errors assigned may be taken together and stated thus: That the Court below erred in admitting the judgment record in evidence, and rendering judgment thereon, because the said record did not establish, even *prima facie*, that the defendant, Dunbar, had been served with process or notice, or had appeared in the said cause wherein said original judgment was rendered.

I. Assuming the judgment record to be *silent* as to service, appearance or notice, the question is, is the record admissible in evidence, and does it make out a *prima facie* case for plaintiffs below?

Admitting that the record does not aver service, appearance or notice, neither does it state, *nor does it appear affirmatively therefrom, that there was no service nor notice nor appearance.*

The following propositions are confidently submitted to be the law:

First—Where a judgment record shows *affirmatively* that there was *neither* service, *nor* notice, *nor* appearance, the judgment is a nullity when attempted to be enforced in another State. *Bimeler v. Dawson*, 4 *Scam.*, 536; *Hall v. Williams*, 6 *Pick.*, 245; 2 *Amer. Lead Cases*, 707, *in notis*.

The case at bar does not fall within this class of cases. The record does not state, *nor does it appear affirmatively therefrom that there was no appearance, no service, no notice.*

Second—Where the record contains *direct* and *positive* averments of service of process or personal appearance, such averments cannot be contradicted, nor, it seems, can an appearance by attorney, though the authority of the attorney to enter such appearance may be denied. *Bimeler v. Dawson*, 4 *Scam.*, 536; *Welch v. Sykes*, 3 *Gil.*, 197; *Rust v. Frothingham*, *Breese*, 331.

The case at bar does not fall within this rule.

Third—Where the record is *silent* the presumption is as to records of courts of superior jurisdiction, that that jurisdiction was properly exercised.

This is the principle applicable to the case at bar.

We insist that the record in question being that of a court of superior jurisdiction, every intendment is to be indulged in its favor, and that the judgment "will support itself even in the absence of all or any averments in the record as to service or appearance."

The Defendant below had, of course, a perfect right to show, if he could, that there was no service &c., but the *onus* is upon him to do so. The record makes out a *prima facie* case against him.

"Nothing will be *intended to be out of the jurisdiction* of the superior court but that which *specially appears* to be so; nothing is *intended to be within the jurisdiction of an inferior court* but that which is *expressly alleged*." *In argu.* Peacock v. Bell, 1 W. Saunders 73. Adopted, Kenney and ux v. Greer, 13 Ill. 432.

It is correctly stated in 2 Amer. Lead. Cases 736 (3d Edition, 1852) that "the difference between courts of limited and superior jurisdiction seems to be that in the one, jurisdiction must appear *affirmatively*, while in the other it is a *presumption of Law*."

In Foot v. Stevens, 17 Wend. 483, it was decided that the judgment of a court of general powers will *support itself in the absence of all averments in the record*, that the customary and regular course of proceedings has been adopted, or that the parties *had been brought within its jurisdiction* either by the service of process or by a voluntary appearance.

And Hart vs. Seixas, 21 Wend. 40, carries the rule still farther.

There is no difference in the application of the rule where the judgment is sued on *in the State where originally recovered* or in another State. All our judgments are domestic so far as the different States are concerned. (Bimeler v. Dawson, *ubi sup.*) The only

exception is that the presumption of jurisdiction as to a judgment sued in another State from that where originally rendered is, that the presumption of jurisdiction may not be so *absolutely conclusive* in such other State as in the one where recovered. But this has no bearing in the case at bar, as we do not claim that the judgment record in question, is *conclusive* but only that it is *prima facie*.

But the point made by the Plaintiff in Error has been settled in this State in *Horton vs. Critchfield*, 18 Ill. 133, which is decisive in favor of the affirmance of this judgment. Indeed the presumption was carried very far in that case, for it was *admitted* that there was no service in the Court above.

II. The questions chiefly discussed by the authorities in reference to this matter of jurisdiction are those arising in regard to the *conclusiveness* of judgment records and not as to whether they were *prima facie* evidence.

It is probably for this reason, and from some inaccuracy of statement in one or two instances doubtless arising therefrom, that the counsel for Plaintiff in Error has been deceived in the premises.

Thus the case of *Bimeler v. Dawson* (4 *Scam.*, 536), is really an authority in our favor, though it is cited by Plaintiff in Error because of expressions in the opinion apparently adverse to our position.

On page 541 it is said: "Where the record shows neither service of process nor notice, &c., the judgment is a nullity, &c." What is here intended is, that the judgment is a nullity "where the record shows that *there was* neither service, &c.," that is, where the record shows this affirmatively. This is perfectly plain from the opinion itself, for the preceding paragraph states that "if the record

fails to show affirmatively this mode of service on, or appearance by the defendant, it furnishes, at best, but *prima facie* proof of the jurisdiction, &c." And this is precisely what we contend the record in the case at bar does furnish, neither more nor less, namely, *prima facie* evidence, and that, in the absence of proof on the part of the defendant, is enough for our purpose. (See *Syllabus* to *Bimeler v. Dawson*.)

So also *Hall v. Williams* (6 *Pick.*, 232), which seems to be the principal case relied on by Plaintiff in Error, does not really sustain him, but the contrary. It decides that where the record shows service it seems it cannot be contradicted, but where there is *no allegation* of service or appearance, the defendant *may show* that he was not within the jurisdiction, &c. This we admit. The defendant *may* undoubtedly make such proof, but if he does not, the record is sufficient to sustain a judgment thereon.

Again, in *Hall v. Williams*, it *affirmatively* appeared that one of the two defendants had *not been served*, and that the plea was filed, *not* for him, but for the defendant who *was* served, it was therefore properly held that a recital in the judgment that *both defendants* "came by their said attorneys, &c.," could not be taken as an assertion of record that F. (who was *not* served), appeared to the action. And this, because the recital was shown to be erroneous *by the record itself*.

See also page 240 (6 *Pick.*), where the Court say they *think* that where the record does not show service, &c., or, in other words, is silent, the defendant may be allowed to show that he was not within the jurisdiction, &c. That is to say, the Court is not positive but what a silent record would be conclusive, though they think not. *A fortiori*, they must have considered it *prima facie* evidence.

The plaintiff in error also cites:

Kilburn vs. Wordworth, 5 *John. R.* 37, which was a suit upon a judgment *in attachment*, and evidence adduced by defendant that he was not personally served; *Thompson vs. Emmert et al*, 15 *Ill.*, 416, where the record showed affirmatively that the defendant was not served, but where his appearance was entered by an attorney, and the Court held the record good *prima facie*, but that it might be shown by the defendant that the attorney had no authority; *Brockman v. McDonald*, 16 *Ill.*, 112, in which J. & R. S. Brockman and *Joseph Miller* were sued and declared against, and judgment rendered against *Thomas S. Brockman*. James Brockman, and *William O. F. Campbell*; *Cody vs. Hough*, 20 *Ill.*, 45, respecting notice in certain statutory proceedings; *Swift vs. Green*, 20 *Ill.*, 173; *O'Connor vs. Miller*, 11 *Ill.*, 116; and *Davidson v. Bond*, 12 *Ill.*, 84, in which cases the respective records *affirmatively* showed that one or more of the defendants, against whom judgment was taken, was not served. He cites further, *Bissell v. Briggs*, 9 *Mass.*, 470, which falls into the same category, for the parties defendant were *served* with process, and the question turned upon the *conclusiveness* of the record. Held (*Parsons, C. J.*, p. 470) that as the service appeared in the record, the defendant could not "be admitted by evidence to impeach that judgment, or to deny it, or in any manner to derogate from the full faith and credit to which it is entitled."

Not one of these cases militates with the position of the Defendants in Error, and we challenge the production of a single authority holding that where *the record is silent* the judgment is therefore a nullity, and yet this is the proposition advanced by the Plaintiff in Error, for this record is either *prima facie* evidence or it is nothing.

III. Recapitulation.

First—If the judgment record, in the case at bar, *affirmatively* disclosed that there was neither service, nor notice nor appearance, *it would be a nullity.*

Second—If the judgment record directly and positively averred personal service, it would be *conclusive* and could not be contradicted.

Third—The record being silent, it was *prima facie* evidence, and no proof having been adduced by defendant below in support of his pleas, the plaintiff below was entitled to recover.

IV. It is not denied that Dunbar resided in New Jersey at the time of the rendition of the judgment sued on.

This brings the case completely within the purview of *Horton vs. Critchfield*, (18 Ill., 133,) which disposes of the question in dispute, in our favor.

V. The averment of the declaration in the judgment record, that the defendants therein were "summoned," is a sufficient allegation of the fact of service, to sustain the ruling of the Court below, but we do not discuss this as the law is with us on the other point

FULLER, HAM & SHEPARD,

Att'ys for Defendants in Error.

102
Supreme Court

Hollingsworth

ad

Dunbar

—

Brief for Depts.

to Enos

Filed April 29, 1864

L. L. Leland

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SUPREME COURT OF ILLINOIS.

Third Grand Division, }
APRIL TERM, A. D. 1864. }

GEORGE DUNBAR, Impleaded with THEODORE
MORRELL,

Plaintiff in Error.

vs.

MORRIS L. HALLOWELL, JAMES FRAQUAIR,
JOSHUA L. HALLOWELL, ARTHUR W.
LITTLE, THOMAS W. SWEENEY and
ENOCH R. HUTCHINSON,

Defendants in Error.

POINTS AND BRIEF OF PLAINTIFF IN ERROR.

This is an action in debt upon a judgment record of a superior court of Mercer County, State of New Jersey, rendered in favor of defendants in error against the plaintiff in error. Brought in the Circuit Court, Cook County, at the January Term, 1863, upon said judgment in favor of the defendants in error against the plaintiff in error, impleaded with Theodore Morrell, who was named in the record as one of the defendants; but no service was had in this

suit upon said Theodore Morrell. To the declaration filed in the Court below by the defendants in error in this suit, the plaintiff *et al* pleaded

1.—*Nul tiel* record. See page 3 to 17 of Abstract.

2.—That the defendant, George Dunbar, was not personally served with any writ, notice, or process, and had no notice of the pendency of the suit in which the judgment had been rendered and declared upon in this suit. (See page 18 of Abstract.)

3.—*Nil debit*.

4.—That the defendant did not, within five years, undertake and promise,

5.—Statute of Limitation.

1st Point.

A record of a judgment of a court of another State, when declared upon in a suit in a court in another State, to be entitled to be read as evidence of a debt, must show, affirmatively, that the court had jurisdiction of the *person* of the defendant in the suit, by a personal service of a writ or other process of the court upon the defendant, giving to defendant notice of the pendency of the suit in such court, or that the defendant had appeared in person or by attorney to the suit.

Hall *vs.* Williams 6 Pick, page 245, star paging 246, the court say: "And that where it appears by the record itself that there was no appearance and no notice which he was bound to attend to the judgment against him, is a dead letter beyond the territory within which it was pronounced." Upon same page the court further say: "Upon inspecting the record produced in support of this

"action, we find, by the *return of the officer*, who was charged with "the duty of serving the process, that no notice of the suit was given "to Fiske, one of the defendants;" and on page 246, star paging 247, in connection with the above, the court continues: "There is nothing, therefore, in the record which is contradicted by the second and third pleas, and the replication, by Estoppel, is, therefore, bad and the plea good, which settles the case in favor of the defendants;" and concludes by saying, the judgment is a nullity. In the same, on page 247, the court says: "If it appears, by the record, that there was no jurisdiction over the person, the judgment is a nullity not to be received as *prima facie evidence*, and the plaintiff must resort to other counts to support his action or fail."

Rust vs. Frothingham, 1 Breese, 259, the court hold that a plea to an action of debt on judgment, that the defendant had not been served with process, had never appeared or authorized an attorney for him, is good, *unless the record show the contrary*, the record cannot be contradicted by evidence.

Kilburn vs. Wordworth, 5 John R., 37 page, star paging 41, the court hold that a judgment may be good in the State where rendered and a nullity in an *other State*; personal service of process or appearance in original suit must be shown to make the record admissible as evidence in a foreign State.

Shumway vs. Stillman, 6 Wendall, 452, the court held that if it appeared that the court rendering the judgment had jurisdiction, the record is conclusive evidence of the debt, that is, if it appears, affirmatively, that the defendant was duly served with process within the State or actually appeared and defended the suit.

Bimelar vs. Dawson, 4 Scammon, 541, the court say: All the authorities agree that if the record fails to show, *affirmatively*, this mode of service on or appearance by the defendant, it furnishes, at most, but *prima facie* evidence of the jurisdiction of the court and its authority to enter the judgment. Where the record shows neither service of process, nor notice to the defendant, nor appear-

ance by him, the judgment is a nullity *when attempted to be enforced in another State*, the record not affording even a presumption in favor of the jurisdiction.

All the authorities agree that if the record of foreign judgment does not show, affirmatively that the defendant had been served with process or appeared in the suit, that the court rendering the judgment had no jurisdiction of the person, and that the judgment is a nullity; and we refer to

Thompson, <i>et al.</i> , vs. Emmert, <i>et al.</i> ,	15 Ill.,	416.
Brackman, <i>et al.</i> , vs. McDonald,	16 "	112.
Cady vs. Hough,	20 "	45.
Richard K. Swift, <i>et al.</i> , vs. Green, <i>et al.</i> ,	20 "	173.
O'Conner, <i>et al.</i> , vs. Muller,	11 "	116.
Davidson, <i>et al.</i> , vs. Bond, <i>et al.</i> ,	12 "	84.

The case of Bissel *vs.* Briggs, 9, Massachusetts, star paging 470, Shaw, judge, maintains the same as above stated.

II.

The second plea of the defendant below, (Dunbar,) page 18 Abstract, "that the defendant, George Dunbar, was not personally served with any writ, notice, or process, and had no notice of the pendency of the said suit, in which judgment had been rendered in Mercy County, State of New Jersey, required the defendant in error in the trial of this cause below, to produce a judgment record from the court in Mercy County, New Jersey, properly authenticated, in which record it should be shown, on the inspection of such record, that the defendant in said suit in Mercy County, had been personally served with a writ, summons, notice, or some kind of process, giving to the defendants notice or information of the pendency of said suit in Mercy County Circuit Court, and that the same was given to the defendants in that suit before the rendering of said judgment, or that the defendants had appeared in said suit in Mercy County.

III.

We submit the only way that a record can show a service of process or notice of the pendency of a suit upon a defendant, is by setting forth in the record the service that was actually made by the officer making it, without such insertion of service in the record, as to service of process or notice upon defendant of the pendency of a suit, gives or affords not even presumptive evidence that the defendant in the record had notice of the pendency of the suit to give the court jurisdiction over person of defendant.

IV.

The record offered by the defendants in error on the trial below, in no part of the record, (see record, page 3 to 16,) shows a service of process or notice upon the defendants of the pendency of a suit or a suit to be commenced in the Circuit Court of Mercy County, New Jersey, before the rendition of said judgment, or any appearance by the defendants or either of them in said suit.

V.

A recital is no part of the record.

Hall *vs.* Williams, 6 Pick, star paging 247.

The record of the judgment offered by the defendants in error in the Court below and read in evidence, *recited in the declaration*, that the defendants had been duly summoned, etc. See page 3 to 16 of Abstract of case. The declaration would have been good without such recital, and was not necessary; it neither makes evidence of the fact, that the defendants were summoned or not summoned. Such recital with an averment in a declaration, is but a naked statement of the plaintiff or his attorney, not founded on any fact proven or shown in the record or case. Such recital, with an averment, was immaterial, and shows nothing, even in a record.

It was not a subject matter in controversy, and could not in any way be put in issue; and, hence, *those words* are simply recital or naked statements, and no part of the record.

VI.

We think a proper test of the question, whether a recital in a declaration of the words "the defendant being summoned," can amount to *prima* evidence of proof of service or notice of the pendency of a suit to a defendant, to give the Court jurisdiction over the defendant, would be if the defendant in the suit had pleaded in abatement to the jurisdiction of the Court, because he had not been served with process or had due notice as required by the law of the State, of the commencement or pendency of the suit. Would the Court, upon the declaration being produced, in which it was recited that the defendant had been summoned, etc., rule that such recital was evidence or proof—even *prima facie*—that the defendant had been summoned by service of process or had had notice of the pendency of the suit in such a case? Would the judgment of the Court be *respondeat ouster*? We submit respectfully that such would not be the judgment of the Court.

Pates & Fowler

Attorneys for
Pippin Error

102
Supreme Court of Illinois
Third Grand Juror

George Dunbar
Wife + c.

— " — Plff in Error
Morris L. Stallwell
vs ad
Defds in Error

Points of Plff in
Error

Filed March 28. 1864

J. L. Lindell.

SUPREME COURT OF ILLINOIS,

THIRD GRAND DIVISION, }
APRIL TERM, A.D. 1864. }

George Dunbar, impleaded with Theodore S. Morrell,
Plaintiff in Error,

vs.

Morris L. Hallowell, James Traquair,
Joshua L. Hallowell, Arthur W. Little,
Thomas W. Sweeney, and Enoch R. Hutchinson,
Defendants in Error.

ABSTRACT OF RECORD AND POINTS.

Rec. p. 2. This action was brought in the Circuit Court of Cook County, at the January term, 1863.

3 to 16 **The Plaintiff's Declaration** was filed on the 26th December, 1862, and contained one count in debt on a judgment record of the Circuit Court of Trenton, in the State of New Jersey, in favor of the above named defendants in error *vs* the plaintiff in error; docketed the 6th day of September, 1858. in the county of Mercer, transcript of which judgment record is appended to said declaration, and two other counts subsequently stricken out.

The Defendants, on the 29th of January, 1862, filed four pleas as follows:—

3 to 17 1. Nil tiel record.

18 2. That the defendant, George Dunbar, was not personally served with any writ, notice or process, and had no notice of the pendency of the said suit in which judgment had been rendered.

3. Nil debit.

19 4. That defendant did not, within five years, undertake and
 promise as in said plaintiff's declaration.

5 Statute Limitations.

22 On the 24th February, 1862, the plaintiffs filed their replication
 to defendant's first plea: There then was such a record. To the
 defendant's second plea, that defendant was personally served with
 a writ, notice or process, in said suit, and that he had notice there-
 of. Third, that the cause of action arose within five years next
 25 before the commencement of this suit.

Page 24 Fourth. That the said George Dunbar did undertake and
 promise in manner and form within five years.

 At the April term, 1863, on the 13th day of April, the third
 count of plaintiff's declaration was stricken from the files, and a
 jury being waived the cause was thereupon submitted to the court,
 Page 27 on the issues raised by the pleas and replications, who took the
 same under advisement and afterwards, on the 23rd of September,
 1863, the court found the issues for the plaintiffs and rendered
 judgment for them in debt for the sum of \$608.22 and damages
 \$291.94.

 Thereupon the defendants moved the court for a new trial,
 because there was no other proof adduced before the court on the
 trial to establish the fact that the defendant, George Dunbar, had
 been served with any notice, or process, or writ, or had had any
 Page 28 notice of the said suit in New Jersey, except that contained in the
 transcript of the record appended to plaintiff's declaration, and
 that said transcript did not contain prima facie evidence to sustain
 Page 29 the issue created by the pleadings, which said motion the court
 overruled and allowed the defendants ninety days within which to
 file their bill of exceptions.

 Which said bill of exceptions so filed by the defendants, after
 Page 29 stating the pleadings and issue, states, that for the purpose of
 to 58 proving the issue that the defendant, George Dunbar, had ever
 been personally served with notice or process, in the said suit
 wherein said judgment was rendered in New Jersey, offered in
 evidence the exemplification of said judgment record, to which the
 defendants did then and there object, *because the said exemplifica-*

tion did not show that the said George Dunbar had ever had any notice of the pendency of said suit mentioned in said declaration, and that by said exemplification it did *not* appear that said George
Page 58 Dunbar and Theodore S. Morrell, or either of them, had, in person or by attorney or otherwise, appeared in said suit mentioned in said exemplification; and that the court rendering the said judgment
Page 59 had no jurisdiction over the said defendants, or either of them, whereby to render the said judgment mentioned in the said exemplification against said defendants or either of them. Bnt the Circuit Court did then and there declare and deliver the opinion, that the objection taken by the counsel of said defendant ought not to be allowed, but that the said exemplification did contain sufficient evidence of a judgment against said defendants, by a court having jurisdiction over said defendants, and the cause therein mentioned, to render the judgment described in said exemplification the defendants then and there excepted.

The Defendant in the court below sued out a writ of error from this court to review said proceedings, and assigns error:

1. That the court erred in admitting the exemplification in evidence to show or prove the judgment against the appellant in said exemplification mentioned.
- Page 61 2. That the court erred in deciding that the court in New Jersey had jurisdiction of the parties defendants in the judgment set forth in said exemplification.
3. That the court erred in deciding that the exemplification of the judgment record, offered in evidence by the plaintiffs, was prima facie evidence that the defendants had been brought into court by due service of process or otherwise.

POINTS FOR PLAINTIFF IN ERROR.

I.

The court erred in deciding that the exemplification of the judgment record declared upon in said cause and offered in evidence by the plaintiffs, contained prima facie evidence that the

[4].

plaintiffs in error had been served with process or notice, or had ever appeared, or had been duly summoned in the said cause wherein judgment was rendered, as set forth in said exemplification.

II.

The court erred in deciding that the exemplification of judgment record declared upon and offered in evidence, contained prima facie evidence that said court in which said judgment had been entered had jurisdiction, by personal service of summons, notice or process, or otherwise, over the defendants in said judgment.

III.

The court erred in overruling the objections made by plaintiffs in error to the reading, in the trial of said cause, the exemplification of the judgment record, declared upon and offered in evidence, and in rendering judgment on said exemplification as containing evidence that the defendants in said exemplified judgment had been duly summoned in said cause, and had appeared therein.

BATES & TOUSLEE,

Attys Pltff in Error.

102
Supreme Court. 77
3rd Grand Division

George Dunbar impleaded
with Theodas S. Merrill
plaintiff in Error

Morris L. Hallowell vs
Defts, in Error

Abstract of Record & Points,

Filed March 5. 1824

L. Deland
Clerk

SUPREME COURT OF ILLINOIS.

Third Grand Division. }
APRIL TERM, A.D. 1864. }

GEORGE DUNBAR, impleaded, etc., Plaintiff in Error,	}	ERROR TO COOK.
V S. MORRIS L. HOLLOWELL, et al., Defendant in Error.		

ADDITIONAL ABSTRACT.

- 1 Placita, security for costs.
- 2 Process against George Dunbar and Theodore F. Morrell,
served on Dunbar. (See p. 21 for sheriff's return.)
- 3 Declaration.

1st count on judgment record in favor of Morris L. Hollowell *et al.*, and against George Dunbar and Theodore F. Morrell, recorded in circuit court of Mercer county, New Jersey.

4 5 2nd count on said judgment record.

6 3rd count, common count.

8 to 16 Copy of record sued on.

16 Pleas of George Dunbar, filed December 29th, 1862.

17 1st plea to first and second counts, *nul tiel record*.

17 2nd plea to first and second counts, *actio non*, because he,
18 said George Dunbar, "was not personally served with any writ, notice or process, and had no notice of the pendency of the said suit in which the judgment was recovered as mentioned and set forth in the said first and second counts of said plaintiff's declaration, and each count thereof, and that de did not appear in said suit, or litigate or defend the same, either in person or by attorney, or by any other person," etc. Concludes with verification.

18 3rd plea to third count, *nil debit*, concluding to the country
19 and issue joined.

4th plea to third count, that defendant Dunbar did not undertake or promise as, alleged in said third count, within five years. Concludes with verification.

20 5th plea to the third count, that the causes of action in third count in said declaration mentioned, did not accrue within five years. Concludes with a verification.

Pleas sworn to.

21 Replications filed.

²² 1st replication to first plea, that there is such a record as the plaintiffs are ready to verify by said record, and concludes to the court.

²³ 2nd replication, that Dunbar was served with a writ, notice or process, and had notice of the pendency of the suit in which said judgment was recovered, etc. Concludes to the country.

Issue joined on 3rd plea, see page 19.

²³ Replication to 4th plea, that the promise and undertaking was as alleged. Concludes to the country.

Replication to 5th plea, that causes of action did accrue within five years, etc. Concludes to country.

²⁴ Rejoinders filed.

²⁵ To replication to 1st plea, *nul tiel record* and verification.

²³ To replication to second plea, that Dunbar^r was not served, etc., concludes to the country.

To replication to 4th plea, that Dunbar did not undertake or promise, etc., concludes to the country.

To replication to 5th plea, that causes of action did not accrue within five years, concludes to the country.

²⁷ April 13th, 1863, rejoinders stricken from the files on plaintiff's motion, "and thereupon, on the further motion of said plaintiffs, no objection being made thereto, leave

was given to plaintiffs to withdraw the 3rd count of their declaration." Defendant thereupon joins issue on replications to 1st and 2nd pleas. See pages 22 and 23 of record.

27 Cause submitted to court for trial, and taken under advisement.

28 September 23rd, 1863, court finds the issues for plaintiffs; debt \$608.22 and damages \$291.94.

29 Motion for new trial overruled and exception.

Judgment on finding for debt and damages as aforesaid, and costs.

30 BILL OF EXCEPTIONS.

31 to 49 Declaration, pleas, etc., set out again.

50 To prove the issue made in this cause, the plaintiffs offered in evidence a certain exemplification of a judgment record as follows :

" Morris L. Hollowell, " James Fraquair, " Joshua L. Hollowell, " Arthur N. Little, " Thos. W. Sweeny and " Enoch R. Hutchinson, Trading as " Morris L. Hollowell & Co. vs. " George Dunbar and " Theodore S. Morrell, Trading as " Dunbar & Morrell.	} In Case, Judgment by Default. A. Dutcher, <i>Attorney.</i>	{ As yet of the thirtieth day of July, in the year of our Lord one thousand eight hundred and fifty-five.
--	--	--

" WITNESSES. Henry W. Green, Esq., Judge,
Wm. R. Murphy, Clerk.

" MERCER COUNTY, ss.

" Morris L. Hollowell, James Fraquair, Joshua L. Hollowell,

51 " Arthur W. Little, Thomas W. Sweeny and Enoch R.
 " Hutchinson, partners, trading as Morris L. Hollowell &
 " Company, the plaintiffs in this suit, put in their place
 " Andrew Dutcher, their attorney therein, against George
 " Dunbar and Theodore S. Morrell, partners trading as
 " Dunbar & Morrell, defendants therein of a plea of tres-
 " pass on the case upon promises. Mercer County Circuit
 " Court of the thirtieth day of July, in the year eighteen
 " hundred and fifty-five."

" MERCER COUNTY, ss.

" George Dunbar and Theodore S Morrell, partners trading
 " as Dunbar & Morrell, the defendants in this suit, were
 " summoned to answer Morris L. Hollowell, James Fraquair,
 " Joshua L. Hollowell, Arthur W. Little, Thomas W.
 " Sweeny and Enoch R. Hutchinson, partners trading as
 " Morris L. Hollowell & Company, the plaintiffs therein, of
 " a plea of trespass on the case upon promises, and the said
 " plaintiffs, by Andrew Dutcher, their attorney, complain :
 " For that whereas, the said defendants heretofore, to wit :
 " on the 1st day of July, in the year of our Lord one thou-
 " sand eight hundred and fifty-five, at Trenton, in county of
 " Mercer, aforesaid, and within the jurisdiction of this court,
 " were indebted to the said plaintiffs," etc.

52 [Here follows the common counts for goods, wares and
 53 merchandise, work and labor, money paid, etc., *ad damnum*
 \$1,000. Copy of account sued on.] The transcript thus
 continues :

56 " And now at this day, to wit: on the sixth day of Sept.,
 " in the year of our Lord one thousand eight hundred and
 " fifty-five, before the circuit court of the county of Mercer,
 " at Trenton, came the said plaintiffs, by their attorney
 " aforesaid, and the said defendants, though solemnly called,
 " came not, but make default, whereby the said plaintiffs

"remain therein undefended against them, and hereupon
 "the said plaintiffs pray judgment and their damages by
 "reason of the premises, to be adjudged to them, and be-
 "cause it is suggested and proved to the court now here,
 "that the said plaintiffs have sustained damages by reason
 "of the non-performance of the promises and assumptions
 "in their declaration mentioned, to five hundred and seven-
 "ty-nine dollars and fifty-seven cents, besides their costs and
 "charges by them about their suit in that behalf expended.
 "Therefore it is considered that the said Morris L. ~~Hollo-~~^{Howell}
 "well, ~~Arthur W. Little, Thomas W. Sweeny and Enoch~~^{James Magnan, George S. Hallonell}
 "R. Hutchinson, trading as Morris L. ~~Hollo-~~^{Howell} and Com-
 57 "pany, do recover against the said George Dunbar and
 "Theodore S. Morrell, trading as Dunbar & Morrell, their
 "said damages in form aforesaid, assessed to five hundred
 "and seventy-nine dollars and fifty-nine cents, and also
 "twenty-eight dollars and sixty-five cents for their costs
 "and damages aforesaid, by the court now here adjudged
 "to the said plaintiffs and with their assent, which said
 "damages, costs and charges, in the whole, amount to six
 "hundred and eight dollars and twenty-four cents, and the
 "said George and Theodore S. in mercy, etc. Judgment
 "signed this sixth day of September, in the year of our
 "Lord one thousand eight hundred and fifty-five."

"Henry W. Green."

Certificate of Robert C. Belville, clerk of the circuit
 court of Mercer county, in the State of New Jersey, that
 the foregoing is a true and full transcript of the judgment,
 etc. Signed by said clerk, and the seal of the court affixed
 December 1st, 1862.

58

Certificate under date of Dec. 1st, 1862, of John Van
 Dyke, one of the associate justices of the Supreme Court
 of New Jersey, and ex-officio presiding judge of the Mercer
 county circuit court, that the transcript and attestation are

in due form and by the proper officer, and that Belville is clerk of said court and has custody of its records, and that his signature is genuine.

Certificate of clerk of the Supreme Court of New Jersey, under its seal, that John Van Dyke is now, and was at the time of issuing the last named certificate, justice of Supreme Court and ex-officio judge of the Mercer county circuit court, that his signature is genuine and his certificate in due form of law

59

The bill of exceptions thus continues: "But to the reading of the same in evidence the said counsel for the said defendant did then and there object, because the said exemplification did not show that the defendant had ever been personally served with process in said suit, and that it did not show that said defendant had ever had any notice of the pendency of said suit mentioned in said exemplification, and that by said exemplification it did appear that said defendant, or either of them, had, neither in person or by attorney, appeared in said suit mentioned in said exemplification. And that the court rendering the judgment against said defendants, in the said suit mentioned in the said exemplification, had no jurisdiction over the said defendants, or either of them, whereby to render the said judgment mentioned in the said exemplification against said defendants or either of them.

"But the said circuit court did then and there declare and deliver the opinion, that the said objection so taken by the said counsel for the said defendant as aforesaid, ought not to be allowed, but that the said exemplification did contain sufficient evidence of a judgment against said defendants, by a court having jurisdiction over said defendants and the cause therein mentioned, to render the judgment described in said exemplification. And the

60

"said court, upon the said issue submitted to him, found a
 "verdict for the plaintiffs for six hundred and eight dollars
 "and twenty cents debt and two hundred and ninety-one
 "dollars and ninety-five cents damages and
 "six cents costs. And because none of the said objections
 "so offered and made to the opinion and decision of the
 "said circuit court do appear upon the record of the said
 "trial, therefore on the prayer of the said defendant, by
 "his counsel, the judge of the said circuit court hath to this
 "bill of exceptions put his seal according to the statute in
 "such case made and provided, this day of September,
 "A. D. 1863.

" E. S. Williams, [seal]"

61

Clerks certificate to record.

ERRORS ASSIGNED.

1st. That the court erred in admitting the exemplification in evidence, to show or prove the judgment against the appellant in said exemplification mentioned and declared upon.

2nd. That the court erred in deciding that the court had jurisdiction of the parties defendant, in the judgment set forth in said exemplification.

3rd. That the court erred in deciding that the exemplification of the judgment record, offered in evidence by the plaintiff, was *prima facie* evidence that the defendants had been brought into court by service of process or otherwise.

BATES & TOWSLEE,

Attys for Plaintiff in Error

Supreme Court

George Dunbar
Imp'to.

Monis S. Walling
Etal
Deft in Error

Additional, Abstract

Know all men by these presents, that Mr George Dunbar of Cook County, State of Illinois, and Morris S. Seminds of the County of Cook, and State of Illinois, are held and firmly bound unto Morris S. Hallowell, James Fraquair, Joseph S. Hallowell, Arthur W. Little, Thomas W. Sweeney & Enoch R. Hutchinson, of Pennsylvania in the penal sum of nineteen hundred dollars, lawful money of the United States, for the payment of which, well and truly to be made, We bind ourselves, our heirs, Executors and administrators jointly, severally and firmly by these presents.

Witness our hands and seals this 25th day of January 1864. The Condition of the above Obligation is such, that whereas the said Morris S. Hallowell, James Fraquair, Joseph S. Hallowell, Arthur W. Little, Thomas W. Sweeney & Enoch R. Hutchinson, did on the 23rd day of September A.D. 1863 in the Circuit Court of Chicago, in and for the County of Cook, and State aforesaid and of the September Term thereof A.D. 1863 receive a judgement against the above bounden George Dunbar in plaintiff &c for the sum Six Hundred Eighteen dollars & twenty two cents debt, and two hundred ninety one dollars and ninety four cents besides costs of suit; from which said judgement of the said Circuit Court of Chicago, the said George Dunbar has prayed for, and obtained an writ of error to the Supreme Court of said State.

Now therefore, if the said George Dunbar, shall duly prosecute his said writ with effect, and make over, pay the amount of the judgement, costs, interest and damages rendered, and to be rendered, against him, in case the said judgement shall be affirmed in said Supreme Court, then the

above Obligations to bind, otherwise to remain in full
force and virtue

Notary Public of Ill.
H. L. Simonds Ill.

State of Illinois

Cook County, p Henry L. Simonds of Cook County,
City of Chicago
against a. being duly sworn, on oath s., that he is worth
the sum of two thousand dollars, and above the p., net
of all demands & debts against him.

Subscribed & sworn before me

H. L. Simonds

this 13th day of June 1864

Charles A. Gregory

Notary Public.



102 77

Morris L. Hallawell

et al

or

George Dunbar
supt

in p. co.

Bond for Supervisors

Filed March 5th 1864
L. Leland
Clerk

In Supreme Court of Illinois
April 1. 1864

George Dunbar
^{unpleaded to}
Defendant in Error

Monie L. Hollowell
^{only}
Defendant in Error

On behalf of Defendants in Error the
following additional suggestions are
submitted

The judgments of the Court below
must be affirmed because

1st No reasons for the motion for
new trial are stated or appear
in the record

2^d No motion for new trial or
exceptions to the overruling thereof
appear in the bill of exceptions

"The Clerk" states in the record, that
the Defendant excepted to the overruling
of the motion for a new trial - but
that does not make it a part
of the record - It can only be

made so, by a bill of exceptions "
Boyle v Levinger, 28 Ill. 514, 516

3^d It does not appear that the admission of the judgment record in evidence was excepted to -

4th No exceptions are stated or preserved
by ^{in or} the bill of exceptions,

Fuller, Ham & Shepard
Attys for Defr. in error

Memo. The additional abstract was drawn
by myself but printed under the
supervision of the Council for P. O. in
error. It contains some typographical
errors - among others, the name Hallmell
is repeatedly spelled Hollomell - The
record is correct however - ^{in the statement of} So too ^{the abstract} the transcript
of the record in the present leaves out some of the parties
off. These names I have supplied. There are other
slight blunders of the printer but the additional
abstract is submitted as sufficient

M. W. Fuller

Supreme Court

Dumbaul &
rel. in turn.

Hallowed day
Defendant

additional suggestions
for Defendant

In Supreme Court of Illinois

George Dunbar

April 17. 1864

impleaded by
Plf. in Error

Morris L. Hallowell
V. G.

Defendant in Error

It is hereby agreed by & between the Council
of the parties to the above entitled cause
that the continuance therein before
entered may be set aside & the ^{order} of
submission of said cause on printed
arguments filed, may be reinstated
and said cause determined as of
the term of said Court - sufficiently
abstracts being supplied -

Chicago, June 16. 1864.

Fuller, Hume & Shepard
Attys for Defr
in Error

Bates & Tawles
Attys for Plff in Error

Indepene Court

George Funtad
v

M. L. Hallomell
vs

Stipulation

STATE OF ILLINOIS, }
SUPREME COURT,

ss. The People of the State of Illinois,

To the Clerk of the circuit Court for the County of Cook Greeting:

Because, In the record and proceedings, as also in the rendition of the judgments of a plea which was in the circuit Court of Cook County, before the Judge thereof, between Morris L. Hallowell, James Traquair, Joshua L. Hallowell, Arthur W. Little, Thomas W. Sweeney & Bush R. Hutchinson

complaints and George Dunbar & Theodore S. Mowell

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

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

Pinckney H. Walker

Witness, The Hon. JOHN D. CATON, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this fifth day of March in the Year of Our Lord One Thousand Eight Hundred and Sixty four

L. Leland

Clerk of the Supreme Court.

J. B. Rice Deputy

George Dunbar

No.

vs.

Morris L. Hallman

et al.

WRIT OF ERROR.

This Writ of Error is made a
Supersedeas, and as such is to be
obeyed by all concerned.

L. Leland

Clerk.
J. M. Davis

FILED

March 5th

A. D. 186

4

L. Leland

Clerk.



STATE OF ILLINOIS,
SUPREME COURT.

} ss. The People of the State of Illinois,

To the Sheriff of Cook County, GREETING:

Because, In the record and proceedings, and also in the rendition of the judgments of a plea which was in the Circuit Court of Cook County, before the Judge thereof; between Morris L. Hallowell, James Tragnair, Joshua L. Hallowell, Arthur W. Little, Thomas W. Sweeney & Enoch R. Hutchinson plaintiffs, and George Dunbar & Theodore S. Monell

defendants, it is said that manifest error hath intervened, to the injury of the said George Dunbar

as we are informed by his complainant the record and proceedings of which said judgments we have caused to be brought into our Supreme Court of the State of Illinois, at Ottawa, before the Justices thereof, to correct the errors in the same, in due form and manner, according to law: Therefore, We Command You, That by good and lawful men of your County, you give notice to the said Morris L. Hallowell, James Tragnair, Joshua L. Hallowell, Arthur W. Little, Thomas W. Sweeney & Enoch R. Hutchinson

that they be and appear before the Justices of our said Supreme Court, at the next term of said Court, to be holden at Ottawa, in said State, on the first Tuesday after the third Monday in April next, to hear the record and proceedings aforesaid, and the errors assigned, if they shall see fit; and further to do and receive what said Court shall order in this behalf; and have you then there the names of those by whom you shall give the said Morris L. Hallowell, James Tragnair, Joshua L. Hallowell, Arthur W. Little, Thomas W. Sweeney & Enoch R. Hutchinson notice, together with this writ.

Witness, The Hon. John A. Eaton, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this fourth day of March in the year of our Lord One Thousand Eight Hundred and Fifty-four

L. Deland

Clerk of the Supreme Court.
J. B. Hill Deputy

57 f

George Dunbar

No. vs.
Monis L. Halliwell
Notes

SCIRE FACIAS.

14591

Filed Dec 11 A. D. 1865

Clerk.

The within named defendant
did not appear in my
court the 3^d day of April
1865
J. M. Nelson, Sheriff
Return



[Faint, mostly illegible handwritten text, likely bleed-through from the reverse side of the page.]

UNITED STATES OF AMERICA,

STATE OF ILLINOIS, COUNTY OF COOK, SS.

Shews, before the Honorable Erastus S. Williams Judge of the Seventh Judicial Circuit of the State of Illinois, and sole presiding Judge of the Circuit Court of Cook County, in the State aforesaid, and at a term thereof begun and held at the Court House in the City of Chicago, in said County, on the first Monday, (being the seventh day) of September in the year of our Lord One Thousand Eight Hundred and Sixty Three and of the Independence of the said United States the Eighty Eighth.

Present, Honorable Erastus S. Williams Judge of the 7th Judicial Circuit }
of the State of Illinois. }

Joseph Knox States Attorney.

David S. Hammond Sheriff of Cook County.

Attest, Wm. L. Church Clerk.

Page 11 Be it remembered, that heretofore to wit: on the fifth day of December in the year of our Lord One Thousand Eight Hundred and Sixty Two Morris L. Hallowell, James Fraquair, Joshua L. Hallowell, Arthur W. Little, Thomas W. Sweeney and Enoch R. Hutchinson by their Attorneys Fuller & Nam filed in the Office of the Clerk of said Court their certain Bond for costs, in the words and figures following, to wit:

Morris L. Hallowell & al
George Dunbar & al } Circuit Court of
Cook County
I hereby enter myself
security for costs in this cause and acknowledge
myself bound to pay or cause to be paid all

costs, which may accrue in this action, either to the opposite party or to any of the officers of this Court in pursuance of the laws of this State.

Dated this fifth day } Charles W Ham Seal
of December A D 1862 }

And thereupon, to wit: on the same day and year last aforesaid there issued out of said Court and under the seal thereof the Peoples Writ of Summons directed to the Sheriff of Cook County to execute, which is clothed in the words and figures following to wit:

State of Illinois }
Cook County } p.

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

We command you, that you summon George Dunbar and Theodore S. Harrell, if they shall be found in your County, personally to be and appear before the Circuit Court of Cook County on the first day of the next term thereof, to be holden at the Court House in Chicago in said County of Cook on the first Monday of January next to answer unto Morris L. Hollowell, James Fraquair, Joshua L. Hollowell, Arthur W. Little, Thomas W. Sweeney

Page 3:

and Enoch R Hutchinson in a plea of Debt, to the damage of the said Plaintiff as is said, in the sum of Fifteen Hundred Dollars.

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

50cts Rev. Stamp



Witness William L Church, Clerk
of our said Court and the seal
thereof at Chicago aforesaid this
fifth day of December AD 1862
Wm. L Church, Clerk

And afterwards, to wit: on the 26th day of December in the year last aforesaid the said Com^{rs} plaintiffs by their Attorneys filed in said Court their certain declaration in the words and figures following, to wit:

State of Illinois }
Cook County } p.

Circuit Court within
and for said County.
January Term AD 1863.

Morris L Halliwell, James Traquair, Joshua L Halliwell, Arthur W Little, Thomas McSherry and Enoch R Hutchinson, partners in trade under the firm name and style of Morris L Halliwell & Company, plaintiffs in this suit by Fuller & Ham their Attorneys, complain of George Dunbar and Theodore L Morrell

Page 14

partners in trade under the firm name and style of
Dunbar & Morrell, defendants of a plea, that they
render to the said plaintiffs the sum of One Thousand
Dollars, which they owe to and unjustly detain from
them. For that whereas the said plaintiffs heretofore
to wit, on the sixth day of September, in the year of
our Lord One Thousand Eight Hundred and Fifty five
at a Circuit Court holden in Trenton within and
for the County of Mercer in the State of New Jersey
by the consideration and judgment of the said
Circuit Court of said Mercer County, recovered
against the said defendants the sum of Five
Hundred and Seventy Nine dollars and fifty seven
cents for the damages, which said plaintiffs had
sustained by reason of the non performance by
the said defendants of certain promises and
undertakings, then lately made by the said
defendants to the said plaintiffs and the sum
of Twenty Eight Dollars and sixty two cents
for the said plaintiffs costs and charges by them
about their suit in that behalf expended, whereof
the said defendants were convicted (being the
sum of Six Hundred and Eight Dollars and
twenty two cents in all and parcel of the said
sum of One Thousand dollars above demanded)
as by the record and proceedings thereof, remaining
in the said Circuit Court, holden in Trenton
within and for the County of Mercer in the

3
Page 5-

State of New Jersey aforesaid, more fully appears, a copy of which said record and proceedings, duly authenticated the said plaintiffs here in Court produce, which said judgment still remains in full force and effect, not reversed, satisfied or otherwise vacated and the said plaintiffs have not obtained any satisfaction of or upon the said judgment, so recovered as aforesaid, whereby an action hath accrued to the said plaintiffs to demand and have of and from the said defendants the said sum of Six Hundred and Eight Dollars and twenty two cents, parcel of the said sum above demanded, to wit: at Cook County aforesaid.

And also for that whereas the said plaintiffs heretofore to wit: on the sixth day of September in the year of our Lord One Thousand Eight Hundred and Fifty five at a Circuit Court, holden in Trenton within and for the County of Mercer in the State of New Jersey by the consideration and judgment of the said Court recovered against the said defendants the sum of Six Hundred and Eight dollars and twenty two cents, parcel of the said sum of One Thousand dollars above demanded, which in and by the said Court were then and there adjudged to the said plaintiffs for their damages which they had sustained as well by reason

of the non performance by the said defendants of certain promises and undertakings, then lately made by the said defendants to the said plaintiffs, as for their costs and charges by them about their suit in that behalf expended, whereof the said defendants were convicted as by the record and proceedings thereof remaining in the said Circuit Court holden in Trenton within and for the County of Mercer in the State of New Jersey aforesaid more fully appears, a copy of which record and proceedings duly authenticated, the said plaintiffs here in Court produce, which said judgment still remains in full force and effect not reversed, satisfied or otherwise vacated, and the said plaintiffs hath not obtained any satisfaction of or upon the said judgment so recovered as aforesaid, whereby an action hath accrued to the said plaintiffs to demand and have of and from the said defendants the said sum of Six Hundred and Eight dollars and twenty two cents, parcel of the said sum above demanded, to wit: at Cook County aforesaid.

And whereas also the said Defendants, afterwards to wit: on the first day of December in the year of our Lord One Thousand Eight Hundred and Sixty two, at Cook County

4
Page 7.

aforesaid was indebted to the said plaintiffs in the sum of One Thousand Dollars of like lawful money for divers goods, wares and merchandize by the said plaintiffs before that time bargained and sold to the said defendants and at their special instance and request and to be paid by the said defendants to the said plaintiffs, when they the said defendants should thereunto afterwards be requested: whereby and by reason of the said last mentioned sum of money being and remaining wholly unpaid, an action hath accrued to the said plaintiffs to demand and have of and from the said defendants the sum of One Thousand Dollars above demanded, to wit: at Cook County aforesaid.

Yet the said Defendants (although often requested so to do) have not as yet paid the said sum of One Thousand dollars above demanded or any part thereof, or any of the said several sums of money above demanded to the said plaintiffs. But to do this, they have hitherto wholly refused and still do refuse to the damage of the said plaintiffs of Fifteen Hundred Dollars and therefore they bring their suit &c

Fuller & Ham
Plaintiffs Attys.

Copy of Instrument sued upon

Morris L Hallowell
 James Fraguair
 Joshua L Hallowell
 Arthur W Little
 Thomas W Sweeney and
 Enoch R Hutchinson
 trading as Morris L Hallowell
 and Company.

vs.

George Dunbar and
 Theodore S Morrell
 trading as Dunbar and Morrell

In case
 Judgment
 by
 default
 A Dutcher
 Attorney

As yet of
 the thirtieth
 day of July
 in the year
 of our Lord
 One Thousand
 Eight Hundred
 and
 Fifty five.

Witness: Henry W Green Esquire, Judge
 Wm R Murphy, Clerk

Mercer County Ip:

Morris L Hallowell,
 James Fraguair, Joshua L Hallowell,
 Arthur W Little, Thomas W Sweeney and
 Enoch R Hutchinson, partners trading as
 Morris L Hallowell and Company, the
 plaintiffs in this suit put in their place
 Andrew Dutcher, their Attorney therein against George Dunbar
 and Theodore S Morrell, partners trading as
 Dunbar and Morrell, the defendants therein
 of a plea of trespass on the case upon promises.
 Mercer County Circuit Court of the thirtieth

5
Page 9: day of July in the year of our Lord Eighteen Hundred and Fifty five.

Mercer County Is:

George Dunbar and Theodore S Morrell, partners trading as Dunbar and Morrell the defendants in this suit were summoned to answer Morris L Mallowell, James Traquair, Joshua L Mallowell, Arthur W Little, Thomas McSwaney and Enoch R Hutchinson, partners trading as Morris L Mallowell and Company the plaintiffs therein of a plea of trespass on the case upon premises, and thereupon the said plaintiffs by Andrew Dutcher their Attorney complain: For that whereas the said defendants heretofore to wit: on the first day of July in the year of our Lord One Thousand Eight Hundred and Fifty five at Spenton in the County of Mercer aforesaid and within the jurisdiction of this Court were indebted to the said plaintiffs in the sum of Two Hundred and Seventy Six dollars and Sixty Nine cents for goods wares and merchandize sold and delivered by the said plaintiff to the defendants at their request and in One thousand dollars for work done and materials for the same provided by the plaintiffs for the defendants at their request, and in One Thousand dollars for money paid by the plaintiffs for the use of the defendants at their

request, and in One thousand dollars for money received by the defendants for the use of the plaintiffs and in One Thousand dollars for the interest for the forbearance by the plaintiffs at the defendants request of money due and owing from the defendants to the plaintiffs and in One thousand dollars for money found to be due from the defendants to the plaintiffs on an account stated between them. And the defendants afterwards on the day and year at Trenton aforesaid in consideration of the premises respectively, then and there promised the plaintiffs to pay the said several sums of money, respectively upon request. Yet the said defendants have disregarded their promises in that behalf and have not paid the said several moneys or any part thereof to the plaintiffs, although often requested so to do to the damage of said plaintiffs - One thousand dollars and therefore they bring this suit &c.

Copy of Account and bill of particulars upon which the above suit is founded.

Dunbar & Morrell of Trent N.J.

Bought of Morris L. Wallowell & Co.
Importers and Dealers in Silk Dress Goods
Ribbons Embroideries &c No 147 Market
Street and 21 North Fourth Street.

Page 11

1854. 10 Mo 18th

1	3	Pp Printed de Laine	Yds 20	11	10.84
672	3	" " " "	80	21	16.85
2	2	Broche Sq. Shawls		5.50	11.00
3	1	" " "			6.25
4	2	" " "		16.00	32.00
					76.94

11 Mo. 13

1.	3	Bay State Shawls Sq.	1.50	4.50
2	3	" " " "	2.37	8.11
3	2	" " " "	2.62 ¹	5.25
or	2	" " " "	3.42	6.84
4	1	" " " "		3.70
or	2	" " " Long	3.50	7.00
9	2	" " " "	5.00	10.00
June	1	" " " "		5.50
July	2	" " " "	6.50	13.00
July	1	" " " " money		4.75-68.65

1855

4 Mo 4

1	Pp	Port Chally Bauge	22 ³ 18	4.10
11	"	Pouge Hdkp		4.50
6	Wt	India "	65	3.90
1/2	dy	Battin Cravats	8.00	4.00
June	1/4	BK Annue "	21.00	5.25
June	1/4	" " "	25.00	6.25
1	"	Gents Kids		10.50
1/2	"	Ladies	8.50	12.75

Page 12

10	2	Pt Cashmere Shawls	1.25	2.50	
11	2	" " "	2.00	4.00	
12	3	" " "	2.25	6.75	
Forward				64.50	145.59

Forward 64.50 145.59

13.	2	Pt Cashmere Shawls	3.50	7.00	
14.	1	" " "		4.50	
15.	1	" " "		6.00	82.00

1855

4 Mo 14

1	1	Pp Blk Wat Silk	7 ^d	1.25	8.75	
2	1	" " "	7.	0.50	10.50	
3	1	" " Tibet Shawl			5.00	
4	2	Printed Cash.	"	6.00	12.00	36.25

4 Mo 14

345	1	Pp Blk Silk Law	24 ^d	24	5.76	5.76
-----	---	-----------------	-----------------	----	------	------

4 Mo 16

1	3	Pp Plaid Genadine	42 ²	50	22.25	
2	2	" Gold Chally	23	50	11.50	33.75

4 Mo 23

1	3	Pp Plain Barge	62	18	11.16	
2	3	" " "	55	25	13.75	
3	1	" " "	24	28 ²	6.84	
4	1	" Printed	11 ³	35	4.09	
5	2	" Odd Tissue	44	25	11.00	
6	1	" Printed	43	20	8.60	
7	1	" " "	22	22 ²	4.95	
8	2	" " "	24	25	6.06	

Page 13.

9.	3	Ps	Gold Mexicanes	71	"	26 ²	18.82
10	3	"	Plaid	"	36	"	37 ² 13.78
11	2	"	Satin	"	22	"	40 8.80
12	1	"	Pt Chally Bangs	29 ³	"	18 ²	5.50
13.	3	"	"	Lawn	149 ²	"	11 ² 17.19
14	1	"	Sacred	"	39	"	15 6.05
15	3	"	"	"	113	"	16 ² 18.65
16	1	"	Chintz	"	21	"	21 4.41
17	1	"	"	"	18	"	25 4.50
18	2	"	Brilliant	"	42 ²	"	24 10.20
19	1	"	Green Vel Bangs	18 ³ / ₈	"	35	6.43
20	1	"	"	"	18 ²	"	45 8.32
	2	"	Fancy	"	"	25 ⁰	5.00
	10	"	Pt Cash Shawls			2.00	20.00

Forward _____ 214.10 303.35

Forward 214.10. 303.35

2	Sat	Pld	Bangs Shawls	1.75		3.50
1/2 doz	Grop	Cloth	Skirts	10.00		5.00
5710	4					222.60

1	2	Ps	Pt Chally Bangs	73@	17	12.41
2	2	"	"	"	56@	18 10.08
3	5		Cashmere Shawls		4.00	20.00
	2	1/4	Embr Table Covers		1.50	3.00
	1		Marsilles Quilt			2.75
	1		"			2.50

_____ 50.74

\$ 576.69

And now at this day to wit: on the sixth day of September in the year of our Lord One thousand Eight Hundred and Fifty five before the Circuit Court of the County of Mercer at Trenton come the said defendants plaintiffs by their Attorney aforesaid and the said defendants although solemnly called come not, but make default, whereby the said plaintiffs remain therein undefended against them and hereupon said plaintiffs pray judgment and their damages by reason of the premises, to be adjudged to them and because it is suggested and proved to the Court now here, that the said plaintiffs have sustained damages by reason of the non performance of the promises and assumptions in their declaration mentioned to Five Hundred and Seventy Nine dollars and fifty seven cents, besides their costs and charges by them about their suit in that behalf expended. Therefore it is considered, that the said Morris L Hallorvell, James Fraquair Joshua L Hallorvell, Arthur W Little, Thomas W Sweeney and Enoch R Hutchinson, trading as Morris L Hallorvell and Company do recover against the said George Dunbar and Theodore I Morrell, trading as Dunbar and Morrell their said damages in form aforesaid assessed to Five Hundred and Seventy Nine dollars and fifty seven cents and also twenty eight dollars and

Page 15. Sixty five cents for their costs and damages aforesaid by the Court now here adjudged to the said plaintiff and with their assents, which said damages, costs and charges in the whole amount to Six Hundred and Eight dollars and twenty two cents.

And the said George and Theodore I in mercy &c.
Judgment signed this sixth day of September in the year of our Lord One Thousand Eight Hundred and Fifty five

(Signed, Henry W Green

State of New Jersey

Mercer County } S. Robert C Belville
Clerk of the Circuit Court in and for the said County of Mercer do hereby certify, that the foregoing is a true and full transcript of the judgment and proceedings in the above stated cause as fully and entirely as the same remain of record and on file in my Office.

In testimony whereof I have hereunto set my hand and affixed the seal of said Court at Trenton this 1st day of December A D 1862

Official
Seal

(Signed) R C Belville, Clerk

State of New Jersey

Mercer County } S. John Van Dyke, one
of the associate justices of the Supreme Court of New Jersey and ex officio presiding Judge of the Mercer County Circuit Court do hereby certify, that the foregoing transcript and attestation are

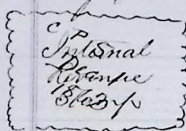
in due form and by the proper officer and that Robert C. Pitville, whose name is signed thereto is Clerk of said Mercer County Circuit Court and has the custody of the records of said Court and his signature is genuine.

Witness my hand this first day of December
A D 1862.

(Signed) John Van Dyke
Jus Sup. Court.

I, Charles T. Smith, Clerk of the Supreme Court of the State of New Jersey do hereby certify, that the Honorable John Van Dyke, whose name is affixed to the foregoing certificate is now and was at the time of signing thereof Justice of said Court and ex officio Judge of the Mercer County Circuit Court and that the signature "John Van Dyke" is in the proper hand writing of the said Justice and that the said certificate is in due form of law.

In testimony whereof I have hereto affixed the seal of said Court this first day of December 1862.



(Signed) Ch. T. Smith, Clerk

And afterwards, to wit: on the 29th day of December
A D 1862, ^{George Dunbar, one of} the said defendants, by his Attorneys Bates & Towler, filed in said Court their certain Pleas, which are in the words and figures following to wit:

9
Page 17:

George Dunbar, impleaded
with Theodore I Morrell

ads

Morris L Hallowell et al

In Circuit Court
Cook County
January Term 1863.

And the said George Dunbar, impleaded with the
said Theodore I Morrell, by Bates & Towster
his Attorneys, comes and defends the wrong and in-
jury, when &c and says, that there is not any
record of the said supposed recovery in the first
and second Count in the said declaration mentioned
remaining in the Mercer County Circuit Court in the
State of New Jersey aforesaid, before the Judge thereof,
in manner and form as the said plaintiffs hath
above in the first and second Count of their said decla-
ration alleged and the said George Dunbar im-
pleaded &c is ready to verify. Wherefore he prays
judgment, if the said plaintiff ought to have or
maintain their aforesaid action thereof against
him the said George Dunbar impleaded &c
Bates & Towster
Atty for George Dunbar.

And for a further plea in this behalf by leave of
the Court here first had and obtained for that purpose
according to the form of the Statute, the said George
Dunbar impleaded with Theodore I Morrell, says
that the said plaintiffs ought not to have or maintain

their aforesaid action thereof against him impleaded &c as the same is set forth in said first and second Count of said plaintiffs declaration and in each of said Counts. Because he says, that he said George Dunbar impleaded &c was not personally served with any writ, notice or process and had no notice of the pendency of the said suit, in which the judgment was recovered as mentioned and set forth in the said first and second Counts of said plaintiffs declaration and in each count thereof and that he did not appear in said suit or litigate or defend the same either in person or by Attorney or by any other person, the said judgment recovered as mentioned in said first and second Count of said plaintiffs declaration and in each and every count thereof and this he the said George Dunbar impleaded &c is ready to verify. Wherefore he prays judgment, if the said plaintiffs ought to have or maintain their aforesaid action thereof against him &c.

Bates & Towse, Attorneys
for George Dunbar.

And the said George Dunbar impleaded with the said Theodore S Morrell by Bates & Towse his Attorneys comes and defends the wrong and injury when &c and says, that he does not owe the said sum of money in the said third count of said plaintiffs declaration above demanded in manner

Page 19:

and form as the said plaintiffs hath above in said
third Count thereof complained against him, implead-
ed as aforesaid and of this he the said George Dunbar
impleaded &c put himself upon the Country &c
And the Plfs likewise } Bates & Townslee, Attorneys
By Fuller & Ham, their Attys } for George Dunbar

And for a further plea in this behalf by leave of the
Court here first had and obtained, according to the
form of the Statute, the said George Dunbar implead-
ed &c by Bates & Townslee his Attorneys says that the
said plaintiffs ought not to have or maintain their
action aforesaid thereof against him impleaded &c
as the same is set forth in said third Count of
said plaintiffs declaration, because he says, that
the defendants George Dunbar and the said
Theodore S Morrell or either of them did not at
any time within five years next before the com-
mencement of this suit undertake or promise in manner
and form as the said plaintiffs hath above in the said
third count of said plaintiffs declaration thereof
complained against him the said George Dunbar
impleaded &c and this he is ready to verify,
wherefore he prays judgment if the said plaintiffs
ought to have or maintain their action aforesaid
against him &c

Bates & Townslee, Attorneys
for George Dunbar.

And for a further plea in this behalf by leave of the Court here for that purpose first had and obtained according to the form of the Statute, the said George Dunbar, impleaded &c one of the above defendants by Bates & Towslee his Attorneys says Actio Non because he says, that the said supposed cause of action in the said third Count, in the said declaration mentioned, did not nor did any or either of them accrue to the said plaintiffs within five years next before the commencement of this suit in manner and form as the said plaintiffs hath afore thereof complained against him, said George Dunbar impleaded &c in said third Count, in said declaration And this the said defendant George Dunbar impleaded &c is ready to verify, Wherefore he prays judgment, if the said plaintiffs ought to have or maintain their action afore, said against him said George Dunbar impleaded &c - &c

Bates & Towslee, Atty
for George Dunbar

State of Illinois

Cook County J. George Dunbar, one of the defendants in the above entitled cause, having been first duly sworn says, that the facts stated in the above pleas are true and that he has a good and substantial defence to said suit upon the merits thereof

George Dunbar

11
Page 21: Subscribed and sworn to before me
this 29th day of Decr 1862
Charles A Gregory
Notary Public

And afterwards, to wit: on the 10th day of January
in the year of our Lord Eighteen Hundred and Sixty
three the said Writ of summons was returned into
said Court by said Sheriff, endorsed as follows
to wit:

Served by reading to the within named
George Dunbar the 19th day of December 1862
the other defendant not found in my County

Service	50	{	70 c.
Mile	10		
Return	10		

David I Hammond, Sheriff

By John A Nelson Deputy

And afterwards, to wit: on the 27th day of February
in the year ^{AD 1863} ~~last aforesaid~~, the paid plaintiffs by
their Attorneys filed in said Court their certain
Replication, in the words and figures following
to wit:

State of Illinois
Cook CountyIn Circuit Court of
Cook County Jan. T 1863

Morris L. Halliwell et al

vs

George Dunbar impleaded
with Theodore S. Morrell

And the said plaintiffs
as to the said plea by the said defendant George
Dunbar impleaded &c firstly above pleaded say
precludi non because they say, that there is such a
record of the said recovery remaining in the said
Mercer County Circuit Court in the State of New
Jersey, as they the said plaintiffs have above in their
said declaration in that behalf alleged And this
the said plaintiffs are ready to verify by the said
record in the said Mercer County Circuit Court
in the State of New Jersey and they pray, that the
said record may be inspected and seen by the
Court here, and the Defendants

do the like

Bates & Towslee, Attys for Defts

Fuller & Ham

Pliffs Attys

And the said Pliffs as to the said plea by the
said defendant George Dunbar impleaded &c
by him secondly above pleaded say precludi non
because they say, that he the said Defendant
George Dunbar impleaded &c was personally
served with a writ, notice or process and had

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notice of the pendency of the said suit in which the said judgment was recovered as mentioned and set forth in the said first and second Counts of said plaintiffs declaration and in each Count thereof. And of this they put themselves upon the Country &c

And the defendants
do the like

Fuller & Ham
Plffs. attys

Bates & Towse for Defts

And the said Plffs. as to said plea by the said Deft. George Dunbar impleaded &c by him fifthly above pleaded say precludi non, because they say, that the said several causes of action in the said third count of said declaration mentioned and each and every of them did accrue to the said plaintiffs within five years next before the commencement of this suit in manner and form as the said plaintiffs have above complained against the said defendant Dunbar impleaded &c to wit at Cook County aforesaid. And this the said plaintiffs pray may be inquired of by the Country &c

Fuller & Ham
Plffs attys

And the said Plffs as to said plea by said Deft. George Dunbar impleaded &c by him fourthly above pleaded say precludi non, because they say, that the said defendant George Dunbar and the said

Theodore S Morrell did within five years next before the commencement of this suit undertake and promise in manner and form as the said plaintiffs have above in the said third count of said Plffs declaration thereof complained against him the said George Dunbar impleaded &c And this the said Plffs pray may be inquired of by the Country &c.

Fuller & Ham
Plffs Attys.

And afterwards, to wit: on the second day of March in the year last aforesaid George Dunbar impleaded &c by his Attorneys filed in said Court his certain Rejoinder, in the words and figures following, to wit:

State of Illinois
Cook County &c

In Circuit Court of
Cook County.

January Term A D 1863

George Dunbar, impleaded with
Theodore S Morrell

ads

Morris S Halliwell et al

And the said George Dunbar, one of the above defendants impleaded &c as to the said Replication of the said plaintiffs to the said first plea of the said defendants, saith, that the said Plaintiffs by reason of anything by them in that replication alleged, ought

Page 25.

not to have or maintain their aforesaid action thereof against the said George Dunbar impleaded &c because he says, that there is no such record of the recovery of said judgment &c remaining in the said Mercer County Circuit Court in the State of New Jersey in manner and form as the said plaintiffs have above in their said replication alleged And this he is ready to verify. Therefore he prays judgment &c

Bates & Towslee
Attys for Geo Dunbar

And the said George Dunbar impleaded &c as to the said Replication of the said Plaintiffs to the said second plea of the said defendant says actio non. Because he says, that the said George Dunbar impleaded &c was not personally served with any writ process or notice of said suit and had no notice of the pendency of the said suit in which the judgment was recovered as mentioned as the said Replication in manner and form as the same is set forth by said plaintiffs in their said Replication in that behalf alleged and of this the said defendant puts himself upon the Country &c

Bates & Towslee
Attys for Geo Dunbar

And the said George Dunbar impleaded &c as to

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the replication of the said plaintiffs to the said fifth plea of the said defendant says actio non, because he says, that the said cause of action in the said third count of said plaintiffs declaration mentioned did not, nor did any or either of them accrue to the said plaintiffs within five years next before the commencement of this suit in said replication mentioned to the said third plea in manner and form as the said plaintiffs have above in their said Replication in that behalf alleged and of this the said George Dunbar puts himself upon the Country &c

Bates & Towselee
Attys for G Dunbar.

And the said George Dunbar impleaded &c as to the replication of the said plaintiffs to the fourth plea of the said George Dunbar impleaded &c says actio non Because he says, that he the said George Dunbar and the said Theodore Morrell or either of them, did not within five years next before the commencement of this suit in said Replication mentioned to the said fourth plea undertake or promise in manner and form, as the said plaintiffs have above in their said replication in that behalf alleged and of this the said George Dunbar puts himself upon the Country &c

Bates & Towselee, Defts Attys

Page 27. And thereupon afterwards, to wit: at the April Term of said Court, to wit: on the thirteenth day of April A D 1863 the following among other proceedings were had in said Court and entered of record, to wit:

Morris L Hallowell, James Traguair
Joshua L Hallowell, Arthur W Little
Thomas W Lweeney & Enoch R Hutchinson } Debt.
vs.

George Dunbar & Theodore S Morrell }

This day come the said parties by their Attorneys and the plaintiffs now here move the Court, to strike the Rejoinder on file herein from said files and the Court having carefully considered the premises and being now fully advised, doth sustain said Motion and orders, that said Rejoinders be and they hereby are stricken from the files of said cause And thereupon on the further motion of said plaintiffs, no objection being made ^{by the} ~~by the~~ defendants, leave is given the ^{Plaintiffs} ~~defendants~~ to withdraw the 3^d count of their declaration herein from the files. Whereupon by oral consent of said parties given in open Court said cause is submitted to the Court for trial upon the issues joined therein and the intervention of a jury waived, and the Court after hearing the evidence, and arguments of Counsel as well on the part of the plaintiffs as of the defendants

Page 28

and not being sufficiently advised in the premises takes the said cause under advisement.

And afterwards, to wit: at the September Term of said Court, to wit: on the 23^d day of September A D 1873 the following among other proceedings were had in said Court and entered of record, to wit:

Morris L Hallowell, James Fraguair, Joshua L Hallowell, Arthur W Little Thomas W Sweeney and Enoch R Hutchinson	} Debt.
vs.	
George Dunbar & Theodore L Morrell	

This day again come the said parties by their Attorneys and the Court having had said cause under advisement and being now fully advised of and concerning the premises, doth find the issue for the plaintiffs and that the said defendants owe and are indebted unto the said plaintiffs in the sum of Six Hundred and Eight dollars and twenty two cents for their said debt and assesses said plaintiffs damages herein by reason of the detention of their said debt to the sum of Two Hundred and Ninety One dollars and Ninety four cents. Whereupon the said Defendants by their counsel moves the Court for a new trial of said cause, which motion the Court upon due consideration thereof overrules,

29.

to which ruling of the Court, in overruling said motion for a new trial of said cause, the Defendants by their Counsel now here except. And on their motion twenty days are allowed them in which to prepare and file their Bill of Exceptions in said cause.

Therefore it is considered, that said Plaintiffs do have and recover of the said defendants their debt of Six Hundred and Eight Dollars and twenty two cents and also their damages of Two Hundred and Ninety One dollars and ninety four cents in form aforesaid assessed, amounting together to the sum of Nine Hundred dollars and sixteen cents together with their costs and charges by them about their suit in this behalf expended and have execution therefor.

And thereupon afterwards, to wit: on the first day of October in the year last aforesaid the said defendants by their Attorney filed in said Court their Bill of Exceptions, clothed in the words and figures following to wit:

Circuit Court Cook County, Illinois

Morris L Hallowell
 James Fraquair,
 Joshua L Hallowell
 Arthur W Little
 Thomas W Sweeney &
 Enoch R Hutchinson

vs.

George Dunbar and
 Theodore S Morrell

Cook County J. Be it remembered, that in the
 Term of January A D 1863 came Morris L Hallowell
 James Fraquair, Joshua L Hallowell, Arthur W
 Little, Thomas W Sweeney & Enoch R Hutchinson
 by Fuller & Nam into the Circuit Court of the
 County of Cook and State of Illinois before the judge
 thereof and impleaded George Dunbar and Theodore S
 Morrell in a certain plea of debt, in which the said
 plaintiff declared against the said defendants in
 these words:

State of Illinois
 Cook County J.

Circuit Court within and for said County
 January Term A D 1863.

Morris L Hallowell, James Fraquair
 Joshua L Hallowell, Arthur W Little, Thomas W
 Sweeney and Enoch R Hutchinson, partners

in trade under the firm name and style of Morris L Hallorwell & Company, plaintiffs in this suit by Fuller & Nam their Attorneys, complain of George Dunbar and Theodore L Morrell, partners in trade under the firm name and style of Dunbar and Morrell, defendants of a plea, that they render the said plaintiffs the sum of One Thousand dollars, which they owe to and unjustly detain from them. For that whereas the said plaintiffs heretofore, to wit: on the sixth day of September in the year of our Lord One Thousand Eight Hundred and Fifty five at a Circuit Court holden in Trenton within and for the County of Mercer in the State of New Jersey, by the consideration and judgment of said Circuit Court of said Mercer County recovered against the said defendants the sum of Five Hundred and Seventy Nine dollars and fifty seven cents for the damages, which said plaintiffs had sustained by reason of the non performance by the said defendants of certain promises and undertakings, then lately made by the said defendants to the said plaintiffs and the sum of twenty eight dollars and sixty five cents for the said plaintiffs costs and charges by them about their suit in that behalf expended, whereof the said defendants were convicted (being the sum of Six Hundred and Eight dollars and twenty two cents in all and parcel of the said sum of One Thousand

dollars above demanded) as by the record and proceedings thereof, remaining in the said Circuit Court holden in Trenton within and for the County of Mercer in the State of New Jersey aforesaid more fully appears, a copy of which said record and proceedings duly authenticated, the said plaintiffs here in Court produce, which said judgment still remains in full force and effect, not reversed, satisfied or otherwise vacated and the said plaintiffs have not obtained any satisfaction of or upon the said judgment so recovered as aforesaid, whereby an action hath accrued to the said plaintiffs to demand and have of and from the said defendants the said sum of Six Hundred and Eight Dollars and twenty two cents, parcel of the said sum above demanded, to wit: at Cook County aforesaid. And also for that the said plaintiffs heretofore to wit, on the sixth day of September in the year of our Lord One thousand Eight hundred and fifty five at a Circuit Court holden in Trenton within and for the County of Mercer in the State of New Jersey by the consideration and judgment of the said Court recovered against the said Defendants the sum of Six Hundred and Eight dollars and twenty two cents parcel of the said sum of One Thousand dollars above demanded, which in and by the said Court were then and there adjudged to said plaintiffs for their damages, which they had sustained as well

Page 83

by reason of the non performance of the said defendants of certain promises and undertakings then lately made by the said defendants to the said plaintiffs as for their costs and charges by them about their suit in that behalf expended, whereof the said defendants were convicted as by the record and proceedings thereof remaining in the said Circuit Court holden in Trenton within and for the County of Mercer in the State of New Jersey aforesaid more fully appears, a copy of which records and proceedings duly authenticated the said plaintiffs here in Court produce, which said judgment still remains in full force and effect not reversed, satisfied or otherwise vacated, and the said plaintiffs hath not obtained any satisfaction of or upon the said judgment so recovered as aforesaid, whereby an action hath accrued to the said plaintiffs to demand and have of and from the said defendants the said sum of Six hundred and eight dollars and twenty two cents, parcel of the said sum of above demanded, to wit: at Cook County aforesaid. And whereas also the said defendants afterwards to wit: on the first day of December in the year of our Lord One Thousand Eight Hundred and Sixty Two, at Cook County aforesaid, was indebted to the said plaintiffs in the sum of One thousand dollars of lawful

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money for divers goods, wares and merchandise by the said plaintiffs before that time bargained and sold to the said defendants and at their special instance and request and to be paid by the said defendants to the said plaintiffs when they the said defendants should be there, unto afterwards requested, whereby and by reason of the said last mentioned sum of money being and remaining wholly unpaid, an action hath accrued to the said plaintiffs to demand and have of and from the said defendants the sum of One Thousand dollars above demanded to wit: at Cook County aforesaid.

Yet the said defendants (although often requested so to do) have not as yet paid the said sum of One Thousand dollars above demanded or any part thereof or any of the several sums of money above demanded, to the said plaintiffs, but to do this, they have hitherto wholly refused and still do refuse to the damage of the said plaintiffs of Fifteen Hundred dollars and therefore they bring their suit &c.

Plaintiffs Atty's

P. 35-

Copy of Instrument sued upon.

Morris L Hallowell	In case Judgment by default A Dutcher Attorney	As yet of the thirtieth day of July in the year of our Lord One Thousand Eight Hundred and fifty five.
James Fraquair		
Joshua R Hallowell		
Arthur W Little		
Thomas W Sweeney and		
Enoch R Hutchinson		
trading as		
Morris L Hallowell & Company		
vs		
George Dunbar and Theodore S		
Morrell, trading as		
Dunbar & Morrell		

Witness: Henry W Green Esquire Judge
Wm R Murphy Clerk

Mercer County ss:

Morris L Hallowell, James Fraquair, Joshua L Hallowell, Arthur W Little, Thomas W Sweeney and Enoch R Hutchinson, partners trading as Morris L Hallowell and Company, the plaintiffs in this suit put in their place Andrew Dutcher their Attorney therein against George Dunbar and Theodore S Morrell partners trading as Dunbar and Morrell the defendants therein of a plea of trespass on the case upon promises.

Mercer County Circuit Court of the thirtieth day of

Page 86 July in the year of our Lord Eighteen Hundred and Fifty Five.

Mercer County Js: George Dunbar & Theodore I Morrell, partners trading as Dunbar and Morrell the defendants in this suit were summoned to answer Morris L Hallowell, James Thaguard, Joshua L Hallowell, Arthur W Little, Thomas W Sweney and Enoch R Hutchinson, partners trading as Morris L Hallowell & Company, the plaintiffs their of a plea of trespass on the case on promises and thereupon the said plaintiffs by Andrew Dutcher their Attorney complain: For that whereas the said Defendants heretofore, to wit: on the first day of July in the year of our Lord One Thousand Eight Hundred and Fifty Five, at Trenton in the County of Mercer aforesaid and within the jurisdiction of this Court were indebted to the said plaintiffs in the sum of Five Hundred and Seventy Six Dollars and Sixty Nine cents for goods, wares and merchandise sold and delivered by the said plaintiffs to the defendants at their request and in One Thousand dollars for work done and materials for the same provided by the Plaintiffs for Defendants at their request and in One Thousand dollars for money paid by Plaintiffs for the use of Defendants at their request and in One Thousand Dollars for money received by the defendants for the use of the plaintiffs and in One Thousand Dollars for interest for the

Page 97.

forbearance by the plaintiffs at the defendants request of money due and owing from the defendants to the plaintiffs and in One Thousand dollars for money found to be due from the Defendants to Plaintiffs on an account stated between them And the Defendants afterwards on the day and year at Trenton aforesaid in consideration of the premises respectively, then and there promised the Plaintiffs to pay the said several sums of money respectively upon request. Yet the said Defendants have disregarded their promises in that behalf and have not paid the said several moneys or any part thereof to the plaintiffs although often requested so to do to the damage of said plaintiffs, One thousand dollars and therefore they bring this suit &c

Copy of Account and Bill of particulars on which the above suit is founded.

Dunbar & Morrell of Trenton N.J. Bought of Morris L. Hallowell & Co Importers & Dealers in Silks, Dress Goods, Ribbons, Embroideries &c No 147 Market Street and 21 North Fourth Street.
1854
18 Mo 18th

1	3	Pp Printed de Laine	Yds 98 ² @	11	10.84	
672	3	" " " "	80	21	16.85	
2	2	Broche square photo		5.50	11.00	
3	1	" "			6.25	
4	2	" "		16.00	32.00	16.94

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1854

18 Mo. 18 d.

11 Mo 13

1	3	Bay State Shauls Sep	1.50	4.50
2	3	" " " "	2.37	8.11
3	2	" " " "	2.62 ²	5.25
3	2	" " " "	3.42	6.84
4	1	" " " "		3.70
nix	2	" " " long	3.50	7.00
9	2	" " " "	5.00	10.00
jux	1	" " " "		5.50
yxr	2	" " " "	6.51	13.00
xyy	1	" " " money	4.25	68.65

1855

4 Mo. 4

1	Pr	Port Chally Bange 22 ³ @ 18	4.10	
1	1	" Pouyce Adkps	4.50	
	6	wht India	65	3.95
	1/2 doz	Batman cravats	8.00	4.00
jcm	1/4	" BOK Avenue	21.00	5.25
jcm	1/4	" " "	25.00	6.25
	1	" Gents Kids.	8.50	10.50
	1 1/2	" Ladies	8.50	12.75
10	2	Art Cashmere Shauls	1.25	2.50
11	2	" " "	2.00	4.00
12	3	" " "	2.25	6.75

Forward 64.50 145.59

Page 39.

					64.50	145.59
13	2	Pt Cashmere Shawls	3.50	7.00		
14	1	" " "		4.50		
15	1	" " "		6.00	82.00	

1855

4 Mo 14

1	1	Pd Blk Wat ^d Silk	7 @ 1.25	8.75		
2	1	" " "	7 1.50	10.50		
3	1	" " Thibet Shawl		5.00		
4	2	Printed Cash.	6.00	12.00	36.25	

4 Mo 14

345	1	Pd Blk Silk lace	24 @ 24	5.76	5.76	
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4 Mo 16

1.	3	Pd Plaid Grenadine	42 ² @ 50	22.25		
2	2	" Col'd Chally	23 " 50	11.50	33.75	

4 Mo 23

1	3	Pd Plain Bays	1.2 @ 18	11.16		
2	3	" " "	55 " 25	13.75		
3	1	" " "	24 " 28 ²	6.84		
4	1	" Printed	11 ³ " 35	4.09		
5	2	" Col'd Tissue	44 " 25	11.00		
6	1	" Printed	43 20 ²	8.60		
7	1	" " "	22 " 22 ²	4.95		
8	2	" " "	24 " 25	6.06		
9	3	" Col'd Mexicanos	71 26 ²	18.82		
10	3	" Plaid	36 " 37 ²	13.78		
11	2	" Satin	22 " 40	8.80		
12	1	" Pt Chally Bays	29 ³ 18 ²	5.50		

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13	3	"	Prt Lawn	149 ²	11 ²	17.19
14	1	"	Jaquet "	3.9	15	6.05
15	3	"	" "	113	16 ²	18.65
16	1	"	Christy "	21	21	4.41
17	1	"	" "	18	25	4.50
18		"	Brilliant	42 ²	24	10.20
19 ²	1	"	Green rail barge	18 ³ / ₈	35	6.43
20	1	"	" " "	18 ²	45	8.32
2		"	Fancy " "		2.50	5.00
10		"	Prt ² cash shawls		2.00	20.00

Forward 214.10 313.35

Forward 214.10 303.35

2 Sat plaid Barge shawls 1.75 3.50

1/2 doz Groop cloth pkts 10.00 5.00 222.60

5 Mo 4

1. 2 Ps Prt Chally barge 73 @ 17 12.41

2 2 " " " " 56 @ 18 10.08

3 5 Cashmere shawls 4.00 20.05

2 1/4 emb table covers 1.50 3.00

1 Marcellis quilt 2.75

1 " " 2.50 50.74

\$ 576.69

And now at this day, to wit: on the sixth day of September in the year of our Lord One Thousand Eight Hundred & fifty five before the Circuit Court of the County of Mercer at Trenton, comes the said plaintiffs by their Attorney aforesaid, and the said

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defendants, although solemnly called, come not, but make default, whereby the said plaintiffs remain therein undefended against them and thereupon the said plaintiffs pray judgment and their damages by reason of the premises to be adjudged to them and because it is suggested and proved to the Court now here, that the said plaintiffs have sustained damages by reason of the non performance of the promises and assumptions in their declarations mentioned to Five Hundred & Seventy Nine dollars and fifty seven cents besides their costs and charges by them about their suit in that behalf expended. Therefore it is considered that the said Morris L Wallowell, James Traguain Joshua L Wallowell, Arthur W Little, Thomas W Sweeney and Enoch R Hutchinson, trading as Morris L Wallowell & Company do recover against the said George Dunbar and Theodore S Morrell trading as Dunbar & Morrell, their said damages in form aforesaid as aforesaid to Five Hundred and Seventy Nine dollars and fifty seven cents and also Twenty Eight dollars & sixty five cents for their costs and damages aforesaid by the Court now here adjudged to the said plaintiffs and with their apert which said damages, costs and charges in the whole amount to Six Hundred and Eight Dollars and Twenty two cents.

And the said George & Theodore S Immercy & Judgment signed this sixth day of September

Page 42 in the year of our Lord One Thousand Eight Hundred
and Fifty five.

(Signed) Henry M Green

State of New Jersey

Mercer County } J. S. Robert C Belville,
Clerk of the Circuit Court in and for the said County
of Mercer, do hereby certify, that the foregoing is a
true and full transcript of the judgment and pro-
ceedings in the above entitled cause as fully and
entirely as the same remain of record and on file in
my Office.

Official Seal

In Testimony whereof I have herunto set
my hand and affixed the seal of said Court
at Trenton this 1st day of December A.D. 1862

(Signed) R C Belville CLK

State of New Jersey

Mercer County } J. S. John Van Dyke, one of the
Associate Justices of the Supreme Court of New Jersey and
ex officio presiding Judge of the Mercer County Circuit
Court, do hereby certify, that the foregoing transcript and
attestation are in due form and by the proper Officer and
that Robert C Belville, whose name is signed thereto is
Clerk of said Mercer County Circuit Court and has
the custody of the records of said Court and his signature
is genuine.

(Signed) John Van Dyke
Jus. Sup. Court

J. Charles J Smith, Clerk of the Supreme Court

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of the State of New Jersey, do hereby certify, that the Honorable John Van Dyke, whose name is affixed to the foregoing certificate is now and was at the time of signing thereof Justice of said Court and ex officio Judge of the Mercer County Circuit Court and that the signature "John Van Dyke" is in the proper hand writing of the said Justice and that the said Certificate is in due form of law.

In Testimony whereof I have hereto affixed the seal of said Court this first day of December 1862

Integral Revenue
Stamp 1862

(Signed) Ch. P. Smith Clerk

To which declaration the said George Dunbar, one of said Defendants by Bates & Towslee his attorneys pleaded in these words:

George Dunbar impleaded
with Theodore S Morrell

advers

Morris L Hallowell et al

In Circuit Court

Cook County

January Term 1863.

And the said George Dunbar impleaded with the said Theodore S Morrell by Bates and Towslee his attorneys, comes and defends the wrong and injury when he and says, that there is not any record of the said supposed recovery in the first and second Court in said declaration mentioned, remaining in the Mercer County Circuit

Page 124 Court in the State of New Jersey aforesaid before
the Judge thereof in manner and form as the said
plaintiffs hath above in the first and second counts
of their said declaration alleged and this the said
George Dunbar impleaded &c is ready to verify.

Wherefore he prays judgment, if the said plaintiffs
ought to have or maintain their aforesaid action
^{thereof} against him the said George Dunbar impleaded &c.

And for a further plea in this behalf by leave
of the Court here first had and obtained for that
purpose according to the form of the Statute, the said
George Dunbar impleaded with Theodore S Morrell
says, that said plaintiffs ought not to have or maintain
their aforesaid action thereof against him impleaded &c
as the same is set forth in said first and second counts
of said plaintiffs declaration and in each of said
counts, because he says, that the said George Dunbar
impleaded &c was not personally served with any
writ, notice or process and had no notice of the pendency
of the said suit in which the judgment was
recovered as mentioned and set forth in the said
first and second counts of said plaintiffs declaration
and in each count thereof and that he did
not appear in said suit or litigate or defend the
same either in person or by attorney or by any other
person, the said judgment recovered as mentioned in
said first and second counts of said plaintiffs
declaration and in each and every count thereof

Page 45.

and this he the said George Dunbar impleaded
 &c is ready to verify, wherefore he prays judgment
 if the said plaintiffs ought to have or maintain
 their aforesaid action thereof against &c

And the said George Dunbar impleaded &c with
 the said Theodore S Morrell by Bates & Towse
 his Attorney comes and defends the wrong and
 injury when &c and says, that he does not owe
 the said sum of money in the said third count
 of said plaintiffs declaration above demanded
 in manner and form as the said plaintiffs hath
 above in said third count thereof complained
 against him impleaded as aforesaid and of this
 he the said George Dunbar impleaded &c puts
 himself upon the Country &c

And the Pffs likewise

And for a further plea in this behalf by leave of
 the Court here first had and obtained according to
 the form of the Statute, the said George Dunbar
 impleaded &c by Bates & Towse his Attorneys
 says, that the said plaintiffs ought not to have
 or maintain their action aforesaid thereof against
 him impleaded &c as the same is set forth in said
 third count of said plaintiffs declaration because
 he says, that the defendant George Dunbar and
 the said Theodore S Morrell or either of them
 did not at any time within five years next before
 the commencement of this suit undertake or promise

Page 46.

in manner and form as the said plaintiffs hath above in the said third count of said plaintiffs declaration thereof complained against him the said George Dunbar impleaded &c and this he is ready to verify, wherefore he prays judgment if the said plaintiffs ought to have or maintain their action aforesaid against him &c.

And for a further plea in this behalf, by leave of the Court here for that purpose first had and obtained according to the form of the statute the said George Dunbar impleaded &c one of the above defendants by Bates and Towselee his Attorneys says Actio non, because he says the said supposed cause of action in the said third count in the said declaration mentioned did not nor did any or either of them accrue to the said plaintiffs within five years next before the commencement of this suit in manner and form as the said plaintiffs have above thereof complained against him said George Dunbar impleaded &c in said third count in said declaration and this the said defendant George Dunbar impleaded &c is ready to verify, wherefore he prays judgment, if the said plaintiffs ought not to have or maintain their action aforesaid against him said George Dunbar impleaded &c.

Page 47. State of Illinois }
 Cook County } of George Dunbar, one of
 the defendants in the above entitled cause,
 having been first duly sworn, says, that facts
 stated in the above pleas are true and that
 he has a good and substantial defence to
 said suit upon the merits thereof.
 Subscribed and sworn to
 before me this 29th day
 of Dec^r 1862
 (signed) Charles A Gregory
 Notary Public } (signed)
 Geo Dunbar

To which said pleas the said plaintiffs
 replied in these words:

And the said plaintiffs as to the said plea
 by the said defendant George Dunbar impleaded
 re firstly above pleaded say precludi non
 because they say, that there is such a record of
 the said recovery remaining in the said Mercer
 County Circuit Court in the State of New Jersey
 as they the said plaintiffs have above in their
 said declaration in that behalf alleged and
 this the said plaintiffs are ready to verify
 by the said record in the said Mercer County
 Circuit Court in the State of New Jersey
 and they pray, that the said record may be

Page 48 inspected ^{and seen} by the Court here.

And the defendants do the like

And the said plaintiffs as to the said plea by said defendant George Dunbar impleaded &c by him secondly above pleaded, say preclusion because they say, that the said defendant George Dunbar impleaded &c was personally served with a writ, notice or process and had notice of the pendency of the said suit in which the said judgment was recovered as mentioned and set forth in the said first and second counts of said plaintiffs declaration and of this they put themselves upon the Country &c

And the defendants do the like

And the said plaintiffs as to the said plea by the said defendant George Dunbar impleaded &c by him fifthly above pleaded, say preclusion because they say, that the said several causes of action in the said third count of said declaration mentioned and each and every of them did accrue to the said plaintiffs within five years next before the commencement of this suit in manner and form as the said plaintiffs have above complained against the said defendant George Dunbar impleaded &c to wit at Cook County aforesaid and this the said plaintiffs pray may be enquired of by the Country &c.

Page 49. And the said plaintiffs as to the said plea by said defendant George Dunbar impleaded &c by him fourthly above pleaded say *procludi non* because they say that the said defendant George Dunbar and the said Theodore S Morrell did within five years next before the commencement of this suit undertake and promise in manner and form as the said plaintiffs have above in the said third count of said plaintiffs declaration thereof complained against him the said George Dunbar impleaded &c and this the said plaintiffs pray may be enquired of by the Country &c.

And to the said replication, ^{numbered} one and two the said defendant rejoined in these words:
And the said defendant doth the like.

And to the replication number three and four the said defendant rejoined in these words:
And the defendant doth the like.

And thereupon issue was joined between the said plaintiffs and the said George Dunbar impleaded &c.

And afterwards, to wit: at a Circuit Court for the County of Cook aforesaid, held at the

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Court House in the City of Chicago on the 23^d day of September of the September Term 1863 of said Court and upon the trial of the said issue the Counsel for the said plaintiffs to maintain and prove the said issue on their part produced and offered in evidence a certain exemplification of a judgment record, in the words following:

Morris L Hallowell

James Traquair

Joshua L Hallowell

Arthur W Little

Thomas W Sweeney and

Enoch R Hutchinson

trading as

Morris L Hallowell and Co.

vs.

George Dunbar and

Theodore S Morrell

trading as

Dunbar and Morrell

Witness: Henry W Green Esquire, Judge
Wm R Murphy Clerk

Mercer County ss.

Morris L Hallowell, James Traquair, Joshua L Hallowell, Arthur W Little Thomas W Sweeney and Enoch R Hutchinson partners trading as Morris L Hallowell & Company

In case
Judgment
by
default

As yet of
the thirtieth
day of July
in the year
of our Lord
One Thousand
Eight Hundred
and fifty five

A Dutcher
Attorney

Page 57,

the plaintiffs in this suit put in their place Andrew Dutcher their Attorney therein against George Dunbar and Theodore S Morrell partners trading as Dunbar and Morrell, the defendants therein of a plea of trespass on the case upon promises.

Mercer County Circuit Court of the thirtieth day of July in the year of our Lord Eighteen Hundred and Fifty five.

Mercer County Jp. George Dunbar and Theodore S Morrell, partners trading as Dunbar and Morrell, the defendants in this suit, were summoned to answer Morris L Wallowell, James Fraquain Joshua L Wallowell, Arthur W Little, Thomas W Sweeney and Enoch R Hutchinson partners trading as Morris L Wallowell & Company, the plaintiffs therein of a plea of trespass on the case upon promises and thereupon the said plaintiffs by Andrew Dutcher their Attorney complain: For that whereas the said defendants heretofore to wit, on the first day of July in the year of our Lord One thousand Eight Hundred and fifty five at Trenton in the County of Mercer aforesaid and within the jurisdiction of this Court, were indebted to the said plaintiffs in the sum of Five Hundred and Seventy Six dollars and sixty nine cents for goods, wares and merchandise sold and delivered by the said plaintiffs to defendants at their request and in One Thousand dollars

for work done and materials for the same provided by the plaintiffs for the defendants at their request and in One thousand dollars for money paid by the plaintiffs for the use of the defendants at their request and in One thousand dollars for money received by the defendants for the use of the plaintiffs And in One Thousand Dollars for interest for the forbearance by the plaintiffs at the defendants request of money due and owing from the defendants to the plaintiffs and in One Thousand dollars for money found to be due from the defendants to the plaintiffs on an account stated between them. And the defendants afterwards on the day and year at Trenton aforesaid in consideration of the premises respectively then and there promised the plaintiffs to pay the said several sums of money respectively upon request. Yet the said defendants have disregarded their promises in that behalf and have not paid the said several moneys or any part thereof to the plaintiffs, although often requested so to do, to the damage of said plaintiffs, One Thousand dollars and therefore they bring this suit &c.

Copy of Account and Bill of
particulars on which the above suit
is founded:

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Dunbar & Morrell of Trenton N.J. Bought of
Morris L. Halliwell & Co., Importers and
Dealers in Silks, Dress Goods, Ribbons, Embroider-
ies &c No. 147 Market Street and 21
North Fourth Street. —

1854

10 Mo. 18th

				yds			
1	3	Pp	Printed delaine	98 ²	@ 11	10.84	
672	3	"	"	8	21	16.85	
2	2		Broche pg. shawls		5.50	11.00	
3	1		"			6.25	
4	2		"		16.00	32.00	76.94

11 Mo. 13

1	3	Bay State Shawls pg.	1.50	4.50		
2	3	"	2.37	8.11		
3	2	"	2.62 ²	5.25		
4	2	"	3.42	6.84		
4	1	"		3.70		
mix	2	"	long	3.50	7.00	
g	2	"	"	5.00	10.00	
m	1	"	"		5.50	
g + s	2	"	"	6.50	13.00	
g + s	1	"	many	14.75	68.65	

1855

47 Mo. 11

1	Pp	Pd Chally Banjo	22 ³	@ 18	4.10	
1	"	Pompe Wdkp			4.50	
6	Wht India	"	65		3.90	

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1/2 doz	Bathin Scarato	8.00	4.00
jun 1/4 "	Blk Avon	21.00	5.25
18 sm 1/4 "	"	25.00	6.25
1 "	Gento Kids		10.50
1 1/2 "	Ladies Kids	8.50	12.75
10 2	Bu Cashmere Shawls	1.25	2.50
11 2	"	2.00	4.00
12 3	"	2.25	6.75
Forward			64.50 - 145.59
Forward			64.50 145.59
13 2	Pat Cashmere Shawls	3.50	7.00
14 1	"		4.50
15 1	"		6.00 82.00

1855

4 Mo 14

1 1	Pp Blk wat' silk	7@ 1.25	
2 1	"	7 1.50	
3 1	" Tibet Shawl	5.00	
4 2	Printed Cash	6.00 12.00	36.25

4 Mo 14

345	Pp Blk Silk Lace	24@ 5.76	5.76
-----	------------------	----------	------

4 Mo 16

1 3	Pp Plaid Glenadine	42 ² @ 50.	22.25
2 2	" Cold Chally	23. 50	11.50 33.75

4 Mo 23

1 3	Pp Plain Barex	62@ 18	11.16.
-----	----------------	--------	--------

1/2 doz

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2	3	"	"	"	55	25	13.75
3	1	"	"	"	24	28 ²	6.84
4	1	"	Printed	"	11 ³	35	4.09
5	2	"	Cool ^d Tissue	"	44	25	11.00
6	1	"	Printed	"	43	20	8.60
7	1	"	"	"	22	22 ²	4.95
8	2	"	"	"	24	25	6.06
9	3	"	Cool ^d Mexicanos	"	71	26 ²	18.82
10	3	"	Plaid	"	36	37 ²	13.78
11	2	"	Satin	"	22	40	8.80
12	1	"	Pro ^d Chally Barge	"	29 ²	18 ²	5.50
13	3	"	"	Lawn	149 ²	11 ²	17.19
14	1	"	Sacnet	"	39	15	6.05
15	3	"	"	"	113	16 ²	18.65
16	1	"	Chintz	"	21	21	4.41
17	1	"	"	"	18	25	4.50
18	2	"	Brilliant	"	42 ²	24	10.20
19	1	"	Green Vert Barge	"	18 ³ / ₈	35	6.43
20	1	"	"	"	18 ²	45	8.32
	2	"	Fancy	"	2.50		5.00
	10	"	Pro ^d Cash. Shawls	"	2.00		20.00
Forward							214.10 303.35
Forward							214.10 303.35
2			Sal pld barge shawls	175			3.50
			1/2 doz Gimp Cloth Skirts	10.00			5.00 222.60
5 No 4							
1	2		Sp Pro ^d Chally Barge	73 @ 17			12.41
2	2	"	"	"	56 @ 18		10.08

Page 56	3	5 Cashmere Shawls	4.00	20.00
	2	1/4 Embr'd Table Covers	1.50	3.00
	1	Marseilles Quilt		2.75
	1	" "		2.50
				50.74
				\$ 576.69

And now at this day to wit: on the sixth day of September in the year of our Lord One Thousand Eight Hundred and fifty five before the Circuit Court of the County of Mercer at Trenton come the said plaintiffs by their Attorney aforesaid and the said defendants though solemnly called come not, but make default, whereby the said plaintiffs remain therein undefended against them and hereupon the said plaintiffs pray judgment and their damages by reason of the premises, to be adjudged to them. And because it is suggested and proved to the Court now here, that the said plaintiffs have sustained damages by reason of the non-performance of the premises and assumptions in their declaration mentioned to Five Hundred and Seventy Nine dollars and fifty seven cents, besides their costs and charges by them about their suit in that behalf expended. Therefore it is considered, that the said Morris L Wallowell, James Traquair, Joshua L Wallowell, Arthur W Little, Thomas W Sweeney and Enoch R Hutchinson, trading as Morris L Wallowell and Company do recover

Page 57, against the said George Dunbar and Theodore S Morrell, trading as Dunbar and Morrell their said damages in form aforesaid assessed to Five Hundred and Seventy Nine dollars and fifty nine cents and also Twenty Eight dollars and sixty five cents for their costs and damages aforesaid by the Court now here adjudged to the said plaintiffs and with their apent, which said damages costs and charges in the whole amount to Six Hundred and Eight dollars and twenty two cents and the said George and Theodore S. in mercy &c.

Judgment signed this sixth day of September in the year of our Lord One Thousand Eight Hundred and Fifty Nine.

Henry W Green

State of New Jersey }
 Mercer County } P. J. Robert C Belville
 Clerk of the Circuit Court in and for the said
 County of Mercer do hereby certify, that the fore-
 going is a true and full transcript of the judg-
 ment and proceedings in the above stated cause
 as fully and entirely as the same remain of record
 and on file in my Office.

Seal

In testimony whereof I have hereunto
 set my hand and affixed the seal
 of said Court at Trenton this first
 day of December A.D. 1862

R. C. Belville Clk.

State of New Jersey }
 Mercer County } P. J. John Van Dyke, one
 of the Associate Justices of the Supreme Court of
 New Jersey and ex officio presiding Judge of the
 Mercer County Circuit Court do hereby certify,
 that the foregoing transcript and attestation are
 in due form and by the proper officer and that
 Robert C Belville, whose name is signed thereto
 is Clerk of said Mercer County Circuit Court
 and has the custody of the Records of said
 Court and his signature is genuine.

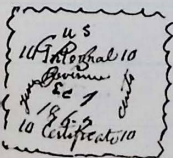
Witness my hand this first day of December
 A D 1862

John Van Dyke
 Jus. Sup. Court.

I, Charles P Smith, Clerk of the Supreme Court
 of the State of New Jersey, do hereby certify, that
 the Honorable John Van Dyke, whose name is
 affixed to the foregoing certificate is now and was
 at the time of signing thereof Justice of said Court
 and ex officio Judge of the Mercer County Circuit
 Court and that the signature "John Van Dyke"
 is the proper handwriting of the said Justice
 and that the said certificate is in due form of law.

In testimony whereof I have hereto affixed

the seal of said Court this first day of
 December 1862. Ch. P Smith Clerk



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But to the reading of the same in evidence the said Counsel for the said defendant, did then and there object because the said exemplification did not show, that the defendant had ever been personally served with process in said suit and that it did not show, that said defendant had ever had any notice of the pendency of said suit mentioned in said exemplification and that by said exemplification it did appear, that said defendant or either of them had neither in person or by an Attorney or otherwise appeared in said suit mentioned in said exemplification and that the Court rendering the judgment against said defendants in the said suit mentioned in the said exemplification had no jurisdiction over the said defendants or either of them, whereby to render the said judgment mentioned in the said exemplification against said defendant or either of them.

But the said Circuit Court did then and there declare and deliver his opinion, that the said objection so taken by the said Counsel for the said defendant as aforesaid, ought not to be allowed, but that the said exemplification did contain sufficient evidence of a judgment against said defendants by a Court having jurisdiction over said defendants and the cause therein mentioned, to render the judgment described in said exemplification. And the

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said Circuit Court upon the said issue submitted to him found a verdict for the plaintiffs for Six Hundred Eight ~~~~~ dollars and twenty two cents debt and Two Hundred Ninety One dollars and Ninety five cents damages and six cents costs. And because none of the said exceptions so offered and made to the opinion and decision of the said Circuit Court do appear upon the record of the said trial, Therefore on the prayer of the said Defendant by his counsel the Judge of the said Circuit Court hath to this Bill of Exceptions put his seal according to the Statute in such case made and provided this day of September A D 1863

E J Williams *Seal*

Page 61.

I, WILLIAM L. CHURCH, Clerk of the Circuit Court of Cook County, in the
State aforesaid, do hereby certify the above and foregoing, to be a true, perfect and complete
copy of all the papers on file and proceedings of record
in a certain cause lately pending in said Court,
on the Common Law side thereof, wherein Morris L. Halliwell
et al are plaintiffs and
George Dunbar et al Defendants

In Witness Whereof, I have hereunto set my hand,
and affixed the Seal of said Court, at Chicago, this
Eighteenth day of November
A. D. 1863.

Wm L. Church Clerk

Morris L. Halliwell et al appells

^{vs.}
George Dunbar et al. App^{ts}

Assignment of Errors.

1st. That the Court Erred in admitting the Exemplification in evidence to show or prove the judgment against the appellant in said Exemplification mentioned, & declared upon.

2^d. That the Court Erred in deciding that the Court had jurisdiction of the parties defendant in the judgment set forth in said Exemplification,

3^d. That the Court Erred in deciding that the Exemplification of the Judgment Rendered offere in Evidence by the Plaintiff; was "Prima Facie Evidence" that the Defendants had been brought into Court, by due service of process or otherwise.

In Supreme Court. Illinois

3.rd Grand Division April Term 1864

George Dunbar m. p. d. &c
Plaintiff in Error

Morris S. Hallowell et al.
defendants in Error.

Indict. Error.

And the said defendants in error in above case by their
Attorneys, Fuller & Hallowell, enter their appearance in said case
and as to the said Error above assigned by said plaintiff in
the record & exceptions in this case. Say that the said Circuit
Court did not err in his said decision & ruling in said case
as the said plaintiff has the above assigned. & said defendants hereby
join in said plaintiff's assignment of error & submit the
same to this Court.

Chicago. 11. April 1864.

Fuller & Hallowell
Attys for Defs and Error

In Supreme Court ¹⁰²
7th June 1861

George Dunbar
Plaintiff in Error

Mrs. S. Halliwell et al
Defendants in Error

Verdict in Error

Filed April 22, 1861
J. C. Leland Clerk

L. Leland

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M L Wallowell et al

vs.

Geo. Dunbar

impleaded, &c.

Filed March 5th 1864
L. Leland Clerk

Jan'y 25. 1864

Let there be made a subpoena
upon Geo Dunbar filing
a bond in the usual form
with Henry L Simonds
as surety in the penal
sum of fifteen hundred
dollars.

L. Beckwith
As Justice
Whip Court.