

13803

No. _____

Supreme Court of Illinois

Phelps

vs.

Sutherland et al

71641  7

United States of America
State of Illinois }
County of Cook }
}

Pleas before the Honorable
John M Wilson Judge of the Cook County Court
of Common Pleas within and for the County of Cook and
State of Illinois at a Special Term of Said Cook County
Court of Common Pleas begun and held at the Court
House in the City of Chicago, on the Fifth Monday
being the twenty ninth day of November in the
Year of our Lord one Thousand Eight hundred and
fifty eight, due notice of the time and place of hold-
ing Said Special term of Court having been printed
and published in the Chicago Daily Democrat the
Corporation Newspaper of the City of Chicago, said
notice having been printed and published twenty
days previous to the commencement of Said
Court in accordance with the Statute in such
case made and provided, and in pursuance of an
order made by the Judge of Said Court on the
Sixth day of November A D Eighteen hundred
and fifty eight.

Present Hon John M Wilson Judge
Charles Haven Pro. Attorney
John Gray Sheriff
Attest Walter Kimball, Clerk

Be it Remembered, that on the Tenth day of December A.D. 1858
 said day being one of the days of the aforesaid November Special
 Term of said Court, the following, among other proceedings,
 were had in said Court, and Entered of Record, to wit.

Anson Phelps

or
 George G. Sutherland, Henry
 Gould & Isaac Anderson

} Debt.

And now at this day again
 comes the said plaintiff by E. M. J. Van Buren his attorney
 and the said defendants by Winthrop Minott their attorney also
 come, and counsel being heard on the demurrer of the said
 defendants to the amended Declaration of said plaintiff in this
 cause, and due deliberation being thereupon had, and the
 premises fully understood, it appears to the Court that the
 said demurrer of the said defendants, by them in bar to
 the said plaintiffs amended declaration herein pleaded is not
 sufficient in law to bar the said plaintiff from having and
 maintaining the said action against the said defendants,
 the demurrer to said amended declaration is therefore overruled,
 with leave to said defendants to plead over. Whereupon on
 motion said plaintiff it is ordered said defendants plead over
 by 2 o'clock P.M. of this day. And that now having arrived,
 said defendants elect to stand by their said demurrer
 Whence said defendants remain therein undefended against said
 plaintiff, and being three times severally, solemnly called in
 open Court, come not, nor does any person for them or either of

them, but herein they severally make default and fail to say anything further in bar or preclusion of said plaintiff's action against them, which is on motion ordered to be taken, and the default of each of the said defendants is hereby entered of Record for want of plea. Wherefore said plaintiff ought to have and recover of the said defendants, his debt, in his declaration mentioned, and also his damages sustained herein by reason of the detention thereof. And therefore reference is had to the Court to assess said damages herein hereafter.

And afterwards, to wit, on the Fourteenth day of November aforesaid, being also one of the days of said last mentioned term of said Court, the following, among other proceedings, were had in said Court, and entered of Record to wit,

Amos Phelps

George G. Sutherland, Henry
Gould & Isaac Anderson

} Debt

And now at this day again comes the said plaintiff by his attorneys aforesaid, and default of each of the said defendants having been heretofore taken and entered of record, and reference then had to the Court to assess the damages herein, and the Court, now here, after hearing the allegations and proofs submitted by said plaintiff, are being fully advised in the premises, finds said defendants to owe and be indebted to said plaintiff as in his declaration alleged

to the sum of Twelve Hundred dollars Debt, and assess
his damages for detention of said debt to the sum of One
Thousand One Hundred and Twenty, two dollars, and
forty four cents.

Therefore it is considered said plaintiff do have
and recover of the said defendants his debt in his declaration
mentioned of Twelve Hundred dollars, and also his damages
of One Thousand one Hundred and Twenty, two ^{Dollars} and forty four cents
in form aforesaid by the Court here found and assessed.
together with his costs and charges by him about his suit in
this behalf expended and have Execution therefor.

And therefore it is ordered said debt be discharged on
payment of the aforesaid damages, interest and costs.

And afterwards to wit on the Twentieth day of December aforesaid
being also one of the days of the said last mentioned term of
said Court, the following among other proceedings, were had
in said Court and suit of Record, To wit.

Amos Phelps

George G. Sutherland, Henry
Gould & Isaac Anderson

} Debt

And now at this day came the said
defendants, and, entering their exceptions herein, pray an appeal
herein to the Supreme Court, which is allowed upon filing
Bond in Fifteen Hundred Dollars with security to be approved

Debt \$1,200.00

Dam. \$1,224.44

by Judge of Court within ten days:

And afterwards to wit on the Twentyfourth day of December
aforesaid. being also one of the days of said last mentioned Term of
said Court. the following among other proceedings were had
in said Court and entered of Record to wit.

Amos Phelps }
George A. Sutherland Henry } Debt
Gould - Isaac Anderson }

And now at this day again
come the parties to this cause by their attorneys aforesaid,
and on defendants motion, and by consent of plaintiffs
attorneys, it is ordered that said defendants have until first
day of next term to file appeal Bond and Bill of Exceptions
herein.

And afterwards to wit on the Third day of January A.D.
Eighteen Hundred and fifty nine. said day being one of the
days of the January Vacation Term of said Court, the
following among other proceedings, were had in said Court
and entered of record to wit.

Anson Phelps

George G. Sutherland, Henry Gould & Isaac Anderson

} Rebk

And now at this day come again the parties to this cause, by their attorneys aforesaid, and in motion of defendants attorneys and consent of plaintiffs attorneys It is ordered that the time for said defendants to file Appeal Bond and Bill of Exceptions herein be further extended five days from this day.

State of Illinois
County of Cook

J. Walter Kimball Clerk of the Superior Court of Chicago, within & for the County & State aforesaid, do hereby certify that the foregoing transcript contains a true copy of the Judgment and orders entered of Record in the Cook County Court of Common Pleas at the November Special Term thereof A.D. 1858, in the case of Anson Phelps plaintiff against George G. Sutherland Henry Gould & Isaac Anderson Defendants, in Rebk. And I do further certify that no appeal bond or bill of Exceptions have been filed in my office, in said cause by the said Defendants.

In Testimony whereof I

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Anson Phelps

^m

George E. Sutherland

Henry South

Isaac Anderson

Transcript

1859

~~1860~~

13803

Dec. Trans & Cont of 2:00

per by Peff atty J. W. Kimball

United States of America
State of Illinois }
County of Cook }
} sp.

Hear before the Honorable
John M. Wilson Judge of the Cook County Court of
Common Pleas. within and for the County of Cook
and State of Illinois, at a regular term of said Cook
County Court of Common Pleas, begun and holden
at the Court House in the City of Chicago in said
County on the First Monday being the First day of
February in the year of our Lord One thousand
Eight Hundred and fifty Eight and of the Independ-
ence of the United States the Eighty second.

Present the Honorable John M. Wilson Judge
Charles Haven Prosecuting Attorney
John L. Wilson Sheriff

Attest

Walter Kimball Clerk

Be it Remembered, That on the nineteenth day
of February in the year of our Lord Eighteen Hundred
and fifty Eight. said day being one of the days of the
February Term of said Cook County Court of Com-
mon Pleas. the following among other proceedings was
had in said Court and entered of Record to wit.

Aaron Phelps

George G. Southland
Henry Gould

} Assumpsit.

This day comes the said plaintiff by E. & A. VanBuren his attorneys, and the said defendants by Hunslow & Knott their attorneys also come, and said defendants enter their motion herein founded upon affidavit for a continuance of this cause, which motion after being heard by the Court is overruled. And thereupon issue being joined it is ordered that a jury come. Whereupon come a jury of good and lawful men. to wit,

A. J. Sink, J. A. Ballard, A. C. Lewis, C. J. Vogel, E. F. White, H. Parks, Charles Douglass P. D. Hall, C. E. Aikew, E. C. Moore, John Knights, and J. P. Calburn, who being duly elected, tried and sworn well and truly to try the issue joined herein, after hearing the testimony adduced, and argument of counsel retire to consider of their verdict. and afterwards the jurors aforesaid come into Court, and say to the jury find the issue for the plaintiff, and we assess his damages to the sum of Nine Hundred and Eighty two Dollars and Eighty three cents.

Therefore it is considered that the said plaintiff do have and recover of the said defendants his damages of Nine Hundred and Eighty two Dollars and Eighty three cents, in favor aforesaid by the jury here assessed, and also his costs and charges

by him about his debt in this behalf expended, and have execution therefor.

And afterwards to wit, on the Twenty sixth day of March in the year last aforesaid, being also one of the days of said February Term of said Court, the following among other proceedings was had in said Court and entries of Record, to wit,

Amos Phelps }
George G. Southstead } Sash
Henry Gould }

And now at this day come the said defendants by their said attorneys and pray an appeal in this case to the Supreme Court of this State which is allowed by the Court, on their filing their appeal Bond in the sum of Twelve Hundred Dollars with security to be approved by the Judge of this Court, said Bond and Bill of Exception to be filed within five days from this day.

And afterwards to wit, on the Twenty ninth day of March in the year last aforesaid, the said defendants by their said attorneys filed in the office of the Clerk of said Court, their Appeal Bond, in the words and figures following, to wit,

Know all men by these presents, That we, J. Anderson, George G. Sutherland and Henry Gould, all of the County of Cook and State of Illinois, are held and firmly bound unto Aaron Phelps, of the same County and State, in the penal sum of Twelve 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 the 26th day of March A.D. 1858.

The condition of the above obligation is such that whereas the said Aaron Phelps did on the nineteenth day of January A.D. 1858, in the Cook County Court of Common Pleas, recover a judgment against the above bounden George G. Sutherland, and Henry Gould for the sum of Nine Hundred and Eighty two Dollars and Eighty three cents, and costs, from which judgment the said George G. Sutherland and Henry Gould have appealed to the Supreme Court of the State of Illinois,

Now if the said George G. Sutherland and Henry Gould shall duly prosecute their said appeal and shall pay the said judgment, together with the costs, interest and damages, in case the judgment shall be affirmed, then the above obligation to be void, otherwise to remain in full force and virtue.

Approved by me
John W. Nelson
Judge

G. G. Sutherland

Henry Gould

J. Anderson

[S]

[S]

[S]

State of Illinois }
County of Cook } ss.

J. Walter Kimball, Clerk of the
Cook County Court of Common Pleas, within and for
said County, do hereby certify, that the foregoing is
a true copy of all the orders had and entered of record
in said Court, and of the Appeal Bond filed in my
office on the 29th day of March A.D. 1858, in the case
wherein Aaron Phelps is Plaintiff, and George G.
Sutherland and Henry Gould are defendants.

In Testimony Whereof I hereunto
subscribe my name and affix
the Seal of said Court at Chicago
in said County this 29th day of
April A.D. 1858.

Walter Kimball Clerk



Court book of Court Pleas

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Amos Phelps

J. G. Sutherland ^{vs} et al

Judgt \$982.83.

19th Feb 58.

App. prayed 26 Mar

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Court Copy Order &c.

Filed April 30. 1858.

Exp. \$47.14 to be returned
blk

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Fees \$1.50 paid by

plff. atty. M. Kimball et al