

No. 13033

Supreme Court of Illinois

Jewett

vs.

Clark

71641  7

STATE OF ILLINOIS,
SUPREME COURT,
Third Grand Division.

No. 54.

Jewett
vs.
Clark

STATE OF ILLINOIS,
SUPREME COURT,

ss. The People of the State of Illinois,
To the Clerk of the ~~Superior Court of Chicago~~ Court for the County of Cook Greeting:

Because, In the record and proceedings, as also in the rendition of
the judgment of a plea which was in the Cook County Court of Common Pleas
Court of Cook County, before the Judge thereof, between
Sherman S. Jewett & Francis H. Root

plaintiffs and L. S. Clark

defendant, it is said, mani-
fest error hath intervened, to the injury of the aforesaid defendant

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 judgment thereof be given,
you distinctly and openly, without delay, send to our Justices of the Su-
preme 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!

Witness, The Hon. John D. Caton, Chief
Justice of our said Court, and the Seal
thereof, at Ottawa, this 12th day of
May in the Year of Our Lord
our thousand eight hundred and fifty-nine

L. Leland

Clerk of the Supreme Court.

J. B. Rice Deputy

267 34

L. S. Clark

Sherrin S. Jewett &
Francis H. Root
Writ of Error

This writ of Error is to
operate as a supersedeas
and as such is to be
obeyed by all concerned

L. Leland Clerk
by J. B. Rice
Deputy

Fid May 12. 1859

L. Leland
Clerk



Know all Men by These Presents, That L. J. Clark

as principal, and Bela Shaw and Volney A. Marsh
as security, are held and firmly bound unto Sherman S. Jewett & Francis H. Root

penal sum of five hundred dollars in the
and lawful money of the United States, for the payment of which, well and truly to be made, ~~the said~~
we

bind ourselves & our heirs, executors, and administrators, jointly, severally, and firmly by
these Presents.

Witness, our hands and seals

this 11th day of May A. D. 1859

The Condition of the above Obligation is such, That, whereas, the above named
Sherman S. Jewett & Francis H. Root
did, at the February Term of the Cook County Court of Common Pleas Court,
held in and for the County of Cook in the State of Illinois, A. D. 1857 recover a
judgment against the above bounden L. J. Clark

Costs of Suit for the sum of three hundred dollars and
to reverse which said judgment, the said L. J. Clark

has sued out a Writ of
Error from the Supreme Court, within and for the Third Grand Division of said State. Now if the said

shall duly prosecute said Writ of Error, and pay, or cause to be paid, the amount of said judgment and
damages which the said Supreme Court shall adjudge against him

and abide the order and judgment of said
Supreme Court in this behalf, then this obligation is to be void, otherwise to remain in full force and effect.

Witness
R. H. Officer

Bela Shaw [SEAL.]

L. J. Clark [SEAL.]

V. A. Marsh [SEAL.]

[SEAL.]

~~267~~ 64
Clark vs Jewett et al
Supr. Bench

Filed May 12, 1859.
St. Louis
Clk.

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

Pleas before the Honorable John M
Wilson sole Judge of the Cook County
Court of Common Pleas in 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 seventh day of February in the
year of our Lord one thousand eight
hundred and fifty nine and of the
Independence of the United States of
America the Eighty Third

Present the Hon John M Wilson Judge
Charles Haven Prosecuting Attorney
John Gray Sheriff of Cook County
Alfred Walter Kimball Clerk

By it remembered that heretofore to wit
on the twentieth day of January in the
year of our Lord one thousand eight
hundred and fifty nine Sherman S.
Dewick and Francis H Root filed in
the office of the Clerk of the Cook County
Court of Common Pleas in and for the

2)

County of Cook, State of Illinois their Precipe
for summons in the words and figures as
follows to wit

Cook Co Court of Common Pleas
of the February Term 1859.
Sherman S Jewett)
Francis H Root)
L. S. Clark vs { Assumpsit
Dat 9000

Will the Clerk issue summons to
Winnebago Co
and oblige &c
Helm & Clark

And afterwards to wit on the same day
and year aforesaid there issued out of
the office of the Clerk of said Court which
with the Sheriffs Return thereon, endorsed
is in the words and figures as follows
to wit

State of Illinois)
County of Cook SS

The People of the State of
Illinois to the Sheriff of Winnebago
County — Greeting —

3 We command you that you summon
L.D. Clark if he shall be found in
your County personally to be and appear
before the Cook County Court of
Common Pleas of said County on the
first day of the next term thereof to be
holden at the Court House in the City
of Chicago in said County on the first
Monday of February next to answer
unto Sherman D. Sweet & Francis
H. Root in a plea of trespass on the
case on promises to the damage of the
said plaintiffs as they say in the sum of
Five Hundred Dollars.

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

Seal } Witness Walter Kimball
Clerk of our said Court and
the seal thereof at the City of
Chicago in said County this
20th day of January A.D. 1839
Walter Kimball Clerk

"Sheriff Return endorsed"

I have served the within writ by reading

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the same to the within named Tancrow
I Clerk this 26th day of January
1839 King H. McKelken
Sheriff Win Co

And afterwards to wit on the twenty
fourth day of January in the year
aforesaid said plaintiffs filed in
the office of the Clerk of said Court
their bond for costs in the words and
figures as follows to wit.

Sherman S. Sewell
Francis A. Root } Cook County
S. D. Clark } Court of Common Pleas

I do hereby enter myself security
for cost 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 twentieth day of January A.D. 1839

And afterwards to wit on the twenty
eighth day of January in the year

aforesaid said plaintiffs filed in the
office of the Clerk of said Court their
declaration and copy of note in the
words and figures as follows to wit

Cook Court of Common Pleas
 Of the *February* Term, A. D. 185*9*.
 State of Illinois, } SS.
 County of Cook.

Sherman S Jewett and
Francis A. Root partners by the firm
 name of *Jewett & Root*

Plaintiffs in this suit by *Nelm & Clark* their Attorneys, complain of
L. S. Clarke

Defendant who *was* summoned, &c., of a plea of trespass on the case on promises: For that
 whereas the said Defendant heretofore, to wit, on the *twenty fifth* day of
October in the year of our Lord one thousand eight hundred and *fifty eight*
 at *Chicago* to wit, at said County of Cook, made *his* certain
 Promissory Note in writing, bearing date the day and year aforesaid, and then and there delivered the
 same to *said Plaintiff*
 in and by which said Note said Defendant *by the name style and description of*

Plaintiff by their firm name aforesaid on
 the *first* day of *January* next after date of
 said note the sum of *one hundred and*
thirty four dollars and *fifty six* cents

for value received. ~~And the said~~

to whom or to whose order said Note was payable, afterwards, to wit, on the day and year aforesaid
 at *Chicago* that is to say, at the County of Cook aforesaid
 endorsed said Note in writing, by which said endorsement the said
 then and there ordered and appointed the said sum of
 money in said Note mentioned to be paid to said *Plaintiff* and then
 and there delivered said Note, so endorsed, to the said *Plaintiff*

By means whereof, and by force of the statute in such case made and provided, the said Defendant
 became liable to pay said Plaintiff said sum of money mentioned in said Note, and being so liable, in
 consideration thereof, then and there undertook and promised to pay the same to the said Plaintiff
 according to the tenor and effect of the said Note, ~~and of the endorsement aforesaid~~, to wit, at the place
 aforesaid.

in and by which said Note said Defendant by the name, style and description of Wm. H. H. H. H. H. promised to pay to the order of the said

for value received. And the said
to whom or to whose order said Note was payable, afterwards, to wit, on the day and year last aforesaid,
at _____ that is to say, at the County of Cook aforesaid,
endorsed said Note in writing, by which said endorsement the said _____

By means whereof, and by force of the statute in such case made and provided, the said Defendant became liable to pay said Plaintiff said sum of money mentioned in said Note, and being so liable, in consideration thereof, then and there undertook and promised to pay the same to the said Plaintiff according to the tenor and effect, of the said Note, and of the indorsement aforesaid, to wit, at the place aforesaid.

Yet the said Defendant, not regarding *his* said promises and undertakings, but contriving &c., although often requested so to do, has not paid said Plaintiff either of said sums of money above mentioned, or any part thereof, but so to do has hitherto wholly neglected and refused, and still does neglect and refuse, to the damage of said Plaintiff of *five hundred* Dollars, and therefore *they* bring this suit, &c.

Helm & Clark *Plaintiff's Attorney.*

(7)

COPY OF INSTRUMENT AND ACCOUNT SUED ON.

Chicago Oct 25, 1858.

\$ 134 ⁵⁶/₁₀₀

On the first day of Jan after date
I promise to pay to the order of Sewell & Root
one hundred thirty four ⁵⁶/₁₀₀ Dollars value
Received with seven p^{ct} int & exchange on
Buffalo N.Y

L. D. Clarke

\$ 134 ⁵⁶/₁₀₀

Chicago Oct 25, 1858

On the first day of Dec after date I
promise to pay to the order of Sewell & Root
One hundred thirty four ⁵⁶/₁₀₀ Dollars value
Received with 7 p^{ct} int & exchange on Buffalo
N.Y

L. D. Clarke

To

Dr.

To money lent and advanced,	\$
To money paid, laid out, and expended,	\$
To money had and received to and for the use of said Plaintiff,	\$
To goods, wares and merchandise sold and delivered,	\$
To labor and services,	\$
To balance due on account stated,	\$

vs.

N A R R .

Filed this *day of*
..... 185 .

..... *Clerk.*

.....
Plaintiffs Attorney

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And afterwards to wit on the Ninth day of February in the year aforesaid said day being one of the days of the February Term of said Court for said year the following among other proceedings were had in said Court and entered of Record to wit.

Sherman S. Jewett	} assb.
Francis A. Root	
L. J. Clarke	

And now at this day comes the said plaintiffs by Helm & Clark their Attorney and did personal service of process of summons issued in the cause having been had on said defendant and he being three times solemnly called in open Court comes not nor does any person for him but herein he makes default which is on motion ordered to be taken and is hereby entered of record, wherefore the said plaintiffs ought to have and recover of the said defendant their damages sustained herein by reason of the premises. and the Court now here after hearing the proofs and allegations submitted and being fully advised

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in the premises assesses said plaintiffs damages herein to the sum of Three hundred Dollars.

Therefore it is considered said plaintiffs do have and recover of said defendant their damages of Three hundred dollars in form aforesaid by the Court here assessed and also their costs and charges by them about their suit in this behalf expended and have execution therefor

State of Illinois)
Cook County } ss

I Walter Kimball Clerk of the Superior Court of Chicago (late Cook County Court of Common Pleas) in and for the County of Cook, State of Illinois do hereby certify that the above and foregoing contains a full true and correct copy of all the papers on file in my office and of the proceedings had and entered of record in said Court in the case wherein Sherman S. Jewett & Francis H. Root are plaintiffs and L. V. Clarke is defendant, and I do further certify that execution isued on said Judgment on the Eleventh day

of February AD 1859 and has not
been returned to my office
Certified under my hand
and the seal of the Superior
Court of Chicago, at Chicago
in said County this 7th day
of May AD 1859
Walter Knibball Clerk



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And the said Plaintiff in Error now
comes & assigns for Error on the above record as follows

The Court below Erred

1st In rendering judgment for a sum greater
than the amount due by the said promissory
notes sued upon.

2 In rendering judgment for \$300.⁰⁰ while the
amount due by the terms of the promissory notes
sued upon. was only \$274.⁰⁰

3 In assessing any damages whatever beyond the
amount due on said notes by computation,
without the intervention of a jury

4 In hearing proof & allegations rendering judgment
for an amount greater than the sum due on said notes
without the intervention of a jury

James Marshall
for Plaintiff in Error

And now comes the said Defendant^{in error} by
Helm & Clark their attorneys and
say there is no error in the said
judgment or the record of the said
proceedings -

Helm & Clark
Attys for Deft in Error

Book let of Comm Recs

367 3-3

Therman D. Clark
Chanc.

D. J. Clark

Certified Copy
of Papers & order

Filed May 7, 1859
L. Leland
Clerk

