

No. 13511

Supreme Court of Illinois

Teeple.

vs.

Davis.

STATE OF ILLINOIS,
SUPREME COURT,
Third Grand Division.

No. 28.

Feb

1861.

Depledge

13571

*Appl. account
with 5 percent*

State of Illinois } April term 1861
Supreme Court } Third Division

Pellam & Tupper et al

Symon H Davis } Appeal from McHenry

It is respectfully being
duly sworn upon oath that
the clerk of the McHenry Circuit
Court made out the record ~~in this~~
now on file in this cause in this Court
and sent the same to the clerk of
this Court sometime in February
1860 at the request of the said
Symon H Davis and not at the
request of the said p[ar]ties or any
of them and further sworn to
Subscribed & sworn to

in open Court this day J. S. Handwritten
day of April 1861 }
L. Leland Clerk }
by J. B. Orr Deputy

Supreme Court
April 27th 1861

To Treas. Chas

L. Leland

Filed April 27. 1861
L. Leland
Clerk

Tuesday March 22^d. A.D. 1859.
United States of America.

State of Illinois }
McHenry County } ss. I, Pleas before the
Honorable Isaac J. Wilson
Judge of the Thirteenth Judicial Court of the
State of Illinois and Presiding Judge of the
McHenry County Circuit Court at a Circuit
Court begun and holden at the Court House
in Woodstock in said County on Tuesday
the twenty second day of March A.D. 1859
in the year of our ~~Repub~~ Lord one thousand
eight hundred and fifty nine, and of the
Independence of the United States the eighty
third ~~year~~ Present

Present
The Honorable Judge J. Wilson Judge
Edw. T. Jordan States Atty.
Attest Edwin C. Thomas Sheriff
George D. Kapson Clerk.

And huc to fore to wit on the eighth day of October for the year of our Lord One thousand eight hundred and fifty eight was filed in the office of the Clerk of said Court, a Precipe for Summons which said Precipe is in words and figures as following:

State of Illinois } McHenry County Circuit
McHenry County } Court October Term 1858.

Recipe

Lynard H. Davis

Pellum C. Teeple
 William H. Murphy
 James G. Murphy
 George Starr
 Charles M. C. Dufield

Damage \$400.⁰⁰/₁₀₀

Precipe John Dickerson
 Stephen O. Gregory
 Trustees of the Methodist
 Episcopal Church of
 Woodstock Illinois

Will the Clerk of
 said Court please issue Summons in the above
 entitled cause returnable according to Law
 & by

J. D. & H. L. Murphy
 plffs. atty

(Endorsed). Filed Oct. 8th 1858.

W. H. Hapson clk.

And on the same day to wit the 8th day of
 October in the year last aforesaid, there was
 issued from the Office of the Clerk of the
 Circuit Court aforesaid, a writ of Summons
 which is as follows. vizt.:

State of Illinois
 McHenry County

The People of the State
 of Illinois to the Sheriff

Summons.

of said County Greeting;

We command
 you that you summon Pellum C. Teeple
 W. H. Murphy, James G. Dufield, George Starr
 Ch. M. C. Dufield, John Dickerson, Stephen Gregory
 Trustees M. E. Episcopal Church Woodstock
 if they shall be found in your county personally

to be and appear before the Circuit Court
of said County, on the first day of the next
Term thereof to be holden at the Court House
in Woodstock in said County on the 19
day of October inst. to answer unto
Lyman W. Davis in a plea of trespass
to the damage of said Plaintiff as he says
in the Sum of four hundred dollars
And have you then and there this
 writ with an endorsement thereon as
to the manner in which you execute
the same

Seal

Witness George S. Kaffon, Clerk
of our said Court and the Seal
thereof at Woodstock in said
County this 8 day of October
A.D. 1858
G. S. Kaffon Clerk.

(Endorsed) Served by reading, to the within named
John Dickerson, Capt. W. C. Duffield, Pollum Teeple
James, G. Murphy, George Staro, Stephen Gregory
this 9th day of October A.D. 1858. J. M. H.
Summons. Murphy not found in my County. Also by
the within named Mr. H. Murphy accepting service
this 12th day of Oct. 1858
Fees 7 shrs. 3.50 John Eddy Shf.
Mge Ret. \$1.25 By E. J. Smith Dpty.
4.75
Filed Oct. 10. 1858 G. S. Kaffon clk.

And thereafter to wit on the 9th day of
October in the year last aforesaid was
filed in the Office of the Circuit Clerk aforesaid
the Declaration of the Plaintiff in the above
entitled cause, which said Declaration is
in words and figures as follows to wit:

McHenry County Circuit Court

Of the October Term A.D. 1858
State of Illinois }
McHenry County }

Lymann W. Davis
Plaintiff in this suit by S. D. & H. J. Murphy
his Attorneys complaining of Pellum C. Tepler
William W. Murphy, James G. Murphy
George Star, Charles C. M. C. Dufield, John
Dickerson, Stephen O. Gregory Trustees of
the Methodist Episcopal Church of Woodstock
Illinois defendants who are summoned
Itc. in a plea of trespass on the case on
promises: For that whereas the said Defen-
dants heretofore to wit on the twenty seventh
day of December in the year of our Lord
one thousand eight hundred and fifty six
at to wit Woodstock in said County of McHenry
made their certain promissory note in
writing bearing date the day and year
afore said and then and there delivered
the same to one George W. Young in and by
which said note, said Defendants promised
to pay to the order of the said George W.
Young three hundred dollars with ten per
cent interest for money loaned on or before
the first day September in the year one
thousand eight hundred and fifty eight
for value received. And the said George
W. Young to whom or to whose order
said note was payable then and there
indorsed and under his hand assigned
the said note to the said Plaintiff and
then and there delivered the same indorsed

to the Said Plaintiff by means whereof
 and by force of the Statute in such case
 made and provided the said Defendants
 became liable to pay the 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 ~~xxx~~ true intent and meaning
 of the said Note, and of the indorsement
 aforesaid to wit, at the place aforesaid.

And whereas also, ^{the said Defendants} afterward, to wit
 on the tenth day of October in the year
 of Our Lord one thousand Eight hundred
 and fifty eight at Woodstock, in said County
 became and ~~were~~ ^{are} indebted unto the Plain-
 tiff in a large Sum of money to wit
 four hundred dollars, for money before
 that time lent and advanced to, and paid
 laid out and Expended for said Defendants
 by said Plaintiff at said Defendants request
 and for money before that time had and
 received by said Defendants to and for the
 use of said Plaintiff; and also in like
 Sum for goods wares and Merchandise
 before that time sold and delivered by said
 Plaintiff to said Defendants at like Special
 instance and request; and also in like
 Sum for the labor care and diligence
 of said Plaintiff before that time done and
 performed by said Plaintiff for said Defendants
 and at the like instance and request of said
 Defendants; and also in like Sum then and
 there found due and owing said Plaintiff
 on an account stated between them

and being so indebted in consideration thereof
then and there undertook and promised
to pay said Plaintiff, said last mentioned
sum of money when thereunto afterward
requested

But the said defendants not regarding
their said promises and undertakings but
contriving &c. although often requested so to
Narrations, have not paid said Plaintiff either of
said sums of money above mentioned, or any
part thereof, but so to do have hitherto
wholly neglected and refused and still
do neglect and refuse to the damage of
the said Plaintiff of four hundred Dollars
and therefore he bring this suit &c.

J. L. & H. J. C. Murphy
Plffs. Attorneys.

Copy of Instrument and account sued on.

1850. On or before the first day of September
1858 for value received we promised to pay
George W. Young or order Three Hundred
Narrations Dollars with ten per cent Interest for money
loaned

Woodstock Dec. 27. 1856

Signed. Pellam C. Teeple

Wm. H. Murphy } Trustees
Jas. G. Murphy } of the M.E.
George Starr } Church of
Charles W. Duford } Woodstock
John Dickerson } Illinois
S. B. Gregory }

Pellum C. Teeple
 Wm H. Murphy
 Jas G. Murphy
 George Starr
 Charles W. C. Duffield
 John Dickerson
 A. C. Gregory.

Trustees of the
 M. Church of
 Woodstock
 Minn.

Narration

To money lent and advanced
 To money expended and paid out for
 To money received for use of
 To Groceries, Fruits, & Merchandise
 To labor & services
 To balance on account stated

To Lyman A Davis

Do.
 \$400 -
 \$400.
 \$400
 \$400
 \$400
 \$400

(Endorsed) Filed October 9th. 1858
 A. H. Kappan Clerk

And afterward to wit on the 21st. day of October
 in the year last aforesaid the defendants filed
 their plea to the above declaration which said
 plea is in words and figures as follows that
 is to say:

On McHenry Circuit Court
 October Term 1858

L. H. Davis

Teeple & Co. And the depts. by
 Joslyn & Blanchet their Attorneys come and defend
 the wrong & injury whereof. and say that they
 did not undertake and promised in manner
 & form as in said declaration is set forth. And
 of this they put themselves upon the Country

(Endorsed) Filed Oct. 21. 1858
 Joslyn & Blanchet
 A. H. Kappan Clerk. for Depts

And thereafter to wit on the Eleventh day of February in the year of our Lord one thousand eight hundred and fifty nine, being one of the days of the February Special Term for the year last aforesaid the following among other proceedings were had in said Cause and Entered of Record to wit:

L. H. Davis

Pellum C. Teeple & Co

Assumpsit

And now

Come the defendants by Joslyn their Attorney, who withdraws his appearance and the plea formerly Entered and filed herein, And thereupon the defendants being called came not nor any one for them but fail & make default herein which is ordered to be Entered of Record. And thereafter on the same day comes the Plaintiff by Murphy his Attorney and on his Motion it is ordered that the default formerly Entered herein be set aside.

And thereafter to wit on the 8th day of April in the year last aforesaid the following further proceedings were had in said Cause and Entered of Record to wit:

Lyman H. Davis

Pellum C. Teeple

William H. Murphy

James J. Murphy
George Starr
Charles W. C. Drfield
John Dickerson
Stephen O. Gregory

Exempt

And now
come the parties
to this suit by their respective attorneys
and upon being joined submit this cause
to the Court for trial without the intervention
of a jury. And the Court being fully advised
upon the proofs submitted, finds the issue
for the Plaintiff and assesses his damages
at the sum of Three Hundred sixty eight dollars
and fifty cents. It is therefore ordered
and considered that the Plaintiff have and
recover of the defendants the sum of
Three Hundred Sixty Eight dollars and fifty
cents his damages so assessed as also
his costs and charges herein expended
and that he have execution therefor
Whereupon the defendants by their Counsel
pray an Appeal to the Supreme Court
of this State, which is allowed on condition
that they enter into bonds conditioned ac-
cording to Law in the sum of One hundred
dollars with James S. Hoyt as security to be
filed in ten days.

And thereafter to wit on the 13th. day
of April in the year last aforesaid the
defendants file with the Clerk of said Circuit
Court aforesaid an appeal bond, which
is in words and figures as follows
That is to say

I now all men by these Presents that we
Pellum C. Teeple, William H. Murphy,
James G. Murphy, George Starr, Charles
W. C. Dufield, John Dickerson, Stephen O.
Gregory Trustees of the Methodist Episcopal
Church of Woodstock, Illinois & James L.
Hoot are held and firmly bound unto Lyman
H. Davis in the penal sum of Seven hundred
dollars lawful money of the United States,
for the payment of which well and truly
to be made we bind ourselves, our heirs
and administrators jointly and severally
and firmly by these presents

Witness our hands and seals this day
of April A.D. 1859

The Condition of the above
obligation is Such that whereas the said
Lyman H. Davis did on the eighth day of
April A.D. 1859 in the McHenry County Circuit
Court before the Hon. Isaac G. Wilson recover
a judgement against the above bounden
Pellum C. Teeple, Wm H. Murphy, James
G. Murphy, George Starr, Charles W. C.
Dufield John Dickerson, Stephen O. Gregory
for the sum of Three Hundred and Sixty eight
dollars and fifty cents from which judgement
the said Pellum C. Teeple Wm H. Murphy
James G. Murphy George Starr, Charles
W. C. Dufield, John Dickerson, Stephen O.
Gregory has taken an appeal to the Supreme
Court of the State of Illinois, as aforesaid
it now if the said Pellum C. Teeple
Wm H. Murphy James G. Murphy George
Starr Charles W. C. Dufield, John Dickerson
and Stephen O. Gregory shall prosecute their

appeal with Effect and pay all Judgements
costs interest and damages in case the Judge-
ment shall be affirmed then the above
obligation to be void otherwise to remain
in full force and Effect

Pellum C. Teeple *(Signature)*
Jm. A. Murphy *(Signature)*
James G. Murphy *(Signature)*
Grove Starr *(Signature)*
Charles W. C. Dufield *(Signature)*
John Dickerson *(Signature)*
Stephen O. Gregory *(Signature)*
J. L. Hoyt *(Signature)*
H. J. Murphy *(Signature)*
their atty in fact

(Ordered.) Fil. April 13. 1859
J. L. Kaffron Clerk.

State of Illinois J. L. Kaffron
McHenry County J. L. Kaffron
Clerk of the Circuit
Court in and for said County in the State aforesaid
do hereby certify that the above and foregoing
is a true and complete copy of the Records of
this Court in a case wherein S. H. Davis is
Plaintiff and Pellum C. Teeple et al defendant
as appears by a diligent examination thereof
In Witness whereof I have hereunto
set my hand and affixed the Seal of
said Court at Woodstock
this 18th day of February
A.D. 1860.
J. L. Kaffron Clerk

appeal with Effect and pay all Judgements
costs interest and damages in case the Judge-
ment shall be affirmed then the above
obligation to be void otherwise to remain
in full force and Effect

Pellum C. Teeple *(Signature)*
Jm. A. Murphy *(Signature)*
James G. Murphy *(Signature)*
Grove Starr *(Signature)*
Charles W. C. Dufield *(Signature)*
John Dickerson *(Signature)*
Stephen O. Gregory *(Signature)*
J. L. Hoyt *(Signature)*
H. J. Murphy *(Signature)*
their atty in fact

(Ordered.) Fil. April 13. 1859
J. L. Kaffron Clerk.

State of Illinois J. L. Kaffron
McHenry County J. L. Kaffron
Clerk of the Circuit
Court in and for said County in the State aforesaid
do hereby certify that the above and foregoing
is a true and complete copy of the Records of
this Court in a case wherein S. H. Davis is
Plaintiff and Pellum C. Teeple et al defendant
as appears by a diligent examination thereof
In Witness whereof I have hereunto
set my hand and affixed the Seal of
said Court at Woodstock
this 18th day of February
A.D. 1860.
J. L. Kaffron Clerk

Pellum & Temple
vatter 20 ~~28~~ 28

Lyman H. Davis

Transcript of
the record of the Circuit
Court of McHenry County

Filed February 24. 1860
L. Leland
Clerk

368 50
0 51
Dpt 19, 42 50