

13595

No. \_\_\_\_\_

# Supreme Court of Illinois

Ayers

---

vs.

Osborn

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71641  7

STATE OF ILLINOIS,  
SUPREME COURT.  
Third Grand Division.

No. 46

*Agres*  
*vs*

*Osborn*

**1862**

*13595*

(1)  
State of Illinois }  
Henry County } ss

Henry County Circuit Court  
October term A D 1860

Plas before the Honorable John H. Howe Judge of  
the 6<sup>th</sup> Judicial Circuit of the State of Illinois.

At a regular term of the circuit court begun and  
holden at the Court House in Cambridge in said  
County of Henry and State of Illinois on the  
second Monday of October in the year of our Lord  
One thousand eight hundred and sixty, it being  
the second Monday of said month

Present

Honorable John H. Howe

Judge

Thomas Wiley jr

Clerk

Purnel H. Smith

Sheriff

Know ye that on the 4<sup>th</sup> day of September A D 1860  
a summons issued out of said Court in following  
case which summons is in words and figures following  
To Wit

State of Illinois }  
Henry County } ss

The people of the State of Illinois

To the Sheriff of said County  
Greeting. You are hereby commanded to summon  
Vincent M. Ayres to appear before the Circuit  
Court of Henry County on the first day of the next  
term thereof, to be holden at Cambridge on the

(27)  
2<sup>d</sup> Monday of Oct next to answer the complaint of  
Marcus B Osborn in a plea of assumpsit. Demogis  
claimed \$1500. And have you then and there this  
wit

Witness Thomas Wiley for Clerk of said Court  
and the seal thereof this 4 day of Sept 1860  
Seal Thomas Wiley for Clerk

Upon which summons appears the following  
endorsement

I have served the within summons  
by reading the same to the within named Vincent M  
Ayres this 18<sup>th</sup> day of Sept A D 1860

P H Smith Sheriff of Henry Co Ills  
By George A Brown Deputy Sheriff

Decl. Filed.

And afterwards to wit on the fourth day of October  
A D 1860 the Plaintiff by his Attorney Thomas G Frost  
filed his Declaration in said cause in the words and  
figures following to wit

State of Illinois }  
County of Henry } ss

Circuit Court of Henry County  
Of the October Term A D 1860

Marcus B Osborn Plaintiff in this suit who sues for the use  
of James M Wright by Thomas G Frost his Attorney  
complains of Vincent M Ayres Defendant who was  
immuned, &c. of a plea of trespass on the case on  
promises. For that whereas the said Defendant

heretofore, to wit, on the second day of January in the year of our Lord one thousand eight hundred and fifty seven at Cambridge to wit at said County of Henry made three certain Promissory Notes in writing bearing date the day and year aforesaid, and then and there delivered the same to Marcus B Osborn in and by which said notes said Defendant by the name, style and description of G M Ayres promised to pay to the order of the said Marcus B Osborn or bearer at the Rock Island Bank, by the first note Two hundred and fifty dollars on the 2<sup>d</sup> of July 1858. by the second note two hundred and fifty dollars two years from date viz on the second day of January 1859. And by the third of said notes two hundred and fifty dollars on the 2<sup>d</sup> day of July 1859 for value received

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 aforesaid, to wit, at the place aforesaid

And whereas also the said Defendant afterwards, to wit, on the second day of July in the year of our Lord one thousand eight hundred and sixty to wit at said County became and was indebted unto the plaintiff in a large sum of money, to wit fifteen

4  
hundred dollars for money before that time lent and  
advanced to said Defendant by said Plaintiff at said  
Defendants request; and also in the like sum, for money  
before that time paid, laid out, and expended for said  
Defendant by the said Plaintiff, at the like special  
request of said Defendant; and in the like sum for  
money before that time had and received by said  
Defendant to and for the use of said Plaintiff; and  
also in the like sum, for goods wares and merchandise  
before that time sold and delivered by said Plaintiff  
to said Defendant, at the like special instance and  
request, and also in the like sum for labor, care and  
diligence of said Plaintiff before that time done  
and performed by said Plaintiff for said Defendant  
and at the like instance and request of said Defendant  
and also in the like sum then and there found  
to be due and owing to said Plaintiff on an account  
stated between them; and being so indebted said  
Defendant in consideration thereof then and there  
undertook and promised to pay said Plaintiff said  
~~several~~ sums of money above mentioned, when therunto  
afterwards requested

Yet the said Defendant, not regarding  
his said promises and undertakings, but continuing to  
although often requested so to do has not paid said  
Plaintiff either of said sums of money above mentioned  
or any part thereof, but to do so has hitherto wholly  
neglected and refused, and still doth neglect and refuse

to the damage of said Plaintiff of fifteen hundred dollars  
and therefore he brings this suit &c

Thomas H Frost

Plaintiff's Attorney

Copy of Instrument and Account sued on

\$250

Rock Island January 2<sup>d</sup> 1857

For value received I promise to pay Marcus B Osborn  
or bearer Two hundred and fifty dollars on the 2<sup>d</sup>  
day of July 1858 at the Rock Island Bank

T M Ayres

\$250

Rock Island January 2<sup>d</sup> 1857

For value received I promise to pay Marcus B Osborn  
or bearer. Two hundred and fifty dollars two years from  
date at the Rock Island Bank

T M Ayres

\$250

Rock Island January 2<sup>d</sup> 1857

For value received I promise to pay Marcus B Osborn  
or bearer Two hundred and fifty dollars on the  
2<sup>d</sup> day of July 1859. at the Rock Island Bank

T M Ayres

Vincent M Ayres

To Marcus B Osborn Dr

July 2<sup>a</sup> 1860

"	To Money lent and advanced	\$1500.
"	To Money paid. laid out and expended	\$1500.
"	To Money had and received to and for the use of said Plaintiff	\$1500.
"	To Goods, wares and merchandise sold and delivered	\$1500.
"	To Labor and services	\$1500.
"	To balance due on account stated	\$1500.

Security for Costs entered on Declaration  
Marcus B Osborn } Henry County Circuit Court  
vs }  
Vincent M Ayres } October Term AD 1860

I do 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 1<sup>st</sup> day of Sept AD 1860

J. G. Frost

Receipt for Summons enclosed in declaration  
Circuit Ct of Henry

Dr Sir Please issue summons in  
assumpsit in sum of fifteen hundred dollars for  
Vincent M Ayres in favor of Marcus B Osborn  
Returnable at the Oct Term of Court AD 1860

J. G. Frost

Afterwards to wit at the term aforesaid on the tenth day thereof it being the Twenty Third day of October A D 1860 the following proceedings were had in said cause

No 160

Marcus B Osborn }  
 vs  
 Vincent M Ayres } Assumpsit

This day came the said Plaintiff by Thomas G Frost his Attorney and the said Defendant being three times solemnly called, come not nor comes any one for him but he makes default herein. It is therefore considered and ordered by the Court that said Plaintiff have judgment by default against the said Defendant for his damages herein

And it appearing to the Court that this suit is brought upon an instrument of writing for the payment of money only and that the damages of said Plaintiff in this case rest in computation it is therefore ordered by the Court that the Clerk aforesaid compute and report the said damages. Whereupon the Clerk proceeded to make the aforesaid and computation aforesaid and reported to the Court the sum of (\$839.05) Eight hundred and Thirty Nine <sup>05</sup>/<sub>100</sub> Dollars as the amount of the Plaintiff damages herein which aforesaid and computation upon examination by the Court appearing to be just and correct is by the Court approved and allowed

It is therefore considered and ordered by the Court that the said Plaintiff have and recover of the said Defendant the said sum of (\$ 839,05) Eight Hundred and thirty nine <sup>05/100</sup> Dollars being the amount of the damages assessed and computed as aforesaid, together with his costs and charges herein expended, and that he have execution therefor against the said Defendant

State of Illinois }  
Henry County } SS

I Amos Gould Clerk of ~~said~~ <sup>the Circuit</sup> Court in and for said County do hereby certify that the foregoing is a full true and complete ~~and~~ transcript of the record of proceedings and of all papers filed in the ~~in said entitled~~ <sup>therein mentioned</sup> cause ~~as appears of~~

as appears of Record in my Office

Witness Amos Gould, <sup>of Clerk of said Court and</sup> ~~under~~ the seal

thereof at Cambridge this Sixth day of December  
AD 1860

Amos Gould Circuit Clerk

State of Illinois  
In the Supreme Court }  
Third Grand Division } ~~Errors & Henry County~~  
Of April Term A.D. 1861.

Vincent M. Ayres }  
Marcus B. Osborn } ~~Errors & Henry County~~

Vincent M. Ayres

And now comes the said plaintiff in error by  
H. M. Wells, ~~and Geo. Stoughton~~ his attorney, and  
says that in the record and proceedings aforesaid, and  
also in the judgment aforesaid, there is manifest  
error, in this to wit, that the declaration aforesaid  
and the matters therein contained are not suffi-  
cient in law for the said Marcus B. Osborn to  
have or maintain his aforesaid action against  
the said Vincent M. Ayres

Also there is error in this to wit, that by the  
record aforesaid it appears that the said Vincent  
M. Ayres was summoned to answer the com-  
plaint of the said Marcus B. Osborn at the Octo-  
ber Term A.D. 1860 of the Circuit Court aforesaid,  
and at the first day of said October Term,  
that the said Marcus B. Osborn did not file  
his declaration in the said Circuit Court ten days  
before the first day of said October Term  
thereof, and that judgment was given for the said  
Osborn and against the said Ayres, for or by

default, contrary to the law of the land.

And for the errors aforesaid and the manifold  
other errors in the record and proceedings aforesaid  
and in the judgment aforesaid  
The said <sup>Prosecutor</sup> M. Ayres, prays that the said  
judgment may be reversed, annulled and alto-  
gether for nought held.

H. W. Wells and ~~Geo. L. Higgins~~

Charles C. Bowney }  
O. J. Wells, of Counsel }     Attys for Hff. in Error

Let a supersedeas issue Bond \$1200

Augustus A. Devin surety

July 2, 1860.

J. H. Clouston

Supreme Court

Vincent M. Hayes ~~et al~~ in error }  
as } Error to  
Marcus B. Blesbom ~~et al~~ in error } ~~Hayes~~

And the said defendants  
in error by J. S. Frost his attorney came  
and say that in the record proceedings  
and judgments aforesaid there is no such  
error as complained of by the said plain-  
tiff in error and he submits the same  
so this Court will order that the said  
judgments may in all respects be affirmed  
and that he may recover his Certs herein

Marcus Blesbom

By J. S. Frost his atty

~~120~~ 46

Vernon M. Ayer

Marcus R. Orbow

Record & Assignments  
of Errors.

Filed Jan 7. 2. 1861.  
L. Leland  
Clk.

STATE OF ILLINOIS, }  
SUPREME COURT, } ss.

The People of the State of Illinois,

To the Clerk of the Circuit Court for the County of Henry - 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 Henry County, before the Judge thereof, between

Marcus B. Osborn

plaintiff, and

Vincent M. Ayres

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

as we are informed by his complainant..... 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 plaints 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. Eaton, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this second day of January in the Year of Our Lord One Thousand Eight Hundred and Sixty one.

L. Leland  
Clerk of the Supreme Court.



Vincent M. Ayres

No.

vs.

Marcus B. Osborn

**WRIT OF ERROR.**

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

*L. Seland*

*Clerk.*

FILED

*Jan. 2<sup>d</sup>*

A. D. 1864

*L. Seland*

*Clerk.*

State of Illinois  
Henry County

Vincent M. Ayres being duly sworn deposes  
That he is well acquainted with Augustus A. Dunn  
of Henry County aforesaid, that he has known  
him intimately for the six years last past  
and more, that he resides now, and has  
resided during the six years last past  
in the vicinity of said the residence of said  
Dunn, and is therefore well acquainted  
with the means and pecuniary condition of  
said Dunn; that to deponents knowledge  
the said Dunn hath, and doth own  
property real and personal ab<sup>ove</sup> with  
said Henry County, not exempt from  
execution, exceeding in value the sum  
of — Six Thousand — Dollars, deponent  
further saith that as this deponent knows  
of a verity the said Dunn is now  
indebted to an amount exceeding in all  
the sum of One Thousand Dollars

Subscribed & sworn to before me  
at said Henry County this 25<sup>th</sup>  
day of December A.D. 1860.  
James Young, Clerk of the  
Circuit Court

46  
Ayer

Olson

Affidavit of suff. of  
Bail

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Filed Jan'y. 2<sup>d</sup> 1861  
L. Island  
Clk.

Whereas herebefore to wit at the October Term A.D.  
1860 of the Circuit Court in and for the County of Henry  
and State of Illinois, in a certain cause in said  
Court pending, one Marcus R. Osborne, recovered a  
judgment against Vincent W. Ayres, for the sum  
Eight Hundred and Thirty nine  $\frac{15}{100}$  Dollars, as his dam-  
ages for the nonperformance by the said Ayres of  
certain promises and undertakings of which the said  
Ayres, by the said Osborne sustained, from which  
said judgment the said Ayres is now about to pros-  
ecute his writ of error, for the reversal thereof,  
and is about to apply to the Hon. Shabanu Carter  
or some other of the Justices of said Supreme  
Court, for a supersedeas upon said writ  
of error, to wit know all men that  
we the said Vincent W. Ayres, and  
Augustus A. Dunn

of the said County of Henry and State of Illinois  
have made constituted and appointed E. J. Wells  
of Rock Island County in the said State of  
Illinois our true and lawful attorney for  
us and in our names, to make, and  
enter into such <sup>a</sup> proper, and sufficient  
supersedeas bond, (in case the writ of error  
in the aforementioned cause shall be denied  
to stand as a supersedeas) in such sum,  
as may be directed, and conditioned according

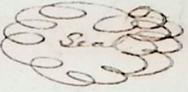
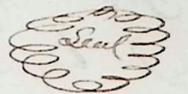
to law, Truly & fully ratifying and confirming  
all that our said attorney may by virtue  
hereof lawfully do.

Witness our hands and seals hereunto affixed  
this 25<sup>th</sup> day of December A.D. 1860.

State of Illinois }  
Henry County } 31

J. M. Ayres

A. A. Duncanson



Before the undersigned clerk of  
the circuit court of said County  
this day personally appeared

Vincent M. Ayres and

Augustus A. Duncanson whose names appear signed  
to the foregoing power of attorney as having  
executed the same - ~~Witness who were~~  
personally known to me to be the  
indicated persons who executed the same  
and acknowledge that they had executed  
the said power of attorney for the  
uses therein set forth - In witness whereof  
I have unto set my hand and the  
Seal of said Court this twenty fifth  
day of December A.D. 1860

Amos Bruce Clerk

Agree <sup>46</sup> self sum

Oban Diffin sum

sum to Army

sum to cut in sup. band.

Filed Jan 2. 1861.  
S. Veland  
Clk.

In the Supreme Court of Illinois

Vincent M. Ayres Plaintiff in Error

vs.

Marcus B. Osborn Defendant in Error

Error to Henry County

Abstract of the Record

Page 1. Macita etc..

Sept. 14<sup>th</sup> 1860. def<sup>t</sup> in error sued out his summons in a sumpsit, against def<sup>t</sup> in error, returnable to the October Term AD 1860. of Henry Cir. Ct.

2 Sept. 18<sup>th</sup> 1860. Summons returned by the Sheriff duly served

2. 3. October 3<sup>rd</sup> 1860. The plaintiff filed his narr. containing two counts. the first avers that def<sup>t</sup>. below on sc. at sc, "made three certain promissory notes in writing bearing date the day a<sup>d</sup> year a<sup>d</sup> year a<sup>d</sup> year and then and there delivered the same to Marcus B. Osborn" and by which said notes he promised to pay to Marcus B Osborn sc sc sc

By means whereof said defendant became liable sc., and "in consideration thereof then and there undertook, and promised to pay the same to the said Plaintiff"

3, 4, 9. The second count in the common indictment  
assumpsit counts conducted - concludes, That "being  
14 so indebted. so, the defendant undertook and prom-  
ised to pay said plaintiff" &c &c  
Breach in ordinary form.

5. Copy of the notes sued on, and the ap filed  
6 with the declaration

6 Security for costs, and precept for process filed in  
due form. Sep 4. A.D. 1860.

7 October 23. A.D. 1860 the defendant was defaulted &  
8 the plaintiff had judgment for \$839.05

8 Clerk's Certificate

46  
Apes v Osborn

Abstract

Filed Jan 7. 2. 1861.  
A. Keland  
Clerk.

State of Illinois

In the Supreme Court

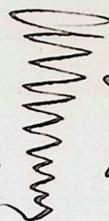
Ottawa April Term

1861-

Vincent M. Ayres

v.

Marcus B. Osborn



Error to

Henry-

Suggestions against defendants  
motion for proceedings to alter  
record &c.

1. The scire facias was served  
January 17, 1861 - a term  
of the Court below was held  
2d Monday in March, but  
no application was made to  
amend the record, and it is  
now too late.
2. The affidavit makes at the  
best, only a probable case -  
and a record should not be changed  
except upon a certainty.
3. It is a little remarkable that  
the person who filed the declaration  
in the clerks office, and who  
ought to be able to swear positively,

is not called on to support this motion. The absence of this best evidence raises a strong presumption against the change sought to be made in the record -

Bourney  
for ~~My~~ in Error

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~~120-46~~  
Ayres v. Orford

Suggestion v.  
no. to correct  
record -

Filed 25. Apr 1861.

G. Ireland

Clerk

Centiarini annex

STATE OF ILLINOIS,  
SUPREME COURT.

} ss. The People of the State of Illinois,

To the Sheriff of Henry 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  Henry County, before the judge thereof, between

Marcus B. Osborne

plaintiff, and

Vincent M. Ayres

defendant, it is said that manifest error hath intervened, to the injury of the said  Ayres

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

Marcus B. Osborne

that  he 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  he 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  Marcus B. Osborne

notice, together with this writ.

Witness, The Hon. John D. Eaton, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this  25<sup>th</sup>  day of  February  in the year of our Lord One Thousand Eight Hundred and Sixty- two .

L. Island   
Clerk of the Supreme Court.



Henry - 46

Thercent M. Hayes

No. 46 vs.

Marcus B. Osborne

SCIRE FACIAS.

FILED April 7 1862

L. Deland Clerk

Sheriff's fees

Mileage 30

Return 10

A. H. Ramsey 60

Sheriff Henry

County Ill.

I cannot in my County find the within named  
Marcus B. Osborne  
Cambridge April 3rd 1862  
A. H. Ramsey  
Sheriff Henry County

Circuit Court Henry County,  
Marcus B. Osborn  
for use of J. M. Wright

vs  
Vincent M. Ayres  
State of Illinois  
Henry County

Thomas Wiley Jr.

being duly sworn deposes and says  
that he was during the ~~entire~~ <sup>up to Dec. 17<sup>th</sup> of said year</sup> years  
A.D. 1860, Clerk of the Circuit Court  
of Henry County. That from the best of  
his knowledge, recollection and belief  
on the 4<sup>th</sup> day of September last  
he received as such Circuit Clerk a  
declaration in the above entitled cause  
together with a precept for a summons  
in the same cause endorsed on said  
declaration to be filed in the Circuit  
Clerks office of Henry County. That  
thereupon and on the 4<sup>th</sup> day of Sep-  
-tember A.D. 1860 a summons in  
said Cause pursuant to said precept  
was duly issued by him as Circuit  
Clerk of Henry County out of said  
Clerks office and as it appears by  
the return of the officer was duly  
and reasonably served on the 18<sup>th</sup> day  
of September and more than two

days prior to the first day of the term  
of Court to which it was made  
returnable - That this deponent  
has examined the date of the filing  
of said declaration and the process  
therein contained and finds the filing  
thereof to be in his hand writing  
and from the best of his knowledge  
information and belief he through  
inadvertence at the time of the re-  
ceipt of said declaration marked  
it filed October 4<sup>th</sup> A.D. 1860 instead  
of the 4<sup>th</sup> day of September the date  
when it was actually received and  
filed in said Clerks office, and as  
it should have been - said erroneous  
date being endorsed on said declara-  
-tion merely through the mistake of  
this deponent -

Thos Wiley Jr  
Subscribed and sworn to before me this 10<sup>th</sup> day of April A.D. 1860  
Supreme Court State of Illinois  
Abraham County Clerk  
By N. O. Sleight, Deputy

And sent Mr. Ayres  
Plaintiff in Error

vs

Marcus B. Osborn  
for use & c. of Mr. Wright  
Defendant in error

Henry County ss -

Thos Wiley Jr  
being duly sworn deposes and says  
that the foregoing affidavit by

his subscribed is true and further  
says not -

Thomas Wiley Jr

Subscribed and sworn to  
before me this 16<sup>th</sup> day  
of April A.D. 1861 -

D. Bonus County Clerk

p. H. Sleight Deputy



46 424  
Henry Circuit Court  
vs. Mr. Ayres

Plaintiff in Error

Marcus B. Osborn  
of J. M. Wright

Defendant in Error

Affidavit

Filed April 24 1861  
L. Leland  
Clerk

29  
38  
46



Know all Men by these Presents, That Vincent M. Ayres

~~Augustus A. Dunn~~

as principal, and Augustus

A. Dunn as security, are held and firmly bound

unto Marcus B. Osborn ~~debtors~~

in the penal sum of twelve hundred dollars — good and lawful money of the United States, for the payment of which, well and truly to be made, the said Vincent M. Ayres & Augustus A. Dunn

bind themselves, their heirs, executors and administrators, jointly, severally and firmly by these Presents.

Witness, their hands & seals

this 2<sup>nd</sup> day of January A. D. 1861.

The Condition of the above Obligation is such, That, whereas the above named Marcus B. Osborn

did, at the October Term of the Circuit Court, held in and for the County of Henry in the State of Illinois, A. D. 1860 recover a judgment against the above bounden

Vincent M. Ayres

for the sum of eight hundred & thirty nine dollars & five cents

to reverse which said judgment, the said Vincent M. Ayres

has sued out a Writ of Error from the Supreme Court, within and for the Third Grand Division of said State, which Writ of Error is made a Supersedeas. Now if the said Vincent M. Ayres

shall duly prosecute said Writ of Error, and pay, or cause to be paid, the amount of said judgment, and all judgments, costs, interest 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.

Vincent M. Ayres [SEAL.]  
per E. T. Wells, his atty in fact [SEAL.]

Augustus A. Dunn [SEAL.]  
per E. T. Wells, his atty in fact [SEAL.]

No. ....

SUPREME COURT,

THIRD GRAND DIVISION.

*Vincent M. Ayres*

vs.

*Marcus B. Osborn*

SUPERSEDEAS BOND.

Filed *Jan. 2<sup>d</sup>* 1861  
*S. Keland* Clerk.

STATE OF ILLINOIS, }  
SUPREME COURT, } ss.

The People of the State of Illinois,

To the Sheriff of the County of

~~Rock Island~~ Rock Island 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 Hairy - County, before the Judge thereof, between

Marcus B. Osborn

plaintiff, and

Vincent M. Ayes

defendant, it is said that manifest error hath intervened, to the injury of the said Ayes

as we are informed by his complaints 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

Marcus B. Osborn

that he 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 he 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 Osborn

notice, together with this writ.

Witness, The Hon. John D. Eaton, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this 22 day of January in the Year of Our Lord One Thousand Eight Hundred and Sixty one -

L. Deland

Clerk of the Supreme Court.

State of Illinois 3 ss.  
Rock Island County 3

I have executed this writ by reading the same to Marcus B. Osborn the within named this 17<sup>th</sup> day of January A.D. 1861.

David Hayes Sheriff  
By C. A. M. Laughlin Dep. Secy  
Rock Island Co. Ill

120-16

Decemr M. Hayes

No. vs.

Marcus B. Osborn

SCIRE FACIAS.

Filed April 19 A. D. 1861

A. Deland Clerk.

Sherriff's fees 65 00  
Francis David Hainesoffy  
Rock Island Co  
Ill

Sherriff's fees paid by  
Hepburn on 3. 7. 1861

Superior Court

Wentworth v. Ames

vs Plaintiff in Error

W B Osborne for use  
of Plaintiff in Error

The parties agree that this  
cause is to be dropped at the  
costs of the plaintiff in error.  
by agreement of parties

Dec 30

1861

J. H. Wells for plaintiff

J. G. Frosh atty for Defendant

46 120  
Vincent M. Ayres  
Plaintiff in error

M B Astors for use  
defendant in error

Filed Feb. 27. 1862  
L. Deland  
Clerk.