

No. **12274**

Supreme Court of Illinois

Hitchcock.

vs.

Dayton.

Saballe County Court June Term 1855

State of Illinois }
Saballe County } p

Pleas Proceedings and Judgments
held & taken in and before the Saballe County Court in the
State of Illinois at the Court House in Ottawa in the
County of Saballe of June Term thereof, to wit of
the fourth day of June in the year of our Lord One
thousand Eight Hundred and fifty five - and of the
Independence of the United States the Seventy ninth

Present Hon. Henry G. Cotton, Judge.

Saml W. Raymond, clerk.

Francis Warner, Sheriff.

Be it remembered that on the 24th day of May A.D.
1855 a bond, Summons and transcript was filed
in the office of the Clerk of the said Court - and as
in the words and Figures following to wit:

(Copy Bond)

Know all men by these presents, That we A. B. Hitchcock
David Brown of the County of Saballe in the State
of Illinois, are held and firmly bound unto C. L.
Dayton in the penal sum of Seventy five dollars
lawful money of the United States for the payment
of which ~~we~~ 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 twenty third day of April A.D. 1855.

The Condition of the above obligation is such
That whereas the said C. L. Dayton did on the seventh
day of April A.D. 1855 before C. H. Gilman a justice of

the peace for the said County of LaSalle, recover a judgment against the above borden A.B. Hitchcock for the sum of twenty seven ⁴⁶/₁₀₀ dollars from which judgment the said A.B. Hitchcock has taken an appeal to the County Court of the County of LaSalle aforesaid, and State of Illinois. Now if the said A.B. Hitchcock shall prosecute his appeal with effect, and shall pay whatever judgment may be rendered by the Court upon dismissal or trial of said appeal, then the above obligation to be void: otherwise to remain in full force and effect,

Approved by me at my Office this 23^d day of April 1855 } A.B. Hitchcock *Debt*
C.A. Gilman } David Brown *Debt*
Justice of the peace

Endorsed "Filed May 24th 1855. J.W. Raymond Clerk

(Copy of Summons)

State of Illinois }
LaSalle County } H. The People of the State of Illinois,
To any Constable of said County

Greeting
You are hereby commanded to take the body of A.B. Hitchcock and bring him forthwith before me, unless special bail be entered, and if such bail be entered. You will then command him to appear before me at my office in Mendota on the 14th day of April at 3 O'clock P.M. to answer the Complaint of C. L. Dayton for a failure to pay him a certain demand not exceeding one hundred dollars, and hence make due return as the law directs. Given under my hand and Seal this 29th day of March A.D. 1845.

C. H. Gilman *Deed*
Justice of the Peace

Endorsed on the Back,

Summons No 114

Dayton vs Hitchcock

Demand \$27.46

Fees, fees 1.75

April 7th, I have served
the within by arresting
him and have him in
Court.

Service 50

Mileage 1.18
1.68

Filed May 24th 1855

J. W. Raymond clerk

(Copy of Transcript)

State of Illinois } Transcript
LaSalle County }

C. L. Dayton } Demand \$27.46
vs }

A. B. Hitchcock } January 23^d 1855. issued Capias on
the oath of C. L. Dayton Returnable on the 3^d day of February
1855 at 2 O'clock P.M. Warrant returned Feb 3^d not served
on account of bad weather, March 17th issued second
Capias same returned by Simpson Clark Const,
not served on account of bad weather -
March 29th issued new Capias returnable on the
7th day of April 1855 at 3 O'clock P.M. same
returned by Clark Constable duly served according

to law fees on same \$1.68 by bringing defendant
into court. parties being ready for trial this 7th day
of April 1855 proceeded to hear the Proofs and allegations
of the parties and thereupon rendered judgment
against defendant for the sum of \$27.46 and
Costs of Suit, Just fees for Complaint & copies .50

6 oath 36. Subpoena 38 Ent Indgt. 1.00

Taking bond Transcript &c on appeal 1.00

Fees not paid here \$2.50

\$1. enclosed for Decket & judges fee

Enclosed "
State of Illinois }
LaSalle County } P-

I hereby certify that the within
Transcript contains a true statement of the proceedings
had before me as appears by my Decket -
Given under my hand and seal this 18th day of
May 1855

C. H. Gilman J.P. Seal

Enclosed " Filed May 24th - 1855

J. W. Raymond clerk

On the 24th day of May 1855 a summons was issued
out of the Clerk's office of said Court which summons
is in the words and figures following to wit,

The People of the State of Illinois, To our Sheriff of our
county of La Salle—

GREETING:

WHEREAS, in a certain cause, lately pending in our court, held be-
fore *Charles A. Gilman* Esquire
one of the Justices of the Peace in and for our County of La Salle, where-
in *C. L. Dayton* was plaintiff
and *A. B. Hitchcock* is defendant, Judgment has been rendered by said Justice, against the

said *A. B. Hitchcock* from which
the said *A. B. Hitchcock* has appealed to our La Salle County Court.

WE THEREFORE COMMAND YOU that you SUMMON the said *C. L. Dayton*

that he personally, be and appear in our said La Salle County Court, before our Judge thereof, on
the first day of the next term of said court, to be held at the Court House in Ottawa, on the first
Monday in *June* next, at ten o'clock in the forenoon, and abide by and perform
the judgment of our said court in the premises.

In Witness Whereof, we have caused the seal of our said court to be hereto
affixed and attested by **SAMUEL W. RAYMOND**, our Clerk thereof at Ottawa, *24th* day of

May

1855.

S. W. Raymond Clerk.

Entered on the Back " Not found in my County
June 1st 1855 - F. Warner Sheff - Ret. 10 cts
Filed June 1st 1855

S. W. Raymond Clerk
Hernick

On Monday the fourth day of June 1855 the same
being one of the days of the said Term of said
Court the following order was made and
Entered of Record in said Suit—

C. L. Dayton }
67 - vs } appeal
A. B. Hitchcock } This day comes the defendant

by D.L. Hough his attorney - and it appearing that the Plaintiff has not been served with process, and on motion of said defendant by his said attorney. It is ordered that this cause be continued till the next term of this Court at defendants costs to be taxed, and that an alias Summons be issued to said Plaintiff.

On the 29th day of June A.D. 1855 an alias Summons in this cause was issued out of the clerks office of said Court which is in the words and figures following, to wit,

[SUMMONS ON APPEAL]

[FREE TRADER PRINT.]

The People of the State of Illinois, To our Sheriff of our county of La Salle—

GREETING:

WHEREAS, in a certain cause, lately pending in our court, held before *Charles H. Gilman* Esquire one of the Justices of the Peace in and for our County of La Salle, wherein *C.L. Dayton* is plaintiff and *A.B. Hitchcock* is defendant, Judgment has been rendered by said Justice, against the

said *A.B. Hitchcock* from which the said *A.B. Hitchcock* has appealed to our La Salle County Court.

WE THEREFORE COMMAND YOU ^{as the law before us commands you} that you **SUMMON** the said

C.L. Dayton that he personally, be and appear in our said La Salle County Court, before our Judge thereof, on the first day of the next term of said court, to be held at the Court House in Ottawa, on the first Monday in *September* next, at ten o'clock in the forenoon, and abide by and perform the judgment of our said court in the premises.

In Witness Whereof, we have caused the seal of our said court to be hereto affixed and attested by **SAMUEL W. RAYMOND**, our Clerk thereof at Ottawa, *29th* day of

June 1855.

S.W. Raymond Clerk.

Endorsed on back "Not found in my County Sept 1st 1855"

J. Warren Shiff S.S. Harris Sept. Ret 100

Saballe County Court September Term 1855
State of Illinois }
Saballe County }
Plea Proceedings and Judgments
held and taken in and before the Saballe County Court
in the State of Illinois at the Court House in Ottawa
in the County of Saballe of September Term thereof to wit,
of the third day of September in the year of our Lord
one thousand Eight hundred and fifty five and of the
Independence of the United States the Eightieth,
Present Hon. Henry G. Cotton Judge
Saml W Kayman Clerk
Francis Warner Sheriff

On the 3^d day of September A.D. 1855 the same being one
of the days of said Term of said County Court
the following order was made and entered of record in
said Court, to wit,

C. L. Dayton }
24 - vs } appeal
A. B. Hitchcock }

This day comes the Plaintiff by counsel
his attorney - as well as the defendant by Hough his attorney,
who enters his motion herein to dismiss the suit for want
of jurisdiction - which motion after hearing the arguments
of counsel, is overruled by the Court, whereupon by agreement
of parties a jury is waived and this case submitted to
the Court for trial - and after hearing the evidence
and arguments of counsel the Court assesses the damages
of the Plaintiff at thirty one dollars and the further sum
of three dollars and ten cents for his damages sustained
by the delay herein -

It is therefore considered by the Court that the Plaintiff have and recover of the said defendant the said sum of Thirty four dollars and ten cents for his damages and also his costs and charges by him herein expended and that he have execution therefor,

State of Illinois
LaSalle County }

I Samuel W. Raymond Clerk
of the County Court of said County and State
aforesaid do hereby certify that the foregoing is
a true, correct & complete copy of the record and
proceedings in the ~~Case~~ wherein C. L. Dayton
was Plaintiff and A. B. Hitchcock was defendant
in said County Court

Witness my hand and the seal
of said Court at Ottawa this 18th
day of October A.D. 1885

S. W. Raymond Clerk

And the plaintiff in error herein,
Comes & assigns for error that the County Court
for LaSalle County & State of Illinois, erred in
rendering judgment for an amount of damages
exceeding the amount of the demand of plaintiff
below, endorsed on summons from the justice of
the peace, by said justice, & by him entered
upon his docket

David S. Hough
Attorney for plaintiff in error

Let a supersedeas issue on the above record upon the
plaintiff in error entering into bond in the usual
form in the penal sum of one hundred & fifty
dollars with Volney B. Hatch security
Oct 24 1855. J. H. Weston

Rev \$3.50 delin for on this record of D. S. Hough
J. H. Weston

49
C. L. Dwyer
acts.
A. B. Hitchcock
Certified Copy of Record

Filed Apr. 8. 1855.
S. Island Ck.

STATE OF ILLINOIS,

Supreme Court,

ss.

The People of the State of Illinois,

To the Sheriff of the County of La Salle — Greeting:

BECAUSE in the record and proceedings, and also in the rendition of the judgment of a plea which was in the ~~Court~~ court of La Salle — county, before the Judge thereof, between C. L. Dayton Plaintiff and A. B. Hitchcock —

defendant, it is said that manifest error hath intervened, to the injury of the said A. B. Hitchcock

as we are informed by his complaint, the record and proceedings of which said judgment 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 C. L. Dayton

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 second Monday in June — next, to hear the records 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 C. L. Dayton

notice, together with this writ.

Walter B. Bates

WITNESS, the Hon. ~~Samuel H. Treat~~, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this 5th — day of November in the Year of Our Lord One Thousand Eight Hundred and Fifty-five

Leland
Clerk of the Supreme Court. Do-
by J. B. Rice Deputy

4th A. B. Hitchcock

C. L. Dayton

Senie Jacais

Feb 9th 1856

By Reentry

Feb 9th 1856

Served By Reentry to the
Within named Defendant

Service 50
30 Mileage $\frac{150}{200}$

J. Wanner Sheriff

By

S. Clark

Deputy Sheriff

Filed Feb. 28, 1856

L. Leland Clerk

By J. M. Rice Del.

STATE OF ILLINOIS,

Supreme Court,

ss.

The People of the State of Illinois,

To the Clerk of the ~~Circuit~~^{County} Court for the county of La Salle Greeting:

BECAUSE in the record and proceedings, as also in the rendition of the judgment of a plea which was in the ~~Circuit~~^{County} Court of La Salle ——— county, before the Judge thereof, between C. L. Dayton ———

plaintiff, and A. B. Hitchcock ———

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

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 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 second Monday in June ——— 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. ~~SAMUEL H. TRENT~~^{Walter B. Treat}, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this 5th ——— day of November in the Year of Our Lord One Thousand Eight Hundred and Fifty-five

Leland

Clerk of the Supreme Court.

by J B Rice Deputy

⁴⁹
A. B. Hitchcock

vs

C. L. Dayton

Writ of Error

~~This Supersedeas~~

This Writ of Error is made
a Supersedeas & as such
should be obeyed by all
Concerned

L. Leland Clerk

by P. B. Rice Deputy

Filed Nov. 5 1855

L. Leland Clerk

by P. B. Rice ^{Deputy}

Know all men by these presents
that we Alexander B. Hitchcock, as principal &
Solney C. Hatch, as security, are held & firmly
bound unto C. L. Dayton in the penal sum of
One Hundred & Fifty dollars, good & lawful money
of the United States, for the payment of which
we & him to be made, we hereby bind ourselves,
our heirs & administrators, jointly, severally & firmly
by these presents.

Witness our hands & seals this 23rd day
of October A.D. 1855

The condition of the above obligation is
such that whereas the above named C. L. Dayton did
at the September Term A.D. 1855 of the La Salle
County Court render a judgment against the
above bounden Alexander B. Hitchcock, in said
Court, for the sum of thirty four dollars & ten cents
damages, & costs of suit - to reverse which said
judgment the said Hitchcock has sued out a
writ of error from the Supreme Court of said
State which writ of error is made a supersedeas.
Now if said Hitchcock shall duly prosecute
said writ of error & pay whatever judgment may be
rendered by said Supreme Court against him & abide
the order and judgment of said Court in the premises
then this obligation to be void, otherwise in
force.

A B Hitchcock
V. C. Hatch



48
A. H. Hitchcock
C. L. Dayton

Bend

Filed Nov. 5. 1855.
S. Ireland Clk.

C. L. Dayton
vs
A. B. Hitchcock.

142-74

1850

67

2581

67

C. L. Dayton

A. B. Hitchcock
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