No. 8567

Supreme Court of Illinois

City of Cairo

vs.

Levi L. Lightner

71641 7

Alexander Circuit Court. May Term. 1858.

Precipe.

Levi L. Lightner
vs. } Assumpsit.
City of Cairo } Damages. $. 2000.

Filed May. 13th. 1858
L. L. Lightner
Clerk

The Clerk will Issue a summons for. for Defendant and direct the Sheriff of Alexander County. to execute by leaving a copy of summons. and reading the same to the Clerk of the city at Cairo. And Issue a subpoena. in duces tecum to the Clerk of the Court of Court of Common Pleas of the city of Cairo. Commanding him to bring as evidence &c. Record Books. F. W. & I. to be Offered in evidence on behalf of plff

J. Daugherty for:
L. L. Lightner plff.

State of Illinois }
Alexander County } ss. The people of the State of Illinois: To The Sheriff of Alexander County.

Summons.

Filed May 17th 1858
L. L. Lightner
Clerk

"Greeting" We command you to summon the city of Cairo by its corperate name if to be found in your County. 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 the Town of Thebes on the fourth Monday in the month of May Inst. to answer Levi L. Lightner of a plea of assumpsit to his damage of two thousand dollars and hereof make due return. to our said court as the law directs.

Witness. Levi L. Lightner clerk of our said Court. and the Judicial seal thereof at Thebes. This 8th day of May. AD 1858.

L. S.

L. L. Lightner. Clerk

Indorsement on Summons.

May 12th. 1858" Served the within Summons. by reading and delivering a copy of the same. to John L. Warman Clerk of the City of Cairo. "fees" Serving & Returning 60. Mileage 25 Miles. 5 cts. 125" 1,85

C. C. Cole. Shff.

[25-27-17]
fees. 4.85

2

Declaration

Filed May 14th 1858.
L. L. Lightner clerk.

State of Illinois } At the May Term of the Alexander
Alexander County } County Circuit Court AD 1858.

Levi L. Lightner by S. Daugherty his attorney complains of the City of Cairo. summoned &c. of a plea of trespass on the case. on promises. for that whereas after the passage of a certain act. of the people of the State of Illinois represented in the General Assembly of the State of Illinois entitled an Act to establish a registers office in the city of Cairo. in force February 17th 1857. It is provided by the third section thereof. that Levi L. Lightner the present recorder of Alexander County. shall be allowed and paid by the City of Cairo. the full fees for copying and certifying. all such Deeds and Mortgages. and other entries affecting. the title of lands within said limits. And when the whole of a book or books of record in his Office contains nothing but evidence of title in Township. seventeen South. of Range One West; that he may if he thinks proper deliver such Book or Books; ~~of record in his Office containing nothing but evidence of Title in Township seventeen South of Range one West.~~ in lieu of certified copies. and be entitled to receive the same fees. as if he had copied the same to be paid by said city of Cairo. to him. And such Deeds Mortgages and other title papers. relating to or affecting lands. within Township Seventeen. South range One West. the said Levi L. Lightner shall cause to be correctly copied in well bound books. to be furnished him by the City of Cairo. Section four of said act provides. that the recorder of Alexander County. seperately certify at the foot of each deed and Mortgage. and the fact that the same is correctly copied from the records of his. office. And when said copies are so made of all the deeds Mortgages and other evidences of title papers. relating to or affecting land in said Township Seventeen South. Range one west. the same shall be delivered over to the Clerk of the Court of Common pleas. in and for the City of Cairo. and the said City of Cairo. shall pay said Levi L Lightner ten cents

3 for every one hundred words. and the sum of twenty five cents for each certificate. The payment of his said fees to be made prior to the delivery of said records

And plaintiff avers that by the 6th section of said act it is provided that the recorder of Alexander County shall be allowed in addition to his other fees herein provided ten cents for his services. and the use of his office. for each deed Mortgage or other writing. copied under the provisions of this act which shall be paid by the Town or City of Cairo

And the said plaintiff avers that he did in pursuance of and agreeably to the provisions of said statute. To wit, on the 9th day of July. 1857. at the County of Alexander in the State of Illinois. as such Recorder of said County. deliver to the clerks of the Court of Common pleas in and for the City of Cairo. To wit. Record books. F. & H. which books of record. were in his plaintiffs said Office. and contains nothining but evidence of title in Township seventeen South. Range one West. and that he then and there delivered the same in lieu of certified copies containing nine hundred thousand words. and three hundred certificates. of the value of twenty five cents each certificate, and then and there as such recorder of Alexander County. did in pursuance of the directions of said statute. copied correctly from the records of his said office. all the other deeds Mortgages and other evidences of title papers relating to or affecting land in said Township seventeen South range one West. amounting in all to four hundred thousand words at ten cents per word and also six hundred and five recorders certificates. thereunto each Deed Mortgage. and evidence of each title. amounting in value to twenty five cents for each certificate. And also then and there delivered the said last mentioned copies in a well bound book. known and designated as Book I. to the clerk of the court of Common pleas. in and for Alexander County. which said books. & copies were then and there received by the said clerk and also. for that. Whereas the said defendants were indebted to the said plaintiff in the further sum of two hundred and fifty dollars,

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for the use of his office and services in and about the copying deeds mortgages and other writings. under the provisions of said Statute. whereby the said defendant. made use of said records copies certificates and books. and so made and delivered. by the sd. plff. and becam possesed thereof in accordence with the stipulation. directions and provisions of said Statute. to wit, &c as afsd. by means whereof. and according to the tenor and effect of the said Statute. In that behalf the said defendant. then and there became liable to pay to the said plaintiff a certain sum of money. to wit, of $1.306.10. lawful money of the united states of america. being for the books copies and certificates. of records. as also use of office an services as aforesaid at the rate specified in said statute and being so. liable the said defendant in consideration thereof. afterwards, to wit, on the day and year aforesaid at &c. aforesaid. undertook and then and there faithfully promised the said plaintiff to pay him the said sums of money. when the said defendants should be thereunto afterwards requested. and the sd. plff. avers that afterwards, to wit, on &c. demanded the said sums of the said dft. the payment of the money which the sd. city of Cairo. was so liable to pay as aforesaid. To wit, &c. as aforesaid.

2nd Count. For that whereas heretofore, to wit, on the 10th day of April AD 1858 at the County of Alexander. and State of Illinois. the plaintiff was then and there the recorder of Alexander County Illinois. and as such recorder. ~~and as such recorder~~ he then and there was lawfully possessed of certain record books. of the record deeds mortgages and other evidences of title papers. relating to or affecting land in Township Seventeen South of Range One West to wit, Books F. H & I. and whereas the people of the state of Illinois. in General Assembly convened. enacted a certain Statute Entitled an Act to establish a registers Office in the city of Cairo. In force February the seventeenth day in the year of our Lord One thousand eight hundred and fifty seven. whereby it is enacted among other things therein by the said Act. that Levi L. Lightner the present recorder of Alexander. County. shall be allowed and paid. by the city of Cairo. the full fees for copying and certifying

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all such deeds and Mortgages and other entries affecting the title to lands within said limits. And when a whole book or Books or record in his Office contains nothing but evidence of title in Township Seventeen South of Range One West that he may if he thinks proper deliver such Book or Books in lieu of certified copies, and be entitled to receive the same fees, as if he had copied the same to be paid by the said city of Cairo, to him. and such deeds Mortgages and other title papers, as shall be recorded in Books with other title papers not relating to or affecting lands within Township seventeen South Range One West, the said Levi L. Lightner shall cause to be correctly copied in well bound books to be furnished him by the City of Cairo. And the plaintiff avers that he did &c at &c. afd, deliver record Book F. containing 750. pages, at 800. words each and with 605. certificates at 25 cents Each. Record book I. 58 pages, a. 800. words, containing also fifteen certificates at twenty five cents each. Record Book, N, having 28.000. words, a ten cents per hundred, also 220 pages copied from Record Books. A. B. C D. E & O. containing 800. words each page a ten cents per each hundred words, and two hundred and eleven certificates at twenty five cents each. Also two hundred and eleven deeds, instruments copied by him into said books, at ten cents each for services and rent room, amounting in all to the sum of $1.306.10, to the clerk of the Court of Common Pleas in and for the city of Cairo, according to the provisions stipulations and requirements of said Statute, to Wit, at &c. aforesaid for which the defendants, as aforesaid by virtue of said Statute was liable to pay to the said plaintiff, a large sum of money, to wit, the sum of $1.306.10. And said plaintiff, did then and there dem and payment thereof from the said defendant, by reason whereof and by force of the Statute, the said defendants became liable to pay the said plaintiff the said sum of $1.306.10. And the said plaintiff further avers that being &c. liable the said defendants did afterwards, to wit, on the day and year last aforesaid at &c aforesaid undertake and faithfully promise the said plaintiff to pay him the said sum of $1306.10. When thereunto, afterwards requested

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nevertheless the said defendants. not regarding its said promisses and undertakings did not nor would pay the said plaintiff the said sum of $1.306.10. though requested so to do. or any part thereof but to do this said defendant hath hitherto wholely neglected and refused and still doth neglect and refuse to wit at ca. to the damage of the said plaintiff of $2.000, and therefore he sues &c

J. Daugherty, for.
plaintiff

account.

The City of Cairo

To L. L. Lightner Recorder of Alexander County Dr.

Filed May 14th 1858
L L Lightner
Clerk.

For 757. pages. Original Record. Book F. 80.cts per page		$605. 60.
" 605. certificates @. 25. ea		152. 50
" 58. pages. Original Record. Book I. @ 80cts per page		46. 40
" 52. certificates in Book I. 25cts. ea.		13. 00
" 220. pages. copied from Books. A.B.C.D.E.G.&H. @. 80.cts. per page		176. 00
" 211. certificates @. 25cts ea.		52. 75
" 211. Instruments copied @ 10.cts. each.		21. 10
		$1067. 35

Map Book. H. (With drawn)

Receipt for Book F. & H.

Received July 9th 57. of Levi L. Lightner Clerk of the circuit court and Ex officio Recorder of Alexander County. Record book. F. being the Original records of Township 17 S R 1 West. also Record book H. being the Original Record of the Maps. and plats &c. of the City of Cairo. as the same was authorized to be transfered by act of the Legislature of the State of Illinois passed AD 1857

Rec'd & Filed May 13th 1858.
L L. Lightner, Clk

John L. Harman
Clerk court com pleas of the City of Cairo. & Ex officio Register of deeds &c.

Receipt for Book. I.

Received May 3rd 1858. Of Levi L. Lightner Clerk of the circuit court and Ex officio Recorder of Alexander County Illinois. Record Book I. of the Records of Alexander County. the same containing. Record of lands in the City of

Filed. May 13th 1858.
L L Lightner, Clk

Cairo. and Town seventeen and none other

John L. Harman. Clerk of
the court of Common Pleas of the City
of Cairo

Pleas

Filed June 2nd 1858
L.L. Lightner
Clk

The City of Cairo
ats.
Levi L. Lightner

assumsit.

Pleas of the May Term of the Alpha
nder County Circuit Court. in the
Year of Our Lord Eighteen hundred & fifty eight

And the said defendants by webb and Simons their attorneys. come and defend the wrong and Injury. When &c. and say. that they did not undertake and promise in Manner and form as the said plaintiff hath above thereof complained against them. and of this they put themselves upon the country.

Webb. & Simons. Defts. attorneys

And for further plea in this behalf. the said defendants say. actio non because they say. that at the said time when &c. in said plaintiffs declaration mentioned they were a body corporate and Politic. having a Mayor and common council. and clerk regularly elected appointed and qualified. and also. as such acting and recognized having a seal. and that as such body corporate and Polatic they did not employ him the said plaintiff to do the work and perform the services in said plaintiffs declaration mentioned nor did they after the said services were performed agree undertake and promise to pay for the same. nor did they agree to receive. nor did they in fact receive the said record books. and copies of Records in said plaintiffs declaration mentioned. Nor authorize any other person or persons. to receive the same. And this they are ready to verify

Webb. & Simons. defendants
attorneys.

And the. said plaintiff comes. and as to the 2nd Plea of 1st. deft. above pleaded he says. nulli non. because he says that the Matters & things as therein above pleaded. are not sufficient in law. for. the 1st deft. to bar or preclude. the said plaintiff from having & Main

[8501-4]

taining his aforesaid action thereon against them &c.

J. Daugherty, for pltff.

And for cause of special demurrer shows here to the court the following cause of special demurrer. 1st because said 2nd plea amounts to the General Issue

J. Daugherty, for, Pltff.

Demurrer.

Filed May 25. 1858
L.L. Lightner
Clerk

The City of Cairo
vs.
Levi L. Lightner

Pleas of the May Term of the Alexander County Circuit Court. In the Year of Our Lord. One thousand eight hundred and fifty eight

And the said defendant by Webb. Wacker and Simons its attorneys comes and defends. the wrong and injury done when &c. and say that the said plaintiffs declaration. and the said 1st and second counts thereof and each of them seperately. and the matters therein contained. in manner and form as the same are above stated and set forth are not sufficient in law. for the said plaintiff to have or maintain his aforesaid action thereof against the said defendant. and the said defendant. is not bound by law to answer the same. and this the said defendant is ready to verify Wherefore said defendant prays Judgement and cost &c

Webb, Wacker & Simons. attys
for. Deft,

Joinder in demurrer.

J. Daugherty,

" At a circuit Court begun and held. at Thebes in and for the
" County of Alexander and State of Illinois. on Monday the twenty-
" fourth day of. May. A.D. One thousand eight hundred and fifty
" eight, Present. the Hon. William K. Parish. Judge of the third
" Judicial district. of the State of Illinois. and presiding Judge of
" the Alexander. County circuit Court. Monroe Crawford States
" attorney. Levi L. Lightner Clerk. C.C. Cole Sheriff

Now on the 4th day of the Term of said court the following order. was entered of Record To wit;

1st. order.

" Levi L. Lightner
vs. assumpset.
" The City of Cairo &c.

" Now on this day came the plaintiff and
" by. Daugherty and R E. Yost his attorneys, and the defendant
" and by. Webb. Hacker & Simons their Counsel. and demur to
" declaration

May Term. AD 1858. 2nd day of June. 9th. day of said Term

2nd. order.

" Levi L. Lightner
vs. assumpset,
" City of Cairo

" Now on this day came again the parties. by their
" attorneys. and on Motion John L. Harmon was appointed
" Clerk protem, during the pendency of this suit. On Motion for leave
" to withdraw demurer and plead which is allowed, demurer to 2nd. plea susta
" ined. and Issue being joined. whereupon came a jury. to wit,
" Reuben Vaughn. John Denton Hugh P. Craig. Chestirfield Langley
" A. C. Holden. William Trent David Wicker. Hanibal Hunsaker
" Francis Whitaker. Charles Reed Burton Leech Charles A Craigg
" twelve good and lawful men of Alexander County. Who bei
" ng duly electa tried and sworn. the Issue to try. After hear
" ing the proof and allegations. retired to consider of their Ver
" dict. The Jury came again into court and returned the
" following verdict to wit, We the Jury find the Issue for
" the plaintiff and assess the damages at. $899.25 It is there
" fore considered by the court. that the plaintiff recover of
" of the said defendant, the aforesaid sum of eight hundred
" and ninety nine dollars and twenty five cents. damages
" with costs to be taxed. and may have execution therefor
" &c.

On 2nd. day of June. 9th. day of May Term AD 1858

Levi L. Lightner
vs assumpset.
" The. City of Cairo

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On this day came the parties. by their attorneys. the defendant. moves the court for a new trial. which is overruled by the court. whereupon the defendant prays an appeal to the Supreme Court which is allowed. On the defendant entering into bond in the sum of One thousand dollars with Patrick Smith or S.S. Taylor. as security. in thirty days from this date.

State of Illinois
Alexander County } S.S. I. William C. Mafsey Clerk of the Circuit Court of Alexander County in the State of Illinois. do hereby certify that the above and foregoing is a true fare and just Transcript. of the files and records in my office in the above entitled cause.

In Witness. whereof I have hereunto subscribed my name and affixed the Judicial Seal of said Court. at office in the City of Cairo on this 2nd day of February AD 1860.

William C. Mafsey.
Clerk.

State of Illinois
First Grand Division } Ss
Supreme Court

And the said City of Peoria defts below & plaintiffs in error. Comes and says there is manifest Error appearing in the record & proceedings of the foregoing Cause And for an assignment thereof the said pltff in Error sets down and shows to the Court the following causes of Error to wit.

1st The Court below Erred in sustaining the demurrer of Pltff below to defts second plea and in refusing to sustain said plea

2nd

The Court below Erred in rendering judgment for the pltff below on his demr to defts 2nd plea. & refusing to render judgment for defts below on same or to said plea

3rd The Court below Erred in not sustaining demurrer of pltff below to the declaration of Pltff below said declaration being substantially defective & insufficient

4th

The demurrer of Pltff below to defts 2nd plea shewed the record up to the declaration of Pltff. and the same being substantially insufficient said demurrer Ought to have been sustained to said declaration

5th

The Court below Erred in rendering judgment for Pltff below & not for defts below for the records shows no cause of action & no right to recover

Wherefore Pltff in Error prays for the causes above specified that said judgment be reversed

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annulled for assigns made void and
for nothing Returned to a day in
Auly term &c

J. N. Clayton for
Plff in Error

And the ad plff comes & says that in
the record & proceedings there is no manifest
error whereon he prays judgt &c

J. Duncan for plff
L. Leighton

Let the writ of error be made a supersedeas on
bond being entered in the sum of one thousand
Dollars with S. Staats Taylor security, conditioned
according to Law

Ashley Rose Judge of
Supreme Court

Transcript

S. C. Leighton
vs
The City of Baltimore
Alexander Lincoln Board

10 ~~48~~

Record.

The city of Cairo
vs
Levi L Lightner

Error to Alexander Co

Filed Nov. 16. 1868 -
N. Johnston Clk
Paid by Judge Haynie $5.00

Haynie & Parish

ALEXANDER CIRCUIT COURT, May Term, 1858.

Precipe.

Filed May 13th, 1858.—Levi L. Lightner, Clerk.

LEVI L. LIGHTNER, vs. City of Cairo. } Assumpsit.

Damages, $2,000.

The Clerk will issue a Summons for Defendant, and direct the Sheriff of Alexander County to execute by leaving a copy of the Summons and reading the same to the Clerk of the City at Cairo, and issue a Subpœna in *duces tecum* to the Clerk of the Court of Common Pleas of Cairo, commanding him to bring as evidence, etc., Record Books, F. H. and I., to be offered in evidence on behalf of Plaintiff.

J. DAUGHERTY, for
L. L. LIGHTNER, Plff.

Summons.
Filed May 17th, 1858.—Levi L. Lightner, Clerk.

STATE OF ILLINOIS, ALEXANDER COUNTY. } SCT.

The people of the State of Illinois, to the Sheriff of Alexander County. Greeting: We command you to summon the City of Cairo by its corperate name, if to be found in your county, 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 the Town of Thebes, on the fourth Monday in the month of May inst., to answer Levi. L. Lightner of a plea of Assumpset to his damage of two thousand dollars, and hereof make due return to said court, as the law directs.

{L. S.} Witness, LEVI L. LIGHTNER, Clerk of our said Court, and the Judicial Seal thereof, at Thebes, this 8th day of May, A. D., 1858.

L. L. LIGHTNER, Clerk.

Endorsement on Summons.

May 12th, 1858, served the within Summons by reading and delivering a copy of the same to John Q. Harman, Clerk of the City of Cairo. Fees, serving and returning, 60. Mileage, 25 miles, 5 cts., 1,25, $1,85.

C. C. COLE, Sheriff.

Declaration.
Filed May 14th, 1858.—L. L. Lightner, Clerk.

STATE OF ILLINOIS, ALEXANDER COUNTY. } At the May Term of the Alexander County Circuit Court, A. D., 1858.

Levi L. Lightner, by J. Daugherty, his Attorney, complains of the City of Cairo, summoned, etc, of a plea of trespass on the case, on promises, for that whereas, after the passage of a certain act of the people of the State of Illinois, represented in the General Assembly of the State of Illinois, entitled An act to establish a Register's office in the City of Cairo, in force February 17th, 1857. It is provided by the third section thereof that Levi L. Lightner, the present Recorder of Alexander county, shall be allowed and paid by the City of Cairo the full fees for copying and certifying all such deeds and mortgages and other entries affecting the title of lands within said limits. And when the whole of a book or books of Record in his office contains nothing but evidence of title in Township Seventeen, South of Range One, West, that he may if he thinks proper deliver such book or books in lieu of certified copies, and be entitled to receive the same fees as if he had copied the same, to be paid by said city of Cairo to him. And such deeds, mortgages and other title papers, relating to or affecting lands within Township Seventeen, South, Range One, West, the said Levi L. Lightner shall cause to be correctly copied in well bound books, to be furnished him by the City of Cairo. Section four of said act provides that the Recorder of Alexander County separately certify at the foot of each deed and mortgage, and the fact that the same is correctly copied from the records of his office. And when said copies are so made of all the deeds, mortgages and other evidences of title papers relating to or affecting land in said Township Seventeen, South, Range One, West, the same shall be delivered over to the Clerk of the Court of Common Pleas, in and for the city of Cairo, and the said City of Cairo shall pay said Levi L. Lightner ten cents for every one hundred words, and the sum of twenty-five cents for each certificate. The payment of his said fees to be made prior to the delivery of said Records.

And plaintiff avers that by the 6th section of said act it is provided that the Recorder of Alexander County shall be allowed, in addition to his other fees herein provided, ten cents for his services and the use of his office for each deed, mortgage or other writing copied under the provisions of this act, which shall be paid by the Town or City of Cairo.

And the said plaintiff avers that he did in pursuance of and agreeably to the provisions of said statute, to-wit, on the 9th day of July, 1857, at the County of Alexander in the State of Illinois, as such Recorder of said County, deliver to the Clerk of the Court of Common Pleas in and for the city of Cairo, to-wit, Record books F. and H., which books of Record were in his plaintiff's said office, and contains nothing but evidence of title in Township Seventeen, South, Range One, West, and that he then and there delivered the same in lieu of certified copies, containing nine hundred thousand words and three hundred certificates, of the value of twenty-five cents each certificate, and then and there, as such Recorder of Alexander County, did in pursuance of the directions of said statute, copied correctly from the records of his said office all the other deeds, mortgages and other evidences of title papers ralating to or affecting land in said Township Seventeen, South, Range One, West.—Amonting in all to four hundred thousand words at ten cents per word, and also six hundred and five Recorder's certificates thereunto, each deed, mortgage and evidence of each title, amounting in value to twenty-five cents for each certificate. And also, then and there delivered the said last mentioned copies, in a well bound book, known and designated as Book I., to the Clerk of the Court of Common Pleas in and for Alexander County, which said books and copies were then and there received by the said Clerk, and also for that, Whereas, the said defendants were indebted to the said plaintiff in the further sum of two hundred and fifty dollars for the use of his office and services in and about the copying deeds, mortgages and other writings, under the provisions of said statute, whereby the said defendant made use of said records, copies, certificates and books, and so made and delivered by the said plaintiff, and become possessed thereof in accordance with the stipulation, directions and provisions of said statute, to-wit, etc., as aforesaid. By means whereof and according to the tenor and effect of the said statute, in that behalf the said defendant then and there became liable to pay to the said plaintiff a certain sum of money, to-wit, of $1,306 10, lawful money of the United States of America, being for the books, copies and certificates of records, as also use of office and services as aforesaid, at the rate specified in said statue, and being so liable the said defendant in consideration thereof afterwards, to-wit, on the day and year aforesaid, at &c., aforesaid, undertook and then and there faithfully promised the said plaintiff to pay him the said sums of money when the said defendants should be thereunto afterwards requested. And the said plaintiff avers that afterwards, to-wit, on etc., at etc., demanded the said sums of the said defendants, the payment of the money which the said City of Cairo was so liable to pay as aforesaid, to-wit, etc., as aforesaid.

2d Count.

For that, whereas, heretofore, to-wit, on the 10th day of April, A. D., 1858, at the County of Alexander and State of Illinois, the plaintiff was then and there the Recorder of Alexander County, Illinois, and as such Recorder, he then and there was lawfully possessed of certain record books, of the record deeds, mortgages and other evidences of title papers relating to or affecting land in Township Seventeen, South, of Range One, West, to-wit, Books F., H. and I., and whereas, the people of the State of Illinois, in General Assembly convened, enacted a certain statute, entitled an Act to establish a Register's office in the City of Cairo, in force February the sev-

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enteenth day, in the year of our Lord One Thousand Eight Hundred and Fifty Seven, whereby it is enacted among other things therein by the said Act, that Levi L. Lightner, the present Recorder of Alexander County, shall be allowed and paid by the City of Cairo the full fees for copying and certifying all such deeds and mortgages and other entries affecting the title to lands within said limits. And when a whole book or books or record in his office contains nothing but evidence of title in Township Seventeen, South of Range One, West, that he may if he thinks proper deliver such book or books in lieu of certified copies, and be entitled to receive the same fees as if he had copied the same, to be paid by the said City of Cairo to him. And such deeds, mortgages and other title papers as shall be recorded in books with other title papers not relating to or affecting lands within Township Seventeen, South, Range One, West, the said Levi L. Lightner shall cause to be correctly copied in well bound books to be furnished him by the City of Cairo. And the plaintiff avers that he did, etc., at etc. aforesaid, deliver Record book F., containing 750 pages, at 800 words each, and with 605 certificates at 25 cents each. Record book I., 58 pages, a. 800 words, containing also fifteen certificates at 25 cents each. Record book H., having 28,000 words at ten cents per hundred, also 220 pages copied from Record books A., B., C., D., E., and I., containing 800 words each page, at ten cents per each hundred words, and two hundred and eleven certificates at 25 cents each. Also two hundred and eleven deeds, instruments copied by him into said books, at ten cents each for services and rent room, amounting in all to the sum of $1.306 10, to the Clerk of the Court of Common Pleas in and for the City of Cairo, according to the provisions, stipulations and requirements of said statute, to-wit, at &c., aforesaid, for which the defendants as aforesaid, by virtue of said statute, was liable to pay to the said plaintiff a large sum of money, to-wit, the sum of $1,306 10. And said plaintiff did then and there demand payment thereof from the said defendant, by reason wdereof and by force of the statute, the said defendants became liable to pay the said plaintiff the said sum of $1,306 10. And the said plaintiff further avers that being, etc., liable, the said defendants did afterwards, to-wit, on the day and year last aforesaid at, etc., aforesaid, undertake and faithfully promise the said plaintiff to pay him the said sum of $1,306 10. When thereunto afterwards requested, nevertheless the said defendants not regarding its said promises and undertakings, did not nor would pay the said plaintiff the said sum of $1,306 10, though requested so to do, or any part thereof, but to do this said defendent hath hitherto wholly neglected and refused, and still doth neglect and refuse, to-wit, at, etc., to the damage of the said plaintiff of $2,000, and therefore he sues, &c.

J. DAUGHERTY, for Plaintiff.

Account.

Filed May 14th, 1858.
L. L. Lightner, Clerk.

The City of Cairo, to L. L. Lightner, Recorder of Alexander County, Dr.

For 757 pages original Record, Book F., 80 cts per page	$ 605 60
" 605 certificates, at 25 cts each	152 50
" 58 pages original Record, Book I., at 80 cts per page	46 40
" 52 certifiicates in Book I., 25 cts each	13 00
" 220 pages, copied from Books A., B., C., D., E., G., and I., at 80 cts per page	176 00
" 211 certificates, at 25 cts each	52 75
" 211 instruments, copied at 10 cents each	21 10
	$1067 35

Map Book H. (withdrawn.)

Receipt for Book F. & H.

Received and filed May 13th, 1858.
L. L. Lightner, Clerk.

Received, July 9th, 1857, of Levi L. Lightner, Clerk of the Circuit Court and Exofficio Recorder of Alexander County, Record book F., being the original records of Township 17, S. R. 1, West; also Record book H., being the original Record of the Maps and Plats, &c., of the City of Cairo, as the same was authorised to be transferred by act of the Legislature of the State of Illinois, passed A. D., 1857.

JOHN Q. HARMAN,
Clerk Court Common Pleas of the City of Cairo, and Exofficio Register of Deeds, &c.

Receipt for Book I.
Filed May 13th, 1858.
L. L. Lightner, Clerk.

Received, May 3d, 1858, of Levi L. Lightner, Clerk of the Circuit Court and Exofficio Recorder of Alexander County, Illinois, Record book I., of the Records of Alexander County, the same containing Record of lands in the city of Cairo and Township Seventeen and none other.

JOHN Q. HARMAN,
Clerk of the Court of Common Pleas of the City of Cairo.

Pleas.
Filed June 2d, 1858.
L. L. Lightner, Clerk.

The City of Cairo, ATS. Levi L. Lightner. } Assumpsit. { Pleas of the May Term of the Alexander County Circuit Court, in the Year of Our Lord Eighteen Hundred and Fifty-Eight.

And the said defendants, by Webb and Simons, their attorneys, come and defend the wrong and injury, when, etc., and say that they did not undertake and promise in manner and form as the said plaintiff hath above thereof complained against them, and of this they put themselves upon the country.

WEBB & SIMONS, Defendants' Attorneys.

And for further plea in this behalf, the said defendants say, actio non because they say, that at the said time when, etc., in said plaintiff's declaration mentioned, they were a body corporate and politic, having a Mayor and Common Council, and Clerk regularly elected, appointed and qualified, and also as such acting and recognized, having a Seal, and that as such body corporate and politic, they did not employ him, the said plaintiff, to do the work and perform the services in said plaintiff's declaration mentioned, nor did they, after the said services were performed, agree, undertake and promise to pay for the same, nor did they agree to receive, nor did they in fact receive the said Record books and copies of Records in said plaintiff's declaration mentioned, nor authorise any other person or persons to receive the same. And this they are ready to verify.

WEBB & SIMONS, Defendants' Attorneys.

Demurrer.
Filed May 25th, 1858.
L. L. Lightner, Clerk.

And the said plaintiff comes, and as to the 2d plea of said defendants above pleaded, he says, precludi non, because he says that the matters and things as therein above pleaded, are not sufficient in law for the said defendants to bar or preclude the said plaintiff from having and maintaining his aforesaid action thereon against them, &c. And for special Cause of demurrer shews that the same amounts to the General Issue

A. DAUGHERTY, for Plaintiff.

The City of Cairo, ADS. Levi L. Lightner. } Pleas of the May Term of the Alexander County Circuit Court, in the Year of Our Lord One Thousand Eight Hundred and Fifty-Eight.

And the said defendant, by Webb, Hacker & Simons, its attorneys, comes and defends the wrong and injury done, when, etc., and say that the said plaintiff's declaration, and the said 1st and 2d counts thereof, and each of them seperately, and the matters therein contained in manner and form as the same are above stated and set forth, are not sufficient in law for the said plaintiff to have or maintain his aforesaid action thereof against the said defendant, and the said defendant is not bound by law to answer the same; and this the said defendant is ready to verify. Wherefore said defendant prays judgment and cost, &c.

WEBB, HACKER & SIMONS, Attorneys for Defendant.

Joinder in demurrer. J. DAUGHERTY.

"At a Circuit Court begun and held at Thebes, in and for the County of Alexander and State of Illinois, "on Monday, the twenty-fourth day of May, A. D., one thousand eight hundred and fifty-eight: Present, "the Hon. William K. Parish, Judge of the Third Judicial District of the State of Illinois and Presiding "Judge of the Alexander County Circuit Court, Monroe Crawford, States Attorney, Levi L. Lightner, Clerk, "C. C. Cole, Sheriff."

Now on the 4th day of the Term of said Court the following order was entered of Record, to-wit:

1st Order. "Levi L. Lightner, vs. "The City of Cairo. } Assumpsit.

"Now on this day came the plaintiff and by Daugherty and R. E. Yost, his attorneys, and the defendant and "by Webb, Hacker & Simons, their counsel, and demur to declaration."

May Term, A. D., 1858, 2d day of June, 9th day of said Term,

2d Order. "Levi L. Lightner, vs. "The City of Cairo. } Assumpsit.

"Now on this day came again the parties, by their attorneys, and on motion, John Q. Harman was ap- "pointed Clerk pro tem., during the pendency of this suit. On motion for leave to withdraw demurrer and "plead, which is allowed, demurrer to 2d plea sustained, and issue being joined, whereupon came a jury, to-wit, "Reuben Vaughn, John Denton, Hugh P. Craig, Chesterfield Langley, A. G. Holden, William Trent, David "Wicker, Hannibal Hunsaker, Francis Whitaker, Charles Reed, Burton Leech, Charles A. Graigg, twelve good "and lawful men of Alexander County, who being duly elected, tried and sworn the issue to try, after hearing "the proof and allegations, retired to consider of their virdict. The jury came again into Court and returned "the following verdict, to-wit: We, the jury, find the issue for the plaintiff, and assess the damages at $899 25. "It is therefore considered by the Court that the plaintiff recover of the said defendant the aforesaid sum of "eight hundred and ninety-nine dollars and twenty-five cents damages, with costs to be taxed, and may have "execution therefor, &c."

On the 2d day of June, 9th day of May Term, A. D., 1858,

Levi L. Lightner, vs. The City of Cairo. } Assumpsit.

On this day came the parties by their attorneys. The defendant moves the Court for a new trial, which is overroled by the Court, whereupon the defendant prays an appeal to the Supreme Court, which is allowed, on the defendant entering into bond in the sum of one thousand dollars, with Patric Smith or S. S. Taylor as security, in thirty days from this date.

STATE OF ILLINOIS, First Grand Division Supreme Court. } SS.

And the said City of Cairo, defendant below and plaintiff in Error, comes and says there is manifest error appearing in the record and proceedings of the foregoing cause, and for an assignment thereof the said plaintiff in Error sets down and shows the Court the following causes of error, to-wit:

1st. The Court below erred in sustaining the demurrer of plaintiff below to defendant's second plea, and in refusing to sustain said plea.

2d. The Court below erred in rendering judgment for the plaintiff below on his demurrer to defendant's 2d plea, and refusing to render judgment for defendent below on same or to said plea.

3d. The Court below erred in not sustaining demurrer of plaintiff below to the declaration of plaintiff below, said declaration being substantially defective and insufficient.

4th. The demurrer of plaintiff below to defendant's 2d plea opened the record up to the declaration of plaintiff, and the same being substantially insufficient, said demurrer ought to have been sustained to said declaration.

5th. The Court below erred in rendering judgment for plaintiff below and not for defendant below, for the record shows no cause of action and no right to recover.

Wherefore, plaintiff in Errer prays for the causes above specified that said judgment be reversed, annulled, set aside, made void and for nothing esteemed, and as in duty bound, &c.

I. N. HAYNIE, for Plaintiff in Error.

~~No~~ 10

Abstract

City of Cairo

by

L. L. Lightner

Filed Nov. 16. 1860 —

N. Johnston Clk

178
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The City of Cairo
vs.
Levi L Lightner

Opinion by
Wallace J. This action was instituted to recover, for transcribing, the record of deeds and other title papers relating to or affecting the real estate of the City of Cairo and township in which it is situated. The act of the 14th ~~day~~ of ~~the~~ February 1859, (Sess Laws 175) establishes an office for the registry of deeds within the city. ~~The fourth~~ And the third section of the act provides that appellee shall ~~be allowed and paid by the city, the full fees, for~~ copying and certifying, all deeds, mortgages and other writings affecting the title of lands within the city and township; and he is authorized, ~~to~~ in case any of the record books shall contain nothing but evidence relating to land in the city and township, to deliver such book or books in lieu of copies, and be entitled to receive the same ~~pay~~ fees as if he had copied the same, which is also required to be paid by the city.

The fourth section provides, that when

[8567-12]

the copies are thus made, they shall be delivered to the clerk of the court of common pleas in and for the city of Leavenworth; and that said city shall pay to appellee ten cents for every one hundred words, and the sum of twenty five cents for every certificate. The declaration avers, that appellee made the copies and certificates of such records and delivered the same to, and that they were received by the clerk of the common pleas, as required by the act. To the declaration the plea of non assumpsit was filed; also a plea that the city did not employ appellee to perform the services, mentioned in the declaration, nor did they after it was performed, agree, under taken and promise to pay for the same, nor did they agree to receive the record books and copies of records in the plaintiffs declaration mentioned. To this latter plea there was a demurrer, which assigned as special ~~cause~~ grounds, that it amounts to the general issue. The demurrer was sustained, and ~~a~~ the defendant abided by the demurrer ~~and the damages were assessed and judgment~~ * ~~That~~ sustaining the demurrer, judgment is assigned for error.

This plea only traversed ~~the~~ several

* A trial was had before the court and jury waiving in a written in behalf of appellee, upon which a judgment was rendered.

[P567-12]

~~of the~~ material averments of the declaration. It averred no new fact. It did not enlarge and avoid the cause of action, but simply put the appellee upon the proof of the averments it traversed. This had been already done by the ~~plea~~ general issue. It therefore amounted to no more than the general issue, and the demurrer was properly sustained.

If it was true that the city never had in fact requested the appellee to perform the labor, had not promised to pay him, or had not authorized the clerk ~~to have~~ of the ~~clerk~~ court of common pleas to receive these copies of records, it would not constitute a defence to the action. The legislature had the undoubted right to impose the duty upon the appellee to perform the labor, and to require the city to pay him for it. The obligation to pay was imposed by the statute, and did not grow out of appellee's contract. And it was a matter of no consequence whether it was done at their appellee's request or not, as the liability was imposed by express enactment.

The judgment of the court below is affirmed.

[8567-18]

The City of Cairo
vs
Sein & Sightman

No 10.

Opinion
Walker J.

Cairo
vs
Lightner

Supreme Court
Term 1861

A demurrer to a special plea cannot be carried back to the declaration after a direct demurrer to it has been overruled and the general issue pleaded. Brewer vs Lannay. 22nd Ills. 496

A public corporation may be sued on implied contract 7th Cranch 229. Johns 227 3rd Serg & Rawle 117. 2d Hall 182 Seagrave vs City of Alton 13 Ills 371. 14 Ills. 85. 15 Ills 72

In the case before the Court, the Legislature provided by law to establish a Recorders office in Cairo for the keeping of ~~the Inhabitants of~~ that City and required Lightner plff to copy all the deeds &c & hand over to the Cairo City recorder allowing certain fees to him to be paid by the City of Cairo. Lightner performed the service and delivered the copies books &c and demanded fees, which the City refused to pay. Suit and judgt in favor of Lightner, to reverse this judgt, this cause is brought to this Court.

[8567-18]

The defendants demurred to the declaration which demurrer was ~~by the Court overruled~~ withdrawn. The defendants then plead the general issue and a special plea plaintiff took issue on the general issue & demurred to the special plea which demurrer the Court ~~sustained~~ sustained. The sustaining of which demurrer is assigned for error.

The Special plea is bad, because it amounts to the general issue ~~and because it does not as a special plea answer the declaration but assumes that when a corporation is a party suit contract under their corporate seal~~

The Legislature has full power & control over a public Corporation Bruer 120. Coles vs Madison County.

D. Campbell for
Appellant

Cause
vs
Appellants

Supreme Court

The City of Cairo
vs
S L Lightner

In the Supreme Court
1st Grand Division

The Clerk of the Supreme Court will issue a writ of procedendo to the Alexander Circuit Court in this Cause and also a fee bill for Defendants Costs due to the Sheriff of Alexander County Fees

S Daugherty for
S L Lightner.

[P567-16]

The City of Cairo
vs
S. L. Leightner

Precipe

8567

~~8567~~

Filed Nov. 28. 1862
Noah Johnston Clk

Cairo vs Lightner } Supreme Court - Nov Term 1861

A demurrer to a special plea cannot be carried back to the declaration after a direct demurrer to it has been overruled and the general issue pleaded Brower vs Lamoy 23rd Ills 496

A public corporation may be sued on an implied contract. 7th Cranch 229. Johns 227. 3d Serg & Rawle 117 3 Halstead 180 Seagraw vs City of Alton 13th Ills 371. 14 Ills 85. 15 Ills 72

In the case before the Court. the Legislature provided by law to establish a recorders office in Cairo for the benefit of ~~the Inhabitants~~ that City. and required Lightner plff to copy all deeds &c and hand over to the Cairo City recorder allowing certain fees to him to be paid by the City of Cairo, Lightner performed the service and delivered the Copies books &c and demanded fees which the City refused to pay, Suit & judgt. in favor of Lightner to reverse this judgment this cause is brought to this Court, The Defendants demurred to the declaration which demurrer was ~~by the Court overruled~~ withdrawn The defendants

[1867-17]

the general issue and a Special plea Plaintiff looks upon the general issue and demurred to the Special plea which demurrer the Court sustained The sustaining of which demurrer is assigned for error

The Special plea is bad as most it could only amount to the general issue ~~& it does not answer the declaration but assumes that in law a Corporation to be bound must contract under its seal Corporate seal~~ The Legislature has full power & Control over public Corporation Bruce v. 20 Cals vs Madison County

D Denny for
Defts

Cause
No
Defendant

Defts. Brief

City of Lewis Plff in Error
vs
Lin L Leighton Deft in Error

} Error to Alex
} cuit

The Clerk of Supreme Court will issue a writ of Error in the above Entitled Cause, in favor of the Plff in Error, who was defendant below and against Deft in Error who was Plff below, in which said Cause Plff Below recovered a judgment against defr below, and make said writ Returnable as required by law

L Leighton
for Plff in Error

[8567-19]

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City of Cairo

vs

Levi L. Lightner

Precipe

Filed Nov. 16. 1860 -

A. Johnston Clk

Lehigh County,

vs

Garden Trust } appeal from Jury

appellants Counsel would refer the Court to a part of the testimony in regard to the delivery of horse – viz James Martin in his testimony speaks of David Martin saying he would "take hire back" or was "willing to take horse back" – from which it is manifest the horse was delivered to appellants

Jno S Nelson for appellants

[S 567-18]

Forney appellant
Frost appellee

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City of Cairo

vs

Levi L. Lightner

Ejmt to Alexander

8567