

8731

No. _____

Supreme Court of Illinois

Samuel S. Taylor

vs.

George Taylor, et al,

71641  7

George Taylor, John Lowry
and Martin Burke owners of
the Steam Boat H. W. Bacon
vs
Samuel S. Taylor

Pleas of the April Term of the
Alexander County Circuit Court
In the year of our Lord One thousand
eight hundred & fifty six.

Be it remembered that at a Circuit Court begun
and holden at the Court house in Shelby, County seat of the said
County of Alexander State of Illinois before the Honorable William C.
Parrish, Judge of the third Judicial district of the State of Illinois
and presiding Judge of the Alexander County Circuit Court,

On the 28th day of January 1856 the following Declaration was
filed in the said Circuit Court, in the above entitled cause to wit,

State of Illinois }
County of Alexander } 55

April Term A.D. 1856 of the Alexander
Circuit Court.

George Taylor, John Lowry and Martin Burke owners of the
Steam Boat H. W. Bacon, plaintiffs in this suit by R. E. Yost their attorney explain
of Samuel S. Taylor defendant in this suit of a plea of Trespass on the case upon
promises. For that whereas the said defendant, on the first day of March
in the year of our Lord One thousand eight hundred and fifty five at the
County of Alexander in the State of Illinois and within the Jurisdiction of this
Court, was indebted to the said plaintiffs in the sum of eighty dollars for
so much money before that time paid, laid out and expended by the said
plaintiffs to and for the use of the said defendant and at the special instance
and request of the said defendant. And being so indebted the said defendant
in consideration thereof, afterwards to wit on the same day and year last afore-
said, and the County aforesaid, undertook and then and there faithfully promi-
sed the said plaintiffs well and truly to pay unto the said plaintiffs the
said sum of money last above mentioned, when the said defendant should be

the same afterwards requested.

And whereas also the said defendant afterwards to wit, on the same day and year last aforesaid, and at the County aforesaid was indebted to the said plaintiffs in the further sum of Eighty dollars for so much money before that time had and received by the said defendant to and for the use of the said plaintiffs, and being so indebted the said defendant in consideration thereof afterwards to wit on the same day and year last aforesaid, and at the County aforesaid undertook and then and there faithfully promised the said plaintiffs well and truly to pay unto the said plaintiffs the said sum of money last above mentioned, when the said defendant should be thereunto afterwards requested.

And whereas also the said defendant afterwards to wit on the same day and year last aforesaid and at the County aforesaid was indebted to the said plaintiffs in the further sum of twenty dollars for so much money before that time and there ^{due} ~~and~~ ~~there~~ payable from the said defendant to the said plaintiffs for interest upon and for the forbearance of divers large sums of money before then due and owing from the said defendant to the said plaintiffs and by the said plaintiffs for borne to the said defendant at the like special instance and request of the said defendant and being so indebted he the said defendant in consideration thereof afterwards to wit on the same day and year last aforesaid and at the County aforesaid undertook and then and there faithfully promised the said plaintiffs well and truly to pay unto the said plaintiffs the said sum of money last above mentioned, when the said defendant should be thereunto afterwards requested.

And whereas also, the said defendant, afterwards to wit, on the same day and year last aforesaid, and at the County aforesaid accounted together with the said plaintiffs of and concerning divers other sums of money before that time due and owing from the said defendant to the said plaintiffs and then and there being in arrears and unpaid and upon such

a accounting the said defendant then and there was found to be in arrear and in-
 a debted to the said plaintiffs in the further sum of eighty dollars, and being so indebted
 a found in arrear and indebted to the said plaintiffs the said defendant in con-
 a sideration thereof afterwards to wit, on the same day and year last aforesaid
 a undertook and then and there faithfully promised the said plaintiffs well and
 a truly to pay unto the said plaintiffs the said sum of money last above mention-
 a ed when the said defendant should be thereunto afterwards requested.

a And whereas also heretofore to wit on the the first day of November in the year of our
 a Lord one thousand eight hundred and fifty four the said plaintiffs were the owners
 a of a certain Steam Boat called the H. D. Bacon then in the Mississippi river at
 a New Orleans, and so being such owners as aforesaid had taken and received on
 a board the said Steam Boat H. D. Bacon a large number of mail bags containing mail
 a matter which said mail bags were shipped and to be delivered by the said plaintiffs
 a to the United States Mail agent at Cairo Illinois. and the plaintiffs aver that
 a the said defendant was then and for a long space of time, then next ensuing
 a to wit for the space of four months, the mail agent of the Government at Cairo
 a Illinois. and the said plaintiffs further aver that the mail bags aforesaid were
 a safely and securely conveyed from New Orleans to Cairo Illinois, and at the special
 a instance and request of the said defendant were (by the said plaintiffs) delivered
 a to the said defendant at Cairo aforesaid he the said defendant so being such
 a mail agent as aforesaid and in consideration of the safe delivery thereof to the
 a said defendant he the said defendant afterwards to wit on the tenth day
 a of November in the year last aforesaid and at the County of Alexander
 a aforesaid became and was indebted to the said plaintiffs as carriers by
 a water of the said mail bags in the sum of eighty dollars. And being so
 a indebted he the said defendant in consideration thereof afterwards to wit, on the
 a first day of December in the year of our Lord one thousand eight hundred
 a and fifty four at the County aforesaid ^{and} undertook, then and there faithfully

Afterwards to wit on the third (15th) day of the October Term 1856 of the said Circuit Court the following proceedings were had and entered of Record in said Court to wit

"	George Taylor et al	}	exempt
"	" "		
"	Samuel S Taylor		

Now on this day came again the plaintiffs by their Attorney and the defendant by Simms his Counsel, issue being joined and submitted to the Court, proof heard and verdict and judgment pass so for plaintiffs. Motion of defendant for new trial which was by the Court overruled, and defendant prays an appeal to the Supreme Court, which is allowed upon condition that the defendant file his bond in the sum of \$125. with Bryan & Shaunpys as security, within thirty days from this date, and that bills of reception may be signed in vacation.

Appeal Bond

" Know all men by these presents that W. S. Staats Taylor and Bryan & Shaunpys of the County of Alexander and State of Illinois are held and firmly bound unto George Taylor, John Lowrey and Martin Burke owners of the Steam Boat H D Bacon, in the special sum of Two hundred and fifty 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, Sealed with our Seals and dated this third day of November, in the year of our Lord, One thousand eight hundred fifty six.

" The Condition of the above obligation is such that when the above named George Taylor, John Lowrey and Martin Burke

owners of the Steam Boat H. D. Bacon did at the October Term of the
 Alexander County Circuit Court in the year 1856, at the term of said
 Court then holden, recover a judgment against the above named
 S. Staats Taylor for the sum of eighty dollars besides costs of suit from
 which judgment the said S. Staats Taylor wishes to appeal to the Supreme
 Court of the State aforesaid. Now if the said S. Staats Taylor shall pro-
 ceute his said appeal with effect and without delay or in case of
 failure therein, shall well and truly pay or cause to be paid the afore-
 said judgment together with all costs which may accrue in the said
 cause upon the trial or dismissal thereof, then this obligation to be
 void, otherwise to be and remain in full force and virtue.

Approved, Nov. 7th 1856 } S. Staats Taylor
 L. L. Lightsey Clerk } B. Shannopy
 Filed Nov. 7th 1856. L. L. Lightsey Clerk

Bill of Exceptions

George Taylor, John Seery and
 Martin Burke, owners of the
 Steam Boat H. D. Bacon
 vs
 Samuel S Taylor
 Pleas of the October Term of the
 Alexander County Circuit Court. In the
 year of our Lord one thousand eight
 hundred and fifty six.

Be it remembered that at a Circuit Court begun and holden
 at the Court house in Shelby County, seat of the County of Alexander State of
 Illinois before the Honorable William K Parish, Circuit Judge without a
 jury - the trial by jury being waived by both the plaintiff and defen-
 dant on the second sunday in the month of October in the year of our
 Lord one thousand eight hundred and fifty six, the following

a proceedings were had in a certain Court pending and at issue therein, wherein
a the applicant George Taylor, John Lowrey and Martin Burke owners of the
a Steam Boat H. D. Bacon were plaintiffs and Samuel S. Taylor was
a defendant

a The said plaintiffs by Robert E. Spott their attorney first introduced
a as a witness William A. Hackler, who being first duly sworn deposed as
a follows, that he was acquainted with Samuel S. Taylor and had been for
a some time, but was wholly unacquainted with plaintiffs. He thought
a that Samuel S. Taylor was the United States mail agent at Cairo in the fall
a of 1854. at all events he was appointed in 1855 as Mr. Taylor's
a successor and received the books and papers from him.

a The Plaintiffs then introduced Thomas J. Wood as a witness who being duly
a sworn deposed as follows " that he was acquainted with the Steam Boat H. D. Bacon
a and some of the plaintiffs if not all and that he was also acquainted
a with Samuel S. Taylor and had been for some years - nearly all the time since
a he came to Cairo, Mr. Taylor the defendant acted as mail agent in the fall
a of 1854, so acted in the months of November & December of that year. He did not act
a personally in that capacity - but when he first took charge of the business Mr. Cauden acted
a in his place, but in the Spring of 1854. myself and others constituting the firm of
a T. J. Wood & Co. having fitted up the Petrick Henry as a wharf boat, commenced doing
a a forwarding, storage and commission business. We made an arrangement with
a Taylor to transact his duties as United States mail agent, to receive and forward the mails,
a pay all transportation charges, ship the mails and the like, We done this because it was
a a great advantage to us to have the Steam Boat land at our Boat, We fitted up
a a room on the boat for the mail matters and our Clerk done all the business
a we paid the clerk 75 dollars per month and understood that Mr. Taylor also paid
a him something, We continued to do so untill the Spring of 1855. and we did
a all the business during the fall of 1854 in the month of November as well as

the other months Mr. Taylor did not give his personal attention to the mail matters, except to see that the Clerk does the business. If any money was paid or charges advanced for the H.D. Bacon it was to the clerk who did the mail business we do all the business with the H.D. Bacon and all other mail boats at that time.

The Plaintiffs next introduced the following depositions

George Taylor, John Sorey and Martin
Burke owners of the Steam Boat H.D. Bacon } In the Alexander Circuit Court
of }
Specmsit,
Samuel S Taylor }

Deposition of Arthur Stewart produced sworn and examined on the fifteenth day of May in the year of our Lord one thousand eight hundred and fifty six at the Office of James M. Gregor in the City of Pittsburgh in the County of Alleghany and State of Pennsylvania by virtue of a Commission issuing out from the Circuit Court of the County of Alexander in the State of Illinois to the said James M. Gregor directed for the examination of witnesses in a certain cause depending in said Court wherein George Taylor, John Sorey, and Martin Burke are plaintiffs and Samuel S Taylor is defendant,

Arthur Stewart of the City of Pittsburgh being produced sworn and examined on behalf of the plaintiffs above named deponeth as follows;

1st To the first interrogatory on the part of the said plaintiffs he answers as follows; That he is not acquainted with either of the parties in the above suit.

2^d To the second interrogatory he answers as follows; That his name is Arthur Stewart, is at present Captain of the Steamer Jacob Poe in the year 1854 during the months of November and December was Clerk of the Steamer York

3rd To the third interrogatory he answers as follows; To the best of his recol-
lection the Steam Boat H. D. Bacon, carried the mail from New Orleans to
Cairo Miss; about the month of November 1854.

4th To the fourth interrogatory he answers as follows; That to the best of his
recollection the Steam Boat Yorktown carried the mail from Cairo to Louisville Ky

5th To the fifth interrogatory he answers as follows; That the charges of the
Steam Boat H. D. Bacon were eighty (\$80) dollars for conveying the mail from
New Orleans to Cairo the charges of the Steam Boat Yorktown were twenty
(\$20) dollars for conveying the same from Cairo to Louisville,

6th To the sixth interrogatory he answers as follows; I paid the charges of the H. D.
Bacon to the mail agent at Cairo, as the Steam Boat Yorktown could not
obtain them without the charges were paid.

7th To the seventh interrogatory, he answers as follows; I paid the mail
agent at Cairo eighty dollars, I do not remember what kind of money
was paid by me to him.

8th To the Eighth interrogatory he answers as follows; I paid in the
month of November or December in the Year 1854, to the best of my
recollection eighty dollars to the Mail agent at Cairo for the Steam
Boat Yorktown as charges to be paid to the Steam Boat H. D. Bacon.

9th To the Ninth interrogatory he answers as follows; There is no other matter
or thing within my recollection that would be any benefit to said
plaintiffs

A. Stewart

a I hereby Certify that the above Witness was duly qualified and
 a examined at the time and place stated in the above caption and subscribed
 a his deposition in my presence, James M. Gregory
 a Commissioner appointed by the Clerk of the Circuit Court of
 a Alexander Co Illinois

a The Plaintiff next introduced the following Deposition
 a The Deposition of A.D.G. Counsel of the City and Parish of New Orleans and
 a State of Louisiana, a witness of lawful age produced sworn and examined
 a upon his Corporal oath on the eighth day of May in the year of our Lord 1856 at
 a the office of D. J. Records in the City of New Orleans, in the Parish of New
 a Orleans, by me D. J. Records a Commissioner duly appointed by a decrees
 a potestatum or Commissioner issued out of the Clerk's office of the Circuit Court of
 a Alexander County in the State of Illinois, bearing teste in the name of Levi L.
 a Slightner Esq. Clerk of the said Circuit Court with the seal of said Court affix-
 a ed thereto, and to me dictated as such Commissioner for the examination of
 a the said A.D.G. Counsel a witness in a certain suit and matter in controversy now
 a pending and undetermined in the said Circuit Court, wherein George Taylor, John
 a Lacey and Martin Burke owners of the Steam Boat H D Bacon are plaintiffs
 a and Samuel S Taylor is defendant, in behalf of the said plaintiffs as well
 a upon the cross interrogatories of the defendant as on the interrogatories of
 a the plaintiffs which are attached to the said Commissioner and upon none others

a The said A.D.G. Counsel being first duly sworn by me D. J. Records Com-
 a missioner as a witness in the said cause, previous to the commencement
 a of his examination to testify the truth, as well on the part of plaintiffs
 a as the defendant, in relation to the matters in controversy between
 a the said plaintiffs and defendants so far as he should be interrogated.

a testified and answered as follows

a Interrogatory first, are you acquainted with the parties plaintiff and defendant in the above entitled cause or either of them if so how long have you known them respectively

a Answer to first interrogatory, I am acquainted with plaintiffs. I have known them a two years or longer.

a Interrogatory second, what is your name, your present occupation and what was your occupation during the months of November and December in the year 1854.

a Answer to second interrogatory - my name is Abraham D. G. Council at present a Steam Boating. In November and December 1854, I was Second Clerk on board the a Steamer H. D. Bacon.

a Interrogatory third, If you know please state, who were the owners of the a Steamboat H. D. Bacon about the months of November and December in the year 1854

a Answer to third interrogatory - George Taylor, John Louie and Martin Burke were a the owners of the H. D. Bacon in the months of November and December 1854 a so far as my information extends

a Interrogatory fourth, Please state what you may know (if any thing) about a the said Steamboat H. D. Bacon carrying the mail or a quantity of mail bags a from the City of New Orleans to Cairo Illinois about the month of November 1854.

a Answer to fourth interrogatory, - The mail agent at New Orleans shipped a on board the Steam Boat H. D. Bacon a mail consisting of a number of mail a bags consigned per way bill or contract to the Post master at Louisville Kentucky, the mail to be delivered at the different offices mentioned in said way a bill between New Orleans and Cairo and the mail bags for the offices between

" Cairo and Louisville to be delivered at Cairo to the mail agent for which he was
 " to pay to the Steamer H D Bacon the sum of eighty dollars. The mail was duly
 " delivered to the mail agent at Cairo, at the time of delivering the mail the mail
 " bill had been left at one of the offices below; the mail agent said he would
 " forward the mail and pay the H D Bacon her portion eighty dollars on her
 " return; on the return of the H D Bacon he said the mail bill had been
 " received in time to accompany the mail, and was all correct, that he had
 " not the amount in the office at the time, that he was short of funds or some-
 " thing to that effect, that he would pay it on the upward trip of the
 " Boat. On the upward trip I made enquiry and learned that he was absent
 " on the ^{Down} ^{trip} the Louisville mail was delivered to him and not paid for the Bacon
 " had another mail for Saint Louis consigned to the Post Master at that
 " place which was signed by the said agent at Cairo for the number of Bags
 " entered on the bill for Cairo which was recognized and regularly paid by the
 " Post master at Saint Louis

" Interrogatory the Fifth — Please state (if you know) what the charges of the Stea-
 " mer H D Bacon were for carrying the mail above referred to, also what it was
 " worth agreeably to the usual charges for carrying the mail on Boats.

" Answer to fifth interrogatory — The amount to be received by the H. D. Bacon
 " for delivering the mail above referred to at Cairo was eighty dollars, that was
 " the price usually paid to Boats for carrying the mail from New Orleans to
 " Cairo, that is the large Louisville mail, the above mail referred to in
 " interrogatory fourth was the large Louisville mail.

Interrogatory the sixth, If there was any agreement as to the amount
 to be paid or due to the H D Bacon for carrying said mail from New Orleans
 to Cairo, state what it was and whether the same was made by the —

« mail agent at ~~the~~ Cairo.

« Answer to Interrogatory the sixth - I refer to my answer in interoga-
« tory the fourth.

« Interrogatory the seventh - State whether or not the mail agent at Cairo agreed
« or promised to pay the charges of the H D Bacon for carrying the said mail
« above referred to;

« Answer to interrogatory the seventh - The mail agent at Cairo did agree
« to pay the charge of eight dollars to the H D Bacon for carrying said mail
« above referred to

« Interrogatory the eighth - If you answer that the mail agent at Cairo
« did agree and promise to pay the charges of the H D Bacon then please
« state what he said about it and the reason why (as made by him) he did
« not pay the charges at the time

« Answer to interrogatory the eighth - I refer to my answer to interrogatory the
« fourth,

« Interrogatory the ninth - State whether or not the promise of the mail agent
« at Cairo to pay the charges induced the officers of the H D Bacon to leave
« the mail and go on without collecting the money or bill at that time.

« Answer to interrogatory ninth - The promise of the mail agent at Cairo
« to pay the H D Bacon's charges induced us to leave the mail and go
« on without receiving the amount due for said mail.

« Interrogatory the tenth - If there is any other matter or fact within your
« knowledge in relation to the charges of the H D Bacon for carrying the mail
« at the time above referred to not herein before answered or any other matter or

a thing of advantage to the plaintiffs please state the same fully and particularly
 a to the best of your knowledge, recollection and belief.

a Answer to interrogatory the tenth - I know of nothing further that would
 a benefit the Plaintiffs in this suit.

a Cross Interrogatories and answers thereto of the witness on the part
 a of the defendant.

a First Cross interrogatory - If you answer to the third direct interrogatory
 a affirmatively then please state, your means of knowledge about the owner-
 a ship of said Boat from whom did you obtain the information: was the whole or
 a any portion of it derived from the Plaintiffs or either of them.

a Answer to first cross interrogatory - By being acquainted with the owners
 a and hearing them and others speak of the ownership.

a Second Cross Interrogatory - If you answer the fourth direct interrogatory affirmatively
 a then please state whether it was or not the United States Mail or mail bags which
 a the Steamer H D Bacon carried from New Orleans to Cairo - and if so who contracted
 a with the Boat at New Orleans for the Transportation of the mail from that point
 a to Cairo if any one did so the price for the service and also state if you know
 a to what point or points, the said mail bags were consigned.

a Answer to second ^{cross} Interrogatory - It was the United States Mail and Mail
 a bags I know of no other mail. The Mail agent at New Orleans, Eighty dollars
 a was the price named in the mail bill for the Steamer H D Bacon's portion
 a of said contract. The mail bags were consigned to the different Post -
 a offices on the river between New Orleans and Louisville.

a Third Cross Interrogatory - If you answer to the fifth direct ~~cross~~
 a interrogatory affirmatively, then please state, who generally contracted

with or engaged the Steam Boats at New Orleans to Carry or Convey the Mail,
from that point to Cairo; who engaged the H D Bacon; Was the engagement
made by the mail agent or Post master at New Orleans; was any thing stated
about the price or the time; Please state fully and particularly all you
know about it.

Answer to third Cross interrogatory - The mail agent at New Orleans
contracts for and ships the mail from there to Cairo or other offices; The engagement
was made by the mail agent at New Orleans, The price to Louisville Kentucky was
inserted in the mail Bill as also an endorsement on the said mail bill
for the mail agent at Cairo to pay Steamer H D Bacon eight dollars and forward

Fourth Cross Interrogatory - If you answer the sixth direct interrogatory of
affirmatively then please state when said agreement was made with the Boat
at what place - who made it on the part of the United States - and who
if any was present at the time it was made please answer fully and particularly

Answer to fourth Cross interrogatory - In November 1854. dont recollect
the exact date at New Orleans - with the mail agent on the part
of the United States - do not recollect who was present.

Fifth Cross interrogatory - If you answer the seventh direct interrogatory affirmatively
then please state who was present when the promise was made - where was it
made - state the time when it was made - day of the week month and year
and all you know about it answer.

Answer to Fifth Cross interrogatory - I think the Captain of the H. D.
Bacon was present - do not recollect the date - It was at the time - It was
at the time of delivering the mail and afterwards.

Sixth Cross Interrogatory - Please state the name of the person who promised

to pay the H W Bacon for bringing the mail from New Orleans to Cairo = the
 apparent age, height, complexion and general appearance = as well as description
 or apperance of the person with whom or who made the promise to pay = was
 the promise made in writing or by parole as you now recollect = if in writing
 produce it and append hereto = also state how you know the person who
 made the promise was the mail agent at Cairo = answer fully and
 particularly.

Answer to sixth Cross interrogatory. I do not recollect the name of the
 mail agent = the person to whom I delivered the mail and who made
 the promise at different times to pay the H W Bacon for the mail was in the
 office on board the Wharf Boat where the mail bags were delivered
 he represented himself as mail agent, received the mails, signed mail bills
 and receipts for mails, signed our mail bill for Saint Louis which
 was recognized and paid by the Post master at St. Louis = I dealt
 with him as United States mail agent and received his promise to pay
 for said mail in that capacity = the promise was not made in writing.

Seventh Cross Interrogatory = In speaking of the mail agent at Cairo in
 answer to the answer and seventh direct interrogatory - has he or did
 you understand him to be United States mail agent or otherwise = If not
 what kind of mail agent was he.

Answer to seventh cross interrogatory, I understood him to be acting
 in the capacity of United States mail agent. I know of no other mail agent
 than United States mail agent.

Eighth Cross interrogatory = If you ~~now~~ answer the eighth direct inter-
 rogatory affirmatively - then please state when the conversation took
 place the time when and who was present at the time.

Answer to Eighth Cross Interrogatory - I refer to my answer to the fifth cross Interrogatory.

Ninth Cross Interrogatory - If the mail agent refused to pay charges for transporting the mails what would the H. W. Bacon have done with it and from whom would they have collected the charges thereon.

Answer to Ninth Cross Interrogatory - I never knew of a mail agent refusing to pay the H. W. Bacon. would probably have delivered the mails to the Post Master at Cairo and reported the mail agent to the Post office Department at Washington city.

Tenth Cross Interrogatory - To what place, by whom and to whom was the mail matter consigned.

Answer to Tenth Cross Interrogatory - To Louisville Kentucky - by the mail agent at New Orleans - to the Post master.

Eleventh Cross Interrogatory - If you know any other matter or thing tending the premises which would be of advantage to the defendant, then please state the same fully and particularly as though specially interrogated thereto.


Answer to Eleventh Cross Interrogatory - I know of nothing further that would benefit the defendant in this suit.

And hereunto Deponent subscribed his name
A. D. G. Counsel

State of Louisiana City of New Orleans

I David J. Nicardo of the City and Parish of New Orleans and State of Louisiana a Commissioner duly appointed to take the Deposition of the said A. D. G. Counsel a witness whose

a name is subscribed to the foregoing Deposition do hereby certify that pre-
 vious to the commencement of the examination of the said A.D.G.
 a Counsel as a witness in the said suit, wherein the said George Taylor,
 a John Louis and Martin Buske owners of the Steam Boat H.D.
 a Bacon plaintiffs and the said Samuel S Taylor defendant he was
 a duly sworn by me as such Commissioner to testify the truth in relation
 a to the matters in controversy between the said George Taylor, John Louis
 a and Martin Buske owners of the Steam Boat H.D. Bacon plaintiffs
 a and Samuel S Taylor defendant so far as he should be interrogated
 a concerning the same that the said deposition was taken at my office
 a in the city of New Orleans Parish of Orleans and State of Louisiana on
 a the eighth day of May A.D. 1856 and that after said deposition was
 a taken by me as aforesaid the interrogatories and answers thereto as written
 a down were read over to the said Witness and thereupon the same was
 a signed and sworn to by the said deponent A.D.G. Counsel before me
 a the oath being administered by me as such Commissioner at the place
 a and on the day and year last above mentioned.


D. J. Ricardo  Commissioner

a Here both parties ruled their cause. And the Judge of said Court
 a after deliberation rendered a verdict in favor of the plaintiffs for the sum
 a of eighty dollars whereupon the defendant by his Counsel made a motion
 a for a new trial for the following causes

a First a Because the Verdict was against the law
 a Second a " The verdict was against the law and the evidence
 a Which motion was overruled by the Court and judgment was
 a rendered for the said sum of eighty dollars and costs of suit.
 a The overruling of which said motion for a new trial and the

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a rendition of said judgment, the said defendant now appears for
a error and prays that this his bill of exceptions may be signed sealed
and made a part of the record in this cause

William K. Parrish 

State of Illinois Alexander County, 333

I Levi L. Lightner Clerk of the Circuit Court
within and for the County and State aforesaid do hereby certify
that the foregoing from Page One to Twenty One inclusive are
true and correct transcripts from the files and Records of my
office in the foregoing cause wherein George Taylor, John Loring
and Martin Burk are plaintiffs and Samuel S Taylor defendant

In Witness whereof I have hereunto set my
hand and affixed the seal of said Court at
Keokuk this 10th day of August A.D. 1857.

Levi L. Lightner, Clerk

Alexander Len. } George Taylor et al } continued at pl'tffs cont
 Court Apr. 9 1856 } }
 } Samuel S Taylor } agreement

Cells for pl'tffs

	P'tff	Deft
Docky suit 10 fily dec 5 by Hely sum 40	" 55	
app. pl'tffs & defts 10 re + tacky Hely cont bond 15	" 25	" 10
Costs plea 20, 2 dedimus pro dep ^{ty} 2.00 order for copy dep. & copy Hely 2.	2 90	
order of Car 20 & bills 30 re just & satisfaction 40	" 90	" 30
	<u>4 60</u>	<u>40</u>
Staff		
roy + city dues, &c	2 00	" "
Court: John Becker Court fees (paid by pl'tff)	5 10	" "
	<u>7 10</u>	
Court J. 1856		
Judgment for pl'tffs		
Docky 10, order to open dep ^{ty} 20, verdict Hely 35 no fee for trial 20	" 70	" 20
copy Hely dep 10 order to sat p ^{ro} 35, say cert ^{ty} 10 no. for app ^{ty} 20, bills 30 re	" 85	" 30
Tacky Hely Bond 55 + copies of Bills, 20 re	" 20	" 75
Transcript Certificate &c	" "	7 25
	<u>1 75</u>	<u>8 70</u>
D. J. Ricardo Court fees (paid by pl'tff)	20 00	" "

Recorded page 187 atted

L. S. Lightsey, Clerk

Samuel S. Taylor
 Plaintiff in error
 vs.
 George Taylor and others
 Defendants in error

Appeal from
 Alexander

Plens of the November term of
 the Supreme Court in the
 year of our Lord one thousand
 eight hundred and fifty seven

And the said plaintiff in error by G. H. Simons
his attorney comes and defends the wrong and injury
and assigns the following causes of error in the
said and proceedings aforesaid -

First
Second
Third

That the verdict was against the law
That the verdict was against the law and the facts
That the several errors in refusing to grant a new trial
and in rendering judgment

Fourth

That the Court had no jurisdiction of the Cause, and
therefore, the Court erred in not dismissing the same
upon the proofs adduced therein

Fifth

That the action should have been commenced against
the United States. That if any liability was incurred
it was as agent, and notes principle duly made known
to deft. - Pp's below -

G. H. Simons
Attorney

Found in error
Nelson & Co

1850-14
G. H. Simons

Samuel S. Taylor
vs
G. H. Simons

Transcript for Appeal

Filed 25th Nov 1857

A. S. Johnston Clerk

Deposited by G. H. Simons

See Copying Certificate # 7

Filed 30th Nov, 1857
A. S. Johnston Clerk

George Taylor & Co. } pluff in view
A Stuart Taylor } area to Alexander
 } dept in snow
 } Had been Supreme Court
13th and Division at New Haven
at D 1858

Prin of dept in snow
Action of assumpsit. Certain, 5 Counts
1st Count for Money paid - 2^d Money had
& received. 3 Count for interest, 4
an account stated & 5 a Special
Count for carrying waste - plea
Insufficient - verdict for \$80 Motion
for a new Trial overruled & Judgment
There is one good Count which
is fully sustained by the preceding
2^d Count - for money had & received
& on this Count the question of homicide
does not arise - There was no
objection taken to the Instructions
in the Court below & it is too late
to talk about it in the Supreme
Court these points have been
repeatedly settled by this Court
in the following Cases - 13 Ills 432
Kenny vs Green - 2 Scans 272 Bramble
vs Brinkhuff - Adams vs Miller 14th Ills.
Breece vs G. & Co. Scans 177 That Liberty for debt in view

Submarine & page 17 near
terminating of staircase
page 18 promise to find
H. D. Bacon Submarine by 4
but he ought to show
that he did not believe
it

Genl. G. A. S. S. S.

1844
J. S. S. S.

Point of point
and surface
of depth in
error

Samuel S. Taylor Appellant
vs
defendant below

vs.

George Taylor, John Secory
& Martin Beiler owners of the
Steam Boat "H. S. Bolow" of
pellets and pliffs below

Appeal from
Alex. and Co.

Plaid of the November
Term of the Supreme
Court, in the year of
our Lord and the
eight hundred and
fifty seven

Will the Clerk of the Supreme
Court please issue a *Scire Facias* for the defendants in
the above styled Cause directed to the Sheriff of Alex-
ander County for service, and returnable on the first
day of the next Term of this Court.

Cyrus G. Lewis
Plaintiff's Attorney

In the Supreme Court
November Term A.D. 1857

~~Samuel S. Taylor~~
appellant
vs.

George Taylor and others
owners of the Steam Boat
vs. S. Bacon
appellee

Filed 25th Nov. 1857.
N. Johnston Clerk

SAMUEL S. TAYLOR,

v s.

GEORGE TAYLOR and others, owners of
the Steamboat "H. D. Bacon,"

Appellant.

Appellees.

A S S U M P S I T .

Appeal from
ALEXANDER COUNTY.

{ Pleas of the November Term of the Supreme
Court of the State of Illinois, in the year
of our Lord One Thousand Eight Hun-
dred and Fifty-seven.

Page 1 of Record.

The above entitled cause was instituted by the Appellees against the Appellant, prior to the April Term of the Alexander Circuit Court, A. D., 1856, and was tried before Wm. K. Parrish, Judge of said Court, without a jury, the same having been waived, at the October Term of said Court, in the same year.

Page 2.

The Declaration was in Assumpsit, upon the common money counts; among them a count for "money had and received," to which the defendant pleaded "non-assumpsit," and on which issue was joined.

Page 7.

Page 9.

Upon said trial, the plaintiffs introduced as a witness, William A. Hacker, who testified, "that he "was and had been for some time acquainted with defendant, but was unacquainted with plaintiffs. "He thought that Samuel S. Taylor was the United States Mail Agent at Cairo, in the fall of 1854. "Witness was appointed Mr. Taylor's successor in 1855, and received the books and papers from "him."

The plaintiffs next introduced Thomas J. Wood as a witness, who testified, "that he knew the "Steamboat H. D. Bacon, and some of plaintiffs, if not all; was also acquainted with defendant, "and had been for some years. Defendant acted as Mail Agent in the fall of 1854; so acted in "November and December of that year; but did not act personally in that capacity. When he first "took charge of the business, Mr. Candee acted in his place; but in the spring of 1854, myself and "others, constituting the firm of T. J. Wood & Co., having fitted up the 'Patrick Henry,' (a steam- "boat,) as a Wharf-boat, commenced doing a forwarding, storage and commission business. We "made an arrangement with defendant, to transact his duties as United States Mail Agent, to receive "and forward the mails, pay all transportation charges, ship the mails, and the like. We did this "because it was a great advantage to us to have the steamboats land at our boat. We fitted up a "room on the boat for the mail matter, and our clerk did all the business. We paid the clerk \$75 "per month; and have understood that defendant also paid him something. We continued to do so "until the spring of 1855; and did all the business during the fall of 1854, in the month of Novem- "ber as well as December. Mr. Taylor did not give his personal attention to the mail matters, except "to see that the clerk did his business properly. If any money was paid, or charges advanced, for "the 'H. D. Bacon,' it was to our clerk, who did the mail business. We did do the business with "the 'H. D. Bacon,' and all other mail boats, at that time."

Page 10.

Page 11.

The plaintiffs next introduced the depositions of Arthur Stewart, taken in Pittsburg, Pennsylv-
ania, who testified as follows, as therein appeared: "He was not acquainted with either of the
"parties to the foregoing suit; that, to the best of his recollection, the 'H. D. Bacon' carried the
"United States mail from New Orleans to Cairo, in the month of November, 1854; and the steam-
"boat 'Yorktown,' from Cairo to Louisville. That the 'Bacon's' charges for said service were \$80;
"and the 'Yorktown's' \$20. Witness paid the charges of the 'H. D. Bacon' to the Mail Agent at
"Cairo, which was \$80, but did not remember in what kind of money; paid in the month of No-
"vember or December, 1854, to the best of witness's recollection."

Hannee for self

If he rec^d the money it was a great
agent & it was personally noble.

15 John 1.
19 " 63.
8 cow 191
12 John 1144
18 " 127

1875

1875

1875

1875

1875

the President of the Board of Directors
GEORGE LUTGRO

ТОВАРИЩЕСТВО
АССИРАТ

the Board of Directors
of the Board of Directors
of the Board of Directors

The plaintiffs next introduced, as a witness, the depositions of A. D. G. Consol, taken in New Orleans, who, it appears by them, testified as follows: "Knows the plaintiffs, and has for over two years; knows that George Taylor, John Lowrie, and Martin Burke, were the owners of the steam-boat 'H. D. Bacon,' in the months of November and December, 1854, so far as he is informed. "That the Mail Agent at New Orleans shipped, on board the 'H. D. Bacon,' a mail, consisting of a "number of mail bags, consigned, per way-bill or contract, to the Postmaster at Louisville, Ken- "tucky, the mail to be delivered at the different offices mentioned in said way-bill, between New "Orleans and Cairo; and the mail bags for the offices between Cairo and Louisville to be delivered "to the Mail Agent, for which he was to pay to the steamboat 'H. D. Bacon' the sum of \$80. The "mail was delivered to the Mail Agent at Cairo; at the time of delivering the mail, the way-bill had "been left at one of the offices below; the Mail Agent said he would forward the mail, and pay the " 'H. D. Bacon' her portion, \$80, on her return. On the return of the boat, he said the way-bill "had been received in time to accompany the mail, and was all correct, that he had not the amount "in the office at the time—that he was short of funds, or something to that effect—that he would "pay it on the upward trip of the boat. On the upward trip of the boat, witness made inquiry and "learned that he was absent. On the same trip that the Louisville mail was delivered to him, and "not paid for, the 'Bacon' had another mail for St. Louis, consigned to the Postmaster at that place, "which was signed by the Cairo agent for the number of bags entered on the bill at Cairo; which "was recognized, and regularly paid for by the Postmaster at St. Louis. The amount to be received "for carrying said mail was \$80; that was the amount usually paid for carrying the mail from New "Orleans to Cairo. The Mail Agent at Cairo agreed to pay the charge of \$80, for carrying said "mail. This promise induced us to leave the mail, and go on without it."

The foregoing was all the evidence adduced by the plaintiffs. Defendant offered no evidence, and the cause was submitted. The Court rendered a verdict for the plaintiffs for \$80, and costs.

The defendant entered his motion for a new trial, which was overruled by the Court, and judgment accordingly entered. Defendant appealed to this Court. And now, assigns the following causes of error:—

- 1st. That the verdict was against the law.
- 2d. That the verdict was against the law and the evidence.
- 3d. That the Court erred in refusing to grant a new trial, and in rendering judgment.
- 4th. That the Court had no jurisdiction of the cause, and therefore the Court erred in not dismissing the same upon the proofs adduced therein.
- 5th. That the action should have been commenced against the United States; that if any liability was incurred, it was as agent, and not as principal, duly made known to plaintiffs.

C. G. SIMONS,
Attorney for Appellant.

65 14

In the Supreme Court
November Term A.D.
1857

Samuel S. Gayles
Appellant

vs.

Henry Gayles and others
Appellees

Abstract

C. M. Scudder

Plaintiff's Attorney

Filed 25th Nov. 1857.

N. Johnston Clerk

Samuel S. Taylor
vs.
George Taylor et al.
owners of S.B.N.C.
Bacon

Case to Alexander
Briar

Pleas of the Defendant
Case of Alexander
Briar. In the year
of our Lord eighteen
hundred & fifty seven

First

When an individual contracts as
agent merely, where the principle is known, and
he acts within the scope of his authority, the
principle only is liable. Under such circumstances
the agent cannot be personally liable. See Poley
on Agency 368. = 370 and note "g" in *Holder vs. Sovery*
2^d Rep. 812 and cases there cited. 2^d Kent's Commentaries
630. Lord Lentheden on Shipping 5 ed. 286. *Amos vs. Sam-*
uel 8. Mus. & Melb. 794, 804. *Northon vs. Budlong*
15 Johnson's Rep. (N.Y.) 1. *Randall vs. Daw, Detchen*
and others 19 Johnson's (N.Y.) Rep. 63 and cases there cited

Second

An Agent of the Government of the United States,
known to act as such, and so acting within the line
of his duty, cannot be held personally liable. So in this
case, Taylor the Plaintiff, was merely the agent of the
United States, acting (if at all) as such within the
strict line of his duty, and is not, therefore, personally liable.
See Poley on Agency 374 = *Bowen vs. Morris* 2 Taunt. 374 -
McBeath vs. Haldiman 1 L.R. 172. *Jones vs. Jones*
3 Dallas (U.S.) Rep. 384. *Northon vs. Budlong* 15 John
Rep. (N.Y.) 1 = *Randall vs. Daw - Detchen and others*
19. Johnson (N.Y.) Reports 63. *Smith vs. Fox* 8th

Lowen's Rep. 191 - Brown vs. Austin 1 Mass. Rep.
208. Adams vs. Whittelsey 3^d Leon. Rep. 560. 1 Cranch
(U.S.) Rep. 345. ¹⁰⁵ Walker vs. Swartout 12 John. Rep.
(N.Y.) 444. Herwin vs. Wolsey 1 Term Rep. 674.
Appleton vs. Binkes 5th East. Rep. 148 = Poelin vs. Peady
1 Bla. Rep. 670. Chay vs. Wilkes 18 Johnson's Rep. 122

Third

In the case at bar, no profits express or implied
was, ^{only} by Taylor to the defendants, but it was made
by the clerk of J. F. Woods & Co. upon his principals
undertaking to pay charges for carrying the mail
no money came to the hands of Plaintiff, but if any
was paid, it came to the hands of J. F. Woods & Co. their
agent. Such being the case, the Plaintiff is
not liable. Story on Agency see 281, + 283.

Cyrus H. Simon
Plaintiff's attorney
& J. McQuinn for post

14

In the Supreme Court
November Term A.D. 1857

Samuel S. Gay

vs.

George Gay and others

=====

Brief

Wm. W. Linn

Att. for Plaintiff

J. McQuinn for Puff

1857-11-14

SAMUEL S. TAYLOR,

v s.

GEORGE TAYLOR and others, owners of
the Steamboat "H. D. Bacon,"

Appellant,

Appellees.

ASSUMPSIT.

Appeal from
ALEXANDER COUNTY.

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- 5th. That the action should have been commenced against the United States; that if any liability was incurred, it was as agent, and not as principal, duly made known to plaintiffs.

C. G. SIMONS,
Attorney for Appellant.

1858 — No 14 —

Taylor

vs

Taylor & others

Errors to

Alexander

8731

Affirmed