No. 11903

# Supreme Court of Illinois

County of LaSalle

vs.

Simmons

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or 14
County of La Salle
vs
William Simmons

1849

11903

The County of La Salle
vs
William Simmons

Error to La Salle

This was an action of debt brought by William Simmons against the county of La Salle. The declaration was for money had and received; the plea nil debet. The cause was heard by the court. It was proved by the plaintiff that, in the year 1837, the County commissioners of La Salle County gave notice that they would grant a license for a ferry across the Illinois river, at the town of Ottawa, to the person that would donate the largest sum of money to the county; that up to that time, the plaintiff had kept the ferry, and was an applicant for a license to continue the same; that on the day the license was granted, several offers were made for the franchise, when the plaintiff finally bid the sum of five hundred dollars. Several witnesses testified that they had heard the receipts in office of the commissioners, who granted the license, declare that the plaintiff had paid the $500 to the County; and another witness testified that he had heard one or more of the commissioners, who granted the license, make a similar declaration. The plaintiff then produced in evidence a book, which the County Clerk swore was a book belonging to his office, in which the accounts of the treasurer were kept; and in which book the treasurer was charged, under date of July 1837, with the receipt of $500 from William Simmons as a donation to the County.

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The defendant objected to the introduction of all of the evidence, and excepted to the decision of the court admitting it. On this state of case the court rendered a judgment for the plaintiff for $500 debt, and $292.50 damages, the amount of interest. The county sued out a writ of error.

The declarations of the commissioners, respecting the payment of the money, were not competent evidence against the county. They were not made by them while officially representing the county in this transaction. The declarations of an agent, while engaged in the business of his principal respecting a particular matter then depending, are a part of the res gestae of the transaction, and binding on the principal; but those made out of the course of the agency when the agent is not acting for the principal in the particular transaction, concerning which they are made, are mere hearsay, and not admissible in evidence against the principal. 1 Greenleaf's Ev. S. 113 & 114; Story on Agency S. 134 & 135.

But the reception of this evidence did not prejudice the defendant, for the payment of the money was proved by other evidence to which there was no just objection. The book belonging to the clerks office was not strictly admissible as a public record because there was no law requiring ~~it~~ such a book to be kept. It was no doubt kept by the direction of the commissioners for the double purpose of exhibiting the true state of

the fiscal concerns of the county, and operating as a check on the treasurer. It was admissible because it contained memoranda made under the view and direction of the commissioners respecting the affairs of the county, and of this particular transaction; and the entry in question furnished *prima facie* evidence of the receipt of the money, subject, of course, to explanation on the part of the county.

The principal question in the case is whether the money thus obtained by the county can be recovered back by the plaintiff. If the payment is to be considered as voluntarily made, it is very clear that he cannot recover back the money; but if it is to be regarded in the light of a compulsory payment, it is equally clear that he is entitled to recover. The laws in force when this transaction took place authorized the county commissioners to grant licenses for ferries, whenever considered necessary by them, and to impose an annual tax on each ferry not exceeding one hundred dollars. Rev. Stat. 1833, page 302. The law vested them with a sound discretion as to whether a ferry should be established, and as to whom the license should be granted, unless the owners of the shores of the stream claimed the license; but it gave them no discretion as to the sum to be paid for the franchise further than to fix the amount of the annual assessment. It was their duty, however, to establish a ferry whenever the convenience of the public

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demanded it, for the law gave to the owners of ferries the exclusive privilege of ferriage for hire. If they decided that the public interest would be promoted by establishing a ferry, they had then only to determine to whom the license should be issued, and what assessment should annually be made on the ferry. They had no right to annex conditions or impose restrictions not prescribed by the statute. In this case, they decided to establish the ferry, but chose only to grant the license to the person that would pay the largest amount of money for the franchise in addition to the tax which they might legally impose. In other words, the privilege of ferriage was put up at public auction to the highest bidder. The law conferred no such powers on the commissioners. In the granting of licenses, they were bound to keep within the provisions of the statute conferring the power, and regulating its exercise. What was the condition of the plaintiff, and what effect did this unauthorised arrangement of the commissioners have upon him? He had been keeping the ferry, and was anxious to secure a continuance of the privilege; but instead of being permitted to have it by complying with the requisitions of the statute, and submitting to pay the highest tax which could be assessed on the franchise, he was compelled by the force of circumstances, over which he had no control, to advance a large sum of money in order to obtain the license.

the illegal conduct of the commissioners put the plaintiff in their power; and taking advantage of his peculiar situation, they obtained money from him to which the county had not the shadow of right. The money was unlawfully and wrongfully obtained, and cannot in equity and good conscience be retained by the county. The fact that the commissioners chose to call it a donation does not change the real character of the transaction. It was merely a device to obtain money which the county had not the slightest right to demand. The money was exacted from the plaintiff under circumstances that strip the transaction of all the features of a voluntary payment. It was in law and fact a compulsory payment, as much so as the payment of usurious interest, which the lender exacts from the borrower; or the payment of illegal charges, which an officer demands as the condition of the performance of official services. A reference to a few authorities will show clearly that the decision of the circuit court was correct. In Poing v Wilson, 4 D. & East 485, where a revenue officer seized goods as forfeited, which were not liable to seizure, and took money of the owner to release them, the owner was allowed to recover it back on the ground that the payment was compulsory, the owner being in the power of the officer. In Ripley v Gelston, 9 Johnson 201, where the collector refused to give a vessel a

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clearance unless the owner would pay tonnage duty, which was not properly chargeable, and the owner paid the money, the court sustained an action to recover it back. In Lapsnore v. Luther, 4 Metcalfe 246, where the mortgagee of land, who was in possession for condition broken, required the mortgagor to pay more than was legally due in order to redeem, and it was paid to prevent a foreclosure, the court held that the payment was compulsory, and might be recovered back. In Morgan v. Palmer, 2 Barnwall & Cresswell, 729, where the mayor demanded fees for renewing a license, to which he was not entitled, the court held that the payment was not voluntary, and that the money could be reclaimed. Payment of taxes to a collector, who has a warrant for their collection, is to be regarded as a compulsory payment; and if the taxes were assessed without authority, they may be recovered back in an action for money had and received. Lyons v. Boston, 4 Metcalfe 181. Money paid to obtain the possession of property illegally withheld from the owner, may be recovered back on the ground that the payment was compulsory. Shaw v. Woodcock, 7 Barnwall & Cresswell 73. And money paid to liberate a raft of lumber detained in order to exact illegal tolls, was held to be a compulsory payment. Chase v. Dwinnell, 7 Greenleaf 134. See also the cases of Astley v. Reynolds, 2 Strange 915, and

Clinton vs Strong, 9 Johnson 370.

It cannot with any degree of propriety be said that the parties were in *pari delicto*, and therefore that the plaintiff is not entitled to recover. There was a great inequality of condition between the parties. The plaintiff was in the power of the commissioner, and compelled from the necessity of the case to advance the money in order to obtain the license. He was not *particeps criminis* because acting under constraint, and not from choice. Jacques vs Withy, 1 H. Blackstone 65; Browning vs Morris, 2 Cowper 790; Williams vs Bidley, 8 East 378; Jaques vs Golightly, 2 W. Black=stone 1073; Mount vs Waite, 7 Johnson 434; 1 Story's Eq. S. 300 et seq.; Ferguson vs Lathrop, 3 Gilman 547.

The question is made whether interest is recoverable. The money was wrongfully obtained from the plaintiff in the first instance, and as a matter of course afterwards illegally withheld from him. In such case, the law is well settled in this country, however it may be in Great Britain, that interest may be recovered. The plaintiff was deprived of the use of his money without his fault, and he ought to receive compens=ation by the allowance of interest in the way of damages. Where a defendant has fraudulently obtained or wrongfully detained the money of the plaintiff, he is chargeable with interest from the time of his so obtaining

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or detaining the same. Wood v. Robbins, 11 Mass, 504. Interest is recoverable against a man, who receives the property of another, and holds it against his consent. Commonwealth v. Crover, 3 Binney 121. Also on money received for property wrongfully converted, 1 New Hampshire 151, Chaney v. Yeates. And against a person intrusted with the collection of money, who converts it to his own use, from the time it ought to have been paid over. People v. Gaskerie, 9 Johnson 71. Where money is obtained by fraud or deceit, and the party injured waives the tort and brings his action on the implied promise to restore it, interest may be allowed as damages. Sellick v. French, 1 Connecticut 32; Savage C. J. in Reid v. Rensselaer, 3 Cowen 393.

The judgment of the Circuit Court is affirmed.

County of La Salle

vs

William Simmons

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Opinion of the Court.

Treat.

Filed July 21st A.D. 1849.

S. Leland Clk.

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**Know all men by these presents,** That we, The County of LaSalle and C. C. Elliott, are held and firmly bound unto William Simmons in the penal sum of Sixteen hundred dollars, lawful money of the United States, for the payment of which, well and truly to be made, we bind ourselves, heirs and administrators, jointly, severally and firmly, by these presents. Witness, our hands and seals, this fifth day of April 1849. The condition of the above obligation is such, That whereas, the said William Simmons did, ~~on~~ at the March Term ~~day~~ of the LaSalle Circuit Court A. D. 1847, before the Circuit Court of ~~, a justice of the peace for~~ the county of LaSalle, recover a judgment against the above bounden County of LaSalle for the sum of four hundred dollars debt, & two hundred ninety two 50/100 dollars damages; from which judgment the said County of LaSalle has taken ~~an appeal~~ a Writ of Error to the Supreme Court, 3d Grand division of Illinois which has been made a Supersedeas ~~to the circuit court of the county of aforesaid, and State of Illinois.~~ Now if the said County of LaSalle shall prosecute ~~his appeal~~ then Writ of Error with effect, and shall pay whatever judgment may be rendered by the Supreme court upon dismissal or trial of said appeal, then the above obligation to be void, otherwise to remain in full force and effect. In witness whereof the County of LaSalle have subscribed this Bond & affixed the seal of the County Commissioners Court of said County, by the Clerk of said Court.

The County of LaSalle (Seal)

C. C. Elliott (Seal)

*APPROVED by me at my office, this* *day of*

18

*Justice of the Peace.*

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14 In Sup. Court.

The County of LaSalle

vs.

William Simmons

W Error

Bond.

Filed Apl. 6. 1849

E. Leland Clk.

SCIRE FACIAS.—FREE TRADER OFFCE, OTTAWA.

State of Illinois, }
Supreme Court, } SS.

**The People of the State of Illinois**

TO THE SHERIFF OF La Salle County. Greeting:

**Because** in the record and proceedings, and also in the rendition of the judgment, of a plea which was in the circuit court of La Salle county, before the Judge thereof, between William Simmons plaintiff & The County of La Salle

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

as we are informed by her complaint, the record and proceedings of which said judgment, we have caused to be brought into our Supreme Court of the State of Illinois, at Ottawa, before the justices thereof, to correct the errors in the same, in due form and manner, according to law; therefore we command you, that by good and lawful men of your county, you give notice to the said William Simmons

that he be and appear before the Justices of our said Supreme Court, at the next term of said Court, to be holden at Ottawa, in said State, on the Second Monday in June next, to hear the records and proceedings aforesaid, and the errors assigned, if he shall think fit; and further to do and receive what the said Court shall order in this behalf; and have you then there the names of those by whom you shall give the said William Simmons notice, together with this writ.

WITNESS, the Hon. Samuel H. Treat
Chief Justice of our said Court, and the seal thereof, at Ottawa, this Sixth day of June in the year of our Lord, one thousand eight hundred and forty-nine.

L. Leland
Clerk of the Supreme Court.

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14

Supreme Court

The County of LaSalle

vs

William Simmons

Sci. Fa.

To June Term 1849.

Filed May 23 - 1849.

S. Leland Clerk

Issued of this writ & of the Supersedeas allowed on the out Simmons case admitted. Apl. 6. 1849.

J. F. A. Moore Atty for Deft

SCIRE FACIAS.—FREE TRADER OFFCE, OTTAWA.

State of Illinois, Sct.

The people of the State of Illinois,

To the Clerk of the circuit court for the county of La Salle = Greeting:

BECAUSE in the record and proceedings, as also in the rendition of the judgment of a plea which was in the Circuit Court of La Salle — county, before the Judge thereof, between William Simmons

plaintiff and The County of La Salle

defendant, it is said manifest error hath intervened to the injury of the aforesaid County of La Salle as we are informed by her complaint, and we being willing that error, if any there be, should be corrected in due form and manner, and that justice be done to the parties aforesaid, command you that if judgment thereof be given, you distinctly and openly without delay, send to our Justices of the Supreme Court the record and proceedings of the plaint aforesaid, with all things touching the same, under your seal, so that we may have the same before our Justices aforesaid at Ottawa, in the county of La Salle, on the second Monday of June — next, that the record and proceedings, being inspected, we may cause to be done therein, to correct the error, what of right ought to be done according to law.

WITNESS, the Hon. Samuel H. Treat — Chief Justice of our said Court, and the seal thereof at Ottawa, this sixth — day of April — in the year of our Lord one thousand eight hundred and forty-nine.

S. Leland

Clerk of the Supreme Court.

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14

Supreme Court

The County of La Salle
vs
William Simmons

Writ of Error

June Term 1849.

Filed April 6. 1849.
L. Leland Clk.

This Writ of Error is made a Supersedeas, & is to be obeyed accordingly. L. Leland Clk.

William Simmons } In March Term Lu
vs } Lasalle Circuit Court
The County of Lasalle } A.D. 1847 Debt

By it remembered that at the term aforesaid this cause was submitted to trial upon the above issue by the Court without the intervention of a Jury & the plaintiff to maintain the issue on his part proved that in the year 1837 the then County Commissioners of said County of Lasalle gave notice that they would grant a License for a Ferry at Ottawa in said County across the Illinois river and proved by part that the said plaintiff up to that time had kept the said Ferry & was an Applicant for the License to continue the same and that said commissioners about the time the License was granted gave out an intimation that they would grant said License to such person as would donate the largest amount of money to the said County, that on the day when the said License was granted several bids or offers were made & the plaintiff finally bid up to $500 — Several Witnesses testifie that they had been the county commissioners in office since the time of those in office when the License was granted & declare that Simmons had paid the Five hundred dollars to the County & one Wilmot testifies that he had

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hand one or more of the County
commissioners in office when the license
was granted admit that the five hundred
dollars have been paid to them by the
Plff. A Book was also offered in Evidence
which the county commissioners
clerk of said County swore was a
book belonging to his office in which
the treasurers accounts were kept &
in which the Treasurer of said
County was charged under date of
July 1837 with five hundred dollars
received of Simmons as a donation
the character of the Book was not in
any other or further manner
proved to the introduction of which
proof the defendant on the trial objected
but the Evidence was admitted by the
court & the court thereupon on the
above evidence which was all the
Evidence offered found the issues for the
Plaintiff & assessed his damages at $—
The defendant thereupon moved the
court for a new trial which was
overruled by the court to which the
Defendant excepted & prays the court
here to seal this his bill of exceptions
which is done the day & year aforesaid
State of Illinois } J. S. Eaton (Seal)
Lasalle County } ss. Philo Lindley Clerk of the Circuit
Court in & for said do hereby certify the foregoing to
be be a true full & complete copy of the bill of

exception in the above cause of William Simmons vs The County of Lasalle as the same appears on file in my office

Witness Philo Lindley Clerk of the Circuit Court in & for said County Under the Seal of said Court at Ottawa this 15th day of June A.D. 1849

P. Lindley Clerk

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County of La Salle
vs
Wm. Simmons

Copy of Bill of exceptions

Filed June 15. 1849.
L. Leland Clk.

The true bill of
exceptions

State of Illinois, s.s.

Clerk's Office of the Supreme Court 3d Grand Division.

I, hereby certify, that a Writ of Error has issued from this Office, for the reversal of a judgment obtained by William Simmons against The County of La Salle in the Circuit Court of La Salle County, at the March Term, in the year of our Lord one thousand eight hundred & forty nine, in a certain action of Debt; which Writ of Error is to operate as a Supersedeas, & as such is to be obeyed by all concerned.

Given under my hand, & the seal of said Supreme Court, at Ottawa this 6th day of April A.D. 1849.

S. Leland Clerk of the S. Court.

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14.

Supreme Court

The County of LaSalle
vs
William Simmons

Supersedeas.

To June Term 1849.

Filed May 23 - 1849.
L. Leland Clerk.

Service of this writ on said William Simmons admitted April 6. 1849. J. N. A. Ross
— in Atty for Deft

L. Leland Esq.

Sir, Inclosed are the papers & the opinion of the court in the case of the County of La Salle vs Simmons. I have retained a copy of the opinion for the reporter.

Yours truly

July 28th 1849-

S. A. Treat.

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L. Leland Esq.

Please before the Circuit Court of La Salle county. Illinois at the March term of said court A.D. 1847
at the court house in Ottawa in said county before the Honorable John Dean Caton Judge of said court.

William Simmons
vs
County of La Salle } Debt

Be it remembered that heretofore to wit on the 16th day of October A.D. 1846. William Simmons sued out of the office of the Clerk of our said court the Peoples writ of Summons against La Salle County in the words and figures following. to wit:

State of Illinois
La Salle county } ss

The People of the State of Illinois to the Sheriff of said Co. Greeting We command you to summon the County of La Salle if to be found in your county, personally to be and appear before the Circuit court of our said County, on the first day of the next term thereof to be holden at the Court house in Ottawa, on Friday the 6th day of November next, to answer William Simmons of a plea of debt that said County render unto him five hundred dollars debt which she owes to and unjustly detains from him to his damage one thousand dollars, as he says and have you then and there this writ, and make return thereon in what manner you execute the same.

Witness Lorenzo Leland, Clerk of said court, and the seal of said court at Ottawa this 16th. day of October A.D. 1846. L. Leland Clerk.

The above Summons ~~not having been found in time~~ was endorsed "Not found in time. A. Hubbert S.L.C." returned, whereupon an Alias Summons was issued on the 6th day of February A.D. 1847 in the words and figures following to wit:

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State of Illinois } ss.
La Salle county

The People of the State of Illinois to the Sheriff of said county — Greeting
We command you as we have heretofore commanded you, to summon the County of La Salle if to be found in your county, personally to be and appear before the circuit court of said county, on the first day of the next term thereof, to be holden at the court house in Ottawa, on Friday the 26th day of March next, to answer William Simmons of a plea of debt — that said county render unto him five hundred dollars debt which she owes to and unjustly detains from him to his damage one thousand dollars as he says and have you then and there this writ, and make return thereon in what manner you execute the same.

Witness Lorenzo Leland, Clerk of said Court, and the seal of said court at Ottawa this 6th day of February A.D. 1847 L. Leland Clerk.

Which Summons was returned executed March 1. 1847 by reading to the County Commissioners & leaving a copy with C. C. Clerk H. Hulbert Sheriff

And thereupon the Plaintiff by W. J. S. Lainia his Atty filed on the 15th day of March A.D. 1847 his declaration in words & figures following to wit:

State of Illinois } ss.
La Salle county } La Salle circuit court
of March term one thousand eight hundred and forty seven

The county of La Salle defendant in this suit was summoned to answer William Simmons plaintiff in this suit of a plea that the said defendant render unto him the said William Simmons the sum of five hundred dollars which the said county of La Salle owes to and unjustly detains from him and thereupon the said William Simmons by W. J. S. Lainia his Attorney complains for that whereas the said defendant after was to wit on the twenty fourth day of July one thousand eight hundred and thirty seven at Ottawa in the county of

La Salle aforesaid had and received a certain sum of money to wit the sum of five hundred dollars to and for the use of the said plaintiff and to be paid by the said defendant to the said plaintiff when the said defendant should be thereunto afterwards requested.

Whereby and by reason of the last mentioned sum of money being and remaining wholy unpaid an action hath accrued to the said plaintiff to demand and have of and from the said defendant the sum of five hundred dollars above demanded.

Wherefore the said plaintiff says that he is injured and hath sustained damages to the amount of one thousand dollars and thereupon he brings suit &c.

W. T. S. Lawrie
Pltffs Attorney.

La Salle Circuit Court
William Simmons
vs
The County of La Salle

Bill of particulars of the pltff. demand on which this suit is brought.

A. D. 1837 June 27. To money received for pltffs use $500.
To amount of interest from June 27 A.D. 1837 $1.000. damage.

Thereupon the Deft. by J. C. Champlain their atty filed on the 30th. day of March. 1847. the following pleas in words and figures to wit.

The County of La Salle
vs
William Simmons

March term La Salle Cir. court.
A. D. 1847
Debt.

And now comes the said defendant by J. C. Champlain their Attorney and defend the wrong and injury when &c and say they do not owe the said defendant the said sum of five hundred dollars above demanded or any

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part thereof in manner and form as the said plaintiff hath above thereof complained against them, and of this they put themselves upon the country.

J. C. Champlain
Atty for Deft.

County of La Salle } March term La Salle circuit court A.D. 1847
vs } Debt.
William Simmons } And now comes the said defendants by J. C. Champlain their Attorney and defend the wrong and injury when &c and say that the said supposed debt by the Plaintiff in his declaration above mentioned, did not, nor did any part thereof accrue to the said Plaintiff at any time within five years next before the commencement of this suit, and this the said Defendant is ready to verify whereupon ~~La Salle~~ County prays judgment &c

J. C. Champlain
Atty for Plaintiff.

Afterwards, to wit on the 9th day of April A.D. 1847 the following judgment was rendered in words and figures as follows to wit:

William Simmons } Debt.
vs
County of La Salle }

This day again come the parties hereto by their said Attorneys and the motion herein pending is overruled and thereupon judgment is entered against the Defendants for five hundred dollars debt, and two hundred and ninety two dollars and fifty cents for his damages as aforesaid. It is therefore considered that the plaintiff recover from the said defendants the said sum of seven hundred and ninety two dollars and fifty

cents his debt and damages aforesaid and also his costs and charges by him therein expended.

And thereupon the Deft. by J. C. Champlain his Atty on the 9th. day of April 1847. filed the bill of exceptions in words & figures following to wit:

William Summers vs The County of La Salle } March term La Salle circuit court A.D. 1847. Deft.

Be it remembered that at the term aforesaid this cause was submitted to trial upon the above issues by the court without the intervention of a jury — And the Plaintiff to maintain the issue on his part proved that in the year 1837. the then County Commissioners of said county of La Salle gave notice that they would grant a licence for a ferry at Ottawa in ~~La Salle~~ said County across the Illinois river and proved by parol that said Commissioners about the time the licence was granted gave out an intimation that they would grant said licence to such persons as would donate the largest amount of money to the County. that on the day when the licence was granted, several bids or offers were made and the defendants finaly bid up to $500, — Several witnesses testified that they had heard the county commissioners in office since the term of those in office when the licence was granted declare that Summers had paid the $500. to the county And one witness testified that he had heard one or more of the county commissioners in office when the licence was granted admit that the five hundred dollars had been paid to them — A book was also offered in evidence which the county commissioners clerk of La Salle county swore was a book belonging to his office in which the

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Treasurers accounts was kept in which the then Treasurer of La Salle county was charged under the date of July 1837, with $500 received of Simmons as a donation — The Character of the Book was not in any other or further manner proved to the introduction of all which proof the defendants on the trial objected but the evidence was admitted by the court. And the court thereupon on the above evidence which was all the evidence offered found the issue for the Plaintiff and assessed his damages at to which finding the defendants then and there excepted and prayed the court here to seal this his bill of exceptions which is done in open court this day and year aforesaid.

J. D. Caton.

State of Illinois }
La Salle County } ss.

I certify that the above is a full & true copy of the proceedings & judgment in the above entitled cause as appears of record & on file in my office.

Witness Lorenzo Leland Clerk of our said Circuit court and the seal of said court at Ottawa this 20th day of August A. D. 1847

L Leland Clerk.

By J. F. Nash Dept.

Clerks fees $2.50

Simmons
vs
Co. of La Salle
Bill Except.
Record

Afterwards to wit on the 30th. day of March A. D. 1847 the proceedings in said cause in words & figures were had as follows to wit.

William Simmons
vs
County of La Salle } Debt.

This day came the Plaintiff by Lawrie & Cotten his Attys. and the defendant by Champlain her attorney and by argument of parties this cause is submitted to the court for trial & after hearing the evidence & arguments of counsel it is taken under advisement.

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Again April 5th. 1847

William Simmons
vs
County of La Salle } Debt.

This day again came the parties hereto by their said Attorneys & thereupon the court found the issues for the plaintiff & found his debt to be five hundred dollars & assessed his damages at two hundred and ninety two dollars and fifty cents making together seven hundred and ninety two dollars and fifty cents & thereupon the defendant by her said Attorney entered a motion for a new trial of this cause.

51192-B

County of La Salle } In Error to La Salle.
vs. William Simmons }

And now comes the said County of La Salle by J. C. Champlin their Attorney and say that in the record and proceedings aforesaid there is manifest Error in this to wit:

That all of the evidence adduced, as shown by said record ought to have been excluded:

That it appears by said Record that hearsay evidence was improperly admitted by the Court below:

That a book was admitted in evidence, which the said Record shows ought not to have been admitted:

That the finding of the Court, & the Judgment of the Court ought to have been for the County of La Salle, and not for said William Simmons:

And for other Errors, manifest upon the face of said Record.

J. C. Champlin,
Atty for the County of La Salle.

And now come the said William Simmons by Dickey & Selden his Attorneys & says there are no such errors as above alleged

State of Illinois } Dickey & Selden for Simmons
La Salle County } Set the writ of Error in the above entitled cause be made a Supersedeas upon the filing of the foregoing record together with a bond with C. C. Elliott as security in the penal sum of ~~fifteen~~ fifteen hundred dollars conditioned as the law directs.

I D Caton
Just Sup Court

[1903-17]

14

In Sup. Court.

The County of Rutland
vs.
William Simmons

In Error.
Record.

Filed April 6. 1849.
Stland Clk.

J. C. Champlin
Atty. for Plff in Error.