

Defferson County Circuit Court  
Case Files - Civil  
September 1870

Box

27 Folder 50

Hillshoro & Victoria Road Company  
vs

Peppy, S. A.  
Jenni, Peter

Note

Debt \$1,075; involved defendant  
building sections 1-5 of road, for  
which plaintiff owed him \$1,222

First mortgage lot on a certain steamship  
to pay to the Wellbore and Victoria Marine  
Board to repay the sum of one thousand  
and seven & five pence for value received  
July 20<sup>th</sup> 1869.

Samuel A. B. B. B. B.  
Debt Jerni.



Approved July 20<sup>th</sup> 1869

John A. Mowbray, President.

\$1236.37<sup>1</sup>/<sub>2</sub>

The Hillsboro and Victoria  
Gravel Road Company Plaintiffs

In the Super-  
ior Circuit  
Court.

vs  
Samuel A. Rapp and  
Peter Jenni, Defendants

Sept Term  
1870.

Plaintiff notes that it is a duly  
incorporated Company under a special  
act of the General Assembly of the  
State of Missouri entitled "an act Bill  
for a charter for a gravel road from Hillsboro to Victor-  
ia on the Iron Mountain Rail Road in Jefferson County Missouri  
approved February 18<sup>th</sup> 1865:

Plaintiff further states that defendants  
by their promissory note herewith filed  
dated July 20<sup>th</sup> 1869 promised for  
value received to pay Plaintiff four  
months after the date thereof the  
sum of Ten Hundred and Seventy  
five dollars with and the interest  
thereon one year due Plaintiff and for  
which it asks judgment.

John H. Morner  
Att'y for Plaintiff

Misses J. N. G. & Co.

By  
Kemp & Smith

Patent on State.

Filed May 7<sup>th</sup> 1870  
Attest & Henry Cox

THE STATE OF MISSOURI, } ss.  
COUNTY OF JEFFERSON.

THE STATE OF MISSOURI,

TO THE SHERIFF OF THE COUNTY OF JEFFERSON—GREETING:

We command you, that you summon

Samuel A. Reppy &  
Peter Jennie

if they be found in your County, that they be and appear before the Honorable  
Judge of our Circuit Court, on the first day of the next term thereof, to be  
begun and held at the town of Hillsboro, within and for the County of  
Jefferson. on the First Monday after ~~the fourth Monday~~  
of September next, then and there to answer unto

The Hillsboro & Victoria Gravel Road  
Company

upon Its original petition, a copy whereof is herewith annexed  
and accompanies this writ, and have you then there this writ.

Witness, **ELIAS F. HONEY**, Clerk of our said  
Circuit Court, with the seal thereof herewith affixed.  
at office in Hillsboro, this, Seventh  
day of May A. D. 1870

Elias F. Honey Clerk Circuit Court.

By Lewis H. Ayford Deputy.

RETURNABLE

TO

JEFFERSON CIRCUIT COURT.

Appt. Term, 1870

Victoria M. H. H. H.

James H. H. H. H. Plaintiff

AGAINST

W. H. H. H. H.

James H. H. H. Defendant

Copy

10 of 100  
and 8. H. H. H.

The within was served on the 10<sup>th</sup> Day of May a<sup>d</sup> 1870  
at Jefferson County Mo, by Delivering a copy of the within  
writ and Petition too furnished to me by the Clerk  
of the Circuit Court to Samuel A. Reppert he  
being the first one served and further by Delivering  
to Peter Jenny a copy of this writ on the same day  
fess 200

John H. H. H. H.  
by John H. H. H. H.  
Deputy

1  
The Hillsboro and Victoria  
Gravel Road Company;

Plaintiff

against

Samuel A. Reppy &

Peter Jenni, Defendants

In the Circuit  
Court of  
Jefferson  
County  
Missouri

Now at this day  
Come the Defendants and for answer  
to the petition of Plaintiff in this Cause  
say they admit the execution by them  
of the note sued on, but deny that  
said note is now or was when this action  
was commenced due to Plaintiff or any  
part thereof or that Plaintiff is entitled  
to judgment for any sum thereon,

For further answer and defence  
Defendants say that the Plaintiff on the  
17<sup>th</sup> day of April 1869 by John L. Thomas  
President of said Company executed  
under the hand and seal of said Presi-  
dent (there being no common seal of said  
Company then provided) as did also the  
Defendant under his hand and seal,  
a written agreement, <sup>a copy of which is herewith filed</sup> whereby it was  
agreed on the part of the Plaintiff  
Defendant that Samuel A. Reppy  
that in consideration of the agree-  
ments, covenants, and stipulations to be

performed by the Plaintiff as therein  
Contained the said Defendant Reppes  
would do and perform in a thorough  
and workmanlike manner agreeably  
to the Plan profiles and ~~Specifications~~  
Specifications of A. H. Smidt the  
engineer of said Company then on file with  
the president thereof, the gradation, masonry,  
macadamizing, and grubbing and gravel-  
ing of sections one, two, three, four & five  
of said ~~Rochester~~ Hillsboro and Victoria  
Gravel Road Company, the plan and  
Specifications of which work to be done on  
said Sections is particularly described  
in said agreement and the map and profile  
of said Road and which profile is a part  
of said Contract and the said Plaintiff in  
consideration of the work so contracted to  
be done by said Defendant covenanted  
on its part by said written agreement  
with said Defendant to pay him for the  
doing of all the work on said Sections of  
said Road the sum of Ten Thousand  
nine hundred and ninety Dollars three  
fifths of which to be paid <sup>in</sup> off on County  
Bonds running Ten years from their  
date and drawing Ten per cent interest  
per annum from date, and the

balance of said money to be paid to  
Said Defendant in cash, and the same  
to be paid monthly to said Defendant as the  
work progressed according to Estimates to  
be made and returned by one Oscar Dover  
the said Company reserving Ten per cent  
of said Estimates until the completion of  
said work, and which work was to be comp-  
leted by said Defendant within one year  
from the date of said agreement, and the  
Defendants state that in pursuance of  
said Contract said Defendant Samuel  
A. Reppy entered upon the work aforesaid  
of graduating and completing said  
Road, and did continue to do and perform  
said work in accordance with the terms  
and stipulations of said Contract until  
about the day of December 1869  
when he was forced to discontinue said  
work in consequence of said Company  
failing to perform said Contract on its part  
by paying <sup>said Defendant</sup> Plaintiff for his work done on  
said Sections according to proper monthly  
Estimates as hereinafter stated and Defendants  
state that the Plaintiff as said work ~~progressed~~  
progressed failed to have monthly  
estimates of the same made by Oscar  
Dover and Defendants aver that said

Company utterly failed to have any monthly estimates of the work done by him on said sections of said gravel Road made by Oscar Dover and refused to cause said Oscar Dover to make any monthly estimates of the work done by said Defendant on said sections of said gravel Road and utterly neglected and refused to pay said Defendant Reppy for said work done by him on said sections of said Road according to monthly estimates made of his said work by Oscar Dover as by the terms and stipulations of said contract said Plaintiff was bound to do and Defendants aver that while said Defendant Reppy continued to carry on said work on said Road he did and performed the following amount of work in graduating and constructing said Road, which at the rate of prices agreed on by Plaintiff and said Defendant at the commencement of said work as the basis of the estimates to be made is as follows, to wit,

|                                                                   |           |
|-------------------------------------------------------------------|-----------|
| 5000 Yards of Earth Excavation at 20¢ per Yard                    | \$1000.00 |
| 261 Perches of masonry at \$2.50 pr. perch                        | 652.00    |
| 300 Squares of Rock put on sections 1, 2 & 3 at \$2.50 per Square | 750.00    |
| amount Carried forward =                                          | \$2402.00 |

|                                                                   |           |
|-------------------------------------------------------------------|-----------|
| Amount brought forward                                            | \$2402.00 |
| 180 Squares of broken rock on Sections 4 & 5 at \$5.00 per Square | 900.00    |
| 80 Squares of gravel put on Sections 4 & 5 at \$4.00 per Square   | 320.00    |
| Grubbing out said Road                                            | 400.00    |
| Making a Total of                                                 | \$4022.00 |
| Credit by amount paid                                             |           |
| Said Defendant                                                    | 2800.00   |
| Making balance Due said Defendant                                 | \$1222.00 |

The Defendants say therefore that by reason of said Plaintiff's conduct in failing to have proper monthly Estimates made by Oscar Dover of the work done and performed by said Defendant on said Sections of said Road and to pay said Defendant monthly for said work as it progressed in proportion to the amount due according to such proper Estimates as by the Terms ~~of~~ and Stipulations of said Contract Plaintiff was bound to do said Defendant was ~~forced to~~ unable to carry on on and complete said work on his part, <sup>and</sup> was forced to suspend work thereon on his part in consequence of Plaintiff neglecting and refusing to furnish the necessary means to enable

Said Defendant to complete the same Defendants say therefore that said Defendant Samuel A. Reppy kept and performed said Contract on his part but that the said Plaintiff on its part has neglected, failed, and refused to keep and perform said Contract on its part by failing and refusing to make full and proper monthly estimates and payments to said Defendant for his said work as it progressed as aforesaid

Defendants further state that said Plaintiff by its President and directors after failing and refusing to perform & keep <sup>its</sup> ~~their~~ written agreement with said Defendant as aforesaid, to wit, on the 28<sup>th</sup> day of April 1870 refused not only to pay said Defendant Reppy for the work and labor done by him on said sections of said Road as aforesaid but in violation of the terms of said written agreement refused to permit him to proceed with said work on said Gravel Road but proceeded to relet the contract for the doing of said work to other persons, and then excluded said Defendant from the possession of said Road and did thereby deprive him from

carrying on and completing said work.

Defendants say that Plaintiff owes said Defendant Samuel A. Peppy for the work and labor done on said Road as aforesaid by him after giving all credits which Plaintiff is entitled to by reason of payments thereon the sum of Twelve Hundred and Twenty Two Dollars as herein before stated, and that by reason of Plaintiff's conduct in failing and refusing to have monthly estimates of the work done on said road made by Oscar Dorey, and to pay him therefor in accordance therewith as the work progressed as also by reason of the conduct of Plaintiff by its President and Directors in the turning said Peppy out of the possession of said road and retelling the contract for the completion of the road to other persons as aforesaid forfeited its right to retain ten per cent of the value of said work as provided in said contract.

Defendants aver that at the time he executed the note sued on it was expressly understood between Plaintiff by its President & Directors and said Peppy that said note should be deducted from the

the value of his work on said  
Road, <sup>then</sup> there after to be done, that  
the same was not to be paid in cash  
at any time, that said Jenni signed  
the note as security for said Reppy  
and is not otherwise liable thereon,  
and Defendants aver that said  
Plaintiff did owe to said Reppy  
on the 28<sup>th</sup> day of April 1870 for  
the work and labor of aforesaid the  
aforesaid sum of Twelve hundred  
and Twenty Two Dollars ~~which~~  
wherefore Defendants ~~pray~~ <sup>offer</sup> the to  
off-set the amount which was on  
the 28<sup>th</sup> of April 1870 due Plaintiff on  
said note by an equal amount  
of the sum which was then due  
said Defendant from Plaintiff  
as aforesaid and pray the  
Court to so decree, and that the  
Court will render Judgment in favor  
of said Samuel A. Reppy for the  
amount so due him as aforesaid  
after deducting the amount of said  
note that is to say for the sum of  
one hundred and Twenty Dollars & ~~fifty~~  
fifteen cents & Costs of suit

Reppy prose &  
Jos. J. Williams  
for Defendants,

McIlhenny & Victoria

General Road Co.

<sup>in</sup>  
J. A. McIlhenny, Chas.

Receiver of Standard

File & Sept 9<sup>th</sup> 1870.  
Elias J. McIlhenny

Hillboro and Victoria  
Gravel Road Company  
Plaintiff

In the Jefferson  
Circuit Court.  
Sept Term  
1870.

vs  
Samuel A. Rappy and  
Peter Jennie, Defendants

Now at this day comes said  
Plaintiff by its President John L. Thomas,  
and moves the Court to strike out  
the first and second Counts of Defendants  
answer for the following reasons.

1. Because said Counts set up as  
an offset a claim for unliquidated  
damages growing out of an alleged  
breach of contract.
2. ~~Because~~ said Counts constitute  
no defence to this action.

John L. Thomas,  
President of Hillboro  
& Victoria Gravel Road Co.

N. & V. G. R. Co  
in

Reppy & Junior

Motion to strike  
out portions of  
deft's answer.

Filed Sept. 15<sup>th</sup> 1870  
Elias D. Honey Ck

The Hillsboro & Victoria  
Gravel Road Company } In the Circuit  
against } Court of  
Samuel A. Reppy & } Jefferson  
Peter Jennie } County  
Missouri

Defendants Come and for amended answer to Plaintiff Petition say they admit the execution by them of the promissory note sued on by plaintiff and aver that the same was executed by defendant Reppy as principal & defendant Jenni as his surety, but Defendants deny that said note or any part of it is or was when this suit was commenced due plaintiff or unpaid but on the contrary aver that the same had before this suit was commenced been fully paid by said Defendant Reppy. for Defendants aver that said Reppy ~~made by~~ <sup>in writing</sup> in pursuance of a contract, made with him by him with plaintiff on the 17<sup>th</sup> day of April 1869 for the grubbing, grading, macadamizing, masonry & gravelling of sections one, two, three, four & five of the Hillsboro & Victoria Gravel Road

Commenced work thereon about the 20<sup>th</sup> of April 1869 and continued to perform Labor for Plaintiff on said sections of said gravel Road under such Contract up to about the 28<sup>th</sup> of April 1870 during which time he performed the following amounts of work for Plaintiff all of which was by Plaintiff accepted and for which Plaintiff agreed to pay him the respective sums as hereinafter stated in the following account for each item of work therein stated viz, 5000 yards of earth excavation

|                                                                      |                     |
|----------------------------------------------------------------------|---------------------|
| @ 20 cts. per yard                                                   | \$1000.00           |
| 261 Perches of masonry @ \$2.50 per perch                            | 652.50              |
| 300 Squares of Rock put on sections 1, 2 & 3 @ \$2.50 per square     | 750.00              |
| 180 Squares of broken rock put on sections 4 & 5 @ \$5.00 per square | 900.00              |
| 80 Squares of gravel put on secz. 4 & 5 @ \$4.00 per square          | 320.00              |
| for grubbing out said Road                                           | 400.00              |
| Making a Total of                                                    | 4022.50             |
| Credit by amount paid said Reppy                                     | \$2800.00 = 2800.00 |
| Leaving a balance due him of                                         | \$1222.50           |

Defendants aver that by the Express Terms of said Written Contract said sum of \$1222.<sup>00</sup> was due for such work and Labor from Plaintiff to said Keppy <sup>on the first day of April, 1870</sup> with the exception that said Contract provided that Ten per cent of all sums becoming due him for such work & Labor on said Road should be reserved by Plaintiff till the Completion by him of all work on said sections of said Road which by said Contract he had agreed to do. Defendants aver that said written Contract contained a stipulation by Plaintiff that Plaintiff should cause monthly estimates of the work done by said Keppy on said Road, <sup>to be</sup> made and that Plaintiff would pay him therefore in accordance with such estimates but that Plaintiff failed to have such estimates made or to pay said Keppy according to said Contract & took the possession of said Road and from him and excluded him therefrom on or about the 28<sup>th</sup> of April 1870 and prevented him from completing the work on said Road which he had agreed to do whereby said Ten per cent on said sum of \$1222.<sup>00</sup> became immediately due and payable to said Keppy thus making the amount due him \$1222.<sup>00</sup> instead of that amount less Ten per cent thereof.

Defendants pray that the amount specified in the note sued on be set off

by an Equal amount of said \$1222.00 as of  
the date when the same became due to said  
Reppy viz the 28<sup>th</sup> of April 1870

For further Defence Defendants aver  
that the note sued on in this action  
was issued by Defendants wholly for  
money borrowed by said Reppy from the  
Capital Stock of Plaintiff derived from  
Subscriptions Collected by Plaintiff for the  
building and Construction of Plaintiffs  
Gravel Road then in process of  
Construction from Willsboro to Victoria  
in said County - Defendants aver that  
Plaintiff being at the time said note was  
made an incorporated <sup>purpose of building such gravel road</sup> Company for the  
deriving its <sup>Corporate</sup> existence from an act of the  
Missouri Legislature approved February  
18<sup>th</sup> 1865 had no power or authority & by its  
charter <sup>to</sup> loan any money from its Capital Stock  
or to receive a promissory note  
therefor for which reason the note sued  
on in this action is utterly void and no  
action can be maintained thereon by  
Plaintiff, and having answered fully

Defendants ask judgment for their  
costs

Jos. J. Williams  
Attorney for  
Defendants

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Hillsboro & Victoria  
Gravel Road Company  
by  
S. A. Reppy, Esq.,

---

Amended answer  
Filed by leave of  
Court

---

Filed July 14 1871  
W S Boyce

The State of Missouri,  
COUNTY OF JEFFERSON.

Do

Robert Allen

You are Herby Commanded, That setting aside all manner of excuse and delay, you appear before our Circuit Court, for the County aforesaid, on the 24<sup>th</sup> day of March 1871, at Hillsboro, then and there to testify and the truth to say in a certain matter of controversy, now pending in our said Court, wherein the Wellstone and Victoria Grand Road Company is Plaintiff, and Robert Allen is Defendant, on the part of Plaintiff; and herein you are in no wise to fail.

Witness, *W. J. Boone*  
ELIAS F. HONES, Clerk of our said Court, with the seal thereof hereto affixed, at office, this 21<sup>st</sup> day of March A. D. 1871

*W. J. Boone* Clerk.

**WARRANT**

RETURNABLE TO  
PERSON CIRCUIT COURT.

Term, 18

*Millston & Victoria G. R.R.*  
*vs*

*Repp*

*Robt. Allen*

*John. Williams*

*Sheriff Fee 50*

The State of Missouri,  
COUNTY OF JEFFERSON.

To

Isaac H. Barker

You are Herby Commaned, That setting aside all manner of excuse and delay, you  
appear before our Circuit Court, for the County aforesaid, on the 24<sup>th</sup> day  
of Mar 1871, at Hillsboro, then and there to testify and the

truth to say in a certain matter of controversy, now pending in our said Court, wherein  
The Allentons & Jacksons Gravel Road Company is

Plaintiff, and J. H. Reilly.

Defendant, on the part of Plaintiff; and herein you are  
in no wise to fail.

W. H. Boyce

Witness, ELIAS F. HONEY, Clerk of our said Court, with the seal thereof  
hereto affixed, at office, this 21<sup>st</sup> day of  
March A. D. 1871

W. H. Boyce  
Clerk.

# SUBPOENA

RETURNABLE TO  
JEFFERSON CIRCUIT COURT.

Term, 18

N & V. G. R Co  
vs  
Reppy

Served

John. Williams

Sheriff Fee 50

The Hillsboro and Victoria  
Gravel Road Company  
Plaintiff

3  
Samuel A. Reppy and  
Peter Janni, Defendants

Now at this day comes said Plaintiff  
and moves the Court to strike out  
the Defendants' amended answer  
for the following reasons:

1. Because it sets up no defence  
to Plaintiff's Cause of Action.
2. It ~~sets~~ sets up a defence upon a written  
instrument & no copy is filed or  
referred to nor is the original accounted  
for.
3. Though the defence rests upon a  
written agreement yet the purport  
of that agreement is not given.
4. This Court cannot ascertain from  
said answer whether the items for  
labor therein contained are properly  
allowable in this action.
5. Because the claim set up is in the  
nature of unliquidated damages and hence  
cannot be made the subject of a set off.
6. The third Count sets up no defence.

Thomas for Plaintiff

H. & Victoria Grand  
Road

22

A. A. Chapman & Co

---

Motion to strike out  
defendants' amended  
answers.

Filed March 22 1891  
W. D. Boyce cl

The Hillsford and Victoria  
Gravel Road Company  
Plaintiff  
against  
Samuel A. Ropsy and  
Peter Kuni, Defendants

Now at this day comes  
said Plaintiff by its Attorney and  
moves the Court to make an order  
on Defendants requiring them to  
by amendment ~~to~~ to make their amended  
answer more definite and certain  
and otherwise conform to the require-  
ments of law for the following rea-  
sons.

1. Because said answer and the allegations and denials therein are so indefinite and uncertain that the precise nature of the allegations and denials is not apparent.
2. Because said answer is full of duplicity and is inconsistent and contradictory.

John S. Thomas.  
Atty for Plain fff.

H & V. G R Co  
3  
Kipp & Jennie

Motion to require  
Defendants to  
make their answers  
more definite &  
certain.

Filed July 8<sup>th</sup> 1911  
W. B. Boyce Cl

The Hillsboro and  
Victoria Gravel Road,  
Company, Plaintiff  
against  
Samuel A. Reppy &  
Peter Jennie, Defendants

In the Circuit  
Court of  
Jefferson  
County,  
Missouri

Defendants for answer to the petition  
of Plaintiff admit that they executed  
the note sued on in this case  
and aver that it was executed by the  
Defendant Reppy as principal and the  
Defendant Jennie as his security  
but Defendants deny that said  
note or any part of it is still  
due or that it or any part of  
it was due to Plaintiff when  
this suit was commenced, but  
on the contrary aver that the  
same had been fully paid off and  
satisfied before this action was  
commenced, by Defendant  
Reppy for Defendants aver that on the 17<sup>th</sup>  
day of April 1869 the Plaintiff and Defendant entered into  
a contract in writing by which said Reppy agreed to  
with Plaintiff to do all the Graduation, Masonry, Macad-  
amizing & grubbing required according to the plans,  
profile and specifications of the Hillsboro & Victoria  
Gravel Road, on sections one, two, three, four & five of  
said Hillsboro & Victoria Gravel Road, & which

Said plan & profile being in the possession of the Plaintiff can not be herewith filed nor the contents or the substance thereof set out the same being very, voluminous and not within the memory of Defendants and the specifications of which said work as required to be done on said sections of said Gravel Road are fully set out in said written contract a copy of which is herewith filed the original being in Plaintiffs possession for all which said work so to be done by said Reppy Plaintiff bound its self by said written contract to pay said Reppy therefor as follows viz, the sum of Ten Thousand Nine Hundred and ninety dollars one fifth of which was to be paid in the Bonds of Jefferson County running 10 years & drawing 10 per cent interest from date & the ballance in cash to be paid monthly according to estimates of said work to be returned by Oscar Dover the said Company reserving the right to deduct 10 per cent of each estimate & retain the same until the completion of all of said sections of said Road according to said contract when the amount so retained was by the terms of said contract to be paid over to said Reppy

Defendants aver that in pursuance of said contract said Reppy commenced to work on said Gravel Road about the 20<sup>th</sup> of April 1869 and continued to work thereon in accordance with the terms of said contract till about the 28<sup>th</sup> of April 1870 during which time he performed the following amount of work thereon for Plaintiff all of which was by the Plaintiff accepted and for which Plaintiff was bound by said contract to pay said Defendant Reppy that is to

Say he excavated 5000 yards of Earth  
for each yard of which he was entitled  
to receive from Plaintiff by reason of  
said Contract 20 cents amounting to \$1000.00  
He constructed 261 perches of masonry  
for which he was entitled to receive from  
Plaintiff by reason of said Contract \$2.50  
per perch amounting to \$652.00 He  
put 300 squares of rock on sections  
1, 2 & 3 of said Road for which he  
was entitled by said Contract to  
receive from Plaintiff under said  
Contract \$250 per square amounting  
to \$750.00 He put 180 squares of  
broken rock on sections 4 & 5 of  
said Road for which by the terms  
of said Contract he was entitled to  
receive from Plaintiff \$5.00 per  
square amounting to \$900.00  
He put 80 squares of gravel on  
sections 4 & 5 of said Road for  
which by the terms of said Contract  
he was entitled to receive \$4.00 per  
square amounting to \$320.00  
He grubbed said Road bed for which  
under the terms of said Contract  
he was entitled to receive from  
Plaintiff \$400.00 making a total  
due him by Plaintiff for said

work of \$4,022.00  
upon which Plaintiff paid  
said Keppy \$2,800.00 = 2,800.00  
leaving a balance due him of \$1,222.00

Defendants aver that Plaintiff failed to have monthly estimates of the work done by said Keppy on said Road as aforesaid made as by said Contract Plaintiff was bound to do as said work progressed or to pay him therefor in accordance with the same the contract price for his said work and that Plaintiff took from him the possession of said Road and Road bed and excluded him therefrom in violation of said Contract on or about the 28<sup>th</sup> of April 1870 and thereby prevented him from completing the work then remaining to be done on said Road as by his said Contract he had agreed to do in consequence of which act on the part of Plaintiff the Ten per cent of the sum of \$1,222.00 of the amount which remained due said said Defendant as aforesaid ~~and Ten per cent Plaintiff at the~~ time of his exclusion from said

work and which ten per cent Plaintiff was by the terms of the contract - to pay over to said Defendant on his completion of said Road became and was then due & payable to him so that the amount which he was then entitled to receive from Plaintiff for said work and labor was \$1.222.00 instead of that amount less ten per cent thereof. Defendants pray the Court to adjudge that the ~~amount~~ sum which the note sued on amounted to on the 28<sup>th</sup> of April 1870 be set-off by an equal amount of the sum of \$1.222.00 due at that date as aforesaid and till due by Plaintiff to said Reppy

For further defence Defendants aver that the promissory note sued on by Plaintiff in this case was executed by Defendants to Plaintiff wholly for money borrowed by Defendant Reppy from Plaintiff and which was a part of the Capital Stock of Plaintiff derived from subscriptions collected by Plaintiff for the purpose of building and constructing said Gravel Road then in process of construction from Willboro to

Victoria in said County, Defendants aver that at the time of loaning said money to said Reppy and receiving said note was an ~~incor~~ incorporated company deriving its corporate existence from a charter or act of the Legislature of Missouri approved February 18<sup>th</sup> 1865 and Defendants aver that the Plaintiff possessed no power by said act of the Legislature from which it derived its corporate existence and powers to loan any money from its Capital Stock or otherwise or to receive or collect a promissory note given therefor for which reason the note sued on in this action is void and no action can legally be maintained thereon by Plaintiff, and having fully answered Defendants pray Judgment for cost

Jos. J. Williams  
Attorney for  
Defendants

Widdow & Victoria  
Harvel Road  
Company

A. A. R. R. R. R. R.  
Petition

2<sup>nd</sup> Amendment  
Answer of  
Defendants

Filed Sept 26 1871  
md Bay co  
Ctks

No. 3561

Jefferson Circuit Court.

Sept Term, 1870

Hillborn & Victoria Gravel  
Road Company

vs.  
S. A. Reppy and  
Peter Jenni

Judgment, for cash \$

Date Sept 17<sup>th</sup> 1872

Fee Book No. Page

Judge's Docket, Page

\$4.65 None, \$3.40 Luch 2.00

Williams 10.00

Book 6 p 530

Plaintiff's Atty.

ATTORNEYS: Exercise care and return promptly.

C. F. Chamberlin & Co., Printers and Stationers, St. Louis.