
Syllabus.

by which the measure of damages is to be ascertained is not before us, and we do not feel called upon to express any opinion upon the subject.

The defences set up in the answer of the defendants are clearly bad. The demurrer should have been sustained.

The judgment of the Circuit Court is REVERSED, and the cause will be remanded with instructions to that court to proceed

IN CONFORMITY TO THIS OPINION.

NOTE.

At the same time with the preceding case was decided another case, which came here on certificate of division between the judges of the Circuit Court for Wisconsin. The case, namely, of

FARR v. THOMSON ET AL.

In which **the** preceding case was affirmed.

The declaration in this case presented, in all substantial respects, the same state of facts as the declaration in the case just decided. After argument by *Mr. M. H. Carpenter, for the plaintiff, no one appearing contra*, Mr. Justice SWAYNE announced the judgment of the court to the effect that the former case decided this. The question certified to the court—which was whether the declaration showed a sufficient cause of action—was accordingly answered by it

IN THE AFFIRMATIVE.

SMITH v. SAC COUNTY.

¹ In a suit on a negotiable security when the defendant has shown strong circumstances of fraud in the origin of the instrument, this casts upon the holder the necessity of showing that he gave value for it before maturity.