

Herhold Vs. Upton

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Court : US Supreme Court

Decided On : Dec-04-1876

Appeal No. : 154 U.S. 624

Appellant : Herhold

Respondent : Upton

Judgement :

Herhold v. Upton - 154 U.S. 624 (1876)

U.S. Supreme Court Herhold v. Upton, 154 U.S. 624 (1876)

Herhold v. Upton

No. 125

Submitted November 29, 1876

Decided December 4, 1876

154 U.S. 624

ERROR TO THE CIRCUIT COURT OF THE UNITED

STATES FOR THE NORTHERN DISTRICT OF ILLINOIS

SYLLABUS

Upton v. Tribilcock, [91 U. S. 45](#) ; *Sanger v. Upton*, [91 U. S. 56](#) , and *Webster v. Upton*, [91 U. S. 65](#) , followed.

MR. CHIEF JUSTICE WAITE delivered the opinion of the Court.

The principles decided in *Upton v. Tribilcock*, [91 U. S. 45](#) ; *Sanger v. Upton*, [91 U. S. 56](#) , and *Webster v. Upton*, [91 U. S. 65](#) , are conclusive of this case. The judgment of the circuit court is therefore affirmed upon the authority of those cases. If the stock held by Herhold is part of the increased capital, he is estopped by his acceptance of the certificate from denying the regularity of the proceedings under which the increase was effected. If it is part of the original stock, his liability exists whether the increase was made or not. In either event, the testimony offered to show that he did not sign the assent to the increase of the capital stock, filed with the auditor of public accounts, was immaterial and properly excluded.

Affirmed.