

12748

No. _____

Supreme Court of Illinois

Cook et al

vs.

Vreeland

71641  7

206

Theodore N. Cook

vs

Henry Villard

12748

United States of America }
STATE OF ILLINOIS, COUNTY OF COOK, S. S. } Pleas, before the Honorable George M. Williams

Judge of the Seventh Judicial Circuit of the State of Illinois, and Solo' Presiding
Judge of the Circuit Court of Cook County, in the State aforesaid, and at a term thereof
begun and held at the Court House in the City of Chicago, in said County, on the

11th Monday, (being the 12th day) of
March in the year of our Lord one thousand eight hundred and
77 and of the Independence of the said United States the
8th year

Present, Honorable George M. Williams Judge of the 7th Judicial }
Circuit of the State of Illinois. }

Carly H. H. H. States Attorney.

John S. Wilson Sheriff of Cook County.

Attest: A. S. Church Clerk.

Be it remembered that on the 9th day of February, A.D. 1857. Henry Weedland filed in the office of the Clerk of the Court aforesaid, his Petition against Theodore E. Cook, et al, for a Mechanic's Lien, which is in the words and figures following, to wit—

To the Honorable, the Circuit Court of Cook County—

The Petition of Henry Weedland, of the County of Cook, and State of Illinois, Respectfully sheweth unto your Honor, that on, or about the first day of June, in the year of our Lord, Eighteen Hundred and fifty-six, your Petitioner being a Mechanic, to wit a Carpenter, one Theodore E. Cook of the City of Chicago, in the County of Cook, State of Illinois, entered into an agreement in writing, with your Petitioner, which said writing, together with the written specifications thereto attached, was duly signed by your Petitioner, and the said Theodore E. Cook, in, and by which, said Specifications and agreement, your Petitioner, in consideration of the payments to be made by the said Cook, agreed to build, finish, and complete, in a careful, skillful and workmanlike manner, and furnish the materials for the same, to the full and complete satisfaction of Wm. W. Boyington, or assistant

superintendent, the Carpenter's work of a four story pressed brick front Dwelling House to be erected on Wabash Avenue, in conformity with, and as set forth in said specifications, and contract, above referred to, which said contract and specifications are hereto annexed, marked A. and which your Petitioner prays may be made a part of this Petition—

And your Petitioner further sheweth unto your Honor, that the said Theodore H. Cook, in consideration of the work to be done, and materials to be furnished by your Petitioner as aforesaid, agreed with your Petitioner in said Contract, to pay your Petitioner for said work, and materials the sum of Three Thousand and Four Hundred Dollars, as the work should progress on Estimates of Architect, and Superintendent of labor, performed, and Materials furnished and used in said building, reserving however fifteen per cent of the contract price until the whole work is completed, when the whole was to be paid— Provided the superintendent shall certify in writing, that your Petitioner is entitled to his payment for a partial or complete performance of said work, and the Materials furnished therefor—

And your Petitioner further sheweth that in and by the terms of said Contract, and Specifications, the said Cook reserved the right

to alter or modify the design of said work, and in case of such alteration or modification, the said Cook, by said writing, agreed to pay your Petitioner, what the extra labor and Materials required by such Modification, should reasonably be worth. * And your Petitioner further sheweth unto your Honor, that all of said Contract, and extra work, has been approved by said Wm. W. Boyington, Architect, and Superintendant, by his certificate in writing, in conformity with the requirements of said Contract and Specifications, which said certificate is hereto annexed, and which your Petitioner prays may be made a part of this Petition—

And your Petitioner avers that the lot or parcel of land on Walsh Avenue, on which the said pressed brick front Dwelling was to be, and is erected, is properly described as follows—to wit: Twenty-five feet front and rear off the South Side of Sub lot one, (1) of Lot number Four (4) in Block: Twenty-two, (22) in the Canal Trustees Division of Fractional Section Fifteen, Town Thirteen (33) Range Fourteen (14) of the Third principal meridian, and being in the City of Chicago, in the State of Illinois—

And your Petitioner further sheweth unto your Honor, that on, or about, the first day of September, in the year of our Lord, Eighteen Hundred

and fifty six, he made a verbal contract with the said Theodore H. Cook, whereby your Petitioner, in consideration of the payments to be made by the said Cook, agreed with the said Cook, to furnish the materials for the Carpenter work, and do the Carpenter work on a barn to be erected on said above mentioned and described Lot, or parcel of land. And the said Cook, on his part, in consideration of the materials to be furnished, and the Carpenter's work to be performed, as aforesaid, by your Petitioner, agreed with your Petitioner, to pay him for said materials, so to be furnished, and Carpenter's work to be done, on said Barn, so much as it should reasonably be worth,

And your Petitioner further sheweth unto your Honor, that on, or about the first day of September, Eighteen Hundred and fifty six, he commenced the furnishing of the materials for, and doing the Carpenter's work on said barn, and that he has fully and entirely completed the same. And your Petitioner avers that the said Carpenter's work, done, and materials furnished, by your Petitioner as aforesaid, were, and are reasonably worth the sum of Three Hundred and Seventy Six Dollars, and Forty five Cents.

And your Petitioner further sheweth unto your Honor, that of the sum of Three Thousand, Three Hundred, and Forty Five Dollars, due your Petitioner

from the said Cook, on the Contract on said Dwelling, and the extras and modifications under said Contract, of Cornice, and vestibule door, the sum of Twelve Hundred Dollars has been paid to your Petitioner, by the said Cook, leaving a balance due on said Contract of Two Thousand, Two Hundred, and Forty-five Dollars -

And your Petitioner further sheweth unto your Honor, that of the sum of Three Hundred and Seventy-six Dollars, and Forty-five cents, due your Petitioner from the said Cook, for furnishing Materials, and doing the Carpenter's work on said barn, as aforesaid, the said Cook has paid your Petitioner, the sum of One Hundred and Twenty-eight Dollars, leaving a balance due on said barn contract, of Two Hundred and Forty-eight Dollars, and Forty-five cents, making in the aggregate, the sum of Two Thousand, Four Hundred, Ninety-three Dollars, and Forty-five cents, which still remains due and payable from the said Cook, to your Petitioner, on said Contracts as aforesaid -

And your Petitioner further sheweth unto your Honor, that the said Theodore H. Cook purchased the above mentioned and described real estate of Harrison H. Husted, of the City of Chicago, and that the said Husted gave the said Theodore H. Cook, an agreement in writing, whereby the said Husted, in consideration of certain payments to be made by the

Said Cook, the said Dusted agreed to make and execute a deed of said premises, to the said Cook.

And your Petitioner further sheweth unto your Honor, that a part of the purchase money for said premises, has been paid by the said Cook, to the said Dusted, but that a part of the same ^{still} remains due, and unpaid, to the said Dusted.

And your Petitioner further sheweth unto your Honor, that he is informed that Isaac Cook, Horatio M. Heald, Wilson Mettler, Jacob D. Dibble, Ira C. Barber, Henry P. Brewster, Charles J. Hoyt, Charles H. Stilwell, Francis H. Benson, Joel Gurley, Dudley H. Garland, William Jones, Milton L. Patrick, Strong Wadsworth, Louis J. Ditz, William G. Burgess, Henry A. Bales, Francis A. Hoffman, and Otto Gelpcke.

claim to have some interest, or lien, on said premises, above herein described, but as your Petitioner is not fully advised of the nature of such pretended claims. Wherefore your Petitioner prays that said persons and parties last above enumerated, may be made parties, Defendants to this proceedings with the said Theodore H. Cook, and that a summons may issue out of this Honorable Court to them directed, commanding them to be, and appear before this Honorable Court to answer as required by the Statute, in such cases made and provided.

And your Petitioner prays judgment against

Henry Breeland

State of Illinois }
Cook County } ss.

On this 29th day of January, A.D.
1857. before me, personally appeared the above named

[illegible]

Henry Breeland, and made oath that he has heard read the above Petition, subscribed by him, and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters therein stated to be on his information and belief, and that as to those matters, he believes them to be true—

Henry Breeland

Subscribed and sworn to before me,
by the above-named Henry Breeland,
this 29th day of January, A.D. 1887.

L. C. P. Greer,

Master in Chancery
Cook Co &c.

Specifications, for the Carpenter-
Work and materials required for the Erection
and Completion of a pressed brick front Dwelling,
that Theodore Cook is about to have erected—

Special Reference will be had by the Contractor,
to the following Specifications, and the accompa-
nying Design, as made by Wm. W. Boyington, Archi-
tect, and which consists of the following drawings, viz—

Plan of Foundation

~ - Basement

~ - 1st Floor

~ - 2nd do

~ - 3rd do

Front Elevation & Section—

Duties of Contractor—He shall be strictly held to make such Work, and to use such Materials as is hereinafter described, and to work up the Building to the given Design, and in all cases where the drawings are figured, the figures must be taken by him as the given dimensions, without reference to what the drawing may measure on its scale—He will be further held to Submit as to the character of the Materials, used, and the Work done, to the judgment of the Superintendent, and to procure from him all necessary interpretations of the Design, and all necessary certificates regarding his payments—

Superintendants and their Duties—Wm. W. Boyington, or his assistant Architects, are declared to be the Superintendants of the Work for the owner—Their duties will consist in giving, on Demand, such interpretations, either in language, writing or drawing, as in their judgment, the nature of the work may require, having particular care, that all and all work done, and Materials used for the Work be such as is hereinafter described—in giving, on demand, any certificates that the Contractor may be entitled to, and in setting all deductions of, or additions to the Contract price, which may grow out of alterations of the Design, after the same is declared to be contract, also in determining the amount of damages, which may accrue from any cause, and to

particularly decide upon the fitness of all Materials used, and Work done—

The Contractor being bound in all cases, to remove all improper Work or Materials upon being directed so to do, by the Superintendent—

But the Contractor, if after having been directed as above, to remove the same, should refuse or neglect so to do, shall not only suffer a deduction from the Contract Price of the Difference in value of proper and improper Work and Materials, but also shall be Liable for all Damages of whatever nature or kind that may result from such cause— The above provisions to apply in the same way to all Materials or Work used, Made or Fixed, without the knowledge of the Superintendent—

And it is hereby expressly Provided, that in case the Contractor should feel aggrieved by the decision of the Superintendent, an appeal may be taken from such decision, to an arbitration chosen indifferently, and whose decision in the matter, shall be final and binding on all parties—

The owner reserves the right to alter or modify the Design, and to add to, or diminish from the Contract price, the difference to be adjusted as provided above—

The owner being bound in all cases to recognize the acts of his Superintendents, not only

as regards extra work, but also in the sufficiency of the Design, the Contractor being in no case responsible for any accident resulting to the work from a Defective Design - which fact must be determined by an arbitration of Three disinterested men, chosen indifferently, and if found that the damages resulted from a want of proper care on the part of Contractor, then and in such case, the damages and loss shall be paid for, and made good by him - but if found that the accident or damage resulted from an improper Design, then and in such case, all damage shall be sustained by owner - which, in all cases must be Kept, and in no case, Constructive Damages to be allowed -

All payments made on the work, during its progress, are on account of the Contract, and shall in no case, be construed as an acceptance of the work executed - but the Contractor shall be liable to all the conditions of the Contract, until the work is accepted as finished and completed.

This Building is intended to be a good, substantial dwelling, and must be finished throughout as hereinafter described, and anything shown by the Drawings, and not hereinafter particularly reserved or described, which is necessary to complete the Carpenter's work of the building, is to be done by the contractor, notwithstanding such

omission

Grade of Building—

Top of first floor of joist to be fixed _____ feet
above the _____

Dimensions of the Building as represented by, and figured on the Drawings—

Heights—	Basement Story to be	8' 3	feet—
	First do do	11' 3.	do
	Second do do	12' 6.	do
	Third do do	10' 3.	do
	Fourth do do	to the roof,	do
	Fifth do do		do

The above measures are between joist—

Placing—

All the outside walls of the building are to be furred with strips for lathing on—these strips will be 2 1/4 inch, and put on 16 inches from centers, and the ceilings of the different stories, the same—

Bridging—

All joist 12 feet span, to have two row of cross bridging sound stuff for the same, to be inches, and must be well fitted, and properly fastened. All joists less than 12 ft. to have one row of cross bridging—

Drains.

For their length, directions and sizes, see Plans—All must be made of good 2" oak, and

put in at the proper times, and be well and properly dried. 8×10 in, the clear, and must lead from the rear of the building, to the centre of Wabash Avenue—

Floor Timbers—

All Sills, Floor Girders, Crossed Beams, other Timber Constructions, to be as shown by Drawings, or marked on the Plans, by black dotted, red or yellow lines, and must all be of the kind and dimensions drawn or figured, and specified on the Plans—

										from centre
Of Basement Floor	to be of oak,	3×6	and placed	18 inches						
" 1 st Story	" " "	pine 3×10	" —	16	" "					
" 2 nd Story	" " "	" 3×10	" —	16	" "					
" 3 rd Story	" " "	" 2×10	" —	16	" "					
Ceiling joist	— — —	2×8	" —	16	" "					
Rafters	— — —	2×12	" —	18	" "					

and must extend from wall to wall—

Diagonal anchors of 1×4 to be placed on the joist of each floor in all cases where the joists lie parallel with the wall to be anchored. These anchors must not be less than ten feet in length, let in flush with the top of joist, and must be placed one to each pier of wall—

Bearing Strips of 2×4 oak for the end of joists, to be placed on the foundation walls—A proper bond timber, and wooden bricks of every

description, necessary to the proper execution of the work to be ~~finished~~^{performed}—

Wooden Lintels—

All Openings of every kind, in brick or stone work, to have Wooden Lintels behind the stone caps, or arches, in no case less than 4 inches thick, of the required width, and in all cases where not a backing for an arch, or cap, must be wide enough to cover the thickness of the wall— All openings which require covering with arches, where the spring is more than six inches, and the span over four feet, to have centres made, to build the arch on, the same to be properly fixed in position—

Scuttle—

To be made on the Roof at a suitable and convenient point covered with tin on the outside, the cover to be hung to the Scuttle frame with proper sized hinges, and be fastened lower side with an iron hook hinge to be wrought iron, and well secured— There will be two skylights, one over each stairway, with ceiling circular lights under the outside lights, both of which will be arranged for ventilation—

Roof—

Frame Work to be composed of joist, from wall to wall, and a scuttle and skylight framed with headers and timbers, double thick,

after which, must be first covered with pine,
inch, sound seasoned common boards, well
nailed down, with close joints, and then cover-
ed with Water Gutters, to be made on the Roof
of plank, and so arranged as to concentrate the
water at one Corner, which is to be conducted from
thence, to the ground, in inch tin pipes, which
must be well secured to the Buildings with
iron hooks—

Contractors to furnish the contracting Mason,
in all cases where the Roof is of Felt and Com-
position, (and when the same is required) a
sufficient amount of sound, seasoned 2x4 inch
scantling, free of sap, to build in the walls, sur-
rounding the roof to be covered, in order that
the Felt of the Roof, may be properly secured at
the edges—

Cornice—

On the Building to be composed of plank
boards—Constructed as per detail drawings, and
finished as shown by the elevations—Full sized
drawings will be furnished, when required by
the Contractor—

Paches, Balconies and Steps in all places
as shown by Plans and Drawings—Drawings in
detail, full size, will be given when required—
The rear balcony and steps will have white pine
railing and ballusters, and Newel Posts. The

Newels and Ballusters will be worked and sawed out to fancy patterns—

Windows—

All throughout the Building to be of the kind and sizes marked on Plans, and shown by the Drawings— All the frames to be box frames, and axel pulleys— The front parlor windows will be made box heads, so as to allow the bottom sash to slide up as high as the meeting rail— Sash for each story to be $1\frac{3}{4}$ inches thick, with chickless meeting rail, all well and properly fitted, and balanced with cast iron weights—

Blinds—

For all the windows on the rear outside, and bead of flush shutter for the back basement windows, and the doors for the cellar, to have a window with same kind of shutter— All to be made in the best manner, with rolling slats, frame $1\frac{3}{8}$ inches thick, all to be well fitted in the windows, properly hung with loose joint hinges, and have the most approved blind fasteners— All windows in the partitions, as marked on plans—

Studding—

All walls and partitions which are colored yellow, to be of 2×4 inch, except when

specified on Plans differently, and will all be placed 16 inches from Centre to Centre. All door studs to be set double with trussed tops. The partitions in Basement and first story, will be set with 3x4 studding 16" from Centres, and the first story, and second, thoroughly bridged—
Floors—

To be laid with 1 1/4 select common Mill worked white pine flooring, free from large or loose knots, or other bad defects, all to be of the best quality, of their respective kinds, and thoroughly seasoned, all to be laid in the best manner, and nailed down through the face, all rough spots to be smoothed off.

Stairways—

All to be built as shown on plans— These from basement to main floor, will have steps of 1 3/8 Scotia ~~Nosing~~ and skirting on wall side, henced in with open string, and moulded returned nosings, cherry rail balusters, and newel balusters 1 3/4 Newel, 7x7, all turned to neat patterns moulded 2 1/2 x 4 1/2— Stairs from front main hall to have steps and risers henced in— Hand rail of Mahogany, size 2 3/4 x 3 inch, and will terminate against the wall of the third floor— Newel post at foot of main stair to be Mahogany, 8x8 balusters of cherry, 3x2, all to be turned fancy patterns, newel octagonized

in part, Back stairs from main to third floor, to have steps of $1\frac{1}{4}$ rounded nosings, with box partition—

Finish—

All doors and windows in the Basement story, to be finished in a neat, plain manner, with panel backs, to the windows of the Dining Room, plain shutter back linings, and panelled soffit—Kitchen cased in a neat, plain manner, with band mouldings, and ceiled up 3 ft. high, with narrow planed and matched beaded joists—Base in the Basement will be 7 in plain, with scotia, & 3 in heavy moulding—Base in the second and third story the same, and in the first story, 8 in plain, with scotia and rebate, and $3\frac{1}{2}$ in heavy moulding—All doors and windows in 1st story above basement, to be finished with double faced moulded architraves, cased to plinths with a cornice up to the doors and windows of the Parlor and Front Hall—The casings to the 2nd story, will be the same, except the back chamber, and back hall and Dressing Room—All doors and windows in the 3rd story, are to be finished with single moulded architraves $5\frac{1}{2}$ in wide, without plinths—All the front windows will have outside folding shutters, moulded panels, and moulded panel backs, and trimming

and soffits— The two upper panels of the centre flaps on each half of the windows, to have venetian blind panels, all shutters to be divided three parts in height, and four in width, except basement, which will be two parts in height— Door jambs all to be of $1\frac{1}{2}$ " pine— No other finish to be put up until the last coat plastering is complete, except in Closets, which will have a plain finish, and have such shelves, drawers, and clothes strips put up as is specified on the plans— Mantles made of marble, and of a neat pattern, to each of the fire places, and finished by the owner—

Doors—

All to be of best seasoned materials and workmanship, and of the sizes marked on plans, properly fitted in their respective places, and have thresholds of $\frac{1}{2}$ inch cherry, and must all be hung with hinges of proper size, and of best quality, the same being put on with screws, each, all other doors to be made of 2 inch plank, clear and seasoned thoroughly, and all four panels, except those of the 1st & 2nd Stories, which will be 6 panels, and all moulded both sides—

Trimmings—

All Locks, Bolts, and Fastenings of every description, to be of the best qualities of their respective kinds, as described herein, and must all be fixed in their proper places in the most thorough

and workmanlike manner—Bolts on all the outside doors—The front Door, and all the door opening from front parlor, and front hall, are to be turned with 6 inch ^{or} mortice locks, with silver-plated knobs, wards, and escutcheons, all others throughout the building (except in the kitchen) will have white porcelain knobs, will have silver-plated wards, and escutcheons, and 4 1/2 inch ^{or} mortice locks—The kitchen, and back rooms will have the same kind of locks, and turned knobs, and bronzed escutcheons—Bell-Hanging to be made a separate contract—There will be double clothes hooks furnished, and screwed to all the pine rails, in each story—Gas Iron work will be made a separate contract—

Paint—

All paint to be tinted such color as directed, and must be well mixed with best materials—All wood work to be carefully putted when required, and to be clean, before being painted, and finished in a smooth and workmanlike manner, and at the proper times—Painting to be made a separate contract, also the Glazing and Plumbing to be a separate contract—Water Closets to have Black Walnut seats, with double covers on hinges—Soil pipes inches diameter of "Lead—

All necessary cutting and casing, in connection with the plumbing, bell hanging, Gas

fitting, and furnace fitting, must be done by the Contractor for the Carpenter work—

Water to be taken from the City Pipe in $\frac{3}{4}$ Inch lead pipe, to the Sink—to the Copper Boiler, through the Water Back of the Cooking Range—to the Bath Tub, and ^{the} Wash Bowl and Water Closets—

The Pipes to the Boiler to be $\frac{3}{4}$ inch—

" " Bath Tub $\frac{3}{4}$ " "

" " Water Closets $\frac{3}{4}$ " "

" " Wash Bowls $\frac{1}{2}$ " "

All Pipes below the Stops Cocks of Boiler, to be extra strong—all others strong—

Hot water to be taken from the Copper Boiler to the Sink, to the Bath Tub, Wash Bowl—

The whole work to be done in the most thorough manner, with the best materials, and warranted to operate properly, and be sufficiently strong—
Time.

Owner to give possession of the ground on, or before the day of
and to put up walls of Building ready for Roof, on or before the day of
Contractor will be strictly held to have upon the ground, ready to go into the work, at the times they may be required, all Timber, Joist, Bond Timbers, Centering for Arches, Window and Door Frames, Cast and Wrought Iron Work, and all other materials

necessary, so that in no case, the Masonry may be hindered for want of the same— And must put on and fix a floor of joist on all the building, with in days after the walls are made ready to receive the same— and must put on the Roof with in days, after the walls are finished—

And fully complete the building as hereinafter specified within—

The owner hereby agreeing to furnish the Mason work for the building, at the times before specified, and in case, he should fail so to do, then, and in such case, he agrees to extend the time prescribed for the Carpenters' work, in a Pro Rato Rate, for such default or failure, and will, also, pay all damages, arising to the Contractor from such cause. Provided, the Contractor shall at the time of such delay, notify the Superintendant, in writing, of the extent thereof, and the damages to him arising therefrom, and, if required, must prove the same—

Provided also, that nothing herein contained, shall extend the time for finishing the Carpenters' work, beyond the time allowed by above specifications, for completing the various parts after the Masonry is finished as above—

Damages—

And in order to secure the execution of the work, in the manner, and at the times hereinbefore specified, it is hereby distinctly declared and set

forth, that the Damages arising from the non-fulfillment of the contract, as regards Time, shall be
Fair Rent of the
Premises, for each and every day the work remains unfinished after the time or times, provided above, and which sum of Damages, shall be deducted from the Contract Price—

These Articles of Agreement made and entered into, this first day of June, — A.D. 1856, Between Henry Breeland, of the first part, Building Carpenter of the City of Chicago, and Theo. H. Cook, of the same place of the second part—

Witnesseth that the said Henry Breeland, his executors, administrators and assigns, for and in consideration of the payment hereinafter to be made to him, by the said T. H. Cook, or his executors, doth on his part, Contract and Agree to Build, Finish, and Complete, in a careful, skillful and workman like manner, to the full and complete satisfaction of Com. W. Bevington, or assistant, Superintendant, & by, and at the times mentioned in the foregoing specifications— The Carpenters work of a four story, fire-
ed Brick Dwelling, to be erected on Wabash Avenue, as aforesaid, so as fully to carry out the design of said work, as it is set forth in the foregoing specifications, and the plans and drawings therein especially referred to— said specifications, and plans and drawings,

being hereby declared part and parcel of this contract.

And the said Thos. P. Cook, or his executor, administrator or assigns, for, and in consideration of the said Henry Breeland, furnish materials fully and faithfully executing the aforesaid work, so as fully to carry out the design, for the same as set forth by the specifications, and according to the true spirit, meaning and intent thereof, and to the full and complete satisfaction of said Wm. W. Boyington, or his assistant Superintendent as aforesaid; and at the times mentioned in the foregoing specifications, doth hereby agree to pay the said Henry Breeland, the sum Three Thousand, Four Hundred Dollars as the work progresses, the Superintendent is to make out estimates of the Work and Materials furnished and unwrought into the Building, and said T. P. Cook is to pay said estimates, reserving fifteen per cent thereof, until the whole contract is completed as aforesaid - Provided the said Superintendent shall certify in writing that he is entitled thereto -

In witness whereof, the parties hereto have set their hands, the day and year first above written -

Henry Breeland
T. P. Cook -

Bill of particulars of Amount due on Contract
for house—also for barn, and the Certificate of archi-
tect, referred to in Petition

Chicago. Jan 14th 1857.

J. J. Cook,

To Henry Breeland Dr.

Cr.

To Contract for the Carpenter work and materials
for house on Wabash Avenue \$3400.00

To Extra on Cornice 10.00

" " Vestibule Door 35.00

3485.00

By Cash ————— 1200.00

\$2245.00

To Carpenters Work & materials
on Barn

Sept. 16. To 75 ft. oak Plank. 1.50

" " " 500 Joist 10.00

" 17 " 440. " 748

" " " Carving 100

" " " 236 ft Joist. 401

" 18 " 44 days work. 125

" 20 " 1 1/2 " " 375

" " " Carving .25

" " " 180 feet timber 360

" " " 72 " Joist 122

" 22 " 150 " Plank 430

" " " 2 1/2 days work 625

" " " 8th Nails .50

Sept. 23.	To	2 dys work.	5 00
" 24.	"	1 " "	2 50
" "	"	112 ft timber	3 36
" "	"	6 ^{lb} nails.	37
" 25	"	735 ft joist	12 49
" "	"	150 " scantling	2 55
" "	"	1 dys work	2 50
" "	"	48 ft timber	1 00
" "	"	77 " lumber	2 31
" "	"	Carting	<u>75</u>
Amt. carried over			78.14
J. H. Cook			Dr.

1856 Amt brought over 78.14

Sept 26.	To	Carting	25
" "	"	144 ft lumber.	2 44
" "	"	100 " furring	2 00
" 29	"	1 dys work	2 50
" 30	"	1 " "	2 50
Oct. 1.	"	1/2 " "	1 25
" 2	"	1 " "	2 50
" 3	"	2 " "	5 00
" "	"	94 ft timber-	2 35
" "	"	643 " joist.	13 50
" "	"	Carting	1 50
" "	"	1050 ft com. Brds	17 85
" 4	"	1 dys work.	2 50
" 6	"	44 ^{lb} nails.	2 75
" "	"	Carting-	75

Oct 6. To 1 day work	2 50.
" " " 463 ft Planks	7 87.
" 7 " 1 day work	2 50
" " " 800 ft Bds for Roof.	13 60
" " " Carting-	1 00
" 8. " 1/2 Day work	1 25
" " " 1321 ft flooring.	29.19
" 9 " 1/2 day work.	1 13
" 10 " 1 " "	2 50
" 11 " 1 " "	2 50
" " " 24 ^{lb} nails.	1 50
" 13 " 1/2 day work	1 25
" 14 " 1/2 " "	1 25
" " " Carting-	50
" 23 " 1 day work.	2 25
" " " 148 ft ceiling.	4 44
" " " 134. " scantling-	27
" 24 " Barn Door Trimmings	2 50
" " 1 day work-	2 25
" 25. 1 " "	2 25

Amt. carried over.

22228

1856.

J. G. Cook

De.

Amt. Brought over

222.28

Oct 25. To 3 prop. screws	1 63
" " " 35 ft lumber	1 07
" " " 8 ^{lb} nails	50
" " " hook & staple	18
" 27 " strap hinges-	1 00

Oct 27. To Butts & screws.

150

" " " 2 locks

150

" " " 1 day work.

225

" " " wrought nails.

25

" 28 " 1 days work.

225

" " " 3 doos

900

" 29 " 1 day work

225

" " " 36 lights of sash

288

" 30 " 1 Day work

225

" 31 " " 1 " "

225

Nov. 1. " 24th nails.

150

" " " 1/2 day work

113

" " " Carting

80

" 5 " 300 ft plank

510

" " " 1/2 day work

113

" 6 " 1 1/2 " "

337

" " " 172 ft boards

272

" " " 80th nails

300

" 7 " 1 gross screws.

40

" " " 1 pr strap hinges.

38

" " " 1 sett of rollers.

75

" " " 1 Day work.

225

" " " 258 ft boards

438

" 8 " 1 day work

225

" 10 " 1 " "

225

" 11 " 1 " "

225

" 12 " 254 ft Planks

431

" " " 1 Latch.

25

Nov. 11.	To	1/2 dys work	112
" 12	"	1/2 " "	113
		Amt Carried over.	293.23
1856		G. H. Cook	Dr.
		Amt Brought over.	293.23
Nov. 14.	To	1 Dys work	225
" 15	"	1 " "	225
" "	"	12 lbs nails	75
" "	"	152 ft Bids	428
" 28	"	300 " " for fence	510
" "	"	3 posts.	125
" "	"	72 feet scantling	122
" "	"	18 lbs nails	112
" "	"	Carting	75
" "	"	2 dys work	450
Dec. 1	"	1 " "	225
" 2	"	2 " "	2450
" 8	"	Conductor pipe	450
" "	"	2 dys work	450
" 9	"	2 " "	450
" "	"	Composition Roof on Barn	3950
			\$376.45
		Dr. By Groceries.	128.50
		Balance	\$248.45

Chicago Jan 15th 1857.

I hereby certify that this bill is a reasonable charge for work and materials furnished for Mr.

Cook's Barn, the amount of which is in addition to the Contract for the House. The Price herein named for the Contract on House, is correct, and the work and materials are as good as called for in the contract, and I do hereby approve and accept the same—

Wm W. Boyington
Superintendent

And afterwards to wit, on the same day and year last aforesaid, to wit, February 9. 1857. the said Petitioner sued out of the office of the Clerk of the Court aforesaid, the People's writ of summons, directed to the Sheriff of said County to execute, and clothed in the words and figures following, to wit—

State of Illinois }
County of Cook } ss.

The People of the State of Illinois,
to the Sheriff of said County— Greeting—

We command you, that you summon Theodore H. Cook, Isaac Cook, Horatio W. Heald, Wilson Miller, Jacob D. Dibble, Ira C. Barber, Henry P. Brewster, Charles J. Hoyt, Charles H. Stilwell, Francis H. Benson, Joel Gurley, Dudley H. Garland, William Jones, Milton S. Patrick, Strong Wadsworth, Louis J. Hitz, Henry A. Ballentine, Francis A. Hoffman, & Otto Gelpick, if they shall be found in your county, personally to be and appear before the Circuit

31
Court of Cook County, on the first day of the next term thereof, to be holden at the Court House in Chicago, in said County, on the First Monday of March next, to answer unto Henry Breeland, in his Petition filed in this Court, for a Mechanics Lien—

And have you them and there this writ, with an endorsement thereon, in what manner you shall have executed the same—



Witness, William L. Church, Clerk of our said Court, and the Seal thereof, at Chicago aforesaid, this ninth day of February, A.D. 1857.

Wm L. Church
Clerk

And afterwards to wit, on the 12th day of February, in the year last aforesaid, the said Defendants, Wilson Mettler, & Jacob Dibble, by their Attorneys, entered their appearance in writing, in said Cause, in the words and figures following to wit—

Theodore F. Cook.	Isaac Cook,	} Cook County Circuit Court. of the March T. 1857 Petition for a Me- chanics Lien " "
Anastis M. Heald.	Wilson Mettler	
Jacob D. Dibble.	Isa C. Barber	
Henry R. Brewster,	Charles J. Dyer,	
Charles H. Stilwell,	Francis D. Benson	
John Garley,	Dudley W. Harlan,	
William Jones,	Milton S. Patrick	

Strong, Wadsworth, Louis J. Ditz, do
 Henry A. Ballentine, Francis A. Hoffman,
 and Otto Gilpeck
 ads

Henry Creeland

And now comes the said Wilson
 Mettler, and Jacob D. Dibble, two of the Defend-
 ants, in the above entitled cause, by Shumway,
 Waite, & Towne, their Attorneys, and enter their
 appearance, in this cause, and waive service of
 process.

Shumway, Waite & Towne
 Atty for Mettler & Dibble

And afterwards to wit, on the 28th day
 of February, in the year last aforesaid, said writ
 was returned into the Court aforesaid, by said
 Sheriff, endorsed as follows, to wit—

Served this writ on the within-named
 Isaac Cook, & Theodore H. Cook, by delivering a copy
 hereof, to each of them, the 13th day of Feb. 1887.
 also on the within-named Horatio N. Heald,
 Ira C. Barber, Charles J. Hoyt, Charles H. Stilwell,
 Francis H. Benson, Joel Gurley, Dudley H. Parker,
 Strong Wadsworth, Louis J. Ditz, Francis A. Hoff-
 man, & Otto Gilpeck, by delivering a copy here-
 of, to each of them, the 19th day of February,

1837. The remainder of the Defendants, not found in my County, the 28th day of Feb. 1837.

Fees. 13 Services 650

13. Copies 650

13 Miles 65

1 Return 10

\$ 13. 75

Paid by John L. Wilson, Sheriff
Plffs atty- By John H. Dart, Deputy

And afterwards, to wit, on the 10th day of March, in the year last aforesaid, the said defendant Isaac Cook, by Wm. G. Burgess, his attorney, filed in said Court, his demurrer to the Petition of the said Plaintiff, which is in the words and figures following, to wit-

In the Cook Circuit Court.

Henry Breeland

vs

Theodore F. Cook, Isaac
Cook, et al

Cheeks Lien.

The Demurrer of the said
Isaac Cook, to the Petition
in this cause-

This Defendant by protestation, not confessing
or acknowledging all, or any of the matters and

things in the said complainants bill, to be true in such manner and form as the same are therein set forth and alleged, doth demur thereto, and for cause of demurrer, sheweth that the said complainant hath not in and by said bill, set forth when the money to be paid under said contract, was due, or to be paid thereunder - nor that the same was due at the filing of said bill, according to the terms of said contract, nor but that the same was payable six months, and upwards, prior to the filing of said bill - neither does it appear but that the time of completing the contract, was not extended for a longer period, than three years, from the time of making the contract, for the said building - nor does it appear what time the work was done and completed - And that the complainant hath not made or stated such a case as doth, or ought to entitle him to any such discovery or relief as is thereby sought and prayed for, from, or against this Defendant - Wherefore this Defendant demands the judgment of this Honorable Court, whether he shall be compelled to make any further, or other answer to the said bill, or any of the matters and things therein contained. and prays to be hence dismissed, with his reasonable costs, in this behalf sustained -

Harnsworth & Burgess
for T. Cook

And, afterwards, to wit, at the March Term of said Court, to wit, on the 11th day of March, in the year last aforesaid, the following proceedings, amongst others, were had and entered of Record therein, to wit— Henry Breeland vs Theodore H. Cook, Isaac Cook, Horatio M. Heald, Wilson Mettler, Jacob D. Dibble, Isa C. Barber, Henry P. Brewster, Charles J. Hoyt, Charles H. Stilwell, Francis H. Benson, Joel Gurley, Dudley H. Farlin, William Jones, Milton S. Patrick, Strong Wadsworth, Louis J. Ditz, Henry A. Ballentine, Francis A. Hoffman, and Otto Gelpcke, Petition for a Mechanic's Lien—

This day comes the said Plaintiff by George A. Ingalls, his Attorney, and moves the Court, to make John Pfeifer, a party defendant to this suit, which motion is allowed—

And afterwards to wit, on the 21st day of March, in the year aforesaid, the said defendants, William Jones & Milton S. Patrick, by C. R. W. Lull, and Henry P. Brewster, by E. Anthony, their Attorneys, entered their appearance in the Court aforesaid, in said cause, in the words and figures following, to wit—

Henry Breeland	}	Cook Circuit Court,
vs		
Theodore H. Cook		
and others	}	March 3. 1887.
		Petition for a Mechanic's Lien.

And now comes the said William Jones, Milton S. Patrick, and Henry P. Brewster, Defendants in the above Cause, and enter their appearance in this Cause—

Jones & Patrick

B_y

O. B. W. Lull—

Henry P. Brewster, B_y
E. Anthony

And afterwards, to wit, on the 23rd day of March, in the year aforesaid, the said Plaintiff, by his said Attorney, filed in the Court aforesaid, in said cause, his joinder in demurrer, which is in the words and figures following, to wit:—

In the Cook Circuit Court—

Henry Vreeland	}	Petition for Mechanics Lien
as		
Theodore H. Cook		
Isaac Cook, et al.		

Joinder to the Demurrer
of Isaac Cook, one of the Defendants herein—

And the said Petitioner, Henry Vreeland, saith that his said Petition, filed in this cause,

and the matters therein contained, in manner and form as the same are therein stated, and set forth, are sufficient in Law, for him, the said Complainant, to have, and maintain his aforesaid action thereof, against the said Isaac Cook, and the said complainant is ready to verify and prove the material allegations in his said Petition, as the Court here shall direct and award—wherefore inasmuch as the said Defendant, Isaac Cook, hath not answered the said Petition, nor hitherto in any manner, denied the same, the said Complainant prays judgment against the said Isaac Cook, as prayed for in his said Petition.

Geo. A. Ingalls.

Solicitor for Henry Breeland,
the Complainant.

And afterwards, to wit, on the first day of April, in the year aforesaid, James Mc. Graw by George A. Ingalls, his Solicitor, filed in the Court aforesaid, in said Cause, his certain Petition, which is in the words and figures following, to wit—

To the Hon. George Manier,
Judge of the Seventh Judicial
Circuit of the State of Illinois,
in the Cook Circuit Court
of the March Term, A.D. 1857.

State of Illinois }
County of Cook } ss.

Your Petitioner James McLean
of said County, respectfully represents unto this
Honorable Court

That on the ninth day of February, in
the year of our Lord, One Thousand, Eight Hun-
dred and Fifty-seven, Henry Breeland, filed in
this Court, his ^{Petition for a} Mechanics Lien, under the Stat-
ute against Theodore H. Cook, Isaac Cook, Horatio
N. Seald, Wilson Mettler, Jacob D. Dibble, Ira C.
Barber, Henry P. Brewster, Charles J. Coyt, Charles H.
Stitwell, Francis H. Benson, Joel Husley, Dudley H.
Harlan, William Jones, Milton S. Patrick, Strong
Wadsworth, Louis J. Hitz, ~~William L. Bagg~~ Henry
A. Ballentine, Francis A. Hoffman, & Otto Uel-
peke, Defendants, setting forth, among other
things, the making of a contract, on or about the
first day of June, One Thousand Eight Hundred
and Fifty-six, between said Henry Breeland
and Theodore H. Cook, for the performance of work,
and the furnishing materials in and towards
the erection of a four story pressed brick front
Dwelling House, on certain lands situated in said
County, and described as follows, viz—Twenty-five
feet front and rear off the South Side of Sub
Lot One (1) of Lot, Number Four (4) in Block
Twenty-two (22) in the Canal Trustees Subdivision

of Fractional Section Fifteen, Town, Thirty-nine
(39) Range Fourteen of the Third principal Meridian,
and being in the City of Chicago, in the State of
Illinois— And also a Contract for the performance
of work, and furnishing materials in, and towards
the erection of a barn, on the same Land
and premises, which work had been done and
performed, and materials furnished, before the
filing of said Petition, and that there was then due
him, the said Henry Breeland, therefore the sum
of Two Thousand, Four Hundred and Ninety Three
Dollars, and Forty-five cents, after deducting all
payments and offsets, which said balance was
wholly unpaid, and that said other defendants
claimed to have some interest or lien in said
premises therein described— And that at the
time of making said Contracts, said Theodore H.
Cook, held said premises under a written Contract
for the purchase thereof, from Harrison W. Whet-
ted, the owner thereof, subject to such Contract in
fee, and praying, among other things, for a judgment
against said Theodore H. Cook, ~~in~~ said
for the amount due said complainant, in the
premises, and that said judgment might be
a lien upon said premises, with the Dwelling-
House thereon situated, to the whole value of said
Dwelling and Barn, and to the extent of the in-
terest of the said Theodore H. Cook, in said Lot

on parcel of ground, at the time of making said Contract, and that a sale thereof, might be ordered to satisfy the same, to the exclusion of all right and interest of said Defendants therein, as by said Petition now Pending and on file in this Cause, on the common Law side thereof, not dismissed, and undetermined, will more fully appear, and to which for greater certainty, as to its contents, your Petitioner prays reference may be had—

And your Petitioner, in pursuance of the Statute, in such case made and provided, for the purpose of being made a party in the said suit and Petition, so filed and pending, as aforesaid; further Shews unto your Honor, That on or about the first day of October, in the year of our Lord, One Thousand, Eight Hundred, and Fifty-six, your Petitioner entered into a Contract with the said Theodore B. Cook, to do and perform labor, and furnish materials, in, and towards the erection and finishing of said Dwelling House on said premises, that is to say, furnishing materials for, and making and constructing Three Hundred and Sixty Two feet of Stucco Cornice, for which the said Cook was to pay your Petitioner, at and after the rate of Fifty cents per foot, amounting to the Sum of One Hundred & Eighty one Dollars— (\$181.00).—

Also furnishing materials, and making and constructing One Hundred and Ninety four feet

of Stucco Cornice for said House, at sixty-two and a half cents per foot, amounting to the sum of One Hundred and Twenty-one Dollars, and Twenty-five Cents (\$121.25) —

Also furnishing materials for, and making and constructing ninety-five feet of Stucco Cornice for said House, at Sixty-eight and Three fourths cents per foot, amounting to the sum of Sixty-five Dollars and Thirty-nine cents (\$65.39) —

Also to furnish materials for, and make and construct seventy-four feet of panel work, for said House, at Thirty-seven and a half cents per foot, amounting to the sum of Twenty-seven Dollars, and Seventy-five cents (\$27.75). — Making in the aggregate the sum of Three Hundred and Ninety-five Dollars and Thirty-nine Cents, which sum, in and by the terms of said Contract, was to be paid your Petitioner, by the said Cook, so soon as said work should be completed, and said work was to be done and said materials furnished, within three years from the making of said Contract —

And your Petitioner further shows that immediately upon his making said Contract, with the said Cook, he commenced and prosecuted the work, and furnished the materials to be done and furnished thereunder; and that on the first day of November, A. D. 1856. your Petitioner fully completed said Contract, according to the terms thereof, with

the said Cook, and that he was then, and is now entitled to be paid therefor, the said sum of Three Hundred and Ninety-five Dollars, and Thirty-nine Cents, no part of which has been paid to your Petitioner, and the said Cook, although often requested, neglects and refuses to pay the same— And your Petitioner charges, by reason of his said contract, with the said Theodore H. Cook, to do and perform said work, and labor, and furnish said materials, and having so done, performed and furnished the same, as aforesaid, he has a lien upon the interest of said Cook, in and to said lands and premises, for payment thereof, which may be established and declared by this Court, at the same time, and of the same force and validity as that claimed by the said Henry Breeland—

Your Petitioner therefore prays that he may be made a party in and to said Suit, so brought by said Breeland as aforesaid, that the amount due your Petitioner for said work, labor, and materials, may be ascertained under the order of this Court, and the same established under the order of this Court, upon the Estate and interest of the said Theodore H. Cook, in and to said premises, and as a prior and better lien, than that of any of the other persons named as Defendants in said Original Petition, and for such other and further relief as to this Honorable Court, shall seem meet in the

premises—

James Mc Graw—

Geo. A. Ingalls.

Solicitor for Petitioner

State of Illinois }
Cook County } ss.

On this 1st day of April,
A D. 1857. before me, personally appeared the above
named James Mc. Graw, and made oath that he
has heard read, the above Petition subscribed by him,
and knows the contents thereof, and that the same
is true of his own knowledge, except as to the matters
therein stated, to be on his information and belief;
and that as to those matters, he believes them to be
true—

Subscribed and sworn to James Mc. Graw.
before me, ^{by} the above named
James Mc. Graw, this first day
of April A D. 1857.

L. E. Paine Freer,

Master in Chancery
Cook Case

And thereupon, afterwards, to wit, on the day
and year last aforesaid, there was issued out
of the Court aforesaid, and under the seal
thereof, the People's writ of Summons, directed

to the Sheriff of Cook County, to execute, and clothed in the words and figures following, to wit:

State of Illinois }
County of Cook } ss

The People of the State of Illinois, to the Sheriff of said County - Greeting -

We command you, that you summon Theodore H. Cook and Isaac Cook, if they shall be found in your county, personally to be and appear before the Circuit Court of Cook County, on the first day of the next term thereof, to be holden at the Court House, in Chicago, in said County, on the second Monday of April inst, to answer unto James Mc. Gray, in his Petition for a Mechanics Lien, filed in the Suit of Henry Breeland, against Theodore H. Cook, et al., Petition for a Mechanics Lien.

And have you then and there this writ with an endorsement thereon, in what manner you shall have executed the same -



Witness, William L. Church,
Clerk of our said Court, and the
seal thereof, at Chicago aforesaid, this
first day of April, A. D. 1857.

Wm L. Church, Clerk

And afterwards, to wit, on the 3rd day of April, of said year, said writ was returned into

complaint, entered into, and made the written agreement, thereto attached, and referred to, as Exhibit C. and can therefore neither admit nor deny the same— Though he admits that he is acquainted with the hand writing of Theodore H. Cook, and believes from such acquaintance, that his signature thereto, is genuine, he has no acquaintance with the handwriting of said Breckland, and can therefore neither admit or deny the same—

And this Defendant further answering, says that whether or not, the said Petitioner, on or about the 14th day of June 1856. commenced the prosecution of said work, and furnishing said materials in conformity with the requirements of said contract, and completed the same in conformity therewith, at the time of filing said petition, and at the request of said Cook, and extra work, and furnished extra materials of the value therein stated; this Defendant has no knowledge or information save from said bill of complaint, and can neither admit, or deny the same, though he believes from hearsay, that said complainant has done work, and labour, and furnished materials in, and towards the erection of said house on said premises, in said bill described, the value and amount of which, this Defendant has no means of ascertaining, and therefore cannot state—

And this Defendant further answering, says

that he has no knowledge or information, save from said Bill of complaint, whether or not the said Theodore H. Cook, and said Petitioner, on or about the first day of September, A.D. 1886. entered into a verbal contract, for doing the work, and furnishing the materials, on a barn to be erected on said premises, as charged in said bill of complaint, and therefore can neither admit or deny the same, and leaves the complainant to his proof—

And this Defendant further answering, says that he has no knowledge or information, save from said bill of complaint, of the value and amount of work and labour done, and materials furnished by said complainant, in, and towards the erection of said barn, and therefore leaves him to his proofs—

And this Defendant further answering, says that he admits that the said Dusted, and said Theodore H. Cook entered into a written agreement for the purchase of the lands and premises in said Bill described, by said Cook from said Dusted, substantially as charged in the said Petition, or Bill—

And this Defendant further answering, says that on or about the 2nd day of October, A.D. 1886. the said Theodore H. Cook made, executed, duly acknowledged and delivered this defendant, a certain indenture of mortgage of that date, conveying said premises to this defendant, in mortgage to

the Court aforesaid, by said Sheriff endorsed as follows, to wit—

Served by reading to the within-named Theodore H. Cook and Isaac Cook, by delivering a Copy hereof, to each of them—the 3rd day of April, 1857.

Fees—	2 Service	1.00	
	2 Copies	1.00	Paid by Plaintiff
	2 Mile	10	
	1 Return	10	\$2.20

John L. Wilson Sheriff
By John H. Dart, Deputy

And afterwards, to wit, at the term of said Court last aforesaid, to wit, on the 9th day of April, in the year aforesaid, the following proceedings, among others, were had and entered of Record therein to wit—

Henry Weedland

vs
Theodore H. Cook,
Isaac Cook et al

And now comes the said Petitioner, by George A. Ingalls, his Solicitor, and the said Defendant, Isaac Cook, his Solicitor, also comes, and the Court having heard Counsel as to the demand of the said Defendant Cook, to the Petition of the said Petitioner, and having duly considered, and being now fully advised, of, and concerning, said

demurer, doth overule the same—

And afterwards, to wit, on the 10th day of April, in the year last aforesaid, the said Defendant, Isaac Cook, by Wm J. Burgess, his solicitor, filed in the Court aforesaid, in said cause, his certain answer, which is in the words and figures following, to wit—

In the Cook Circuit Court

Henry Breeland

vs

Theodore H. Cook, Isaac
Cook etals

Mechanics Lien

The separate answer of
Defendant Isaac Cook, to the Bill of Complaint
in this cause—

This Defendant, now, and at all times, hereinafter, saving and reserving to himself, all, and all manner of advantage of exception to the said Bill of Complaint, for the many errors, uncertainties, and other imperfections therein contained, for answer thereunto, or unto so much, and such parts thereof, as he is advised, is, or are, material or necessary, for him to make answer unto, he answering, says that he has no knowledge or information, save from said Bill of complaint, whether or not the said Theodore H. Cook, and said complainant, at the time mentioned in said Bill of

secure an indebtedness of eight thousand dollars due this defendant, which was duly filed for record, in the recorder's office of said county, on the 2nd day of October, A.D. 1856. and entered in Book 27. of Mortgages, on page 413. as by reference to the said indenture of Mortgage, and the record of said office, will more fully, and at length, appear.

And this Defendant further answering, says and insists that the ~~time~~^{lien} of said mortgage upon said Lands and premises attached and became vested before the lien of said complainants for said Work, Labour and Materials, claimed in said bill, if any, he has, did attach, or accrue to him thereon.

And this Defendant further answering, says that he did on the 23rd day of December, A.D. 1856. and before the ~~time~~^{lien} of said Petitioners, if any, so attached as aforesaid, filed in the office of the Clerk of the Cook County Court of Common Pleas, ^{his Bill of Complaint,} on the Chancery Side of said Court, to foreclose said Mortgage, making said Theodore F. Cook, and H. M. Reald, parties defendant therein. That due personal service of process was had upon them in said suit, to answer said bill, and such proceedings were afterwards had in said cause in said Court, that at the January term thereof, A.D. 1857. a decree was rendered directing the sale of said Lands and premises to satisfy

the amount of said Mortgage indebtedness \$8145- and costs of suit, as by the records and proceedings of said Court, reference being thereto had, will more fully and at large, appear—

That afterwards, and on the 29th day of January, A.D. 1837. L. C. Paine Treer, master in Chancery in and for said County, under and by virtue of said decree, did proceed, in pursuance thereof, to offer said Lands and premises for sale, and the same were then and there duly struck off and sold to William T. Burgess, and he became the purchaser thereof, of which said sale, said Treer duly made to said Burgess, a certificate, and filed in the office of the Recorder of said County, a duplicate thereof, and reported said sale to the said Court of Common Pleas, by his report thereof—as by the records of said Court, and Recorder's office, reference being thereto had, will more fully and at large appear—

And this defendant insists upon the pendency of said suit and decree, and sale, therein, as a bar to this suit, and prays that he may have the same benefit therefrom, as though he had pleaded such recovery in bar of this suit, and upon this point, he prays the judgment of this Honorable Court and his costs, &c.

And this Defendant insists upon this, that the said Burgess ought to have been made

a party to this suit, that he is a necessary party hereto, and craves the same benefit therefrom, as though he had pleaded to said bill, the want of said party, and upon this point, he prays the judgment of this court—

And this defendant, having fully answered, prays hence to be dismissed with his costs &c.

A. Cook.

State of Illinois }
County of Cook } ss.

I, J. G. Lombard, a Notary Public for the City of Chicago, in said County and State, do hereby certify that on the 15th day of April, A. D. 1857. came before me, Isaac Cook, above named, who being by me duly sworn, doth depose and say that the above answer by him subscribed, is true in substance and fact—

J. G. Lombard—

Notary Public

And afterwards, to wit, at the April Term of said Court, to wit, on the 29th day of April, in the year last aforesaid, the following proceedings, among others, were had and entered therein, to wit—

Henry Vreeland
 vs
 Theodore Cook,
 Isaac Cook et al

Ordered, on motion that
 the said Plaintiff have leave supplemental
 Petition, making William J. Burgers, party De-
 fendant in said Cause, and the same is here-
 by continued to the next term of this Court-

And afterwards, to wit, on the 12th day of June,
 in the year last aforesaid, the said Petitioner, by his
 said Solicitor, filed in said Court, his certain sup-
 plemental Petition in said cause, which is in
 the words and figures following, to wit-

To the Honorable, the Circuit Court of
 Cook County-

The Supplemental Petition of Henry Vreeland,
 of the County of Cook, and State of Illinois, com-
 plaining, respectfully sheweth unto your Honor,
 that on the ninth day of February, A.D. 1857. your
 Petitioner exhibited his original Petition in this
 Honorable Court, for a Mechanic's Lien, and mak-
 ing Theodore H. Cook and others, defendants in
 said suit, that afterwards, to wit, on the
 day of A.D. 1857. This complainant was
 permitted by an order of this Honorable Court, to
 file his Supplemental Petition in this Cause,

making William J. Burgess, a party Defendant
to said ~~in~~ ⁱⁿ said Cause—

And your Petitioner shows unto your Honor,
that ~~since~~ ^{since} the filing of his said original Petition,
he has been informed that the said William J.
Burgess has a claim to have, some interest in the
lands and hereditaments in said Petition described,
but as your Petitioner is not fully advised of the na-
ture of such pretended claim, wherefore your Petition
prays that the said William J. Burgess may be
made a party Defendant, with the other Defendants,
in said Original Petition, and that a summons may
issue out of this Court, to said William J. Burgess, to
appear before this Honorable Court, to answer said
Original Petition, as by the Statute, in such case
made and provided,

And your Petitioner prays judgment against
the said William J. Burgess, that he be forever
barred and foreclosed, of, and from, all claim and
interest of, in, and to, the premises, and appurtenan-
ces in said Original Petition described, to the preju-
dice or injury of your Petitioner, and for such further
and other relief, as this Honorable Court shall deem
meet and proper to grant, and your Petitioner will
ever pray—

Henry Breeland,
By Geo. A. Ingalls,
his Solicitor

I enter my appearance in this cause, the same as if served with process, issued upon the bill, 12th June 1837.

W. S. Burgess—

And afterwards, to wit, on 22nd day of June, in the year last aforesaid, the said Petitioner, by his said Solicitor, filed in said Court, his certain Replication to the answer of the said Defendant, Isaac Cook, which is in the words and figures following, to wit—

In the Cook Circuit Court

Henry Creeland	}	1	Mechanics Lien
vs			
Theodore H. Cook,			
Isaac Cook et al.			

The Replication of Henry Creeland, Complainant, to the answer of Isaac Cook, one of the Defendants in this Cause—

This Repliant, saving and reserving unto himself, all, and all manner of advantage and exception to the manifold insufficiencies of the said answer, for replication thereto, saith that he will aver and prove his said Petition to be true, certain and sufficient in the Law, to be answered unto, and that the said answer of the said Defendant, Isaac Cook, is uncertain, untrue, and insufficient to be replied unto, by this repliant—without this, that any other matter or thing whatsoever, in the

Said answer, contained, avoided, traversed or denied,
is true— All which matters and things this repliant
is, and will be ready to aver and prove, as this Hon-
orable Court shall direct, and humbly prays as in
and by his said Petition, he hath already prayed—

Henry Breeland,
by Geo. A. Ingalls, his Solicitor.

And afterwards, to wit, on the 3rd day of Novem-
ber, in the year last aforesaid, the said Defendant
Burgess filed in said Court, his certain Plea, to the
Petition of the said Plaintiff, which is in the words
and figures following, to wit—

In the Cook Circuit Court—
Henry Breeland }
vs } Mechs. Lien.
Theodore F. Cook Et al }

The Plea of William F. Bur-
gess, Defendant, to the Bill of
Complaint, of said Breeland in
this cause— as amended—

This Defendant, by Protestation, not confessing
or acknowledging all, or any, of the matters and things
in the said Complainant's said Bill, as amended,
to be true in such sort, manner and form, as the
same are therein and thereby set forth, and alleges.

doth plead therunto, and for plea saith that heretofore, to wit, on the 22nd day of December, A.D. 1856. Edward L. Cornly, and Thomas P. Byrne, filed in the Cook County Court of Common Pleas, their certain Bill of Complaint, or Petition, and amendment thereto filed, the 17th day of April, A.D. 1857, by said Petition, and amendments thereto, setting forth, among other things, that on or about the 20th day of August, A.D. 1856. Theodore H. Cook of Chicago, aforesaid, by a verbal contract of that date, employed said Cornly and Byrne, to furnish gas pipe for a certain dwelling-house, then in progress of erection, by said Theodore H. Cook, on a certain piece of Land situate in said City of Chicago, thereafter described—That by the terms of said verbal contract, the said Cornly and Byrne were to receive for the materials aforesaid, as much as the same were reasonably worth—that the same were to be furnished immediately thereafter, and paid for, as soon, and as fast, as delivered and applied. That in pursuance of said Contract, they furnished for said house, and applied in, and towards the erection of the same, on the 21st day of August A.D. 1856. Materials worth the sum of Sixty nine Dollars, and thirty cents, which remained due and unpaid, at the time of filing said Petition—That Henry Greenland, Benjamin H. Chase, Alexander H. Deald, Levi H. Waterhouse,

Peter H. Kofinsky, Thomas Rice, John I. D. Gibson,
Frederick H. White, Benjamin W. Raymond,
Samuel D. Ward, William W. Boyington, Otis L.
Wheelock, Isaac Cook, Horatio N. Heald, Wilson
Metten, Jacob D. Dibble, Ira C. Barber, Henry P. Brew-
ster, Charles J. Hoyt, Charles H. Stillwell, Francis H.
Benson, Joel Gurley, Dudley H. Parsons, William Jones,
Wilton S. Patrick, Strong Wadsworth, Louis J. Witz, Henry
A. Ballentine, Francis A. Hoffman, Otto Gelfeke, John
Pfeifer, James McGraw, William T. Burger, and Ly-
curgus Sherman, and Carlos S. Sherman, had or ^{pretended} ~~had~~ to have, and claimed some right, title or inter-
est in said premises above described, either by way of
Mortgage, Judgment, or Mechanics Lien, under the Stat-
ute, or in some other way, and that the said building
was situated on the South, twenty-five feet of Sub
Lot one, in Lot four, in Block twenty-two, in frac-
tional Section fifteen, Township thirty-nine, North
Range fourteen East of the third principal Meridian,
that at the time of making said contract, said The-
odore H. Cook, was, and at the time of filing that Bill
still remained the owner thereof— And praying a-
mong other things, that the lien of said Corney and
Byrne might be established upon said building and
premises, upon which the same was erected, to the
amount due them, for said materials, and fur-
nishing said Gas pipe, as therein aforesaid— And
the estate and interest of the said Theodore H. Cook

therein declared liable to be sold to satisfy the same, and that unless the same and costs of suit be paid by said Cook, or some other of the Defendants therein named, that as sale of said premises, or of what ever estate or interest said Theodore H. Cook might have therein, might be made, and that the proceeds of such sale, or so much thereof, as might be necessary, might be applied to the payment of said debt, to due said County and Bzine, or for such other or further relief, as the nature of the case might require, and that process might issue against the said Henry Breeland, Benjamin H. Chase, Alexander H. Heald, Levi H. Waterhouse, Peter H. Rofinist, Thomas Rice, John I. D. Gibson, Frederick L. White, Benjamin W. Raymond, Samuel D. Ward, William W. Boyington, Otis L. Wheelock, Isaac Cook, Anatis R. Heald, Wilson Mettler, Jacob D. Dibble, Ira C. Barber, Henry P. Brewster, Charles J. Hoyt, Charles H. Stitwell, Francis H. Benson, Joel Gurley, Dudley H. Farlan, William Jones, Milton S. Patrick, Strong Wadsworth, Louis J. Ditz, Henry A. Ballentine, Francis A. Hoffman, Otto Gelpcke, John Pfeifer, James McGraw, William F. Burgess, and Leurgus Sherman, and Carlos S. Sherman, as by the said Petition amended, still pending in the Cook County Court of Common Pleas, not dismissed, or judgment rendered thereon, or otherwise disposed of, reference being thereunto had, will more fully and at large

appear—

That summons was duly issued upon said petition, and duly served among other Defendants, as well upon said Breeland, as this Defendant—

That on the day of June, A.D. 1887. the said Breeland filed his answer to said Bill, setting up, among other things, the making of the same identical contract, with said Theodore F. Cook, the doing of the same identical work, and furnishing the same identical materials, in and towards the erection of the same identical house, upon the same identical lands and premises, as in the petition in this cause, set forth and alledged, which answer still remains of record therein, and to which the said Comly and Byrne, have filed their replication—

And this Defendant avers that the said Theodore F. Cook, in said petition filed by said Comly and Byrne, named, is the same identical Theodore F. Cook, in the petition in this cause named, and not other or different—

That the said Breeland in the said Petition, filed, by said Comly and Byrne, named, and who hath answered the same, is the same identical Henry Breeland, who hath filed the Petition in this cause, and not other, or different, and that the House, lands and premises in the said Petition filed by said Comly and Byrne, are the same identical House, lands and premises, in the said

Petition, in this cause, mentioned and not otherwise different—

All which matters and things, this Defendant doth aver, and pleads the said petition, so filed of said Comly and Byrne, and now pending in the Cook County Court of Common Pleas, and proceedings therein, and thereon had and pending in bar to said Complainant's present Bill, and demands the judgment of the Court, whether he shall be put to make any further or other answer thereto, and prays hence to be dismissed, with his costs and charges, in this behalf, sustained—

W. J. Burgess.

State of Illinois }
County of Cook } ss.

William J. Burgess, above named, being duly sworn, says that he has read the above plea, by him signed, and knows the contents thereof, and that as to his own acts, the same is true, and as to the acts of the others, he believes the same to be true—

Sworn to, and Subscribed,
before me, this 2nd day of
November, A.D. 1837.

W. J. Burgess.

Moses Hallett

Notary Public



motion, which is in the words and figures following, to wit—

In the Cook Circuit Court—
Breeland }

as
Cook et al }

The defendant, Isaac Cook, upon the facts and matters appearing on the trial of the plea of W. S. Burgess, moves the Court that the trial of this cause, be postponed until the trial or other Disposition of the cause in the common pleas, in the said plea alluded to—

Isaac Cook,

By W. S. Burgess,
his atty—

And afterwards, to wit, on the 31st day of December, in the year last aforesaid, the said defendant Burgess, filed in the Court aforesaid, his certain Petition in said Cause, which is in the words and figures following, to wit—

In the Cook Circuit Court—

Henry Breeland }

as

Theodore H. Cook et al }

Mechanics Lien—

The Petition of William S. Burgess, in the above entitled cause, one of the Defendants therein, respectfully shews to this Court—

That the Petition in this Cause, is filed by said Complainant, to establish a lien under the Statute, in favor of said Complainant, for work and labor done, materials furnished by him upon, and towards the erection of a certain building thereon, upon certain Lands therein described, as follows—viz. The South twenty-five feet of Sub Lot one, in Lot four, in Block twenty-two (22) in fractional Section fifteen (15) Township thirty-nine, North Range fourteen East, of the third principal Meridian—

That the amount and value of the work done by said complainant, have been found by a Jury in this cause, to be twenty-six hundred and sixteen dollars, and ninety two cents— and that a motion for a new trial hath been interposed, which is not yet disposed of— And this Defendant, your Petitioner, further shows, that as he is informed and believes, on or about the Second day of October, A. D. 1856. The said co-Defendant, Theodore H. Cook made, executed, duly acknowledged, and delivered to the said Isaac Cook, a certain Indenture of Mortgage, of that date, conveying the said Lands and premises above described, to said co-Defendant, Isaac Cook, in Mortgage, to secure an indebtedness of eight Thousand Dollars, due the said Isaac Cook, which said Indenture of Mortgage was duly filed for Record in the Recorder's office of said Cook County, on the second day

And afterwards, to wit, on the 16th day of November, in the year last aforesaid, the said Plaintiff, by his said Attorney, filed in the Court aforesaid, his certain Replication to the Plea of the said defendant Burgers, which is in the words and figures following, to wit—

In the Cook County Circuit Court
Henry Breeland
vs
Theodore H. Cook et al. } Mechanics Lien

This repliant, saving and reserving to himself, now, and at all times hereafter, all, and all manner of benefit and advantage of exception, which may be had or taken to the manifold insufficiency of the said plea of William F. Burgers, one of the said defendants, for replication thereunto, saith that ^{he} will aver, maintain and prove his Petition to be true, certain and sufficient in the law, to be answered unto— and that the said Plea of the said Defendant is uncertain, untrue and insufficient to be replied unto, by this repliant, without this, that any other matter or thing whatsoever, in the said Plea contained, material or effectual in the law to be replied unto, and not herein and hereby well and sufficiently replied unto, confessed and avoided, traversed or denied, is true— all which matters and things, this repliant is, and will be ready to aver,

and prove maintain, as this honorable Court shall direct, and prays as in, by his petition, he has already prayed—

Geo. A. Ingalls
Solicitor for Plff.
E. Van Buren

of Council

And afterwards, to wit, on the day and year last aforesaid, the said defendant, Ballentine, by J. L. Marsh, his attorney, filed in the Court aforesaid, his appearance in writing, in said cause, which is in the words and figures following, to wit—

In the Cook Circuit Court—

Henry Bredland

vs

Mechanics Lien

Theodore H. Cook,

Henry A. Ballentine
et al.

Entry of the appearance
of Henry A. Ballentine, one
of the above named Defendants

And now comes the said Henry A. Ballentine, by J. Leonard Marsh, his solicitor, and enters his appearance in this cause—

J. L. Marsh—

And afterwards, to wit, on the 19th day of December, in the year last aforesaid, the said defendant Isaac Cook, by his said Attorney, filed his certain

of October, A.D. 1856, and entered in Book 27. of Mortgages, on page 413. as by reference to said Indenture, and the records of said office, as to the contents thereof, will more fully and at large, appear—

And this Defendant, your Petitioner, further shows, and insists, that, as he is informed and believes, the lien of said mortgage upon said lands and premises, attached, and became vested before the lien of said complainants, or of any of his co-Defendants, if any such, they, or any of them have, under the Statute, for work and labor done, or materials furnished, in, or towards the erection of said house, or other improvements, or buildings thereon, did attach or accord to them, therefore, thereon—

And this Defendant, your petitioner, further says, that on the 23rd day of December, A.D. 1856. the said Isaac Cook filed in the office of the clerk of the Cook County Court of Common Pleas, his bill of Complaint, on the Chancery side of that Court, to foreclose said Mortgage, making said Theodore J. Cook, and H. A. Heald, parties Defendant therein, that due personal service of process was had upon them in said suit, to answer said Bill, and such proceedings were afterwards had in said cause, in that Court, that at the January Term thereof, A.D. 1857. a decree was rendered, directing the sale of said lands and premises, to satisfy the amount of said mortgage indebtedness of \$ 8145 and costs of suit,

as by the said bill. now remaining in the said Cook County Court of Common Pleas, and the proceedings and decree thereon had, will more fully and at large, appear, reference being thereunto had, as to the contents thereof. That afterwards; and on the 29th day of January, A. D. 1857. L. C. Paine Freer, Master in Chancery in and for said County, under, and by virtue of said decree, did proceed in pursuance thereof, to offer said Lands and premises for sale, and the same were thereupon, then and there, duly struck off, and sold to your Petitioner, and he became the purchaser thereof, of which said sale, said Freer duly made to said Burgess, a certificate, and filed in the office of the Recorder of said county, a duplicate thereof, and reported said sale to the said Court of Common Pleas, by whom the same was afterwards duly confirmed, as by the record of said Court, reference being thereunto had, will more fully appear—

And your Petitioner insists upon this, that if the said suit to foreclose said Mortgage was commenced before the lien of said Petitioner, if any attached upon said premises, then that the said suit and decree and sale therein, is a bar to this suit, and he prays that he may have the same benefit therefrom, as though he had pleaded the same in bar of this suit, and upon this point, he prays the judgment of the Court—

And this Defendant, your Petitioner further insists, that in case this Court shall order a sale of said property, then that your Petitioner is entitled to be first paid out of the proceeds thereof, the amount of his said bid, and the interest that shall have accrued thereon, at ten per cent per annum - before either the said complainant, or any of the co-Defendants, are paid, provided such sale shall take place before the right to redeem from said sale, shall expire -

And your Petitioner further insists that if said time for Redemption shall expire, and the said premises not be redeemed from said sale, to your Petitioner, then that he is entitled to said premises, to hold the same freed from any lien of said Petitioner, in the premises -

And your Petitioner prays the Court, to make such order in the premises, as shall protect the rights of your Petitioner, in the premises

W. J. Burgess.

State of Illinois }
County of Cook } William J. Burgess, who hath
subscribed the above petition, being duly sworn, says,
that the matters therein stated to be of his own
knowledge, are true, and as to the other matters
therein stated, he believes them to be true -

W. J. Burgess

Subscribed, and sworn to

before me, this 31st day
of December, A. D. 1857.

Wm L. Church

Clerk

And afterwards, to wit, at
the November Term of said Court, to wit, on the
9th day of January, A. D. 1858. The following proceed-
ings, among others, were had and entered of Record,
to wit, Henry Breiland, vs Theodore H. Cook, Isaac
Cook, Horatio M. Heald, Wilson Mettler, Jacob D. Dil-
ble, Ira C. Barber, Henry P. Brewster, Charles J. Hoyt,
Charles H. Stitwell, Francis H. Benson, Joel Gurley,
Dudley H. Hailin, William Jones, Milton S. Patrick,
Strong Wadsworth, Louis J. Hitz, Henry Ballentine,
Francis A. Hoffman, Otto Gelpcke, and William J.
Burgess, and James Mc. Graw, who has impleaded
herein for enforcement of his rights—Mechanics
Lien—

On the 19th day of December, came Henry Breiland,
the Petitioner in said cause, and also James
Mc. Graw, who interpleaded in said cause under
the statute, and asked to have his claim adjudi-
cated, and allowed at the same time with that
of the said Henry Breiland, by George A. Ingalls,
their solicitor, and the said defendant Isaac Cook, by
William J. Burgess, his solicitor, and the said defend-
ant William J. Burgess, in his own proper person,
and on motion of complainant's solicitor, and so

objection being interposed, the issues in the plea of the said Defendant, William T. Burger, to the Petition of the said Henry Breiland, filed in this cause, and the replication to the said plea were tried by the Court, and the same was accordingly submitted to the Court for trial, and after the hearing of testimony, by the Court, and the arguments of counsel, it was considered and adjudged by the Court, that the issue on said plea and replication be found for the said complainant, and that the said plea be overruled, to which judgment, the said Burger thereupon excepted, which was ~~decreed~~ to be entered of Record. Thereupon the said Burger moved that this cause be continued until the cause in the common Pleas Court of Cook County mentioned in his plea, be disposed of, which was overruled and exceptions taken - and on motion of complainants Solicitor, the said Defendants Theodore H. Cook, Horatio M. Heald, Wilson Mettler, Jacob D. Dibble, Ira C. Barber, Henry P. Brewster, Charles J. Hoyt, Charles H. Stowell, Francis H. Benson, Joel Guilez, Dudley H. Farlin, William Jones, Milton S. Patrick, Strong Woodworth, Louis J. Detz, Henry A. Ballentine, Francis A. Hoffman, Otto Gelpcke, and William T. Burger, being three times solemnly called, none nor any one for them - Wherefore it was ordered by the Court, it appearing that said defendants

had been duly served, with process, or their ap-
 pearance properly entered, that the default of
 the said defendants, Theodore F. Cook, Horatio M.
 Heath, Wilson Mettler, Jacob D. Dibble, Ira C. Bar-
 ber, Henry P. Brewster, Charles J. Hoyt, Charles H.
 Stilwell, Francis H. Benson, Joel Gurley, Dudley
 H. Harlin, William Jones, Milton S. Patricke,
 Strong Wadsworth, Louis J. Hitz, Henry A. Ballen-
 tine, Francis A. Hoffman, Otto Gelpcke, and
 William T. Burgess, be entered for want of an an-
 swer to said complainant's petition - and this
 cause came on to be heard on the Petition amended
 Supplementary petition of the complainants Henry
 Breeland, and the answer of the said defendant
 Isaac Cook, and the Replication of the said
 Henry Breeland, to the answer, and ~~on~~ motion
 of the said Solicitor of Henry Breeland, it was or-
 dered that a jury come to try the issue, presented
 by the pleadings, and thereupon came a jury of
 good and lawful men, to wit - E. Williston, Ad-
 am Klim, D. Barnes, J. T. Irwin, J. Raymond,
 William G. Barnett, H. Deput, H. S. Helton, G. L.
 G. C. Ruckle, Benj. Freeman, D. Mullen, and H.
 Nash, who being duly, elected, tried and sworn
 well and truly to try the issues joined in this
 cause between the said Petitioner, Henry Breeland,
 and the said Defendant, Isaac Cook,
 and assess the damages in this case, against

the other Defendants, after hearing the testimony, arguments of counsel, and instructions of the Court, retired to consider of their verdict, and afterwards the jury came into Court, and said, we, the jury, find the issues, for the complainant Henry Breeland, and find that there is due the said Henry Breeland, in his said contract with the said Defendant, Theodore P. Cook, for labor, and materials furnished and performed, by the said Breeland, in the brick house mentioned in said Complainant's Petition, over and above all payments, the sum of Two Thousand, Two Hundred and Forty-five ^{Dollars}, also the sum of One Hundred and Twenty-Three Dollars, and Forty-seven cents, for interest on the amount so due on said Contract, also the sum of Two Hundred and Forty-eight Dollars, and Forty-five cents due the said Henry Breeland, on his contract with the said Theodore P. Cook, for labor performed, and materials furnished in the erection of the barn as described in the petition of the said Henry Breeland, making in the aggregate, the sum of Two Thousand, Six Hundred, and Sixteen Dollars, and Ninety-two cents, Thereupon the said Defendants move the Court for a new trial of this cause. And afterwards, on the 31st day of December, A.D. 1857, the said William T. Burgess came into open Court, and filed his petition in this cause.

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And after the issue of the said pleas of the
said William T. Burgess, being found for the com-
plainant, and the verdict being rendered by the jury
for the said Henry Garland, on motion of the solici-
tor of the said interpleader James Mc. Graw, the said
Defendants, Theodore H. Cook, Horatio N. Heald, Wilson
Mettler, Jacob D. Dibble, Ira C. Barber, Henry P. Brewster,
Charles J. Hoyt, Charles H. Stilwell, Francis H. Benson,
Joel Gurley, Dudley H. Harlin, William Jones, Milton
S. Patrick, Strong Wadsworth, Louis J. Ditz, Henry A.
Ballentine, Francis A. Hoffman, Otto Gelpcke, and
William T. Burgess, being three times solemnly called,
come not, or anyone for them. Wherefore it was order-
ed by the Court, it appearing that the said Defend-
ants had been duly served with process, or their ap-
pearance properly entered, that the default of the
said Defendants, Theodore H. Cook, Horatio N. Heald,
Wilson Mettler, Jacob D. Dibble, Ira C. Barber, Henry
P. Brewster, Charles J. Hoyt, Charles H. Stilwell, Francis
H. Benson, Joel Gurley, Dudley H. Harlin, William Jones,
Milton S. Patrick, Strong Wadsworth, Louis J. Ditz,
Henry A. Ballentine, Francis A. Hoffman, Otto Gel-
pcke, and William T. Burgess, be entered, for want
of an answer, to the said Complainant's petition.
And this cause came on to be heard on the issues
joined in this cause, and presented by the plead-
ings, and by agreement of the Counsel of the said
Isaac Cook, and of the said interpleader James

Mc. Graw, it was submitted to the Court, without the intervention of a jury, and the Court of hearing the testimony, found the amount due the said James Mc. Graw, interpleader, the sum of Three Hundred and Ninety-five Dollars, and thirty-nine Cents, over and above all offsets and payments on his said Contract, with the said Defendant Theodore H. Cook, as claimed in the petition of the said James Mc. Graw, and the Court proceeded to assess the damages in case of the said Defendants, so defaulted as aforesaid, and found the amount so due, the said James Mc. Graw, to be the sum of Three Hundred and Ninety-five Dollars, and thirty-nine Cents - Thereupon the said defendant Isaac Cook moves for a new trial in this cause, - And afterwards, and on the 31st day of December, A. D. 1857. the said Burgess came into open Court, and filed his petition in this Cause, for a payment to him, the said Burgess, of a portion of the proceeds of the sale of the premises, mentioned in the petition of the said James Mc. Graw, filed in this Cause -

And afterwards, to wit, on the 11th day of January, A. D. 1858. the said Defendants, by William E. Burgess, filed in said Court, their motion in writing, for a new trial, which is in the words and figures following, to wit -

In the Cook Circuit Court.

Henry Greenland

vs

Theodore H. Cook et al

Mechanics Lien

The defendants move for a new trial in this cause—

1st Because the Court admitted improper testimony to the jury.

2nd Because the Court gave the instructions asked for by the Plaintiff, refused, the Defendants, or essentially modified them—

3rd Because the verdict of the jury was contrary to the evidence, in this that the evidence shows a contract to build a barn, to be paid for it by the day, and value of materials—and a refusal on the part of the plaintiff to finish it—

4th Because the evidence did not sustain the issue tendered viz. that the work was in fact all done according to the contract— The evidence showing a compliance with the contract, so far as the plaintiff could—

5th And because Interest was allowed—

And for these, and other error in the progress of the trial, Defendants move for a new trial.

W. F. Burgess.

Deft. Solicitor

And afterwards, to wit, at the January Special Term of said Court, to wit, on the 30th day of January

in the year last aforesaid, the following proceedings, among others, were had, and entered of Record therein, to wit—

Henry Breeland,

vs

Theodore H. Cook, Isaac Cook,
 Donatis W. Deald, Wilson Mettler,
 Jacob C. Dittle, Ira C. Barber,
 Henry P. Brewster, Charles J. Hoyt,
 Charles H. Sitwell, Francis H. Benson, (Mechanics Lien
 Joel Gurley, Dudley H. Harlan,
 William Jones, Milton S. Patrick,
 Strong Madaworth, Louis J. Ditz,
 Henry A. Ballentine, Francis A. Hoffman,
 Otto Gelpcke and William F. Burgess
 and James Mc. Graw, who has interpleaded
 herein, for the enforcement of his rights—

And now this ^{cause} ~~Cause~~ comes on to be heard on the application of said Defendants for a new trial, and after argument of Counsel, it was caused and ordered by the Court, that the motion for a new trial heretofore entered in this Cause, be overruled, to which ruling of the Court, the said defendant excepts, and thereupon it is considered, adjudged, and decreed that the said complainant, Henry Breeland have a judgment against the said Theodore H. Cook, for the amount so

found due at a former term of this court, and being the sum of Two Thousand, Six Hundred and Sixteen Dollars, and Ninety-two cents. And it is further considered by the Court, and adjudged that the said interpleader, James Mc. Graw, have a judgment for the amount found to be due him at a former term of this Court, against the said defendant, Theodore H. Cook, and that the said Henry Breeland and James Mc. Graw have a Mechanic's Lien upon the premises, described in the petitions of the said Henry Breeland and James Mc. Graw filed in this cause, the said Real Estate and premises being described as follows. Twenty-five feet front and rear, off the South Side of Sub Lot One (1) of Lot Four (4) in Block Twenty-two (22) in the Canal Trustees Sub-division of Fractional Section Fifteen (15) Township Thirty-nine, Range Fourteen East of the third principal Meridian, and being in the City of Chicago, in the State of Illinois, with the buildings thereon situated, for the said sums so found due the said Henry Breeland, and James Mc. Graw, as aforesaid, together with their several costs and charges by them, in this behalf expended, and have execution therefore against the said described premises, and that said premises be sold to satisfy the same, as provided in the Sixty-fifth Chapter of the Revised Statutes of the State of Illinois. And it is further ordered and decreed

that if upon the sale of said premises, the proceeds of such sale applied to the satisfaction of the said execution of the said Henry Breeland and James Mc. Graw respectively, according to their rights, in common with co-equal creditors, against the same premises, shall be insufficient to pay the same, that then the said Theodore H. Cook, against whom judgment has been rendered herein for the amount of said indebtedness, pay to the said Henry Breeland, Complainant, the amount of such deficiency, and that the said Henry Breeland have execution therefor, and that the said Theodore H. Cook shall pay the said interpleader James Mc. Graw, any deficiency, and that the said James Mc. Graw shall have execution therefor. And it is further adjudged and decreed that the said Defendant Isaac Cook, Horatio N. Heald, Wilson Mettler, Jacob D. Dibble, Ira C. Barber, Henry P. Brewster, Charles J. Hoyt, Charles W. Stitwell, Francis H. Benson, Joel Gurley, Dudley W. Harlan, William Jones, Milton S. Patrick, Strong Wadsworth, Louis J. Ditz, Henry A. Ballentine, Francis A. Hoffman, and Otto Gelpcke, be barred of, and from ^{setting up} any claim or lien upon said premises, and buildings thereon situated, to the prejudice or injury of the said lien and claim of the said petitioner Henry Breeland, and the said interpleader, James Mc. Graw, and thereupon, it is ordered that said cause stand con-

tinued to the next term of this Court, for further hearing upon the petition of the said William P. Burgess, filed therein, on the 31st day of December last—

*Henry Breeland

vs

Theodore H. Cook, Isaac Cook,
Horatio N. Heald, Wilson Mettler,
Jacob D. Dibble, Ira C. Barber,
Henry P. Brewster, Charles J. Hoyt,
Charles H. Stilwell, Francis H. Benson,
Joel Gurley, Dudley H. Farlan,
William Jones, Milton S. Patrick,
Strong Wadsworth, Louis J. Hitz,
Henry A. Ballentine, Francis A. Hoffman,
Otto Gelpcke, William T. Burgess

April 2nd 1858

(Mechanics Lien)

And this cause having come on to be heard at a former term of this Court, and the amount of Two Thousand, Six Hundred and Sixteen Dollars, and Ninety-two cents, having been found to be due the said Henry Breeland, Petitioner herein, and the amount of Three Hundred and Ninety-five Dollars, and thirty-nine cents, having been found to be due James M. Graw, in counterpleader herein, and judgment having thereafter, and at a former term of this court, been duly rendered on said findings, And the said Defendant

And afterwards to wit, at the March term of said Court, to wit, on the 2nd day of April A D 1858. the following proceedings, among others, were had and entered of Record therein, to wit—

William F. Burgess, having filed his petition herein, for a payment to him of a portion of the proceeds of a sale of the premises, on which a lien is had in this cause, and being described in the said Petition of the said Henry Breeland, and this Cause having this day come on to be heard, on the Petition of the said William F. Burgess, and the Court having heard the testimony, on the part both of the said William F. Burgess, and the said Henry Breeland, and James Mc. Graw— And after the hearing of the testimony as aforesaid, and the Cause having been by the agreement of the parties respectively submitted to the decision of the Court, without argument of Counsel— And the Court having fully considered the same, and it appearing to the Court, from the testimony, that the said Theodore H. Cook did on the Second day of October, A. D. 1886. Execute a Mortgage on the premises in said Breeland's Petition described to Isaac Cook, for Eight Thousand Dollars, and that the interest of the said Theodore H. Cook in said premises, on the said Second day of October, A. D. 1886. before the execution of the said Mortgage, was worth the sum of Thirteen Hundred and Sixty-two Dollars, exclusive of the house and barn, then being erected thereon, by the said Breeland, under his contract— And it further appearing to the Court, that

the said Mortgage from the said Theodore F. Cook, to the said Isaac Cook, was foreclosed by proceedings in Chancery, in which Isaac Cook was complainant, and Theodore F. Cook and Horatio N. Neal were defendants, and that the said Burgess became a purchaser at such sale, and received a certificate therefor. And it also appearing to the Court, from the testimony, that the said Henry Breeland had on the second day of October, A. D. 1856. performed labor, and furnished materials on his contract with the said Theodore F. Cook, for the erection of the house and barn on said premises, amounting to the sum of Fifteen Hundred Dollars. And it further appearing by the testimony so heard by the Court, that the house and barn being erected by the said Henry Breeland upon the said Lot, upon which a Lien is had in this Cause, were on the first day of January A. D. 1857. worth the sum of Ten Thousand, and Five Hundred Dollars, exclusive of the land. And where as there were other Petitions filed by other parties against the same premises, upon which a lien is had by the said Breeland and Mr. Graw, and on which Petitions, a hearing was had on the same day of the finding for the said Breeland and Mr. Graw, and thereafter, upon which judgments were rendered respectively, as well as upon the findings in favor of the said Breeland and Mr. Graw, and which said several judgments are equally a lien

upon said premises, with the judgments in favor of the said Henry Ireland and James Mc. Graw— One of said judgments being in favor of Alexander H. Heald, and Levi H. Waterhouse, and being for the sum of Nine Hundred and Eighty-one Dollars, and costs of suit— Also one finding in favor of Peter H. Rofinist and Thomas Rice against the same defendants and premises, for the sum of Two Hundred and Forty-one Dollars, and fifty cents, and costs of suit—

Also one finding in favor of William W. Boyington, and Otis L. Wheelock, against the same defendants and premises, for the sum of Three Hundred Dollars— Also one other finding in favor of the said Alexander H. Heald, and Levi H. Waterhouse, and against the same premises as in this cause, and also against the same defendants, and one other defendant, Harrison H. Dusted, for the sum of Four Hundred and Sixty Dollars, and Seventy-five Cents— Also one finding in favor of Benjamin W. Raymond, and Samuel D. Ward, and against the same premises as in this cause, and also against the same defendants, and one other defendant Harrison H. Dusted, for the sum of Two Hundred and Eighty-four Dollars, and fourteen cents, and costs of suit— Also one other finding in favor of John P. D. Gibson, and Frederick P. White, and against the same defendants as in this cause,

and also one other defendant, Harrison H. Hew-
 ted, and also against the same premises as in
 this cause, the said judgment being for the
 sum of One Hundred Dollars, and Seventy-two
 cents. Also one further finding in favor of Ben-
 jamin S. Chase, and against the same premi-
 ses, as in this cause, and also the same defend-
 ants, for the sum of Five Hundred Dollars, and
 Fifty-eight Dollars, and Sixty-three cents. Now
 it is ordered, adjudged, and decreed that L. C.
 Paine Freer, Master in Chancery of Cook County in
 the State of Illinois, proceed to sell Twenty-five feet
 front and rear off the South Side of Sub Lot one (11)
 in Lot Number Four, (4) in Block Number Twenty-two
 (22) in the Canal Trustees Subdivision of Fractional
 Section Fifteen, Town Thirty-nine, North Range Four-
 teen East of the third principal Meridian, being
 in the City of Chicago, with the buildings and ap-
 purtenances thereon situated, being the same premises
 described in the Petition of the said Henry Green-
 land, and upon which a lien is had in this
 Cause, after publishing the hour, day, and place
 of sale, for twenty days prior thereto, in some news-
 paper published in the City of Chicago, to the high-
 est and best bidder for Cash, at the hour appoint-
 ed for such sale, and make proper conveyances of
 said premises as such Master in Chancery, and
 Special Commissioner hereby appointed, to the

83.

purchaser, or purchasers thereof, and the money
 arising by the said sale, shall be applied as
 follows— First, to pay the ^{said} defendant, William J.
 Burgess, the sum of Fifteen Hundred and Sixty-
 two Dollars, together with interest thereon, at the
 rate of six per cent per annum, from the Second
 day of October, A.D. 1856. to the date of such sale,
 provided the said Burgess shall not, on or before
 the payment of said money, part with his inter-
 est in said premises, by the assignment of his
 Certificate—or otherwise, and in case the said
 Burgess shall have so parted with his interest,
 then the above amount shall be paid to the per-
 son who holds the legal interest acquired by the
 said Burgess, by his purchase on the sale under
 the foreclosure of said Mortgage— Second, to pay all
 costs of such sale, and Third, to pay the balance
 of the money arising from such sale, on all of the
 judgments, including interest and costs—the same
 being hereinbefore enumerated, and being all and
 equally, liens on said premises, pro rata according
 to their respective amounts— And it is further
 ordered and decreed that in case the proceeds of
 such sale be more than sufficient to pay all of
 said claims, as hereinbefore particularly enumerated
 that then the said Master is directed to pay the
 balance or surplus of the money arising from such
 sale, into this Court, to await its further order—

And it is further ordered and decreed that the said William J. Burgess, and his assigns, be forever barred from having and maintaining any claim against said premises, except the payment of the said sum, as hereinbefore decreed.

And now on the order being made to enter the foregoing decree, by the Court, comes the said Henry Creland, Complainant, and excepts to so much of said decree as directs the payment to William J. Burgess, out of the proceeds of the sale of said premises, the sum of Thirteen Hundred and Sixty-two Dollars, with interest thereon, as stated in the foregoing decree, prior to the payment of the claim of the Complainant Henry Creland,

And the said Burgess moves that the amount found by the jury, as and for interest be stricken out of the amount decreed to be paid to the Complainant, because there was no evidence before the jury in this Court, that the said Theodore F. Cook ever agreed to pay interest except what is contained in, or can be inferred from, the written contract, set out in the bill of complaint in this cause. But the Court holding that in such the absence of other testimony, sufficient appears on the face of that agreement, it being in writing - And the jury having found that it was performed on the part of the Complainant, to entitle him to interest, denies said

motion, and the defendants thereto except -

And the said Defendants move the Court that the sale be made with the same rights of redemption as are provided by law upon sales of real estate, upon exceptions at law - which motion the Court denies, and the Defendants except -

And the said Defendants pray the Court, that the payment due H. H. Dusted, as appears from his contract with Theodore F. Cook, and for said premises, in evidence in this cause, on the tenth day of June, 1857. of twelve hundred and fifty three dollars, and seventy five cents, be first paid to him out of the proceeds of any sale of the premises under the order of the Court - unless the same shall have been paid to him, by said T. F. Cook - which motion the Court denies, and the Defendants except -

And the Defendants except to the decree of the Court in this case - and the said William F. Burgess prays an appeal from the decrees and orders of the Court, in this cause, to the Supreme Court, and it is allowed to him, on his filing a bond, in the penal sum of five thousand dollars, to the said Henry Breeland, and one to James McGraw, in the penal sum of eight hundred dollars, with Isaac Cook, and Owen Mc. Carthy as his surety in each, on or before the first day of June next, conditioned as the law directs -

And afterwards, to wit, on the same second day of April, last aforesaid, a certain Stipulation & exhibit was filed in said Court, and entered of Record, which is in the words and figures following to wit—

Henry Breeland	}	Cook County Circuit
vs		Court—Mechanics Lien
Theodore H. Cook,		Petition of William T. Burgess
William T. Burgess Et al	}	vs
		gep, one of the defendants to
		be part of proceeds of sale of
		premises, on which Lien is
		had, in this Cause—

And now comes the said William T. Burgess, in his own proper person, and the said Henry Breeland, by George A. Ingalls, his Solicitor, and it is stipulated between the said parties, that it is admitted as proved, that the said Theodore H. Cook did execute a Mortgage to Isaac Cook, for Eight Thousand Dollars, on the 2nd day of October A.D. 1856. and that said Mortgage was foreclosed, by proceedings in the Cook Circuit Court of Common Pleas, and said premises purchased thereunder, by the said Burgess, as stated in his said Petition, and the production of the records in that case is waived. And it is further agreed and stipulated between the said parties, that the said Henry Breeland had on the said 2nd day of October, performed work

on his said Contract, on the house upon which he did the Carpenter work, under the contract filed with his, the said Creeland's Petition in this Cause, to the amount of Fourteen Hundred Dollars, and that he had performed work on the barn, on said 2nd day of October, to the amount of One Hundred Dollars— And it was further proved on the hearing of the Petition of William G. Burgess, filed herein, that Theodore H. Cook made a contract with Harrison H. Husted, for the purchase of the premises, upon which a lien is claimed in this cause, a copy of which said contract is hereto annexed, marked A, that the said Theodore H. Cook paid the first payment on said contract, according to the terms thereof, and that on the 2nd day of October following, the time when the said Theodore H. Cook made the said Mortgage to the said Isaac Cook, and that from the time of the making the said contract, of the said Husted, with the said Theodore H. Cook, for the sale of the Lot, upon which a Lien is claimed, in this cause, to the time of the making of the said Mortgage, from the said Theodore H. Cook to the said Isaac Cook, the said Lot had increased in value the sum of Three Hundred Dollars, and that said Theodore H. Cook's interest in said Lot on the 2nd day of October 1856. exclusive of the house and barn being erected thereon, was

worth the sum of Thirteen Hundred and Fifty
two Dollars - And that the house and barn then
being erected, on said Lot, were worth on the first
day of January, A D. 1857, the sum of Ten Thousand
and Five Hundred Dollars, exclusive of the Land.

W. F. Burgess

Geo. A. Ingalls, Solicitor
for Breeland

Copy -

Articles of Agreement, made this tenth day of
June, in the year of our Lord, one Thousand, Eight
Hundred & fifty six, between Harrison W. Husted, of
the City of Chicago, in the State of Illinois, party
of the first part, and Theodore R. Cook, of the a-
foresaid City, and State, party of the second part -
Witnesseth, that if the party of the second part,
shall first make the payments, and perform
the covenants hereinafter mentioned, on his part
to be made and performed, the said party of the
first part, hereby covenants and agrees, to convey
and assure to the party of the second part, in fee
simple, clear of all incumbrances, whatever, by a
good and sufficient Warranty Deed, the follow-
ing lot, piece, or parcel of ground, viz - Twenty-five
(25) feet front and rear, off the South Side of Sub
Lot one (1) of Lot, Number Four, (4) in Block, Num-
ber Twenty-two (22) in the Canal Trustees Subdivision
of Fractional Section Fifteen, Town Thirty nine

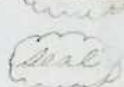
North, Range fourteen East of the Third principal Meridian, being in the City of Chicago. And the said party of the second part, hereby covenants and agrees, to pay the said party of the first part, or his legal representatives, the sum of Four Thousand, two hundred and Fifty dollars, in the manner following—~~ten~~ hundred and sixty-two & $\frac{50}{100}$ Dollars, in cash, the receipt of which is hereby acknowledged, ten hundred and sixty-two & $\frac{50}{100}$ Dollars, on the tenth day of June, on each of the years 1857, 1858, & 1859, with interest payable annually according to the tenor of three promissory notes bearing even date herewith, for the above named amount and to pay all taxes, assessments, and impositions that may be legally levied or imposed on said lot and in case of failure of the said party of the second part, to make either of the payments, or perform any of the covenants on his part, this contract shall be forfeited, and determined at the election of the said party of the first part, and the party of the second part shall forfeit all payments made by him on this contract, and such payment shall be retained by the said party of the first part, and in liquidation of all damages by him sustained, and shall have the right to reenter and take possession. It is mutually agreed that the time of payment shall be an essential part of this contract, and that

covenants and agreements herein contained, shall extend to, and be obligatory upon the heirs, executors, administrators, and assigns of the respective parties.

In witness whereof, the parties to these presents have hereunto set their hands and seals, the day and year first above written—

(Signed) H. H. Thursted 

Signed, sealed, and
delivered in presence of

J. P. Cook 

And afterwards, to wit, on the 23rd day of May, in the year aforesaid, there were filed in the Court aforesaid, by said Burgess, two certain appeal bonds, which are in the words and figures following, to wit—

In the Cook Circuit Court

Henry Breeland

vs

Theodore L. Cook, Isaac Cook,
Horatio N. Heald, Wilson Mettler,
Jacob D. Dibble, Ira C. Barber,
Henry B. Brewster, Charles J. Hoyt,
Charles H. Stilwell, Francis H. Benson,
Joel Gurley, Dudley H. Parlan,
William Jones, Milton L. Patrick,
Strong Wadsworth, Louis J. Hitz,
Henry A. Ballentine, Francis A. Hoffman,
Otto Gelpike, & William T. Burgess.

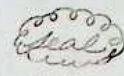
Mechanics
Liens—

Know all men by these presents, that we, William I. Burgess, as principal, and Isaac Cook, and Owen McCarthy, as his surety, are held, and firmly bound unto the said Henry Breeland, in the penal sum of Five thousand Dollars, for the payment of which, well and truly to be made unto the said Breeland, his heirs, executors, and administrators, or assigns, we do bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents—Signed, sealed, and dated this 10th day of May, A. D. 1858.

Whereas, in the above entitled cause, on the 24th day of March, A. D. 1858. during the March Term A. D. 1858. of said Court—It was among other things, ordered, adjudged, and decreed, by said Court, that certain Real Estate described in the petition in this cause; and in, and to which, the said Burgess claimed an interest, should be sold to satisfy the sum of Two thousand, Six hundred, and sixteen Dollars, and ninety-two cents and costs, to be paid to the said Breeland, from which order and decree, the said Burgess hath prayed an appeal to the Supreme Court of this State—

Now therefore, if the said Burgess shall prosecute his appeal with effect, and pay the amount of the Judgment costs, interest, and damages, rendered, and to be rendered in case the said

judgment or decree shall be affirmed in the Supreme Court, then the above obligation to be void, or otherwise to remain in full force—

W. J. Burgess 

J. Cook 

Owen Mc. Carthy 

In the Cook Circuit Court.

Henry Creeland

vs

Theodore H. Cook, Isaac Cook,
Harris H. Heald, Wilson Mettler,
Jacob D. Dibble, Ira C. Barber,
Henry P. Brewster, Charles J. Hoyt,
Charles H. Stilwell, Francis H. Benson,
Joel Gurley, Dudley H. Farlan,
William Jones, Milton S. Patrick,
Strong Wadsworth, Louis J. Ditz,
Henry A. Ballentine, Francis A. Hoffman,
Otto Gelpcke, and William J. Burgess,
with whom James Mc. Graw interpleaded.

Mechanics
Lien—

Know all men by these presents, that we,
William J. Burgess, as principal, and Isaac Cook
and Owen Mc. Carthy, as his sureties, are held and
firmly bound unto the said James Mc. Graw,
in the penal sum of Seven hundred Dollars, for
the payment of which, well and truly to be made,

unto the said Mc. Graw, his heirs, executors, administrators, or assigns, we do bind ourselves, our heirs, Executors and Administrators, jointly and severally, firmly by these presents—

Signed, sealed and dated this 10th day of ^{whereas on the 24th day of March A.D. 1858} May, A.D. 1858—during the March Term A.D. 1858. of said Court— it was among other things, ordered, adjudged and decreed by said Court, that certain Real Estate described in the Petition, in this cause, and in and to which said Burgess claimed an interest, should be sold to satisfy the sum of Three Hundred and Ninety five Dollars, and thirty-nine cents, and costs, to be paid to ~~xxx~~ ^{the} said Mc. Graw— from which order and decree, the said Burgess hath prayed an appeal to the Supreme Court of this State—

(Now therefore, if the said Burgess shall prosecute his appeal with effect, and pay the amount of the judgment costs, interest, and damages rendered, and to be rendered, in case the said judgment or decree shall be affirmed in the Supreme Court, then the above obligation to be void, otherwise to remain in full force and effect—

W. G. Burgess 

J. Cook 

Owen Mc. Carthy 

1858 July

H. Ireland

H. C. Cook

206

Theodore T. Cook & others

vs

Henry Ireland

Record

Filed April 18, 1859

L. Ireland

Ch. M.

[18742]

State of Illinois, }
COUNTY OF COOK. } s. s.

I, WILLIAM L. CHURCH, Clerk of the Circuit Court of Cook County, in the State aforesaid, do hereby certify the above and foregoing, to be a true, perfect and complete copy of the papers filed & proceedings had & taken in a certain cause lately pending in said Court on the Criminal Law side thereof, wherein Henry Ireland is Petitioner and

Theodore T. Cook & others are defendants James M. Graw as intervenor

IN WITNESS WHEREOF, I have hereunto set my hand, and affixed the seal of our said Court at Chicago, this twenty fourth day of February A. D. 1859

For Recd 23rd

W. L. Church

Clerk.

In the Supreme court

Of April Term 1859-

Thosdon & Cook
et als

vs

Henry Ireland

Appel from the
Cook Circuit Court.

And now come the
Appellants by N. Y. Burgess their
attorney and say that in the said
Record proceedings and Decree of the
said circuit court there is manifest
and material error appearing of record
in this

1 That the court Overruled the Decrees
of Isaacs Cook totter will

2 That the complainant amended his
bill by making N. Y. Burgess a party without
leave of the court.

4 That the supplemental bill vs Burgess
is defective in not making the other persons
parties. and should not have been allowed
to be filed -

5 That the petition is defective in not al-
leging when the work was done, when the
contract required it to be done in not
alleging that the work was to be completed
within three years from the making of
the contract - & in other respects

6 That the Petition of McGraw is defective in not making any other persons defendants than Isaac Cook & Hudson & Cook -

7 That he prays for and obtains relief against them without making them parties to his bill taking and serving process against them or otherwise bringing them into court -

8 That the court found the issue upon the plea of N. G. Buep for the complainant -

9 That the court thereupon ordered the bill to be taken as confessed against him -

10 That the court refused to continue the cause upon the application of said Cook -

11 That the jury found and the court allowed distress -

~~12 That the court directed the said liens mentioned in its decree to be paid before paying the said Buep -~~

12 That the court rendered a decree for the complainant and directed a sale of the premises -

13 That the court directed the said liens mentioned in its decree to be paid before paying the said Buep -

14 That the court did not hold the proceeds and decree in the mortgage foreclosure

suit to a bar to the said suits

15 That the apportionment of the proceeds of the sale of the premises is not according to law

16 That the court ordered the heirs of persons not parties to the suit to be paid without bringing them before the court in any way in the suit -

17 That no action or order was taken upon the supplemental bill -

And that the decree of the court below was for the complainant whereas it should have been for the defendants below dismissing the bill -

Wherefore & for other errors manifest of record the said Appellants pray that the decree of the court below be reversed annulled & altogether holden for naught to the intent &c

Frederick Bookbinder
Henry Ireland }
And

W. Y. Phipps

And now comes the defendant in error and says that there is no error in said records and proceedings and he prays that said judgment be affirmed with costs - E. Van Buren - St. J. White
By A. D. G. also atty. in fact