

No. **12107**

Supreme Court of Illinois

Crosby.

vs.

Loop, et al.

fol. 1.

United States of America

State of Illinois

Boone County

Sho Pleas before the Hon Isaac L. Wilson Judge of the 13th Judicial Circuit of the State of Illinois and presiding Judge of the Boone County Circuit Court at a Circuit Court begun & held at the Court House in Belvidere in said County on Monday the fourth day of October in the year of our Lord one thousand eight Hundred & fifty two and of the Independence of the United States the Seventy Sixth

2

Present the Honorable Isaac L. Wilson

Attick

Judge

Daniel T. Olney

Amos B. Coon

Clerk

State's Attorney

John Florida

Sheriff

C.D. No 973

Be it remembered that on the 21st day of March in the year of Our Lord one thousand eight Hundred and fifty two a transcript was filed in this Court in the words of figures following to wit

Henry Loop George

Loop & John Loop

Demand

\$ 57.00

vs

Summons issued to Const

Henry S. Crosby

Mathews November 24th 1851

Returnable on the 2^d of Dec-

f. 3. Dues 18 3/4

doct 12 1/2 Cumber next at one o'clock P.M.

Subpoenas 18 3/4 Summons returned served on the defendant by a

Continuances 38. ding November 27th 1851 for 20 cts -

Jud 25 December 2^d 1851 Cause called & Continued until

Appeal 75 the 8th inst at 10 o'clock A.M. Cause continued

1.88 by agreement to Decr 9th inst at six o'clock

Const Mathews 30 P.M. Continued to the 13th inst at 1 o'clock P.M.

\$ 2.18 December 13th Cause called Peff declares for

quarters rent due on lease with int \$50. 30

On hearing proof Judgment rendered against the Defendant
And in favor of Plaintiff for the sum of fifty ³⁰/₁₀₀ Dollars
& costs of suit Debt \$50.30

December 29th 1851 Left appears
files his bond with W.T. Burgess Security & takes
his Appeal

State of Illinois

Bone County Jps J. Fayette B. Hamlin a Justice
of the Peace in & for said County

f.5. do hereby Certify that the foregoing is a full
and perfect transcript of the proceedings had
before me wherein Henry Loop & John Loop & John
Loop are Plaintiff and Henry L. Embury is defend-
ant. In Witness Whereof I have hereunto set
my hand and seal this 3^d day of March A.D. 1852

J. B. Hamlin J.P. Seal

And afterwards to wit on the 6th day of
October A.D. 1852. the following proceedings were
had in said Cause to wit:

Henry Loop & John Loop

Loop & John Loop

f.6 34
b } Appraiser &
Henry L. Embury } This day comes the Plaintiffs
by Loop & Hamlin their att-
orneys & the defendant by Puller & Burgess his
attorneys also. Come waive a Jury & submit
this Cause to the Court

f.7 And afterwards & during said Term of the
said Circuit Court to wit on the 12th day of
October A.D. 1852. among other things the following
proceedings were had to wit: &

Henry Loop George W.
Loop & John Loop

Appeal

1878

3/4

vs
Henry S. Crosby

And now on this day this Cause
having come on to be heard
and the Court being fully

advised in the premises & having heard the
evidence of the parties on the issue joined
and the arguments of Counsel find the issue
for the Plaintiffs & assess their damages at
fifty two Dollars & seventy nine cents. It is there-
fore ordered by the Court that the Plaintiffs
have and receive of and from the said Defendants
the sum of fifty two Dollars & seventy nine
cents & their Costs & Charges by them about this
suit expended and that they have execution
therefor to which finding of the Court and
the judgment thereon the Defendant by Burgess
his Counsel excepts and prays an appeal
to the Supreme Court which prayer is gran-
ted on condition that the Defendant enter
into Bonds with William T. Burgess as
Security in the sum of two Hundred ^{Dollars}
Conditioned according to the Statute in such
Case made & provided within forty days
from the rising of this Court

And afterwards to wit on the 14th day of April
A.D. 1853 a Bill of Exceptions was filed in said
Court in this Cause in the words of figures
following to wit

Henry Loop George
Loop & John Loop

Appeal

vs
Henry S. Crosby

Be it remembered that
on this 12th day of October

A.D. 1852 at the present Term of this Court, this Cause, was submitted to the Court for trial and thereupon the Plaintiffs offered in evidence which was Read the following Instrument in writing -

Behidene Feby 25th 1850

Messrs Robinson & Co

Unts- you will please pay Henry
Loop John Loop & George Loop or order two Hundred
Dollars (\$200-) yearly from the date of this order
out of moneys accruing due under the lease
of the property known as the Crosby Mills near
Belvidue made by me to you to be paid in
quarter yearly payments of fifty dollars &
payable one half in Cash and the other in
flour for the term of time that said Lease runs
and fractions of year & quarter to be paid in
the same proportion - Commencing Feb. 7th 1850

Henry L. Crosby

And also the following Instruments

This Indenture
made this Seventh day of November A D 1847
between Henry L. Crosby of Belvidue Boone
County & State of Illinois of the first part
and Lauren L. Robinson John Saxton & Abraham
H. Crosby Comprising the firm of Robinson & Co
of the same place of the second part Witnesseth
that the said party of the first part for and in
Consideration of the Covenants & Agreements
hereinafter mentioned to be kept & performed
by the said parties of the second part their
heirs and assigns has demise and leased
and by these presents does demise and
lease unto the said parties of the second

14 pay the undivided one half part of all
that Certain Lot of Real estate known as
the "Crosby Mills & Mill property" and for par-
ticular description and boundaries of said prop-
erty reference is hereby made to a Deed of Conveyance
made by James B. Crosby to John Saxton & L. L.
Robinson bearing date the fifteenth day of Jan-
uary A.D. 1847 & Recorded in Recorder's Office
of Boone County in Book D of Deeds pages 444
45 & 46. To have & To Hold the same unto the
15 said parties of the second part for and during
the full end and Term of five years and nine
months from the date of these presents yielding
and paying the Annual rent of three hundred
Dollars per year payable quarterly on the
Seventh day of February May August & No-
vember payable one third of the Amount in
Cash and two thirds in trade And the said
parties of the second part in Consideration of
the premises agree with the said party of
16 the first part to pay him the said Annual
rent of three hundred Dollars at the times
& Manner aforesaid. It is further agreed by the
parties of the second part that they shall and
will assume and will & truly pay or cause
to be paid all the debts now existing against
& owing by the firm of Crosby & Co. and it is
further agreed by the said parties of the second
part that they shall keep the above described
17 on said premises insured against fire and
damage by fire to the amount of Four
thousand Dollars in some good & responsible
~~Company~~ Insurance or other Company or in
dividual. the said parties of the second part

18 are at Liberty to put into and add to said
New Mills such Machinery as they shall see
fit leaving the same in said Mills at the Ex-
piration of said time without Charge and the
said parties of the second part agree to keep
the said Mills in good running Condition
and at the expiration ^{of the} of said term without
Charges and the said parties of the second part
agree to keep the said Mills in good running
Condition and at the expiration of the aforesaid
Term to deliver up the aforesaid described prem-
ises unto the said party of the first part in as
good order & Condition as the same now
are reasonable wear & tear and Casualties
which may happen by fire or otherwise only
excepted. In Witness Whereof We have hereunto
set our Hands & Seals the day & year
above written

19 L. L. Robinson 
Nathl Crosby 
John Sargent 
Henry S. Crosby 

20 It is hereby understood by the parties to the foregoing
lease that the Annual Sum of Two Hundred Dollars
mentioned in the said foregoing lease to be paid in
trade is to be paid in such Articles of Merchand-
ise as the said Crosby may buy want from the
Store of said Robinson & Co of flour meal &c from
said Mills and that the said Robinson & Co shall
accept and pay Orders drawn by said Crosby on
their Store or Mill for goods & apply the Amount
on said Amount to be paid in trade

Robinson & Co
Henry S. Crosby

Know all men that I hereby assign all the right
and title to the within Lease to Jacob S. Sartor
and Daniel Mabie for their own use & benefit,
they paying to the said Henry S. Crosby the sum re-
quired in the said lease from the twelfth day of
May 1857 to the expiration of the lease

21 May 12, 1857. - For Robinson H. x
Nathaniel Crosby,

And also the following Instrument in writing to
wit: The material parts of which by consent of
parties is as follows

22 This Indenture made this
twenty fifth day of February in the year one
Thousand eight hundred fifty between Henry
S. Crosby of the Town of Belvidue Boone County
Illinois and Mary his wife parties of the first
part, and Henry Loop, John Loop & George
Loop of the same place parties of the second part
Witnesseth that the said parties of the first
part for and in consideration of the sum of
Three Thousand dollars to them in hand
paid by the said parties of the second the receipt
whereof is hereby acknowledged do by these
presents Grant bargain Sell remise release
claim convey unto the said parties of the
second part their heirs and assigns all re-
23 (description of lands) intending to convey hereby
One undivided one fourth of the property known
as the Crosby Mills, Together with all and
singular the tenements hereditaments and
appurtenances to the lands of premises aforesaid
in anywise belonging or appertaining to Have
and to Hold the same unto the said parties of
the second part their heirs & assigns forever

24

subject yet notwithstanding to a lease of lands & premises made by said party of the first part, to Robinson & Co rents & profits of which the said party of the first part reserve to himself hereby agreeing to and with said parties of the second part, to draw orders on the said Robinson & Co for the sum of two Hundred Dollars payable annually during the continuance of said lease payable to said parties of the second part, in quarterly yearly instalments one half in flour & one half in Cash. And the said Henry & Crosby, always subject as aforesaid doth Covenant with said parties of the second part that he is the owner of the premises hereby granted & conveyed or intended so to be that the same are free and clear of all incumbrances of what kind or nature soever and that the same in the quiet and peaceable possession of the said parties of the second part their heirs and assigns against the lawful claims or claims of all persons whomsoever he will forever warrant and defend.

25

26

In Testimony &c Henry L. Crosby *Em*

Done in presence of
D. T. Olney

Mary E. Crosby *Em*

which papers were read in Evidence subject to Exceptions taken by the Defendant thereto.

The defendant admits that the order was shortly after it was given presented by the Plaintiffs to Robinson & Co for acceptance and that they then refused to accept the same of which the Defendant soon after had notice.

27

And here the Plaintiffs rest their case

The defendant then introduces & reads in evidence the following instrument

An agreement made this 15th day of February A.D. 1850 between H. Loop & sons of the one part and Henry S. Crosby of the other H. Loop & sons agree with Henry S. Crosby to sell him their entire stock of goods & Merchandise in their store at Belvidere at New York invoice price & damaged goods to be rejected & taken at what they are worth said Crosby agrees to sell them the one undivided one fourth part of the flouring & saw Mills & lands near Belvidere on the Kishwaukee River with the appurtenances as described in a Deed from James B. Crosby to L. L. Robinson & J. Saxton for the sum of three thousand dollars subject to a lease of the same made by Henry S. Crosby to Robinson & Co & the said Henry S. Crosby is to give H. Loop & sons orders & Robinson & Co for the payment of the yearly sum of Two Hundred dollars to H. Loop & sons out of the rents accruing under said lease payable quarterly yearly one half in flour & one half in Cash said goods & Merchandise to be taken in exchange for said Mills & if the same amount when valued as aforesaid to more than three thousand dollars then H. S. Crosby is to give H. Loop & sons his note at one year for the surplus & if they amount to less then the said H. Loop & sons are to give him their note at one year for the deficiency. Invoices to be made immediately & goods delivered when invoiced & good Warranted due for said $\frac{1}{4}$ of said Mills to be executed by said H. S. Crosby

28

29

30

upon delivery of goods

Witness

B. F. Lawrence

Henry L. Crosby

Henry Looper & sons

And also the following Instruments
in writing to wit:

31 Received Belvidere Dec 20th 1850
of Nathaniel Crosby five dollars on rent
of our share of the Crosby mill property

Henry Looper & sons

The whole of which is admitted to be in the hand
writing of Henry Looper & sons

And also the following
\$50.00 Received of Nathaniel Crosby fifty dollars
for Mill rent Belvidere Feby 22, 1851.

Henry Looper & sons

which is
admitted to be in the hand writing of Nathaniel
Crosby one of the firm of Robinson & Co except
the signature.

32 The defendant then offered Jacob
T. Saxton as a witness who was duly sworn &
testified that he knew the Mills alluded to in
in the lease & was above set forth that he
was at one time the owner of an undivided
one quarter which he conveyed to the Plain-
tiffs on the 31st day of October 1851. He put
them in possession of his quarter & interest in
the Mills between the 20th October & first day
of November 1851 and they the Plaintiffs have
been in possession of the Mill property from that
time on.

It is admitted that about the time
the first instalment fell due May 1850. N. L.
Crosby offered to the Plaintiffs a formal assignment
under Seal of that portion of the rent specified

in the order & due but that they refused to accept
 it. And that Nathaniel Crosby One of the
 firm of Robinson & Co was solvent from the time
 of giving the order up to the present time but
 that at the time the ^{Instrument} ~~Instrument~~, was on in
 this suit fell due ^{November 7, 1851} he was a non resident of
 this State and had real Estate in this State of the
 clear unincumbered value of one thousand dollars.

And that on the 20th day of February 1852 the
 following instrument was made by the parties
 therein mentioned the Plaintiffs in this suit &
 Nelson Derthick & John Barr and the property
 therein mentioned is the same Mill property
 referred to in said due which instrument is
 as follows.

Articles of Agreement made this 20th
 day of February AD 1852 between Henry Loop & Sons
 of the first part and Nelson Derthick & John Barr
 of the second part as follows - The said Derthick
 & Barr agree to repair the Belvidere Mill prop-
 erty in the following manner a floom is to be
 constructed from duty put above the Grist Mill
 through under the mill to the gates of the
 Wharfs the floom is to be floored with two inch
 pine plank & sided with pine the floom is to
 be well secured at the upper end with heavy
 piling &c. The dam is to be raised to the full
 height of said water power with Stone & Brush
 or Stone & Timber The above work is to be
 commenced within 14 days of this date and
 prosecuted with force enough to complete the
 above work enough to start the mill within
 thirty days The said Loop & Sons agree with the
 said Derthick & Barr that they shall have

possession of said property for one year from
this date upon this Condition that they will
Keep said Mills running all of the time the
weather & Custom will permit and reason-
able time for repair and the said Dorthick
& Barr agree to Render to the said Loop &
Sons one Half part of all tolls or Cash or Lumber
Earned by said Mills once a month or to pay
said Loop & Sons six hundred dollars in quar-
terly payments of one hundred & fifty dollars
each of these two methods of payment the said
parties are to Elect within thirty days after the
said Mills shall be set running The said Dorthick
& Barr are to have the privilege of cutting
any timber on the said premises necessary for
said Dam & flooms and to have the use of
half of the Mill House - It is further agreed
that the said Dorthick & Barr are to have
the privilege of running the said Mills at the
same rate till the seventh day of August A.D.
1853 provided these Agreements are strictly
adhered to - a breach of any of the foregoing
Agreements shall entitle the injured party
to declare these presents void The said
Dorthick & Barr agree to deliver up
the said premises at the expiration of said
Term in good running order risk of fire ex-
cepted In witness Whereof the said parties
have hereunto set their hands & seal the
day & year first above written

36
37
Signed Sealed & delivered
in presence of
C. B. Loop

Henry Loop & Sons
Helen Dorthick
John Barr

We the parties agree to the above

Contract agree that the rent shall be paid
 at the rate of Six hundred dollars for one
 year the payments shall be made as specified
 in the above Contract for the first six months
 after that time the payments are to be made
 monthly and it is further agreed that the rents
 of the quarter heretofore owned by Saxon & Robin-
 son are to apply on a certain claim of loop
 & sons against said quarter for repairs in
 case said Dr. thick shall purchase said quarter
 of Saxon & Robinson Dated this 26th day of April
 1852

Henry Loop & sons

Stelson Dr. thick

And that the said Dr. thick & Bar went into
 possession of the whole property under said
 Lease and have since continued in possession
 in possession paying rent to the said plaintiffs
 therefor

And here the defendant rests

Which

bring all the evidence in the cause the Court
 finds the issues herein for the said plaintiffs
 and renders a verdict in their favor to
 which the defendant excepts and moves
 pro forma for a new trial herein which
 is denied by the Court to which the de-
 fendant also excepts and prays that this
 his Bill of exceptions in the premises may
 be signed & sealed by the Judge of this Court and
 become a part of the Record in this cause
 under the Statute and it is done accordingly
 with the consent of the parties that it may
 be signed & sealed ^{any time after the rising of this Court at} ~~any time after the rising of this Court at~~
 any time after the rising of this Court at
 vacation signed & sealed this 22nd day of September 1853
 as 1853

Isaac G. Wilson

And on the 22^d day of November A.D. 1852
there a bond in the words & figures following to wit
was filed in said Court to wit

41
Know all men by
these presents that ~~McHenry~~ Henry L. Crosby & William
T. Burges are held & firmly bound unto Henry
Loop George Loop & John Loop in the penal
sum of two hundred dollars for the payment
of which well & truly to be made unto the said
Henry Loop & John Loop we do bind ourselves our
heirs executors & administrators jointly & severally
firmly by these presents. Signed Sealed & dated this
twentieth day of November A.D. 1852

42
The Condition
of this obligation is such that whereas the
said Henry Loop & John Loop did at the
October Term A.D. 1852 of the Circuit Court
of Boone County recover a judgment against
the said Henry L. Crosby for the sum of fifty
two dollars & seventy nine cents & costs of
suit from which judgment the said Crosby
prayed an appeal to the Supreme Court of
the State of Illinois which was granted upon
his filing bond with security as provided by said
Court. Now therefore if the said Henry
L. Crosby shall prosecute his Appeal with
effect & shall pay the judgments costs in
interest & damages in case the said judgments
shall be affirmed then the above Bond to
be void otherwise to remain in full force

Henry L. Crosby *Seal*
W. T. Burges *Seal*

State of Illinois }
 Boone County } S. J. Hay the B. & A. Clerk
 of the Circuit Court in and for said County do
 hereby certify that the above and foregoing is a
 full true and complete transcript from the
 Records of said Court and of the papers on file in
 above entitled cause.

Witness my hand and seal this 28th day
 of May AD 1853
 S. J. Hay
 Clerk

Fees \$3.50

In the Supreme Court

Henry Loop et al Appellants

vs
 Henry L. Crosby Appellant

{ Appeal from
 Boone

And now comes the said Appel-
 lant by his Attorneys Fuller & Merges
 and says that in the Record and proceeding
 in this cause in the court below & in the
 rendition of the judgment therein there
 is manifest error in this

1st that the finding of the Court
 is against the law of the case from
 the facts proved

2nd The facts proved are not suffici-
 ent upon which to render a verdict for
 the Plaintiffs -

3rd The judgment of the court below
 is for the Plaintiffs whereas it should have
 been for the defendant - 4th the court below

And the said Appellant Henry L.
 Crosby prays that he may be allowed to

*Error in refusing a new trial & the
 Court was in admitting the testimony
 excepted to -

file a transcript of the Record proceedings
& judgment in said cause and it is granted
to him &c

That the said Henry L. Crosby
also prays that the judgment aforesaid
for the errors aforesaid, and for other
errors in the said Record and proceedings
being may be revised annulled and altogether
set aside for ought and that he may be restored
to all things which he hath lost by
occasion of said judgment, &c

Fuller W. Murphy
of counsel

46
Henry L. Crosby
vs
Henry Cropper & als.
Record Cause

Filed June 10. 1853.
H. Deland Clerk.

Supreme Court

No 46 - June 9. 1853 -

Henry S. Crosby Appt.

add

Henry Look et al Apprs.

Appral from Boone

Abstract of Record by Seft-

fol 13.

Crosby holding $\frac{1}{2}$ of the Crosby mills, on 7th Nov. 47, leased it the $\frac{1}{2}$ ^{for 5 yrs & 9 mos} to Robinson & Co. at a yearly rent of \$300. = payable \$100. in cash & \$200 out of mill &c.

fol 19.

fol. 27

to
30 -

on the 16th Feby /50 he agrees to sell $\frac{1}{4}$ to Pffe. for \$3000. taking in exchange a stock of goods - & to subject to the lease aforesaid. He gives them orders on Robinson & Co. for \$200 of the rent payable quarterly $\frac{1}{2}$ in cash & $\frac{1}{2}$ in flour from Feby. 7/50 -

on the 25th Feby /50 he makes a deed and contains a stipulation about the rent. fol 24. and also an order fol 11.

fol 27

Shortly after the ~~seft~~ order was presented for acceptance & acceptance refused. of which soon after ~~seft~~ ~~to~~ Seft had notice -

fol 31

on 20th Decr /50 A. Crosby on of firm of Robinson & Co. pays Pffe \$500 which they receipt as paid on "our share of mill property" in their hand writing -

fol 31 -

on 22 Feby 51. a similar receipt for \$50 - in hand writing of A. Crosby.

fol 32 -

on 1st May of Nov. /51 Pffe went into possession of the whole of mill property than ever out in possession

fol 32

in May 1850 - Seft offered Pffe a full assign^t under seal of that portion of the rent covered by order which they refused

fol 33

A. Crosby of firm of Robinson & Co was solvent
from the giving order to trial but on 7th Nov /51
was a non resident having property in state to \$1000-

fol 34-

on 20th July 52. Pff leave the whole premises
to Lenthick & Co.

fol 39.

That S. & W. went into possession & paid out
to Pffs since

Pff sue for costal merit due Nov 7. 51

Summ issued Nov 24. /51. before F. B. Hamlin
J. P. Dec^r 18 /51 cause tried before Pff for \$50⁰⁰
left appeals - to cir court -

Oct - 9 /52 cause tried before Tinsion
before Pffs. left asks new trial on grounds
exceptions -

Cause brought to this court on appeal

Fuller & Mangin
for appt.

46

Crosby

ad

Loophole

Abstract

Filed June 15th 1853.

J. Leland Clerk

By J. H. Leland Depy.

In the supreme court
of the State of Illinois

Henry Loop & al

vs
Henry L. Crosby App^t

} Appeal from
Boon

The same

vs
The same app^t

} appeal from
Boon

I do hereby enter myself security
for all costs on the appeal in the supreme
court in each of the above cases
and acknowledge myself bound to pay
or cause to pay the or part the same
to the opposite party or to any of the officers
of this court according to the laws
of this state Dated Jan 2^d 1833

W. J. Purvis

No^s 46 & 47
Crosby vs Loop et al.
Bond for costs

Filed June 10. 1858.
L. Leland Clerk.

fol 1

United States of America
State of Illinois }
Boone County }

Plas before the Hon Isaac
Wilson Judge of the thirteenth Judicial Circuit
of the State of Illinois and presiding Judge of
the Boone Circuit Court at a Circuit Court
begun and held at the Court House in Belvidere
in said County on Monday the fourth day of October
in the year of our Lord One thousand Eight Hun-
dred fifty two and of the Independence of the
United States the Seventy sixth

Present the Honorable Isaac Wilson

Attest

Daniel C. Olney

Clerk

Amos B. Coon State Attorney

Jack Florida

Sheriff

Henry Loop John
Loop George Loop

Appeal.

Henry L. Crosby

But it remembered that
herebefore to wit on the 28th day of June A.D.
One thousand Eight Hundred fifty two a transcript
^{in this cause}
was filed in this Court in the words & figures fol-
lowing to wit:

" Henry Loop John
Loop George Loop

Demand \$ 27.00

Henry L. Crosby

Summons issued to Const Mathews
February 28th 1852 & returnable

On the 6th of March next at
One O'clock P.M. - Summons returned served on the
defendants by reading March 3^d 1852 per 30 cts
March 6th 1852 Cause called parties present
Peff declares on an order of debts given on

Justice Costs \$ 1.00
 Transcripts 75
 1.81
 Amos Matthews 30
 Nitropes 1.00
 \$ 3.11

A. Crosby for Resp, which was not Accepted
 Deft Pleads General issue & A. Douthick
 sworn for Deft. After hearing proofs cause
 taken under advisement until March
 22^d 1852.

March 22^d 1852 Judgment is hereby
 rendered Against the Plaintiff for the Sum
 of two ³⁶/₁₀₀ dollars Costs of suit

March 26th 1852 Deft gives notice of Appeal
 April 10th 1852 Defts Appeals filed his bond
 and takes his Appeal.

State of Illinois

Boone County Jp J. F. B. Hamlin a Justice of the Peace in &
 for said County do hereby Certify the foregoing to be a
 full & perfect Copy of the proceedings had in the
 above entitled Cause Nitropes my hand and Seal
 at Belvidere this 28th day of June A. D. 1852

J. F. B. Hamlin J. P. Deput

And afterwards to wit on the 6th day of October
 A. D. 1852 the following proceedings were had in said Cause
 to wit

Henry Loop George }
 Loop & John Loop } Appeal

Henry S. Crosby } This day Comes the Plaintiff
 by Loop & Harbitt their Attorneys
 And the defendant by Fuller & Bings His Attorneys
 also Come waive a Jury & submit this Cause
 to the Court for trial.

And afterwards & during said
 Term of said Circuit Court to wit on the 12th day
 of October A. D. 1852 Among other things
 the following proceedings were had to wit

Henry Loop George W
Loop & John Loop

1014
51

vs
Henry S Crosby

Appeal

And now on this day, this
cause having come on to be heard and
the Court being fully advised in the premises
& having heard the Evidence of the parties
upon the issue joined and the Arguments of
Counsel finds the issues for the Plaintiffs
and assess their damages at the sum of
fifty two dollars and four cents. It is there
fore ordered by the Court that the Plaintiffs
have and recover of & from the said defendant
the sum of fifty two dollars and four cents
their damages & their Costs & Charges by
them about their suits in this behalf ex-
pended and that they have Execution
therefor to which finding of the Court &
the judgment thereon the defendant by his
Counsel excepts and prays an appeal
to the Supreme Court which prayer is
ordered to be allowed on Condition
that the defendant shall enter into
Bonds in the penal sum of Two Hundred
dollars with William T. Burgeys as
Security within forty days from the rising of
this Court Conditioned according to the
Statutes of the State of Illinois in such
Case made & provided

And afterward to wit on the 14th day of April
A.D. 1853. A Bill of Exceptions was filed in said
Court in the words of figures following to wit;

In the Boone Circuit Court
Henry Loop, George
Loop & John Loop } Appell

Henry L. Crosby } But it Rememered that on
this 12th day of October
9 A.D. 1852 at the present Term of this Court this
Cause was submitted to the Court for trial
and thereupon the Plaintiff offered in
Evidence which was read the following
Instrument in Writing—

Belvidere Feb 25th 1850

Messrs Robinson & Co

16 Gents You will please pay Henry
Loop John Loop & George Loop or Order
two Hundred Dollars (\$200) yearly from the
date of this Order out of Monies Accruing
due under the Lease of the Property known
as the ~~R~~ Crosby Mills near Belvidere made
by me to you to be made in quarterly yearly
payments of fifty Dollars & payable One Day
in Cash and the other in flour for the term
of time that said Lease runs and fractions of
year and quarter to be paid in the same pro-
portion Commencing Feb 7 1850

Henry L. Crosby

And also the following Instrument
This

11 Indenture made this Seventh day of Novem-
ber A.D. 1847 between Henry L. Crosby of
Belvidere Boone County & State of Illinois
of the first part and Laurens L. Robinson
John Saxton and Nathaniel Crosby Com-
posing the firm of Robinson & Co of the same

12 place of the Second part Witnesseth that the
said party of the first part for and in Consider-
ation of the Covenants and Agreements here-
inafter mentioned to be kept & performed
by the said parties of the Second part their
heirs and assigns, has demised and leased
and by these presents does demise & lease
unto the said parties of the Second part the
Undivided one half part of all that certain
lot of Real Estate known as the Crosby
Mills & Mill property & for particular
description and boundaries of said property
reference is hereby had made to a deed of
conveyance made by James B. Crosby to John
Dexter & L. L. Robinson bearing date the
fifteenth day of January A.D. 1847 & recorded
in the Recorder's Office of Boone County
in Book 'D' of said page 44-45- & 46. To
Have and to hold the same unto the said
parties of the Second part for and during the
full end and term of five years and
nine months from the date of these presents
yielding and paying the Annual Rent of
three hundred dollars per year payable
quarterly on the seventh day of February, May,
August & November payable one third
of the Amount in Cash & two thirds in trade

14 And the said parties of the Second part
in Consideration of the premises agree with
the said party of the first part to pay him the
said Annual rent of three hundred dollars
at the times and manner aforesaid.
It is further agreed by the parties of the Second
part that they shall and will assume and

15

will & truly pay or Cause to be paid all the debts
 now Existing against and owing by the firm of Crosby
 & Co. And it is further agreed by the said parties
 of the second part that they shall keep the New
 Irish Mill on said premises Insured Against
 fire and damage by Fire to the Amount of
 four thousand Dollars in some good and
 responsible Insurance or other Company
 or Individual. The said parties of the second
 part are at Liberty to put into and Add
 to said New Mill such Machinery as they
 shall see fit leaving the same in said Mill
 at the Expiration of said Term without charge
 And the said parties of the second part agree
 to keep ^{the} said Mill in good running Condition
 and at the Expiration of the aforesaid Term
 to deliver up the aforesaid demised premises
 unto the said party of the first part in as
 good Order and Condition as the same
 now are reasonable wear & tear and
 Casualties which may happen by fire
 or otherwise only Excepted.

16

In Witness Whereof We have hereunto set
 Our hands & Seals the day & year first
 above written
 L. L. Robinson Seal
 Nathl Crosby Seal
 John Dutton Seal
 Henry A. Crosby Seal

17

It is hereby understood by the parties to the foregoing
 lease that the annual sum of Ten hundred dollars
 mentioned in the said foregoing lease to be paid
 in trade is to be paid in such Articles of Merchandise
 as the said Crosby may want from the
 Store of said Robinson & Co of flour meat &c from

said Mills and that the said Robinsons Co.
shall accept and pay orders drawn by
said Crosby on their store or mill for goods
or apply the amount on said amount to be paid
in trade.

Robinsons Co.

Henry S. Crosby

18 Know all men that I hereby assign all the rights
and title to the within lease to Jacob T. Sutor
and Daniel Mabie for their own use and benefit,
they paying to the said Henry S. Crosby the sum re-
quired in the said lease from the twelfth day of
May 1851 to the expiration of the lease -
May 12th 1851

For Robinsons Co.

Nathaniel Crosby

and
also the following Instruments of writing
the material parts of which by consent of parties
is as follows to wit:

19 "This Indenture made this twenty
fifth day of February in the year one thousand
eight hundred and fifty between Henry S. Crosby
of the Town of Schuicide, Boone County, Illinois
and Mary his wife parties of the first part
and Henry Loop John Loop & George Loop of the
same place parties of the second part Witnesseth
that the said parties of the first part for and Consider-
ation of the sum of three thousand Dollars to
them in hand paid by the said parties of the sec-
ond part the receipt whereof is hereby ack-
nowledged do by these presents grant bargain
sell remise release alien & convey unto the
said parties of the second part their heirs and
assigns all &c (description of land) - Intending
hereby to convey one undivided fourth of the

20

property known as the Crosby Mills. Together with all and singular the Tenements, Hereditaments and appurtenances to the lands and premises aforesaid in any way belonging or appertaining to have and to hold the same unto the said parties of the second part their heirs and assigns forever Subject yet notwithstanding to a Lease of lands & premises made by said party of the first part to Robinson & Co rents & profits of which the said party of the first part reserve to him self hereby agreeing to and with said parties of the second part to draw orders on said Robinson & Co for the sum of two Hundred

21

Dollars payable annually during the Continuance of said Lease payable to said parties of the second part in quarterly yearly installments one half in flour & one half in Cash and the said Henry & Crosby always Subject as aforesaid doth covenant with said parties of the second part that he is the owner of the premises hereby granted and conveyed or intended so to be that the same are free and clear of all incumbrances of what kind or nature soever and that the same in the quiet and peaceable possession of the said parties of the second part their heirs and assigns against the lawful claims or claims of all persons whomsoever he will forever warrant and defend In Testimony &c

22

done in presence of
D. T. Olney }

Henry S. Crosby *Ed*
Mary E. Crosby *Ed*

which papers were read in evidence subject

to exceptions taken by the defendant ^{thru} the

23 Defendant admitted for the purposes of this trial that the order shortly after it was given was presented by the Plaintiffs to Robinson & Co. for acceptance and that they ^{then} refused to accept the same of which refusal to accept the defendant shortly afterwards had notice.

And here the Plaintiffs rest their case

The defendant then introduced & read in evidence the following Instrument

24 An agreement made this 18th day of February A.D. 1850 between A. Loop & sons of the one part and Henry L. Crosby of the other. A. Loop & sons agree with Henry L. Crosby to sell him their Entire Stock of goods and merchandise in their store at Belvidere at New York invoice prices. Damaged goods to be rejected and taken at what they are worth. Said Crosby agrees to sell them the one undivided one fourth ^{part} of the flouring & saw Mills & lands near Belvidere on the Wisconsin River with the Appurtenances as described in a deed from James B. Crosby & J. Saxton for the sum of Three Thousand Dollars Subject to a lease of the same made by Henry L. Crosby to Robinson & Co. and the said Henry L. Crosby is to give A. Loop & sons orders on Robinson & Co. for the payment of the yearly sum of two Hundred Dollars to A. Loop & sons out of the Rents accruing under said lease payable quarter

partly one half in flour & one half in Cash -
said Goods & Merchandize to be taken in Exchange
for said Mills & if the same amount to what value
as aforesaid to more than three thousand dollars
then H. L. Crosby is to give H. Loop & Sons his note
at one year for the Surplus & if they amount
to less than the said H. Loop & Sons are to give
him their note at one year for the ^{deficiency} ~~difference~~
invoiced to be made immediately, and goods
delivered where invoiced and good Warrantee
due for said 1/4 of said Mills to be executed by
said H. L. Crosby upon delivery of goods

Witness

B. F. Lawrence

Henry L. Crosby

Henry Loop & Sons

And also the following Instruments
of writing to wit -

Received Belvidere Dec 20, 1850 of
Nathanial Crosby five Dollars on rent of
Our Share of the Crosby Mills property

Henry Loop & Sons

The whole of which is admitted to be in the hand
writing of Henry Loop & Sons

Also the following

\$ 50.00 Recd. of Nathanial Crosby fifty
dollars for Mill rent Belvidere July 22, 1851

Henry Loop & Sons

Which is admitted to be in the hand writing
of Nathanial Crosby one of the firm of Robinson
& Co except the Signature.

Which is admitted to be in

the hand writing the defendant then offered
Jacob T. Saxton as a witness who was duly sworn
and Testifies that he knew the Mills alluded
to in the Lease and does set forth that he was

at One time the owner of an undivided one quarter which he conveyed to the Plaintiffs on the 31st day of October 1851. He put them in possession of his quarter & interest in the mills between the 20th October & first day of November 1851 and they the Plaintiffs have been in possession of the mill property from that time on.

29 It was also admitted that about the time the first installment fell due May 1850 H. S. Crosby offered to the Plaintiffs a formal assignment under seal of that portion of the sum specified in the order & due but that they refused to accept it.

And also that Nathaniel Crosby one of the firms of Robinson & Co was solvent from the time of giving the order up to the present time but that at the time the in-

-Statement-

20 Feb. 7, 1852
Due on in this suit fell due he was a non Resident of this State and had Real Estate in this State of the clear unencumbered value of One Thousand Dollars.

30 And that on the 20th day of February 1852 the following instrument was made by the parties therein mentioned the Plaintiffs in this suit & Nelson Dorthick & John Barr and the property therein mentioned is the same mill property referred to in said deed which instrument is as follows:

Articles of Agreement made this 20th day of February A. D. 1852 between Henry Loop & Sons of the first part and Nelson Dorthick & John Barr of the Second part as

31

following the said Dethick & Barr agree to repair the Belvidere Mill property in the following manner a floom is to be constructed from forty feet above the Grist Mill through under the mill to the gates of the wheels the floom is to be floored with two inch pine plank and sided with Pine the floom is to be well secured at the upper end with sheet piling & the dam is to be raised to the full height of said water power with Stone & Bruck or Stone & timber.

32

The above work is to be commenced within six days of this date and prosecuted with force enough to complete the above work enough to start the mill in thirty days. The said Loop & Sons agree with the said Dethick & Barr that they shall have possession of said property for one year from this date upon this condition that they will keep said mill running all of the time the weather & Customs will permit and reasonable time for repair and the said Dethick & Barr agree to render to the said Loop & Sons one half part of all tolls or Cash or Lumber earned by said mill once a month or to pay said Loop & Sons six hundred dollars in quarterly payments of one hundred dollars & fifty dollars each, of these two methods of payments the said parties are to elect within thirty days after said mill shall be set running. The said Dethick & Barr are to have the privilege of cutting any timber on the said premises.

33

34

35 necessary for said Dam & floons and to have the use of half of the Mill House. It is further agreed that the said Derthick & Barr are to have the privilege of running the said Mills at the same rate till the Seventh day of August A. D. 1853 provided these agreements are strictly adhered to. A breach of any of the foregoing Agreements shall entitle the injured party to declare these presents void. The said Derthick & Barr agree to deliver up the said premises at the expiration of said Term in good running order Risk of fire excepted.

In Witness Whereof the said parties have hereunto set their hands & seals the day & year first above written.

Signed Sealed & delivered } Henry Loop & sons
in presence of } Nelson Derthick
C. B. Loop } John Barr

36 We the parties to the above Contract agree that the rent shall be paid at the rate of Six hundred dollars per year for one year the payments shall be ^{made as} specified in the above Contract for the first six months after that time the payments are to be made monthly and it is further agreed that the rents of the quarter heretofore owned by Saxton & Robinson are to apply on a claim of Loop & sons against said quarter for repairs in case said Derthick shall purchase said quarter of Saxton & Robinson.
Dated this 16th day of April 1852

Henry Loop & sons
Nelson Derthick

37

And that the said Dethick Barr went into possession of the whole Mill property under said Lease and have since continued in possession paying rent to the said plaintiffs therefore

And here the Defendant rests

38

Which being all the Evidence in the Cause the Court finds the issues in the Cause herein for the said plaintiffs and renders a verdict in their favor to which the defendant excepts and moves pro forma for a new trial herein which is denied by the Court to which the defendant excepts and prays that this his bill of Exceptions may be signed and sealed by the Judge of this Court become a part of the Record in this Cause under the Statute and it is done accordingly with the Consent of the parties that it may be signed sealed and filed at any time after the rising of the Court at this term and during Vacation

Signed and Sealed This 12th day of April A.D. 1853

39

Isaac H. Milner Clk

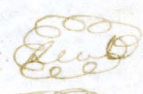
And the following On the 22nd day of November A.D. 1852 A bond was filed in said Court in this Cause in the words and figures following to wit:

"Know all men by these presents that We Henry L Crosby and William J

40
Burgess are held and firmly bound
unto Henry Loop George Loop and
John Loop in the Penal Sum of One
Hundred Dollars for the payment of
which well & truly to be made unto
the said Henry Loop & John Loop do
bind ourselves our heirs executors &
administrators jointly severally &
firmly by these presents Signed Sealed
& dated this twentieth day of November A.D.
1852.

41
The Condition of the obligation is such
that whereas the said Henry George & John
Loop did at the October Term A.D. 1852
of the Circuit Court of Boone County re-
cover a judgment against the said
Henry L. Crosby for the sum of fifty two
dollars & four cents & costs of suit from
which judgment the said Crosby prayed
an appeal to the Supreme Court of the
State of Illinois, which was granted upon
his filing bond with security as provided
by said Court

42
Now Therefore if the said Henry L.
Crosby shall prosecute his appeal with
effect & shall pay the judgments costs and
interests & damages in case the said judg-
ment shall be affirmed then the above
bond to be void otherwise to remain in
full force

Henry L. Crosby 
W. T. Burgess 

State of Illinois }
Boon County } ss J. Fayette P. Hamilton Clerk
of the Circuit Court in and for said County do hereby
certify that the within and foregoing is a true full and
correct copy or Transcript from the records of said Court
and this appears on file in the above entitled cause.

Witness my hand and the Seal of said
Court this 28th day of May A.D. 1853

J. P. Hamilton
Clerk

Fee \$3.75-

In the Supreme Court

Henry Loop & al appellus

vs
Henry L. Crosby appellant } Appeal from
Broom

And now comes the said Appellant by his Attorneys Fuller & Burges and says that in the record and proceedings in this cause in the court below. & in the rendition of the judgment therein there is manifest error in this

1st that the finding of the court is against the law of the case from the facts proved

2^d The facts proved are not sufficient upon which to render a verdict for the Plaintiffs

3^d The judgment of the court below is for the plaintiffs whereas it should have been for the defendant—

4th the court below ought to have granted a new trial

5th And the said Appellant Henry Court below and in admitting the testimony excepted to—

And the said Appellant Henry L. Crosby prays that he may be allowed to file a transcript of the record of the proceedings & judgment in said cause, And it is granted. Whence &c

And the said Henry L. Crosby also prays that the judgment aforesaid for the errors aforesaid, and for other errors in the said record & proceedings being may be reversed annulled and altogether held for nought. and that he may be restored to

all things which he hath lost by occasion
of said judgment See
Fulmer H. Dring
of counsel

41
Henry C. Crosby
Henry C. Crosby
Henry C. Crosby

Records

47

Prepared

Filed June 10. 1853.
H. Deland R.

1853

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