

No. 12599

Supreme Court of Illinois

McIntire

vs.

Benson et al

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~~103~~
James B. McIntire

vs 43

Francis H. Benson
vs. the

Filed April 19, 1857.

L. Leland

Clerk

Fees of Transcript

paid Ref. Aug. \$13.00

W. Thompson

Be it remembered that heretofore, to wit, on the
thirteenth day of November in the year of our Lord One
thousand eight hundred and fifty six came James
E. McIntire assignee of Joseph C. Tiffany, Plaintiff
in this cause, by N. P. Wilder his Attorney, and filed
in the office of the Clerk of the Cook County Court of
Common Pleas, his precept for a writ of summons
against Francis M. Benson, James S. Beach ex-
officio acting Sheriff of Cook County and T. S. Buckley
deputy Sheriff of Cook County defendants, which said
precept is in the words and figures as follows, to wit,

State of Illinois, }
Cook County, p. } In the Cook County Court of Common Pleas,
of the January Term A.D. 1857.

James E. McIntire assignee
of Joseph C. Tiffany

vs

Francis M. Benson,
James S. Beach, ex officio
acting Sheriff of Cook County
T. S. Buckley, Deputy
Sheriff of Cook County.

Trespass, Damages
Eight thousand dollars

Will the Clerk please
to issue summons in the above entitled cause, and oblige
N. P. Wilder Atty. for Plff.

And afterwards, to wit, on the same day and year last aforesaid, the said Plaintiff by his Attorney aforesaid filed in the Office of the Clerk of said Court his affidavit &c praying this Honorable Court to appoint John M. Dart an Eligor to serve process in this cause, which said affidavit &c together with the Order of the Judge endorsed thereon is in the words and figures as follows, to wit.

State of Illinois,

Cook County, p. } In the Cook County Court of Common Pleas,
of the January Term A.D. 1857.

James E. McIntire assignee
of Joseph C. Tiffany

vs

Francis M. Benson
James S. Beach, ex officio
acting Sheriff of Cook County
F. S. Buckley Deputy Sheriff
of Cook County

D. P. Wilder, Attorney for
said Plaintiff, being duly sworn, deposes & saith that
one of the said defendants, to wit, James S. Beach is
Coroner of Cook County aforesaid, and since the death
of James Andrew, late Sheriff of said County, has
been, & now is, ex officio acting Sheriff of Cook County
aforesaid. This deponent therefore prays this Honorable

Court to appoint John M. Dart an Eligor to serve
process in the above entitled cause.

D. P. Wilder Atty. for Plf.

Subscribed & sworn to before

me this 13th day of November

A.D. 1856. Walter Kimball, Ck.

State of Illinois, }
Cook County, sp. } Cook Co. Ct. of C. Pleas.

I hereby appoint John M. Dart
as Eligor to serve all process issued in the suit within
named - The Sheriff of said County being a party
defendant in said suit. Nov^r 13th 1856.

John M. Wilson Judge of
the Cook Co. Ct. of C. Pleas.

And afterwards, to wit, on the same day and year
last aforesaid, there issued out of the Office of the Clerk
of said Court the Peoples writ of Summons, which said
writ of Summons and the endorsements thereon made
are in the words and figures as follows, to wit,

State of Illinois, }
County of Cook, } sp. The People of the State of Illinois,
To John M. Dart, Eligor appointed by the
Judge of the Cook County Court of Common
Pleas of said County. Greeting.
We command you that you summon Francis M.

Benson, James S. Beach, ex-officio acting Sheriff of Cook County & F. S. Buckley deputy Sheriff of Cook County, if they shall be found in your County, personally to be and appear before the Cook County Court of Common Pleas of said County, on the first day of the next term thereof, to be holden at the Court House, in the City of Chicago, in said County, on the first Monday of January next, to answer unto James M. Intire assignee of Joseph C. Tiffany in a plea of trespass, to the damage of the said plaintiff as he says in the sum of Eight thousand dollars. And have you then and there this writ, with an endorsement thereon, in what manner you shall have executed the same.

Witness, Walter Kimball, Clerk of our said Court, and the seal thereof, at the City of Chicago, in said County, this 13th day of November A.D. 1856.

L. S.

Walter Kimball, Clerk.

Endorsement thereon made.

Served by reading to the within named James S. Beach, ex-officio acting Sheriff, F. S. Buckley, Deputy Sheriff & Francis N. Benson the 14th day of Nov. 1856

John N. Dart, Eligor

And afterwards, to wit, on the eleventh day of December in the year last aforesaid came the said Plaintiff by his attorney aforesaid, and filed his

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his declaration, which said declaration is in the words and figures as follows, to wit.

State of Illinois, }
Cook County, p. } In the Cook County Court of Common
Pleas, of the January Term A.D. 1857.

James E. McIntire, assignee of the estate & effects of Joseph C. Tiffany an insolvent debtor according to the laws in force concerning insolvent debtors, plaintiff in this suit by D. P. Wilder his Attorney, complains of Francis M. Benson, James B. Beach & T. B. Buckley, defendants in this suit, who have been summoned to answer the said plaintiff of a plea of trespass: For that the said defendants on or about the eighth day of November A.D. 1856. with force & arms &c. at the Summit, to wit, in the County aforesaid, seized & took certain goods & chattels, to wit, One kiln of brick containing two hundred & fifty thousand, One kiln of brick containing one hundred & fifty thousand, part of a kiln of brick containing sixty thousand, three Horses, One Cart, One Plow, one wheel-barrow, twelve thousand feet of lumber, three thousand two hundred feet of plank, thirty cords of wood, one water tank of the said Plaintiff as assignee as aforesaid of great value, to wit, of the value of four thousand two hundred seventy seven dollars & thirty two cents lawful money, at the County aforesaid, then they found & being, & converted & disposed of the same

to their own use: And other wrongs to the said Plaintiff as aforesaid then & there did against the peace of the people of the State aforesaid, and to the damage of said plaintiff as assignee as aforesaid of eight thousand dollars, & therefore he brings this suit &c.

H. P. Wilder Atty. for Plf.

And afterwards, to wit, on the seventh day of February in the year of our Lord One thousand eight hundred and fifty-seven come the Defendants by A. L. Eastman their Attorney and filed in the Office of the Clerk of said Court their plea, which said plea is in the words and figures as follows, to wit,

State of Illinois, }
Cook County, p. } Pending in the Cook County Court of
Common Pleas.

Francis N. Benson et al.

ats

James E. McIntire, assignee &c.

} February Term 1857

And the said Francis N. Benson, James E. Beach & Fayette L. Buckley defendants by A. L. Eastman their Atty. comes and defends the force and injury, when &c. named in said plaintiff's declaration, and say they are not guilty of the said supposed trespasses above laid to their charge or any or either of them or any part thereof in manner and form

as the said plaintiff James E. McIntire, assignee
of Joseph C. Tiffany hath above complained against
them, And of this they put themselves upon the Country &c
N. G. Eastman Att'y. for Deft.

And the said Plaintiff doth the like

N. P. Wilder Att'y. for Plf.

And for a further plea in this behalf, by leave
of the Court &c. - the said Defendant James S. Beach
by N. G. Eastman his Att'y. comes and defends the force
and injury when &c. named in said plaintiff's decla-
ration and says he is not guilty of the supposed tres-
passes named in said plaintiff's declaration, because
he says that on or about the first day of November 1856
in the Cook County Court of Common Pleas in the State
of Illinois a judgment was duly rendered wherein
Francis M. Benson was plaintiff, and Joseph C.
Tiffany was defendant, which judgment was rendered
in favor of said Francis M. Benson and against
the said Joseph C. Tiffany for the sum of Five hundred
and fifty dollars damages and six dollars costs of
suit; And that also on or about the said first day of
November 1856 in the said Cook County Court of Common
Pleas, in the said State of Illinois a judgment was
duly rendered wherein Ira Minard was defendant
and Joseph C. Tiffany was defendant, which judgment
was rendered in favor of said Minard and against

said Tiffany for the sum of Seven hundred eighty eight dollars damages and six dollars costs of suit. And that also, on or about the said first day of November 1856, in the Cook County Court of Common Pleas, in the said State of Illinois, a judgment was duly rendered wherein James T. Wheeler was plaintiff and Joseph C. Tiffany was defendant, which judgment was rendered in favor of said James T. Wheeler and against said Joseph C. Tiffany for the sum of Five hundred ninety seven dollars and twenty five cents damages and six dollars costs, which judgments were all in full force, not satisfied, annulled or set aside.

That on the 3^d day of said November 1856 an Execution duly issued on the first judgment above named from the Clerk's Office of said Cook County Court of Common Pleas in favor of the said Francis M. Benson and against the said Joseph C. Tiffany, commanding the said defendant as Coroner and acting Sheriff of (said) Cook County to make of the proper goods and chattels of the said Joseph C. Tiffany the sum of Five hundred and fifty dollars damages, and six dollars costs with interest, and which execution bearing date the 3^d day of November 1856 come to the said defendant as Coroner and acting Sheriff of Cook County, and the said defendant then and there being Coroner and acting Sheriff of said Cook County by virtue of said execution then & there, to wit, on the 7th day of November A.D. 1856 seized upon the following property, to wit,

3 Horses; 1 Cart; 1 Plow; one wheel-barrow; 1 Shovel; a quantity of lumber, consisting of boards & plank; a quantity of wood, supposed to contain 30 cords; 1 water tank; 1 brick kiln being burned, supposed to be 150,000; 1 kiln brick, supposed to be 105,000, and 1 Brick-kiln supposed to be 340,000, supposed to be the property mentioned in said plaintiff's declaration, as the property of said Joseph C. Tiffany as he lawfully had a right to do, And the said defendant further avers that the said property last above mentioned was not the property of the said James E. McIntire assignee of said Tiffany, but was the property of said Joseph C. Tiffany, the same Joseph C. Tiffany as in plaintiff's declaration mentioned. That on the said first day of November A.D. 1856 an execution issued duly on the second judgment above named, from the Office of the Clerk of said Cook County Court of Common Pleas in said County of Cook, in favor of the said Ira Minard and against the said Joseph C. Tiffany, commanding the said defendant as Coroner and acting Sheriff of Cook County to make of the proper goods and chattels of the said Joseph C. Tiffany, the sum of Seven hundred eighty eight dollars damages, and six dollars costs with interest, and which execution bearing date the 1st day of November 1856 came to the said defendant as Coroner and acting Sheriff of Cook County, and the said defendant then & there being Coroner and acting Sheriff of said Cook County by virtue of

said execution then and there, to wit, on the 7th day of November A.D. 1856 seized upon the following property, to wit, - 3 Horses; 1 Cart; 1 Plow; 1 Wheel-barrow; 1 Shovel; Quantity of lumber consisting of boards & plank; Quantity of wood, about 30 Cords; 1 Water-tank; 1 Brick-kiln then burning, about 150,000; 1 Brick-Kiln, about 105,000; 1 Brick-Kiln, about 340,000 supposed to be the property mentioned in the said declaration, as the property of the said Joseph C. Tiffany as he lawfully might and had right to do: And the said defendant further avers that the said property last above mentioned was not the property of the said plaintiff James E. McIntire assignee of Joseph C. Tiffany, but the property of Joseph C. Tiffany, the same Joseph C. Tiffany as in plaintiff's declaration mentioned. That on the said first day of November 1856 an execution issued duly on the third judgment above named from the Clerk's office of said Cook County Court of Common Pleas in said County of Cook in favor of the said James T. Wheeler and against the said Joseph C. Tiffany, commanding the said defendant as Coroner and acting Sheriff of Cook County, to make of the property, goods and chattels of the said Joseph C. Tiffany the sum of Five hundred & ninety seven dollars and twenty five cents damages and six dollars costs with interest, and which execution bearing date the 1st day of November 1856 come to the said defendant as Coroner and acting Sheriff of Cook County, and

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the said defendant then and there being Coroner and acting Sheriff of said Cook County, by virtue of said execution then & there seized, to wit, on the 7th day of November A.D. 1856 upon the property following, to wit: 3 Horses; 1 Cart; 1 Plow; 1 Wheel-barrow; 1 Shovel; quantity of Lumber consisting of Boards & planks; quantity of wood, about 30 cords; 1 Water-tank; 1 Brick-kiln then burning, about 150,000; 1 Brick-kiln about 105,000; 1 Brick-kiln, about 340,000; supposed to be the property in the said plaintiffs declaration mentioned, as the property of said Joseph C. Tiffany, as he lawfully had a right to do, and the said defendant avers that the said property last above mentioned was not the property of James E. McIntire assignee of Joseph C. Tiffany plaintiff, but the property of Joseph C. Tiffany the same Joseph C. Tiffany as in plaintiffs declaration mentioned. And this he is ready to verify, wherefore he prays judgment &c.

N. B. Eastman, Deft Atty.

And for a further plea in this behalf, by leave of the Court &c. the said defendant Fayette S. Buckley by N. B. Eastman his Atty. comes and defends the force and injury, when &c. named in said plaintiffs declaration, and says he is not guilty of the supposed trespasses named in said plaintiffs declaration, because he says that on or about the first

day of November A.D. 1856, in the Cook County Court of Common Pleas in the State of Illinois a judgment was duly rendered wherein Francis N. Benson was plaintiff, and Joseph C. Tiffany was defendant, which judgment was rendered in favor of said Francis N. Benson and against the said Joseph C. Tiffany for the sum of Five hundred and fifty dollars damages and six dollars costs of suit.

And that also, on or about the said first day of November 1856 in the said Cook County Court of Common Pleas in the said State of Illinois, a judgment was duly rendered wherein Ira Minard was plaintiff and Joseph C. Tiffany was defendant which judgment was rendered in favor of said Ira Minard and against said Tiffany for the sum of Seven hundred eighty eight dollars damages, and six dollars costs of suit, and that also, on or about the said first day of November 1856 in the Cook County Court of Common Pleas in said State of Illinois a judgment was duly rendered wherein James T. Wheeler was plaintiff & Joseph C. Tiffany was defendant, which judgment was rendered in favor of the said James T. Wheeler and against the said Joseph C. Tiffany, for the sum of Five hundred ninety seven dollars and twenty five cents damages and six dollars costs, which judgments were all in full force, not satisfied, or annulled, or set aside. That on the 3^d day of said November 1856 an execution duly issued on

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the first judgment last above named from the
Clerks Office of said Cook County Court of Common
Pleas in favor of the said Francis N. Benson and
against the said Joseph C. Tiffany, Commanding
the Coroner and acting Sheriff of Cook County to
make of the proper goods and chattels of the said
Joseph C. Tiffany the sum of Five hundred and
fifty dollars damages and six dollars costs with
interest, and which execution bearing date the 3^d
day of November 1856 come to the said defendant
as the lawfully appointed and acting deputy of
the Coroner and acting Sheriff of Cook County
aforesaid, and the said defendant then and
there being the lawfully appointed and acting dep-
-uty of the Coroner and acting Sheriff of said Cook
County, by virtue of the said execution, and as such
deputy as aforesaid, then & there, to wit, on the 7th
day of November 1856 seized upon the following prop-
-erty, to wit. - 3 Horses; 1 Cart; 1 Plow; One Wheel-barrow;
1 Shovel; quantity of Lumber, consisting of Boards &
Plank; quantity of Wood, about 30 Cords; 1 Water-tank;
one Brick-kiln then burning, about 150,000; 1 Brick-kiln,
about 105,000; 1 Brick-kiln about 340,000, supposed to
be the property mentioned in said plaintiffs dec-
-laration as the property of said Joseph C. Tiffany
(he being the same Joseph C. Tiffany mentioned in
said plaintiffs declaration, as he lawfully might.

And the said defendant further avers that the

said property last above mentioned was not the property of the said James E. Mc Intire assignee of said Joseph C. Tiffany, but that it was the property of said Joseph C. Tiffany mentioned in said declaration.

That on the said first day of November 1856 an execution issued duly on the second judgment last above mentioned, from the Office of the Clerk of said Cook County Court of Common Pleas in said County of Cook in favor of the said Ira Minard and against the said Joseph C. Tiffany, commanding the Coroner and acting Sheriff of Cook County to make of the proper goods and chattels of the said Joseph C. Tiffany the sum of Seven hundred & eighty eight dollars damages and six dollars cost with interest, and which execution bearing date the 1st day of November 1856 came to the said defendant as the legally appointed deputy of the Coroner and acting Sheriff of Cook County, and the said defendant then and there being deputy as aforesaid of the Coroner & acting Sheriff of said Cook County, by virtue of said execution then and there, to wit, on the 7th day of November A.D. 1856 seized upon the following property, to wit, - 3 Horses; 1 Cart; 1 Plow; one Wheel-barrow; 1 Shovel; quantity of Lumber consisting of Boards & Plank; Quantity of Wood, about 30 cords; 1 Water-tank; 1 Brick-kiln then burning, about 150,000; 1 Brick-kiln about 105,000; 1 Brick-kiln about 340,000, supposed to be

the property mentioned in the said plaintiffs declaration, as the property of the said Joseph C. Tiffany, as he lawfully might do, And the said defendant further avers that the said property last above mentioned was not the property of the said plaintiff James C. McIntire assignee of Joseph C. Tiffany, but the property of Joseph C. Tiffany (the same mentioned in said plaintiffs declaration,) That on the said first day of November 1856, an execution issued duly on the third judgment above mentioned from the Clerk's Office of said Cook County Court of Common Pleas in said County of Cook in favor of the said James T. Wheeler and against the said Joseph C. Tiffany commanding the Coroner & acting Sheriff of Cook County to make of the property, goods and chattels of the said Joseph C. Tiffany the sum of Five hundred and ninety seven dollars and twenty five cents damages and six dollars costs with interest, and which execution bearing date the 1st day of November 1856 come to the said defendant as deputy lawfully appointed and acting for the Coroner & acting Sheriff of said Cook County, and the said defendant then and there being such deputy of the Coroner and acting Sheriff of said Cook County by virtue of said execution then & there, to wit, on the 7th day of November A.D. 1856 seized upon the property following, to wit. - 3 Horses; 1 Cart; 1 Plow; 1 Wheelbarrow; 1 Shovel; Quantity of lumber

consisting of Boards & Plank; quantity of wood, about 30 cords; 1 Watertank; 1 Brick-kiln then burning, about 150.000; 1 Brick-kiln, about 105.000; 1 Brick-kiln about 340.000; supposed to be the property in the said plaintiffs declaration mentioned, as the property of said Joseph C. Tiffany as he lawfully had a right to do.

And the said defendant avers that the said property last above mentioned was not the property of James E. McIntire assignee of said Joseph C. Tiffany plaintiff, but the property of Joseph C. Tiffany, the same Joseph C. Tiffany as in plaintiffs declaration mentioned,

And this he is ready to verify, wherefore he prays judgment &c.

H. B. Eastman, Deft. atty.

And for a further plea in this behalf, by leave of the Court &c. the said defendant Francis N. Benson by H. B. Eastman his Attorney comes and defends the force and injury, when &c. named in said plaintiffs declaration, and says he is not guilty of the supposed trespasses named in said plaintiffs declaration, because he says that on or about the first day of November 1856 in the Cook County Court of Common Pleas in the State of Illinois, a judgment was duly rendered and entered wherein he the said Francis N. Benson was plaintiff and Joseph C. Tiffany was defendant, which judgment was rendered in favor of said Francis N. Benson and against the said Joseph

C. Tiffany for the sum of Five hundred & fifty dol-
 lars damages and six dollars costs of suit, which
 judgment was in full force, not satisfied, annulled
 or set aside. That on the 3^d day of said November
 an execution duly issued on said judgment from
 the Clerks Office of said Cook County Court of Common
 Pleas in favor of the said Francis M. Benson and
 against the said Joseph C. Tiffany directed to James
 S. Beach, Coroner & acting Sheriff of Cook County, com-
 manding him as such Coroner & acting Sheriff of said
 Cook County, to make of the property, goods and chattels
 of the said Joseph C. Tiffany the sum of Five hundred
 & fifty dollars damages and six dollars costs with
 interest, which execution bearing date the 3^d day of
 November 1856 came to the hands of the said James
 S. Beach, Coroner & acting Sheriff as aforesaid, where-
 upon the said Francis M. Benson requested and direc-
 ted the said James S. Beach, Coroner & acting Sheriff
 as aforesaid to levy the said execution upon the goods
 and chattels of the said Joseph C. Tiffany and to
 make the amount of his said judgment and costs
 expended, And that then and there, to wit, on the
 7th day of November 1856 by virtue of said execution,
 and at the request of said Francis M. Benson and
 by virtue of two other executions in his hands against
 the said Joseph C. Tiffany, one in favor of Ira Minard
 commanding him to make of the goods & chattels of said
 Tiffany the sum of \$788.⁰⁰ damages & \$6.00 costs with

interest, and one in favor of James T. Wheeler
commanding him to make of the goods & chattels of
said Tiffany the sum of \$597²⁵ damages & \$6.00 costs
with interest, and without the direction & request of
said Benson so far as last two mentioned executions
are concerned the said James S. Beach, Coroner &
acting Sheriff as aforesaid by Fayette S. Buckley his
legally appointed deputy seized upon the following
property, to wit: — 3 Horses; 1 Cart; 1 Plow; 1 Wheelbarrow
^{on Shore} quantity of Lumber, consisting of Boards & Plank; quantity
of Wood, about 30 cords; 1 Water-tank; 1 Brick Kiln then
burning, about 150.000; 1 Brick-kiln about 105.000; 1 Brick-
kiln about 340.000, supposed to be the property men-
tioned in said declaration, as the property of said
Joseph C. Tiffany, as he lawfully had a right to do,
And the said defendant avers that the said prop-
erty last above mentioned was not the property
of the said James C. McIntire, assignee of said Tiffany
as alleged in plaintiffs declaration, but was the
property of said Joseph C. Tiffany, the same Joseph
C. Tiffany in plaintiffs declaration mentioned.

And this he is ready to verify, wherefore he prays
judgment &c.

L. S. Eastman, Deft's Atty.

State of Illinois }
Cook County, ss. }

Francis N. Benson, James S. Beach
& F. S. Buckley being sworn say that they have a

good and sufficient defence in this cause upon the merits as they believe.

F. M. Benson
James S. Beach
F. S. Buckley

Subscribed & sworn to before me

this 7th day of Feb. 1857

L. S.

John E. Beveridge
Notary Public.

And afterwards to wit, on the sixteenth day of February in the year last aforesaid, the said Plaintiff by his Attorney aforesaid, filed his Demurrer, which said Demurrer is in the words and figures as follows, to wit.

✓ State of Illinois, }
Cook County, p. } In the Cook County Court of Common
Pleas, of the February Term A.D. 1857.

James E. McIntire assignee
of J. C. Tiffany
vs

Francis M. Benson
James S. Beach
Fayette S. Buckley

And the said plaintiff, as to the said second, third & fourth pleas by the said

defendants pleaded, saith that the same, & the matter therein contained, the manner & form as the same as above pleaded & set forth, are insufficient in law to bar or preclude the said plaintiff from having or maintaining his aforesaid action against the said defendants, and that the said plaintiff, is not bound by law to answer the same, And this the said plaintiff is ready to verify. Wherefore, by reason of the insufficiency of the said pleas in this behalf, the said plaintiff prays judgment & his damages by him sustained on occasion of the committing of the said trespasses to be adjudged to him &c.

And for a further cause of demurrer to the said. second, third & fourth pleas by the said defendants pleaded, the said plaintiff says that each of the said pleas are bad for duplicity, in this that each of the said pleas contain several distinct answers to the said plaintiffs declaration & also that the said pleas are in other respects uncertain, informal & insufficient &c.

H. P. Wilder, Atty. for Plf.

And thereafter, to wit, on the twenty sixth day of February in the year last aforesaid, the following among other proceedings were had in said Court, and entered of Record, to wit.

James E. McIntyre, assignee
of Joseph C. Tiffany

vs

Francis M. Benson, James
S. Beach & F. B. Buckley

Ex resp.

And now comes the
said plaintiff by L. P. Wilder his Attorney, and
the defendants by Eastman & Beveridge their Attor-
neys also come, And the Court after hearing the
argument of counsel on said plaintiffs demurrer
to said defendants pleas, being now fully advised
in the premises, sustains said demurrer, and leave
is given said defendants to amend their pleas.

And afterwards, to wit, on the fourth day
of March in the year last aforesaid, the said
defendants by L. E. Eastman their Attorney aforesaid
filed in the Office of the Clerk of said Court, their
Amended pleas, which said Amended pleas are
in the words and figures, as follows, to wit,

State of Illinois,

Cook County, ss.

} Pending in the Cook County Court
of Common Pleas, February Term 1857.

Francis M. Benson et al

ads

James E. McIntyre Assignee.

} Amended pleas.

And for a further and

amended plea in this behalf, by leave of the Court
tc. James S. Beach one of the defendants in this
suit, by D. S. Eastman his Attorney, comes and
defends the force and injury, when tc. named in
said plaintiffs declaration, and says that he is
not guilty of the supposed trespasses named in
said plaintiffs declaration, because he says that
on or about the first day of November 1856 in the
Cook County Court of Common Pleas in the State of
Illinois a judgment was duly rendered wherein
Francis M. Benson was plaintiff and Joseph C.
Tiffany was defendant, which judgment was ren-
dered in favor of said Francis M. Benson and
against the said Joseph C. Tiffany for the sum
of Five hundred and fifty dollars damages
and four + ⁷⁰/₁₀₀ dollars plaintiffs costs of suit,
which judgment was and is in full force, not
satisfied, annulled, set aside or vacated, that
on the 3^d day of said November A.D. 1856 an exe-
cution duly issued on said judgment from the
Clerks office of said Cook County Court of Common
Pleas in favor of said Francis M. Benson and
against the said Joseph C. Tiffany, commanding
the said defendant as Coroner and acting Sheriff
of (said) Cook County to make of the proper goods
and chattels of the said Joseph C. Tiffany the
sum of Five hundred and fifty dollars damages

and four + 7/100 dollars plaintiffs costs, with interest, and which execution bearing date the 3^d day of November 1856 came to said defendant as Coroner and acting Sheriff of Cook County aforesaid, and the said defendant then and there being Coroner and acting Sheriff of said Cook County, by virtue of said execution, to wit, on the 7th day of November 1856 then & there seized and levied upon the following property, to wit:

Three Horses; One Cart; One Plow, one wheel-barrow;
^{one shovel}
 a quantity of Lumber, consisting of Boards and Planks;
 a quantity of Wood, supposed to be 30 Cords; 1 Water tank,
 1 Brick-kiln (then) being burned, supposed to be
 150.000; 1 Kiln Brick, supposed to be 105.000; 1 Brick
 -kiln supposed to be 340.000, as the property of said
 Joseph C. Tiffany as he lawfully had a right to
 do, and the said defendant further avers that
 the said property thus seized & levied upon, was not
 the property of the said James E. McIntyre assignee
 of the said Joseph C. Tiffany as he in his
 said declaration has alleged, but was the property
 of the said Joseph C. Tiffany the defendant named
 in said execution, And this he is ready to verify,
 wherefore he prays judgment &c.

And for a second and further & amended
 plea in this behalf, by leave of the Court &c, the
 said defendant James E. Beach by D. E. Eastman

his attorney comes and defends the force and injury, when &c. named in said plaintiffs declaration and says he is not guilty of the supposed trespasses named in said plaintiffs declaration, because he says that on or about the first day of November 1856, in the Cook County Court of Common Pleas in the State of Illinois, a judgment was duly rendered wherein Ara Minard was plaintiff and Joseph C. Tiffany was defendant, which judgment was rendered in favor of said Ara Minard and against said Joseph C. Tiffany for the sum of Seven hundred & eighty eight dollars damages and four & ⁷⁰/₁₀₀ dollars as plaintiffs costs of suit which said judgment was and is in full force not satisfied, annulled, set aside or vacated, that on the first day of November 1856 an execution duly issued on last mentioned judgment from the office of the Clerk of said Cook County Court of Common Pleas in said Cook County in favor of said Ara Minard and against the said Joseph C. Tiffany, Commanding the said defendant as Coroner and acting Sheriff of Cook County aforesaid to make of the proper goods and chattels of the said Joseph C. Tiffany the sum of Seven hundred and eighty eight dollars damages and four & ⁷⁰/₁₀₀ dollars plaintiffs costs of suit with interest, and which execution bearing date the first day

of November 1856 came to the said defendant as Coroner and acting Sheriff of Cook County aforesaid, and the said defendant then and then being Coroner and acting Sheriff of said Cook County by virtue of said execution then & then to wit, on the 7th day of November 1856 seized & levied upon the following property, to wit, - Three Horses; One Cart; one Plow; one Wheel-Barrow; one Shovel; a quantity of Lumber, consisting of Boards and Plank; a quantity of Wood, supposed to be 30 Cords; 1 Water-tank; 1 Brick-kiln (then) being burned supposed to be 150,000; 1 Kiln Brick supposed to be 105,000; 1 Brick-kiln supposed to be 340,000 is the property of the said Joseph C. Tiffany, it being the same property mentioned in the plea aforesaid, as he lawfully had a right to do. And the said defendant further avers that the said property last above mentioned was not the property of the said James E. McIntyre assignee of said Joseph C. Tiffany as he in his said declaration has alleged, but was the property of said Joseph C. Tiffany the defendant named in said last mentioned execution, & this he is ready to verify wherefore he prays judgment &c.

And for a third and further and amended plea in this behalf, by leave of the Court &c. the said James E. Beach defendant, by M. E. Eastman his Attorney, comes and defends the force and injury, when &c. named in said plaintiffs declaration and says he is not guilty of the supposed trespasses named in said plaintiffs declaration, because he says that on or about the first day of November 1856, in the Cook County Court

of Common Pleas in the State of Illinois, a judgment was duly rendered wherein James T. Wheeler was plaintiff and Joseph C. Tiffany was defendant, which judgment was rendered in favor of ^{said} James T. Wheeler and against said Joseph C. Tiffany for the sum of Five hundred & ninety seven dollars and twenty five cents damages and four & ⁷⁰/₁₀₀ dollars as plaintiffs costs of suit, which judgment was and is in full force, not satisfied, annulled, set aside or vacated, - that on the first day of November 1856, an execution duly issued on last mentioned judgment from the Office of the Clerk of said Cook County Court of Common Pleas in said Cook County in favor of said James T. Wheeler and against the said Joseph C. Tiffany, commanding the said defendant as Coroner & acting Sheriff of Cook County aforesaid to make of the proper goods and Chattels of the said Joseph C. Tiffany the said sum of Five hundred & ninety seven dollars & twenty five cents damages and four & ⁷⁰/₁₀₀ dollars plaintiffs costs with interest, and which execution bearing date the 1st day of November 1856 came to the said defendant as Coroner & acting Sheriff of Cook County aforesaid, And the said defendant then & there being Coroner & acting Sheriff of said Cook County, by virtue of said execution, to wit, on the 7th day of November 1856, then & there seized & levied upon the following property, to wit, - Three Horses; One Cart; one Plow; one Wheelbarrow; one Shovel; a quantity of Lumber consisting of Boards and Plank; a quantity of Wood

supposed to be 30 cords; 1 Water-tank; 1 Brick-kiln (then) being burned supposed to be 150.000; 1 Kiln Brick supposed to be 100.000; 1 Brick-kiln supposed to be 340.000, as the property of said Joseph C. Tiffany, it being the same goods & chattels named in the last plea aforesaid, as he lawfully had a right to do, and the said defendant avers that the said property last mentioned was not the property of said James E. McIntire assignee of said Joseph C. Tiffany as he in his said declaration has alleged, but was the property of the said Joseph C. Tiffany the defendant named in said execution last mentioned, and this he is ready to verify, wherefore he prays judgment &c.

N. G. Eastman, Deft's atty.

And for a further and amended plea in this behalf, by leave of the Court &c. Fayette B. Buckley one of the said defendants, by N. G. Eastman his attorney comes and defends the force and injury, when &c. named in said plaintiffs declaration and says he is not guilty of the supposed trespasses named in said plaintiffs declaration, because he says that on or about the first day of November 1856, in the Cook County Court of Common Pleas in the State of Illinois, a judgment was duly rendered wherein Francis H. Benson was plaintiff and Joseph C. Tiffany was defendant, which judgment was rendered

in favor of said Francis N. Benson and against
the said Joseph C. Tiffany for the sum of Five hun-
dred and fifty dollars damages and four & ⁷⁰/₁₀₀ dol-
lars as plaintiffs costs of suit, which judgment was
& is in full force, not satisfied, annulled, set aside
or vacated - that on the 3^d day of November 1856 an
execution duly issued on said judgment from the
Office of the Clerk of said Cook County Court of Common
Pleas in said State in favor of said Francis N. Benson
and against the said Joseph C. Tiffany, commanding
the Coroner & acting Sheriff of Cook County aforesaid
to make of the proper goods and chattels of said Joseph
C. Tiffany the sum of five hundred & fifty dollars
damages and four & ⁷⁰/₁₀₀ dollars plaintiffs costs of suit
with interest, and which execution bearing date the
3^d day of November 1856, came to the said defendant as
the lawfully appointed and acting deputy of the Coroner
& acting Sheriff of Cook County aforesaid, and the said
defendant then & there being the lawfully appointed
and acting deputy of the Coroner & acting Sheriff of
Cook County aforesaid, by virtue of said execution
and as such deputy as aforesaid, then & there, to wit,
on the 7th day of November 1856, seized and levied upon
the following property, to wit, - Three Horses; one Cart;
one Plow; one Wheel-barrow; one Shovel; a quantity of
Lumber, consisting of Boards and Plank; a quantity of
Wood, supposed to be 30 cords; 1 Water-tank; 1 Brick kiln
(then) being burned, supposed to be 150.000; 1 Kiln-Brick

supposed to be 105,000; 1 Brick-kiln supposed to be 340,000, as the property of the said Joseph C. Tiffany, it being the same property mentioned in the foregoing pleas as he lawfully had a right to do, And the said defendant avers further that the said property was not the property of James C. McIntire assignee of said Joseph C. Tiffany as he in his said declaration has alleged, but was the property of said Joseph C. Tiffany defendant in said execution named, - And this he is ready to verify, wherefore he prays judgment &c.

And for a second and further and amended plea in this behalf, by leave of the Court &c. the said Fayette S. Buckley one of the defendants as aforesaid, by H. B. Eastman his Attorney, comes & defends the force & injury named in said plaintiffs declaration, and says he is not guilty of the supposed trespasses named in said plaintiffs declaration, because he says that on or about the first day of November 1856, in the Cook County Court of Common Pleas in the State of Illinois, a judgment was duly rendered wherein Ira Minard was plaintiff and Joseph C. Tiffany was defendant, which judgment was rendered in favor of said Ira Minard and against said Joseph C. Tiffany for the sum of seven hundred & eighty eight dollars damages and four & ⁷⁰/₁₀₀ dollars as plaintiffs costs of suit, which said judgment was and is in full force, not satisfied, annulled, set aside or vacated - That on the 1st day of November 1856 an execution

duly issued on the last mentioned judgment, from the office of the Clerk of the Cook County Court of Common Pleas in said Cook County & State of Illinois in favor of said Ira Minard and against said Joseph C. Tiffany, commanding the Coroner & acting Sheriff of Cook County aforesaid to make of the proper goods & chattels of the said Joseph C. Tiffany the said sum of Seven hundred & eighty eight dollars damages and four & ⁷⁰/₁₀₀ dollars plaintiffs costs of suit with interest, and which execution bearing date the 1st day of November 1856, came to said defendant as the legally appointed & acting deputy of the Coroner & acting Sheriff of said Cook County, And the said defendant then & there being deputy as aforesaid of the Coroner & acting Sheriff of said Cook County, by virtue of said execution, then & there, to wit, on the 7th day of November 1856 seized & levied upon the following property, to wit:

Three Horses; one Cart; one Plow; one Wheel-barrow; one Shovel; a quantity of Lumber, consisting of Boards and Plank; a quantity of Wood, supposed to be 30 Cords; 1 Water-tank; 1 Brick-kiln (then) being burned, supposed to be 150,000; 1 Kiln Brick, supposed to be 105,000; 1 Brick-kiln supposed to be 340,000, as the property of said Joseph C. Tiffany, it being the property mentioned in the foregoing amended pleas, as he lawfully had a right to do, and the said defendant further avers that the said property last mentioned was not

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the property of James E. McIntire assignee of said Joseph C. Tiffany, as he in his said declaration has alleged, but was the property of said Joseph C. Tiffany, defendant named in said last mentioned execution, And this he is ready to verify, wherefore he prays judgment &c.

And for a third and further and amended plea in this behalf, by leave of the Court &c. the said Fayette B. Buckley one of the defendants as aforesaid, by D. E. Eastman his attorney, comes & defends the force & injury, when &c. named in said plaintiffs declaration and says he is not guilty of the supposed trespasses named in said plaintiffs declaration, because he says that on the first day of November 1856 in the Cook County Court of Common Pleas, in the said State of Illinois, a judgment was duly rendered wherein James T. Wheeler was plaintiff and Joseph C. Tiffany was defendant, which judgment was rendered in favor of said James T. Wheeler and against the said Joseph C. Tiffany for the sum of Five hundred & ninety seven dollars and twenty five cents damages, and four & ⁷⁰/₁₀₀ dollars as plaintiffs costs of suit, which judgment was and is in full force, not satisfied, annulled, set aside or vacated, - that on the first day of November 1856 an execution duly issued on last mentioned judgment from the Office of the Clerk of said Cook County Court of Common Pleas in said

Cook County in favor of said James T. Wheeler, and against said Joseph C. Tiffany commanding the Coroner & acting Sheriff of Cook County aforesaid to make of the proper goods & chattels of the said Joseph C. Tiffany the said sum of Five hundred & ninety seven dollars & twenty five cents damages, and four & ⁷⁰/₁₀₀ dollars plaintiffs costs of suit with interest, and which execution bearing date the first day of November 1856, came to the said defendant as legally appointed and acting deputy of and for the Coroner & acting Sheriff of Cook County aforesaid; and the said defendant then & there being the legally appointed & acting deputy as aforesaid of the said Coroner & acting Sheriff of said Cook County, by virtue of said execution, then & there, to wit, on the 7th day of November 1856, seized and levied upon the following property, to wit: Three Horses; one Cart; one Plow; one wheelbarrow; one Shovel; a quantity of Lumber, consisting of Boards and Plank; a quantity of wood, supposed to be 30 cords; 1 Water-tank; 1 Brick-kiln (then) being burned, supposed to be 150,000; 1 Kiln Brick supposed to be 105,000; 1 Brick Kiln supposed to be 340,000, as the property of the said Joseph C. Tiffany, it being the same property mentioned in the above amended pleas, as he lawfully had a right to do; And the said defendant further avers that the said property last mentioned was not the property of James E. McIntire assignee of said Joseph C. Tiffany as he has alleged in

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his declaration, but was the property of said Joseph C. Tiffany defendant named in said last mentioned execution, And this he is ready to verify, Wherefore he prays judgment &c.

N. L. Eastman Def. Atty.

And for a further and amended plea in this behalf, by leave of the Court &c. the said Francis N. Benson, one of the defendants above named, by N. L. Eastman his Attorney, comes and defends the force and injury, when &c. named in said plaintiffs declaration, and says that he is not guilty of the supposed trespasses named in said plaintiffs declaration, because he says that on or about the first day of November 1856, in the Cook County Court of Common Pleas in the State of Illinois a judgment was duly rendered wherein he the said Francis N. Benson was plaintiff and Joseph C. Tiffany was defendant, which judgment was rendered in favor of said Francis N. Benson and against the said Joseph C. Tiffany for the sum of Five hundred & fifty dollars damages and four & ⁷⁰/₁₀₀ dollars as his costs of suit, which judgment was & is in full force, not satisfied, annulled, set aside or vacated. - That on the 3^d day of November 1856, an execution duly issued on said judgment from the Office of the Clerk of the Cook County Court of Common Pleas in said County, in favor of said Francis N. Benson and against the

said Joseph C. Tiffany directed to James S. Beach, Coroner & acting Sheriff of Cook County aforesaid, commanding him as such Coroner & acting Sheriff of Cook County, to make of the proper goods & chattels of the said Joseph C. Tiffany the said sum of Five hundred & fifty dollars damages, and four & 7/100 dollars his costs in this behalf expended with interest, which execution bearing date the 3^d day of November 1856, came to the hands of said James S. Beach, Coroner & acting Sheriff as aforesaid, by virtue of which execution the said James S. Beach, Coroner & acting Sheriff of Cook County aforesaid, by Fayette S. Buckley his legally appointed & acting deputy, and at the instance & direction of said Francis N. Benson, then & there to wit, on the 7th day of November 1856, seized and levied upon the following property, to wit: Three Horses; one Cart; one Plow; one Wheel-barrow; one Shovel; a quantity of Lumber, consisting of Boards and Plank; a quantity of Wood, supposed to be 30 Cords; 1 Water-tank; 1 Brick-kiln (then) being burned, supposed to be 150.000; 1 Kiln Brick, supposed to be 105.000; 1 Brick-kiln supposed to be 340.000, as the property of said Joseph C. Tiffany, it being the same property mentioned in foregoing pleas, as he was directed & requested by said defendant, and as he lawfully had a right to do, And the said defendant further avers that the said property was not the property

of the said James E. McIntire, assignee of said Joseph C. Tiffany, as he in his declaration has alleged, but was the property of said Joseph C. Tiffany defendant named in said execution.

And this he is ready to verify, wherefore he prays judgment &c.

L. S. Eastman, Def. Atty.

And thereafter, to wit, on the fifth day of March in the year last aforesaid, the plaintiff by his Attorney aforesaid, filed in the Office of the Clerk of said Court his replication to the Amended pleas of the Defendants, which said replication is in the words and figures following to wit;

State of Illinois, }

Cook County, ss. }

In the Cook County Court of Common
Pleas of the February Term A.D. 1857.

James E. McIntire

vs

Francis N. Benson and others }

And the said plaintiff, as to the said first, second, third, fourth, fifth, sixth & seventh Amended pleas by the said defendants pleaded, saith that the said plaintiff by reason of any thing by the said defendants in the said pleas alleged ought not to be barred from

having & maintaining his aforesaid action against
the said defendants, because he saith the property
described in in the said pleas of said defendants is
the property of the said plaintiff as assignee of
the said Joseph C. Tiffany in said pleas mentioned,
& not the property of the said Joseph C. Tiffany.

And this the said plaintiff prays may be
enquired of by the Country.

H. P. Wilder Plff. Atty.

And afterwards to wit, on the twelfth day of
March in the year of our Lord one thousand eight
hundred and fifty seven, said day being one of
the days of the February term of said Court, the
following among other proceedings were had in
said Court and entered of record, to wit

James E. McIntyre assignee of Joseph C. Tiffany	}	Trespas.
vs Francis H. Benson, James S. Beach & F. B. Buckley		

And now at this day
again come the said parties by their Attorneys
aforesaid, and issue being joined herein,

It is ordered that a jury come, and thereupon
come a jury of good and lawful men, to wit.

Robert Moore, William Wiggins, Asa Fitch,
 H. A. Watson, M. Atwood, J. K. Barnes, John
 A. Reed, G. E. Chilcote, Thomas Connor, R. A.
 Fisk, Abraham Heath, & Thomas Barrett,
 who being duly elected tried & sworn well & truly
 to try the issue joined as aforesaid, after hearing
 the evidence & argument of counsel, retire under
 charge of an officer of the Court to consider of
 their verdict, and afterwards come into Court
 and say we the jury find the defendants
 not guilty as charged in said plaintiffs dec-
 laration.

Therefore it is considered that the said
 defendants do have and recover of the said plain-
 tiff their costs by them about their defence in
 this behalf expended & have execution therefor.

And afterwards, to wit, on the same day and
 year last aforesaid, the said plaintiff by his attorney
 aforesaid, filed his bill of exceptions which said
 bill of exceptions is in the words and figures as follows
 to wit.

State of Illinois, Cook County Court of Common Pleas.
 James C. McIntire Assignee
 of Joseph C. Tiffany

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 Francis H. Benson, James
 S. Beach & Fayette G. Buckley

Afterwards, to wit, at the Cook County Court of Common Pleas, held at Chicago, in & for the County of Cook, on the first Monday of February in the year A.D. One thousand eight hundred & fifty seven, before Jn^o M. Wilson Judge thereof, appointed to hold said Court, according to the form of the Statute in such case made & provided, the aforesaid issue so joined between the said parties as aforesaid came on to be tried, and the jurors of the jury within mentioned being called came, & being sworn to try the several issues within joined, it was hereupon stipulated & agreed by & between the parties, by their respective Counsel that the judgments mentioned in the within amended pleas of the said defendants were properly rendered, that the executions mentioned in said amended pleas were properly issued upon said judgments, and that said executions were levied by the said defendants Beach & Buckley, being the then acting Sheriff and deputy Sheriff of Cook County aforesaid, upon the property in said declaration mentioned & levied & taken into their possession,

And hereupon the said plaintiff by his counsel, to prove title to said property in said plaintiff, offered in evidence a certain assignment & schedule "A." & "B."

This Indenture made this fifteenth day of October in the year of our Lord One thousand eight-

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hundred & fifty six, between Joseph C. Tiffany
of Chicago, Cook County & State of Illinois, of the first
part, and James E. McIntire of the same place of
the second part:

Whereas the said party of the first part
is indebted to sundry persons in divers sums of money,
which he is unable to pay, as they fall due; and
has agreed to convey and assign all his estate &
effects for the benefit of his creditors as hereinafter
mentioned:

Now, this Indenture witnesseth, that the
said party of the first part, in consideration of the
premises, and of the sum of One dollar to him in
hand paid, by the said party of the second part, the
receipt whereof is hereby acknowledged, hath granted,
bargained, sold, assigned, transferred & set over & by
these presents doth grant, bargain, sell, assign,
transfer & set over unto the said party of the second
part, his heirs, executors, administrators & assigns, all
& singular the lands, tenements & hereditaments, real
estate & chattels real, of the said party of the first part:
And also, all the goods, wares & merchandise, per-
sonal property, chattels & effects belonging to the
said party of the first part, except such as is by
law exempted from attachment & execution, And
also, all & singular the debts, sums of money, balances
of account, promissory notes, bills of exchange, drafts,

bonds, judgments and other securities, claims and demands now belonging, due or payable, or to become due or payable to the said party of the first part; of which said real estate, chattels real, personal property, effects, debts, securities, claims & demands, a schedule is hereunto annexed marked "Schedule A." And also, all the books of account of the said party of the first part; and all papers, documents & vouchers relating to his business, dealings, property or affairs.

To have and to hold the same, and every part & parcel thereof, unto the said party of the second part, his heirs, executors, administrators & assigns. In trust, nevertheless, and to & for the uses, intents and purposes following, that is to say:

That the said party of the second part shall take possession of the said property hereby assigned, or intended so to be; and shall with reasonable diligence sell & dispose of the same at public or private sale, as he may deem most beneficial to the interests of the creditors of the said party of the first, & convert the same into money; And shall also, with reasonable diligence collect, get in & recover all & singular the said debts, dues, bills, bonds, notes, accounts & balances of accounts, judgments, securities, claims & demands hereby assigned or intended so to be.

And with, & out of the proceeds of such sales & collections, that the said party of the second

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part shall first pay & disburse all the just & reasonable expenses, costs, charges & commissions attending the due execution of these presents, and the carrying into effect the trusts hereby created, together with a reasonable & lawful compensation or commission for his own services, and with & out of the residue or net proceeds of such sales & collections the said party of the second part shall pay & discharge the debts due & owing by the said party of the first part, in the order & manner following, that is to say,

First, The said party of the second part shall pay all & singular the debts set forth & enumerated in a schedule of debts hereto annexed marked "Schedule B." and designated in said schedule as Class number one; the same to be paid in full with lawful interest, if the said proceeds shall be sufficient for that purpose; and if the same be not sufficient, then the said party of the second part shall apply the said net proceeds to & in the payment of the said debts ratably, and in proportion to the respective amounts thereof.

Secondly. After the payment in full of all the debts designated in said Schedule B. as Class number one, in manner above directed, the said party of the second part shall pay out of said proceeds if they be sufficient, all the other debts of the said party of the first part in full; and

if the said proceeds shall not be sufficient to pay said debts in full, then said proceeds shall be applied pro rata to the payment of said debts, and in proportion to their respective amounts.

Lastly. After the payment of all costs, charges and expenses attending the execution of the trust hereby created, and the payment & discharge in full of all the lawful debts due & owing by the said party of the first part of any & every kind & description, if any part or portion of the proceeds of said sales and collections shall remain in the hands or control of said party of the second part, his executors, administrators or assigns, he or they shall pay and return the same to the said party of the first part, his executors, administrators or assigns. And if, after payment in full of all the said debts, there should remain in the hands or possession of the said party of the second part, his executors, administrators or assigns, any part or portion of the property and effects hereby assigned, which shall not have been sold, ^{collected} or converted into money, he or they shall return, re-assign and re-deliver the same to the said party of the first part, his heirs, executors, administrators or assigns.

And the said party of the second part hereby covenants & agrees to execute said trust faithfully according to the stipulations herein

contained, being responsible only for his actual receipts and wilful defaults.

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

Jos. C. Tiffany Seal
 Jas. E. McIntyre Seal

State of Illinois,
 Cook County, } I Calvin D. Wolf, a Justice of Peace in
 and for said County, in the State aforesaid, do hereby certify,
 that Joseph C. Tiffany & Jas. E. McIntyre who is personally
 known to me to be the same person whose name is subscribed
 to the annexed deed appeared before me this day in person,
 and acknowledged that he had signed, sealed and deliv-
 ered the said instrument of writing as his free act and deed,
 for the uses and purposes therein expressed.

Given under my hand and seal, this 16th day of October
 A.D. 1856.

Calvin D. Wolf Seal
 Justice of the Peace.

Schedule B. Class number One

John O'Connor	supposed about	\$ 100.00
Benjamin F. O'Connor	" "	60.00
Charles Lee	" "	5.00
Malaga Kelly	" "	30.00
Michael Buckley	" "	45.00
David Church	" "	40.00

Patrick Church	"	"	40 00
Philip Knight	"	"	90 00
Robert Morgan	"	"	50 00
Charles Brown	"	"	17 00
George Brown	"	"	65 00
James Lahy	"	"	30 00
P. M. Hickock	"	"	30 00
John Fursta	"	"	35 00
John VanBuskirk	"	"	12 00
James Hannan	"	"	400 00
M. Myers	"	"	20 00
David Youngs	"	"	20 00
Alpheus McIntire	"	"	30 00
John Mason	"	"	20 00
John Davis	"	"	25 00
William Peterson	"	"	15 00
John Price	"	"	10 00
N. Fowler	"	"	12 00
Elias Morehouse	"	"	60 00
Henry Kahl	"	"	35 00
Thomas Potee	"	"	165 00
Christopher Doyle	"	"	30 00
Patrick Hand	"	"	14 00
Henry Myers (Second)	"	"	10 00
Martin Scantlin	"	"	40 00
William Fisher	"	"	65 00
James Shanney	"	"	34 00
William Beebe	"	"	30 00

Joseph Knight	" " "	20 00
Martin	other name not known as 3 at advance	26 00
James Ford	" "	15 00
James McGuire	" "	15 00
Theodore Wall	" "	8 00
Patrick Crawligh	" "	14 00
Nicholas Van Lene	" "	100 00

Comfort Tiffany of Baltimore Md \$ 3474 ^{cts} 27

Walton B. Stoutenburgh of Coxsackie N.Y. 1500 00

J. F. Edwards 600 00

Satterlee Cook. Hc 500 00

Morford Brothers 200 00

Schedule A.

estimated value

Schedule of all my property so far as known or recollectied

1 pr. Brown Horses	250 00
1 Bay Mare	75 00
1 Grey Horse	100 00
1 Sorrel Horse	75 00

1 Yoke Red Cattle	120 00
1 " other "	110 00
1 Steer wild on Prairie no mark	30 00
4 Wagons \$45.	260 00
3 Ox Carts \$15.	195 00
1 Set of double Harness	27 00
3 sets Machine Harness	15 00
2 Breast Collars	5 00
2 Cincinnati tempering wheels	90 00
1 Hollis rotary Pump & pipe	55 00
100 or more feet Hose & Couplings	32 00
6 Shafts & Irons tempering Clay	140 00
6 Boxes for Shafts to work	40 00
6 Brick Wheelbarrows	36 00
2 Sand "	16 00
3 Nails	3 00
18 Shovels & Spades	18 00
20 Cast Iron Kiln doors	26 00.
18 Shut " " "	30 00
Burning Irons	5 00
16 Brick Moulds	48 00
1 Large Wooden Cistern	24 00
1 Kitchen Stove & pipe & fan	35 00
1 Parlor " "	20 00
Crockery	15 00
Mattresses	36 00
Pillows	4 00
Comforters, Blankets & Sheets	13 00

Plank Road, Dock, & Lumber on yard	500. 00
Barrels & unenumerated Articles	10 00
1 Bay Horse	75 00
2 Pressed Brick Machines	240 00
1 doz Spades & Shovels	12 00
10 Brick Wheel barrows	30 00
2 Wood Wheelbarrows	20 00
2 Steel Spades	8 00
2 pressed Brick Moulds	5 00
Iron & other Brick moulds	25 00
2 Brick or Moulding Tables	6 00
1 Cast Iron tempering Shaft	25 00
1 Box for same	5 00
Saws, Axes & implements	4 00
Lumber, Posts & etc.	300 00
1 force Pump	22 00
about 60 ft Hose & couplings	18 00
1 Steel Plough	11 00
1 pr black Horses & Harness on Canal	360 00
	3674 00
less 10 per ct for wear & etc	367 40
	3306 60
520 M. unburnt Common Brick @ \$5.	2600 00
310 M burnt Common Brick @ \$6.	1860 00
35 M " pressed wht. " @ \$10.	350 00
25 " unburnt pressed wht " @ \$9.	225 00
20 " " " red " @ \$14.	280 00

No 6688 State of Illinois of Cook County. S. P. Recs for Recs
 on 16th October 1856
 Book 120 page 106
 L. A. Hunt, Clerk

About 200 Cords Wood lying on Canal bank at Summit yard & near G. Beebe's	100 00
My interest in Boat Advance over & above Mortgage of \$800. by Morford Brothers	100 00
Balance of Note of Clark & Martins	23 31
" due on Horse by Joseph Abbitt	12 00
Lease of yard from James Lang	250 00
Lease of yard from George Beebe	350 00
	10706 91

J. C. Tiffany

made by Joseph C. Tiffany of Chicago & County aforesaid,
 party of the first part, and James E. McIntire of the
 same place party of the second part, on the fifteenth
 day of October A.D. 1856, & executed by the aforesaid
 parties on the sixteenth day of October A.D. 1856, and
 left for record at the Recorder's Office of Cook County
 aforesaid on the day last aforesaid, which said property
 therein mentioned was the same property as that levied
 on by said Beach & Bulkley, which said assignment
 & schedules were admitted by defendants Counsel to be
 properly & duly executed; but said defendants, by their
 counsel, thereupon objected to the admission of the afore-
 said assignment & schedules in evidence for the reason
 that the said assignment was fraudulent & void per se.
 And thereupon the aforesaid Judge of said Court, pre-
 siding at the trial, declared & delivered his opinion
 that the said assignment was void & inadmissible in

evidence & excluded the same from the jury; In which said Opinion & ruling of the said Judge of the Court aforesaid the counsel of the said plaintiff did then & there except. And no further evidence being offered by either party & the aforesaid evidence being all that was given or offered by either party, the jurors aforesaid, under the instructions of said Judge rendered their verdict of not guilty for the defendants; And inasmuch as the Counsel of said plaintiff insisted & relied upon the aforesaid assignment & schedule, introduced as aforesaid, to sustain his said action, the said Counsel for the plaintiff did then & there propose their said exception to the aforesaid opinion & decision of the said Judge and requested him to put his seal to this Bill of exceptions containing the said matter so offered in evidence on the part of the said plaintiff as aforesaid & by said Court excluded from said jury according to the form of the Statute in such case made & provided.

And thereupon the said Judge at the request of the said Counsel for the plaintiff did put his seal to this Bill of Exceptions pursuant to the aforesaid Statute in such case made & provided, on the twelfth day of March in the year of our Lord one thousand eight hundred and fifty-seven.

John M. Wilson, Judge of the
Cook County Court of Common Pleas Seal

State of Illinois, }
County of Cook, } ss.

I, Walter Kimball Clerk of the
Cook County Court of Common Pleas, within and
for said County and State, do hereby certify that
the foregoing is a true transcript of the papers, pro-
ceedings and Records of said Court, as the same
are now on file in my Office, in the case wherein
James E. McIntire Assignee of Joseph C. Tiffany
is plaintiff and Francis N. Benson, James S. Beach
Coroner & acting Sheriff of Cook County, & F. B. Buckley
Deputy Sheriff of Cook County are defendants.

In testimony whereof I have here-
unto set my hand and affixed the
Seal of said Court, at Chicago, this
2nd day of April A.D. 1857.

Walter Kimball Clerk



James E. McIntire, assignee of Joseph C. Tiffany, }
vs. } Trespass upon personal
Francis H. Benson, Jas. S. Beach, Fayette S. Buckley. } property.

Trans. p. 6-7. Preliminary proceedings—regular declaration filed December 11th, 1856, alleging that said defendants, in November last, seized and took certain personal property, consisting of bricks, lumber, and horses, and the implements for making brick, of the value of four thousand two hundred and seventy-seven dollars and thirty-two cents, of the said plaintiff as assignee, and converted and disposed of them to their own use.

Page 7. Pleas—First, the general issue; Second, defendants in several amended pleas
Pages 23-36. recite three several judgments rendered in said Court against Joseph C. Tiffany; that executions were issued upon these judgments, and levied, by the defendants Beach and Buckley, upon the property described in the declaration, as Sheriff and deputy Sheriff of Cook County, and allege that the property set forth in the declaration is not the property of the plaintiff, but is the property of the said Joseph C. Tiffany.

Page 36. General replication filed alleging that the property described in the declaration and pleas is the property of said plaintiff, and concluding to the country.

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Page 39. said Court, and a jury. It was admitted by the counsel on both sides that the judgments mentioned in the amended pleas were properly rendered, executions properly issued, and levied by the defendants Beach and Buckley, the then acting Sheriff and deputy Sheriff of said county, upon the property mentioned in the declaration, and taken into their possession.

Page 39. The assignment of Joseph C. Tiffany *for the benefit of his creditors* to James E. McIntire, with schedules
Page 43. "A and B" offered in evidence by plaintiff and objected to by defendant, on the ground that it was void *per se*, by reason of its containing this clause—"And the said party of the second part hereby covenants and agrees to execute said trust faithfully, according to the stipulations herein contained, being responsible only for his actual receipts and wilful defaults." This objection was sustained by
Pages 49-50. the Court, the assignment excluded, and exceptions taken. This is the only point for the consideration of this Court.

Verdict rendered for defendants under the instructions of the Court.

D. P. WILDER, Attorney for Plaintiff.

McIntire
vs
Benson

Assgt of
Errors

Filed April 21, 1858
L. Leland
R. R.

As the defendant for his defense under the instructions of the Court.

D. B. WILDER, Attorney for Plaintiff.

And the said appellas by Courtman
& Berenids their attys and say there
is no error in the records proceedings
& Judgment in the case

Courtman & Berenids
Attys for appellas

Supreme Court of the State
of Illinois of the April
Term A.D. 1858;

James C. McIntire, Assignee &c.
Plaintiff in error

vs.

Francis H. Benson & others
defendants in error

Afterwards, to
wit on the third
Monday of April A.D.
1858, comes the said

plaintiff by L.P. Kilder his attorney & says
that in the record & proceedings aforesaid
& also in giving judgment aforesaid there
is manifest error in this, to wit;

1st In excluding the said assignment of Joseph
B. Tiffany to James C. McIntire offered in
evidence at the trial on behalf of said plaintiff.

2^d In adjudging said assignment void
per se, by the said court.

3^d In instructing the jury to find a verdict
for said defendants.

L.P. Kilder
Plfs. Atty.

State of Illinois

Supreme Court at Ottawa

April term A.D. 1858.

Francis M. Benson et al

vs

James Mc Intire Assignee

Joseph C. Tiffany

Appeal by Pltff from the
Cook County Court of Common Pleas.

The declaration in this case is in trespass for unlawfully taking personal property belonging to the said Plaintiff as assignee of said Tiffany.

The defendants justify the taking of the said property by virtue of their executions against Joseph C. Tiffany, Assignee, averring that the property in question belonged to said assignee, the defendant in said executions.

The trial of the case came on before Hon Jno M. Wilson, and a jury March 12th 1857. in the said Cook County Court of Common Pleas.

It was agreed by the parties that the judgments and executions were regular and valid, and that the defendant Benson was Plaintiff in one of said executions.

And that Beach was then lawfully
Sheriff of said ^{County} County, and that Defendant
Buckley was his duly appointed deputy,
and that they as such Sheriff and deputy
levied upon the property in question
by virtue of the said executions, and that
such acts were all the trespasses complained
of ~ ~ ~

The Plaintiff offered in evidence the
assignment from Tiffany to the Plaintiff
which contained among others this clause.

" And the said party of the second
" part hereby covenants and agrees to
" execute said trust faithfully, according
" to the stipulations herein contained,
" being responsible only for his actual
" receipts and wilful defaults "

(The Case of prob. v. Allen & Paxon 18 Barb. 549 in point
aff. in error)

The defendants objected to the
said assignment as it appeared
upon its face to be void.

The objection was sustained after
full argument by the Court, and a
verdict was rendered of "not guilty"

The usual motion for a new trial was
made, and overruled by the Court,
and the Plaintiff appeals to this Court.

The assignment of errors from the record presents but a single question "per se simple" for this Court to decide!

Is the assignment valid in law, and such an instrument as will pass the property from the assignor to said assignee, to the exclusion of the bona fide judgment creditors of said assignor or in other words, does the provision above cited, limiting the responsibility of the assignee to his "actual receipts" and "willful defaults" render the assignment void "per se"?

1 An assignment to be valid must be "bonafide" and free from all provisions tending to defraud or delay or hinder creditors in the collection of their debts.

Webb vs. Daggett 2 Barb. S. & R. 9
Baumy vs. Griffin 2 Connecticut 365
Arthur G. B. vs. Pittsburgh 9 Smeth. 394
Statutes of Illinois Chap. 44 Sect. 2

It must not only be for the benefit of the creditors of the assignor, but it must not in any sense or degree be for the benefit of the assignor himself. (Except as a necessary result after all the creditors are satisfied) And to this primary object the property assigned should be faithfully

and unreservedly appropriated, without
any contrivance to embarrass or defeat
its accomplishment,

See 3 Scam. M. 1850 Goodrich vs. Town of New (N.Y.) 438
417-423 Hitchfield vs. White 3 Sanford S.B.R. 545
" " " 3 Ludden (N.Y.) 458
Gayman vs. Gayman 4 Alabama 394

The Statute of Illinois prescribes no
rules with direct reference to assignments
but it contains a clause with respect
to conveyances as follows

Every grant or conveyance of
lands - tenements - goods or chattels &c -
had or made or continued - to the intent
or purpose to delay, hinder or defraud
Creditors of their just and lawful actions
Suits debts &c. to be clearly and utterly
void, Revised Statutes of Ill. Chap 44. Sec 2.

The above provision is almost the
exact language of the Common law in
force and also of the Statute of New York
upon which the best considered opinions
upon the subject of assignments are
predicated.

It is a rule of law that a Trustee is bound to manage and employ the trust property for the benefit of "certain you trust" with the care and diligence of a prudent owner, and as an assignee is but a Trustee in fact, he is subject to the same rule of action. Trustees are liable for every loss sustained by reason of their negligence, want of caution, or mistake, as well as of positive misconduct.

year 1852

Litchfield vs White	3	Seeley	Sb R.	438
Willis on Trustees	172 - 173 -			125 - 167
2 Kent Com				230
Puigw vs Comstock	10	Picking R.		166
3 Sanford Reports				438

The Assignment in question by reason of its express provisions is fraudulent in law, and void.

The Clause providing that the assignee shall be responsible only for his "actual receipts" and "wilful defaults" is an attempt to exempt the assignee from that liability which the law imposes upon Trustees or Assignees, and is therefore evidence of an intent to hinder and delay, and does by placing property beyond their reach defraud Creditors by depriving them of their legal remedies against the assignee.

Litchfield As White 3 Saund S.C.R. 551
 " " 3 Selden 438.

The provision in question by express and
 positive terms, excepts the Assignee from
 the full measure of liability which the
 law imposes upon Trustee.

The degree of diligence
 imposed by law upon Trustee.

"In the same case and
diligence of a prudent owner"

Willis on Trustee 125. 169 -	172
Lewis on "	299
2 Kent Comd (6th ed) (note (a))	230
15 Peter def Abridge	143

Assignees are held to the same rule
 as Trustees as to diligence and have
 been made personally responsible for
 omitting it.

15 Ohio Rpts	593
1 Hoffmanns L.R.	157
5 Wharton	530
4 Pickering	518
18 Pickering	48

This assignment is not therefore such
 an absolute transfer and appropriation
 of the debtors property to the payment
 of his debts, as the law sustains.

It contains a reservation and Condition
in consistency with the rights of the
Creditors and adequate to defeat them,

Its intent was to protect the
assignee in a degree of negligence
which would inevitably delay and defraud
Creditors, and if indulged in to the extent
allowed by the assignment, might be
greatly for the benefit of the Assignor.
It is therefore void!

It is not absolute and unconditional
as the law demands.

Grove vs. Wakemans 11 Q.B. 187

Assignments made with conditions the
tendency of which is to injure Creditors
are always held to be fraudulent —

See Emory & Page 417
Crompton vs. Sedgwick 1 B. & C. 211

The law requires the assignee to be
personally liable and able to respond.
If he be exempted from personal liability,
the effect is the same as if he was not
liable, or not able. So far as relates
to the Creditors

It is no answer to these positions, to say the assignor might be held liable in equity to due diligence. Having refused by express and positive terms of the assignment to assume the liability - otherwise imposed by law, it is very certain that a Court of equity will not force a party to become a party to a Contract, and to assume responsibilities which such party had both the right and which by a positive act he did decline.

But even if it could, it would still be dittatory and expensive, and would be hindering and delaying.

Howell vs. Edgar & Scammon R. 417-423.

It is a rule of law that the maker of an instrument, is deemed to have intended all the Consequences which may legitimately flow from the provisions of such instrument.

Hence in this case the assignor (Piffamy) is in law deemed to have intended all the Consequences which may legitimately flow from this assignment from its various provisions, and therefore he (Piffamy) intended to place his property beyond the reach of his Creditors, and where his assignee would in no wise be responsible for the case. Sale or

application of such property. Although (Dissans) the assigned might Convert it to his own use, or otherwise, as he limited the liability of such Assignee, to his actual receipts, and willful defaults,

(Which limitations are expressed in language, denoting the least possible liabilities. As the term "Willful" default, could only be applied to an act of omission or Commission, rarely if ever to be found in the practical transaction of men—

The intent therefore to hinder delay and defraud is a necessary legal Conclusion from the provision of the Assignment under Consideration.

Litchfield vs White 3 Saund 545
" " " 3 Selden R. 438

The Case last cited in the 3^d Saund and affirmed in the 3^d of Selden in the Court of Appeals. (Litchfield vs White) is a Case almost in the exact language of the one before the Court.

The provision in the first was in these words,

"The said party
" of the second part shall not be liable
" or accountable for any loss that may
" be sustained by Trust property, or the
" proceeds thereof, unless the same shall
" happen by reason of his own "gross
" negligence" or "Willful misfeasance"

The provision in the second case are in these words,

"And the said party of the
" second part hereby covenants and agrees
" to execute said trust faithfully according
" to the stipulations herein contained being
" (responsible only for his "Actual receipts"
" and "wilful default,"

The term "gross negligence" or "wilful
"misfeasance" is much broader and
embraces or comprehends a much wider
range of practical action, than the
term "wilful default." A simple statement
of the two phrases is perhaps the strongest
method of comparing them. (Without
addition by any lexicographic authority,
hence we are forced to the conclusion
that if an assignment containing the
first clause or limitations is void, it
cannot be denied that the assignment
containing the latter clause or limitation
is also void for the better reason.

3^d of *Selden* above cited, that the clause ^{limiting} ~~limiting~~
the liability of the assignee, to his
own "gross negligence" or "wilful mis-
feasance, rendered the assignment void
per se. which decision is well supported
by the authorities herein cited, and
is the settled law in such cases.

grounded upon the self evident proposition, that every man intends by his acts every legitimate result flowing from them.

(We feel confident that further research or argument in this case is unnecessary, as it is wholly settled upon principle and authority, and the decision of the Court below must be affirmed)

Respectfully Submitted
Eastman & Beveridge
Attys for Defts

43
J H Benson et al
vs
43

James E. McIntosh

Agreement
for deft. in error

Filed April 23, 1858
L. Leland
Clk.

Eustace - Beveridge
Atty for defl
43

The decision of the court below is erroneous, first :

Because the clause which it is contended vitiates the assignment is only declaratory of the law in relation to the liabilities of trustees, and does not relieve them from any of their legal liabilities. Bur. Ass. 507; Hill Trustees, 314; Lewin on Trusts, 288; Mucklaw v. Fuller 1 Jacob R. 198; (in 4 Eng. Ch. Rep.) Williams v. Nixon 2 Beav. 472; (in 17 Eng. Ch. Rep.) Dawson v. Clark 18 Ves. 254; Leigh v. Barry, 3 Atk. 584; Briggs v. Taylor, 5 A. L. Reg., (Feb'y No. 1857,) p. 239 and cases cited. Coope v. Carter, 2 De. G. Mac. & G. 297-8; Sleight v. Lawson, 3 K. & J. 292.

Second: Courts are bound to construe instruments favorably, so that the intentions of the parties, as they appear from the whole instrument taken together, may be carried into effect rather than thwarted: and where a clause admits of two interpretations, that should be given which will render it legal and operative, rather than that which will render it illegal and void

2 Bl. Com. 379; 2 Kent, Com. 718^{*}, p. 554-555; Chit. Cont. 80; Bur. Ass. 347, 397; Darling v. Rogers, 22 Wend. 483; Cross v. Bryant, 2 Scum. 36, Stout v. Whitney, 12 Ill. 228.

Third: By this rule of construction, the clause in question does not at all *contract* the legal liabilities of the assignee, even if the court should hold that it *fixes* the limit of those liabilities. 2 Eq. Jurisp. § 1269-1272; Sty. Bail. §174-183; Par. Mer. Law p. 299; Bur. Ass. 400-403: Belchier v. Parsons, Amble 218; Knight v. Ld. Plimouth 3 Atk. 380; Marburry v. Brooks 7 and 11 Wheat 556 and 78; Mann v. Witbeck, 17 Barb. 388; Jacobs v. Allen 18 Barb. 549; Kellogg v. Slauson, 1 Kern Rep. 302.

Fourth: The provisions contained in this clause, are the common provisions in trust deeds, have received the sanction of the profession and are sustained by the weight of authority, even in New York, in which State the courts have gone farthest in invalidating assignments for the benefit of creditors.

Judge Bell's Form Book p. 395; Mucklaw v. Fuller 1 Jacobs 198; Jacobs v. Allen, 18 Barb. 549; to sustain the first part of the proposition; and Mann v. Witbeck, 17 Barb. 388; Jacobs v. Allen, 18 Barb. 549; Kellogg v. Slauson, 1 Kern. 302; Robinson v. Harlan, 1 Scam. 237.

Fifth: The third section of our own Statute of Frauds expressly saves conveyances made *upon good consideration and bona fide*, from the effect of the second section; and there is no pretence that there is any fraud in fact, or that the consideration is insufficient. Purple's Stat. 586, § 3; Bur. Ass. p. 375, 376, 377, 381-382, 386-7, 8, 9. This proviso is not contained in the New York Statute. Bur. Ass. p. 389; Thornton v. Davenport, 1 Scum. 296-298.

McIntire

or

Benson

Pliffs Brief

Davenport 1 Scam. 306-308.

not contained in the New York Statute. But see p. 300; Robinson v.

§ 3; But. v. 18 Barb. 376, 377, 381-383, 385-400. This provision is

found in fact on that the consideration is insufficient. Purples' Stat. 286.

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advantages made upon good consideration and good will from the

plaintiff. The third section of our own Statute of Frauds expressly

K. G. v. Stanton, 1 Kern. 303; Robinson v. Hartman 1 Scam. 387.

Jacob v. Wilbeck 17 Barb. 385; Jacobs v. Allen 18 Barb. 449;

Judge Hall's Form Book p. 305; Mucklow v. Keller 1 Jacobs 103;

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388; Jacobs v. Allen 18 Barb. 449; Kellogg v. Stanton 1 Kern. 303.

a. Davenport and 18 Barb. 376 and 381; Mann v. Whitson, 17 Barb.

v. Hartman, 1 Barb. 318; Knight v. L. J. Richmond 3 Ark. 300; Mandamus

2d. Barb. 314-123; But. New Law p. 300; But. v. 400-403; Polchier

hold that it was the intent of the legislatures 2 Jd. Jurist. § 1300-1373;

as all connect the legal liabilities of the assignee, even if the court should

think. By this rule of construction the clause in question does not

3 Scam. 306-308; Whittier 13 M. 258.

But. v. 400-403; Dalling v. Rogers 22 Wend. 460; Cross v. Bryant;

3 M. Com. 370; 3 Knox, Com. 718; p. 354-355; Chic. Com. 80;

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3 M. G. 1 303.

184; Briggs v. Tappan 3 A. L. Rep. (Reb'y Nov. 1847) p. 258 and cases

like Ch. Rep. Davenport v. Clark 18 Ves. 354; Leight v. Barry 3 Ark.

18 108; (in a pag. Ch. Rep.) Williams v. Nixon 3 New. 473; (in 17

14) Trustees 314; Lewis on Trusts, 288; Mucklow v. Keller 1 Jacob

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Burill on assignment.

State of Illinois
Circuit Court

F. E. McIntire assignee

J. W. Benson } appear from book

Appearance of respondent is entered
by agreement as of this date

June 16, 1857 - Courtroom, Rockford
Atty for Benson

J. E. M. Linton
at large
J. H. Benson

Appeared
Benson

Filed June 16, 1857
L. Leland
Clerk

State of Illinois
Third Judicial District ss.

Supreme Court of Ills.
May Term A.D. 1858

James E. McIntire
Plf. in error

vs.
Francis M. Benson et als,
def. in error

It is hereby stipulated
& agreed by & between the counsel of the said
Plaintiff & defendants That the above
entitled cause shall be submitted to the
Court upon written arguments to be
filed ~~with the records of said cause~~
at the earliest convenience of said coun-
sel respectively

L. P. Wilder
counsel for plf in error

Certman & Beunige
Atty for def

43.

McLuttre

or

Benson Ad

Stipulation

Filed April 28, 1858
L. Leland
Clerk

STATE OF ILLINOIS, }
COOK COUNTY, } ss.

COOK COUNTY COURT OF COMMON PLEAS, }
Of the January Term, A. D. 1857. }

James E. McIntire, assignee of Joseph C. Tiffany, }
vs. } Trespass upon personal
Francis H. Benson, Jas. S. Beach, Fayette S. Buckley. } property.

Preliminary proceedings — regular declaration filed December 11th, 1856,
Trans. p. 6-7. alleging that said defendants, in November last, seized and took certain personal
property, consisting of bricks, lumber, and horses, and the implements for making
brick, of the value of four thousand two hundred and seventy-seven dollars and
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Verdict rendered for defendants under the instructions of the Court.

D. P. WILDER, *Attorney for Plaintiff.*

To Leiland
to Cash

~~43~~ 43. = 1/5

James E. McIntire

vs

Francis H. Benson et al

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(330)

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McIntire
vs (3) (3)

Benson
Benson

1858

Benson

Benson

Benson

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Reference