

No. 13232

Supreme Court of Illinois

DeWolf

vs.

Strader et al

71641  7

STATE OF ILLINOIS,

SUPREME COURT,

Third Grand Division.

No. 13.

DeMacy
vs

Shroder

State of Illinois
Kane County,

In the Kane Circuit Court,
In Chancery

Calvin D Wolf }
vs } Please to issue a writ of error to the Kane
David Stroder } Circuit Court to remove the proceedings in
Oliver D B Jones } this case to the Supreme Court of the State
of Illinois for the district of that the
said cause may be renewed in said
court on said writ of error on the part of the Plaintiff

I Lilliana Clark
To the Clerk of the Supreme Court
of the State of Illinois
for the 3^d Judicial District

Seymour D Wolf
Pro Plaintiff
June 9 1858,

Please to enclose this writ to me,
or to my agent.

~~88~~ ~~22~~ 13
Calvin D Welf

07

David Stroder, Stab

Precepe

Filed June 9. 1858

L. Leland
clerk

State of Illinois } See Supreme Court Third
Grand Division

Calvin D Wolf

April 7 1859.

vs

Ernest to Rome

Daniel Sturdevant

Oleum B D Jones

Supremacy Wolf agent & other
my for Plaintiff being duly sworn according
to Law deposes and swears that Oleum B
Jones, one of the Defendants in this case
does not reside in the State of Illinois so
that process can be served upon him
in this case.

Sworn & subscribed

before me May 27 1859

Pls Bailey

County Clerk

Carroll Co

Illinois

Calvin D. Wall

22 25

David Stroder et al

affdnt. & f. now -
residence

Filed January 21, 1860

L. Leland
Clerk

STATE OF ILLINOIS, Supreme Court within and for
the Third Grand Division of said State, ss. Calvin
D'Wolf, plaintiff in error, vs. David Stroder and Oliver
D. B. Jones, defendants in error. Error to Kane
County Circuit Court.

It appearing by affidavit, on file in the Clerk's Office
of said Supreme Court, in the above entitled cause,
that Oliver D. B. Jones, one of said defendants in error,
is a non-resident of the State of Illinois, and without
the reach of the process of said Supreme Court, and
the said Calvin D'Wolf having duly sued out of said
Supreme Court a writ of error to reverse a decree obtained
by the said David Stroder and Oliver D. B. Jones,
against the said Calvin D'Wolf, in the Circuit
Court of Kane county, which writ of error is now pending
in said Supreme Court, and a writ of *scire facias*
having been issued hereon, returnable on the first day
of the next term of said Supreme Court, to be holden
at Ottawa, in said State, on the first Tuesday after the
third Monday in April next, according to law.

Now you, the said Oliver D. B. Jones, whose non-residence
appears as above, are hereby notified to be and
appear before the Justices of the said Supreme Court,
at the next term of said Supreme Court, to be holden
at Ottawa, in said State, on the first Tuesday after the
third Monday in April next, to hear the record and proceedings
of said Circuit Court brought into said Supreme Court
on return of said writ of error, and the errors assigned if you shall see fit; and further, to do and
abide what said Supreme Court shall order in this behalf.
Attest: L. LELAND, Clerk.

LYMAN E. D'WOLF, counsel for the plff. in error. feb 11

This Certifies that the accompanying notice in the case Calvin D'Wolf vs David Stroder and Oliver D. B. Jones, was published eight times for eight consecutive weeks in the Ottawa Free Trader a weekly newspaper published at Ottawa, La Salle County, Illinois, first insertion being made on February 11th, 1860.

Wm Osman,
Publisher
Per J. Barton

Dated this april 20th, 1860.
Printers. Fees \$3.50; Paid.

17
31
20
68

No ~~22~~ 13

C. DeWalt

^{or}
D. Strader &

Oliver D. B. Jones.

Publication of Notice

Filed April 20, 1860
L. Leland
Clerk

State of Illinois In the Circuit Court of Kane County
Kane County ss }

Calvin D Wolf } In Chancery - Bill to set aside a sud
as } for pond &c

David Strader }
Oliver D B Jones } The Clerk of the Supreme Court

Will please to issue a
writ of error to remove the proceedings in the foregoing case
wherein Calvin D Wolf is complainant below and David
Strader and Oliver D B Jones defendants below - And
that the Judgment, Record and proceedings in this case
may be reviewed in said Supreme Court and the errors
in said case corrected by said Court according to the
provisions of the Statute in such case made and
provided ~~and~~ Returnable to the next term of
said Court.

Given under my hand this 18th day of

Yours Respectfully

L Selond

Lyman D Wolf

Clerk of the Supreme Court
of the State of Illinois
for 3^d district

Solicitor for
C D Wolf Complainant

~~58~~ ~~22~~ 13
Calvin D Wolf
by
David Shober et al

Receipt

Filed June 7. 1838
S. Leland
clerk

STATE OF ILLINOIS, }
SUPREME COURT, } ss.

The People of the State of Illinois,

To the Sheriff of the County of

Kane

Greeting:

Because, In the record and proceedings, and also in the rendition of the judgments of a plea which was in the Circuit Court of Kane County, before the Judge thereof, between Calvin DeWolf

plaintiff; and

David Stroder and Oliver D. B. Jones

defendant &c., it is said that manifest error hath intervened, to the injury of the said defendants

as we are informed by his complaints the record and proceedings of which said judgments we have caused to be brought into our Supreme Court of the State of Illinois, at Ottawa, before the Justices thereof, to correct the errors in the same, in due form and manner, according to law: Therefore, We Command You, That by good and lawful men of your County, you give notice to the said David Stroder & Oliver D. B. Jones

that they be and appear before the Justices of our said Supreme Court, at the next term of said Court, to be holden at Ottawa, in said State, on the first Tuesday after the third Monday in April next, to hear the record and proceedings aforesaid, and the errors assigned, if they shall see fit; and further to do and receive what said Court shall order in this behalf; and have you then there the names of those by whom you shall give the said David Stroder & Oliver D. B. Jones

notice, together with this writ.

Witness, The Hon. John D. Eaton, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this 25th day of March in the Year of Our Lord One Thousand Eight Hundred and Sixty one.

L. Leland

Clerk of the Supreme Court.

J. B. R. Deput

I hereby accept service of the within Scire facias March 27th 1861.

David Strader

Calvin De Wolf

No. 13

vs.

David Strader

Exec

SCIRE FACIAS.

FILED April 16 — A. D. 1861

Adland

By ~~Wheland~~ ^{Block}

STATE OF ILLINOIS, SUPREME COURT,

THIRD GRAND DIVISION.

APRIL TERM, 1860.

CALVIN DE WOLFE

vs.

DAVID STRADER and OLIVER B. D. JONES.

} *Error to Kane.*

DAVID STRADER, on the 20th October, 1848, was owner of the lots in controversy—lying on the east side of Fox river, in the village of St. Charles—and in possession.

The lots had a storehouse, a warehouse, two dwelling houses, a barn and smoke house, worth, with improvements, two to three thousand dollars. The property was worth, at rent, from \$225 to \$420 per annum.

At that time Strader was in embarrassed and insolvent circumstances.

Being thus embarrassed, and in failing circumstances, Strader made a deed of conveyance of all this real estate to his step-son, Jones, in the fall of 1848. Now, we ask, for what consideration? We allege that the conveyance was without a valuable consideration, and that it was made to hinder, delay and defraud creditors. Even if the degree of relationship by affinity between these defendants was sufficient as a good consideration, supportable upon the ground of natural love and affection, yet Strader had no right to dispose of all his estate to gratify his bounty or his natural love, at the expense of his just creditors.

We have a right to show by parol proof—so far as we may be able—the true amount and kind of consideration which passed, if any.

Hamilton vs. McGuire, 3 Serg. & Rawle 355.

Jerden vs. Cooper, 3 Serg. & Rawle 564.

Wergley's admr. vs. Wilson, 7 Serg. & Rawle 309.

Wilkinson vs. Scott, 17 Mass. R. 249, 256-7.

14 John. R. 210.

20 John. R. 338.

4 New Hamph. R. 229, 397.

7 Monroe R. 291-3.

15 Ill. R. 230.

In order, therefore, to show a total want of pecuniary consideration, the plaintiff introduced Wm. D. Barry, who drew the deed, and who was acquainted with the alleged consideration which was claimed by Mr. Jones, the vendee.

Now the only pretence was, that Jones' father or grandfather had left him some money, which came into his own mother's hands before her intermarriage with Strader, and for anything shown, was spent by him and his mother. The inference from Strader's reply when applied to about it, is irresistible that he had been tortured both by mother and son to secure him a sum of money upon some pretence or other. He remarked that he had had hell long enough, and was willing to comply with any sort of demand rather than bear that state of family torment. Now at this time Jones only claimed \$350, and this is all the evidence of consideration. If it were true that Strader was liable for moneys spent by himself and mother before her intermarriage with Strader, why could not Jones have produced at the trial some other evidence than his own mere claim?

But again, admitting that Mrs. Strader owed her son \$350, and that Jones could have enforced the claim against his step-father, as an antenuptial debt of his wife, still the law and equity of the case will not permit him to take and hold \$2,000 to \$3,000 worth of property from the other creditors of an insolvent debtor—and property, too, the rents of which were ample to have paid off his claim in one year. The indebtedness of plaintiff existed at and before the time of this conveyance, and plaintiff afterwards, on 10th April, 1849, obtained a judgment for \$786.61.3, sued out his execution, which was levied on these lots, and they were sold and conveyed to the plaintiff, by the sheriff, on the 14th October, 1850.

This bill was filed in aid of the title, upon one of two hypotheses:

First. That the sale to Jones was fraudulent and void, as being made to hinder and delay the creditors of Strader; or

SECOND. That it was made as a mortgage, and the plaintiff, in that point of view, offered to pay whatever might be found due, if anything.

If the Court should be of opinion that the proof of indebtedness is sufficient, then we insist that the conveyance was given to secure it.—This is shown by Strader's reply to Mr. Barry, when applied to by him about it. Strader said he was willing to secure him in any way; that he was willing to deed over all the land he had in St. Charles, as he had had hell long enough at home, if that would be satisfactory. He accordingly brought his title deeds, and made the conveyance absolute. This view, that it was given as a mortgage, is much strengthened by the comparative amount of the indebtedness claimed, and the value and productiveness of the real estate conveyed. Two to three thousand dollars worth of property, of annual value equal to the debt claimed, would be very ample security, and as such might be a very fair business transaction.

But such an amount of productive property transferred upon absolute sale, in payment of a debt of about one-ninth part of its amount, and that to a member of the family, and by an insolvent debtor, bears all the ear-marks and characteristics of a fraud, designed to cover the property from fair and *bona fide* creditors.

Now this, too, was done upon and in pretended satisfaction of a bare claim, uncorroborated by any testimony, but resting solely upon Jones' claim of it, and Strader's acquiescence.

The veil that covers this transaction is too thin to conceal its deformity and glaring fraud against honest creditors.

One more point, and I submit this case.

The Court excluded that portion of the depositions of the witnesses that detailed the *res gestæ*—the negotiation—that part that shows the transaction was merely intended as a mortgage, and intended to secure the claim. Parol is admissible to show a conveyance absolute in form, to be intended and given as a mortgage.

Davis et al. vs. Hopkins, 15 Ill. R. 522.

Williams vs. Bishop, 15 Ill. R. 553.

Smith et al. vs. Sacket et al., 15 Ill. R. 528.

Miller et al. vs. Thomas et al., 14 Ill. R. 428.

The evidence was admissible, and being admitted proves the true character of the transaction.

The Court should therefore have set aside the deed altogether as fraudulent, or should have ordered an account, and decreed a redemption upon plaintiff's paying what was found to be due.

W 13 22

C. De Wolfe
r

D. Shadler et al

Plff's Points

Filed Apr 23, 1860

L. L. Mum
Clerk

W. B. Scates

State of Illinois---Third Grand Division.

APRIL TERM, 1860.

22 CALVIN DEWOLF,
vs.
DAVID STRADER AND } ERROR TO KANE COUNTY.
OLIVER B. D. JONES.

BILL CHARGES FILED MAY 9, 1851.

Record
Page 2.

That David Strader was, on the 20th October, 1848, possessed of Lots 5, 6, 7, 8, and the south half of lots 1 and 2, in Block 13. And also west half of Lot 2 in Block 2, all in the town of St. Charles, on the east side of Fox river, in Kane county, and claimed to be the owner.

That said Strader, on that day was indebted to plaintiff in the sum of \$558 18, money lent And to Andrew J. Brackett, and to Eddy, Brackett and Watkins, of Chicago, for goods sold and delivered, upon which promissory notes were afterwards executed by said Strader to them, and were assigned to plaintiff.

3 That said Strader was, at the same time largely indebted to other persons, whose names and residences are unknown to plaintiff, but he is informed, and believes that some of them are J. and A. Lowrey, and Henry W. Bames & Co., of New York, in the sum of \$3,000 or thereabout, and was in embarrassed circumstances, and unable to meet his liabilities:

That on or about the aforesaid time one Oliver B. D. Jones, another defendant in this suit, a minor, was in the employ of said Strader, at Saint Charles, in the capacity of a clerk, and conversant with his business and circumstances, and knew that said Strader was unable to make immediate payment to plaintiff and other creditors.

That on the day aforesaid said Strader executed a deed of the premises and lots hereinbefore mentioned, in fee simple, to the said Oliver B. D. Jones, which deed was duly acknowledged and recorded in Kane county, on the 21st of Oct.,

3 A. D., 1848, and which is in substance as follows: Deed from David Strader and Susan his wife, of Kane County, Illinois, to Oliver B. D. Jones, of same place, for the consideration of \$2,000, conveying land in Kane County, Illinois, as follows: Commencing at the s. w. corner of Lot No. 2, Block 13 in the Town of St. Charles, thence running northerly on the west line of said lot 50 feet, thence easterly and parallel with the north line of said lot 25 feet, thence southerly and parallel with the west line of said lot 50 feet, to the south line of said lot; thence westerly along said south line 25 feet, to beginning. Also Lot 8 and east $\frac{1}{2}$ of Lot 7, and south $\frac{1}{2}$ of Lots 1 and 2, in Block 13, and as follows, to wit: 5 Commencing at the s. e. corner of Block 13; thence running westerly on Illinois street 75 feet, thence northerly and parallel with Fifth street 100 feet; thence westerly parallel with Illinois street 25 feet; thence northerly parallel with Fifth street 50 feet; thence easterly and parallel with Walnut street 100 feet; thence southerly on Fifth street 150 feet to beginning.

Also west half of Lot 7 in Block 13, being 25 feet front, and 100 feet deep, fronting Illinois street, and also Lot 8 and the east $\frac{1}{2}$ of Lot 7, and south half of Lots 1 and 2, Block 13, bounded as follows: Commencing at s. e. corner of Block 13, thence westerly on Illinois street 75 feet, thence northerly parallel with Fifth street 100 feet; thence westerly parallel with Illinois street 25 feet, thence northerly parallel with Fifth street 50 feet, easterly parallel with Walnut street 100 feet; thence southerly on Fifth street 150 feet to beginning.

Also Lots 5 and 6 in Block 13, and west half of Lot 2 in Block 2.

8 That after the execution and delivery of the said deed to the said Jones the said Strader continued in the possession and occupation of said premises, until some time in the summer of 1850, without entering into any contract or agreement with said Jones, and used and controlled the same without accounting to said Jones for the moneys received from the tenants.

That some time in the year 1850, said Jones took possession of said premises and lots, and said Jones immediately thereafter left this State, and went to some place in New Hampshire, and various persons professing to act by the authority of the said Jones, have continued to manage and control the said property to the present time.

9 That upon said Lots there are improvements, viz: Two houses and one store, erected there by said Strader, prior to the said conveyance to said Jones, and the rents of said premises are worth about \$200 per annum above all taxes and assessments.

The plaintiff on the 10th of April, 1859, obtained a judgment against the said Strader, upon aforesaid indebtedness, for the sum of \$782 $\frac{18}{100}$, in the Cook

- County Court, upon which judgment execution was issued, directed to sheriff of Kane County, and by him levied on said premises, and said premises were sold, having been duly advertised, to one P. J. Burchell, agent of plaintiff, and a certificate of such sale was duly issued to said Burchell, which was assigned to plaintiff and afterwards, on the 14th day of Oct. 1850, sheriff executed a deed of said premises to plaintiff, which was duly recorded in the Recorder's office of Kane County, in Book No. 20 of Deeds, page 290, and is in substance as follows, viz: Recites that on the 10th April, 1849, plaintiff recovered a judgment for \$788 24 $\frac{1}{4}$ damages and costs against said Strader, and on the same execution issued to the sheriff of said County, who levied upon and sold the property hereinafter described to plaintiff by P. J. Burchell, his agent, and in consideration of the
- 11 premises, and of the sum of \$823 81, conveys to the plaintiff and his heirs in fee Lots 5, 6, 7 and 8, and the south half of Lots 1 and 2 in Block 13. Also the west half of Lot 2 in Block 2, all in the town of Saint Charles, on the east side of Fox river. Also, the north half of Lot 3, Section 16, T. 40, N. R. 6, E., all in Kane County.
- 12 That the deed from Strader and wife to Jones was without valuable consideration, or, if any consideration was paid, it was much less than the value of the property, and the deed was contrived for the purpose of hindering, delaying and defrauding plaintiff and others, and preventing them from collecting their just debts.
- 13 That the same was by arrangement between Strader and Jones, made for hindering, delaying and preventing plaintiff and others from collecting their just debts.
- 14 Charges combination and various pretences on the part of defendants, and that said Strader was indebted to said Jones, but alleges that he was not so indebted, or, if indebted at all, in a very small amount.
- 15 That plaintiff was informed that Strader had received about \$200 due Jones, under his father's will, and if that be so, plaintiff offers to pay the same to said Jones. That said deed was not made to secure any debt to Jones, but for hindering and delaying Plaintiff and others in the collection of their debts, and upon an agreement between them that the premises should be re-conveyed when Strader had compromised with plaintiff and others. And upon agreement Strader should still use and occupy the premises, as heretofore, and which he did accordingly.
- 16, 17 Calls for answer without oath, to all allegations and interrogatories.
- 18 Prays injunction against defendants, etc., meddling with said premises, or

- 19 transferring the same, from the collection of rents, etc. And that they further stand to, abide by and perform the direction and decree of the Court in the premises.
- 20-21 Injunction granted and bond given, in penalty of \$1,500 with Philander Eddy and E. T. Watkins, sureties conditioned as law directs.
- 24 Summons on Strader. Jones not found, summon May 10th, 1851.
- 25 Default of Jones entered.
- 26 Notice to Jones by publication.

ANSWER OF JONES.

- 28 Admits that Strader was possessed of the premises, and claimed to be the owner. That prior to the 20th Oct. 1848, he married Jones' mother, at which time he was without property, but that she had at the time of the marriage, about \$2,000 belonging to defendant Jones, bequeathed him by his father, and given him by his grand father, with which said monies Strader purchased the premises in the bill mentioned. That Strader at the time he purchased knew the money belonged to defendant Jones, and held the same in trust for him. Denies that Strader was indebted to plaintiff in any sum before the 20th of October, 1848.—
- 29 Denies that he was indebted to A. J. or Eddy, Brackett and Watkins. Denies that Strader was largely indebted to other persons, or was embarrassed, and was unable to meet his liabilities. Admits that about the 20th Oct., 1848, defendant Jones, being a minor, under 21 years; was in the employ of Strader, as a clerk, but denies that he was conversant with his circumstances or business, or that he knew he was unable to make immediate payment of his debts to plaintiff and others. Admits that on the 20th Oct., 1848, Strader and wife conveyed to him the premises, as alleged in the bill.

- 30 Admits that Strader continued in the possession, as alleged in the bill, until the summer of 1850, but denies his consent thereto, but avers that he endeavored all that time to get the possession, without the necessity of a suit, and that in the summer of 1850 he succeeded, and has continued in the possession, and in the receipt of the rent and profits hitherto, but denies that the rents and profits are worth \$200 over taxes and assessments, but are not worth over \$100.

Denies that on the 10th of April, 1849, or at any other time, plaintiff obtained a judgment, as charged, issued execution, and sold the premises. Denies the advertising, the purchasing and the making, delivering and recording of the certificate of purchase, as alleged.

Avers, if there was such a judgment it was by confession, and without con-

sideration, and fraudulently confessed, for the purpose of enabling plaintiff to file his bill, to set aside the conveyance to defendant Jones, for the benefit of Strader.

- 31 Denies that the deed to defendant Jones was made without valuable consideration, or that the same was much less than the value of the property, or that the same was for the purpose of hindering or delaying plaintiff and others in the collection of their debts, or to defraud or prevent plaintiff and others from collecting their just debts.

- 32 Denies that defendant Jones took the deed, or continues to hold the same, for like purpose. Avers, that the deed was made to defendant Jones for money, which Strader had received belonging to defendant Jones, bequeathed to him by his father, and given him by his grandfather, and for work, labor and services of defendant Jones, for Strader, before the giving of the deed.

Admits that he was of age at the filing of the bill. Denies that the deed from Strader to him was for the purpose of hindering and delaying plaintiff and other creditors from collecting their debts, but in payment of demands due defendant Jones. Denies all combination, etc.

Denies the receipt from Strader of any money, goods, chattels, board, washing, lodging, or tuition in Rush Medical College, at Strader's expense. Denies all pretences, or that the debt due him was very small, and much less than the value of the premises.

- 33 Denies that defendant was to re-convey to Strader or any other, for his use, when he had compromised with plaintiff and others.

Denies any understanding that Strader should occupy without hindrance from defendant, or any agreement to re-convey the premises upon any event.

Avers that if there had been any indebtedness previous to the 10th of April, 1849, to plaintiff or Brackett, or Eddy, Brackett & Watkins, it had been fully paid.

- 34 General Replication.

35-6

EVIDENCE.

- WM. D. BARRY.—Knows parties; Strader and Jones since 1844; Plaintiff since 3 or 4 years; knows that Strader transferred some land to Jones by deed; thinks it was in fall of 1848; knows nothing of any consideration paid; heard no conversation about it at the time; some time before making the deed
- 37 Jones called on me and stated that Strader had some money in his possession which was left by his father or grandfather, and which came into the hands of his mother before her marriage with Strader; that he was afraid he was going to lose it, and wanted me to draw a bill in Chancery to get it; I told him to wait and I would see Strader; I saw Strader and told him what Jones said; he said he was willing to secure him in any way; that he was willing to deed over all the land he had in St. Charles, if I recollect right, as he had had hell long enough at home, if that would be satisfactory; he told me he would go home and fetch his deeds down to my office, and that I might make a deed to Jones; he did so, and I accordingly made the deed; about that time I saw Mr. Jones and told him of it, and he said that was satisfactory; I asked Jones how much Strader owed him; he showed me a copy of a will, I think, and according to my best recollection, the original sum was \$350; don't recollect that he claimed
- 38 more at the time of making the deed than the \$350 mentioned in the will, and interest on it to that date; I understood that Strader married Jones's mother; I think that Jones told me that he was not 21 at the date of the deed; I should think the property conveyed, worth between \$2,000 and \$3,000; the deed contained all the lots owned by Strader in St. Charles; Jones told me that Strader
- 39 owed more than he ever would or could pay; Messrs. Stevens & Green have occupied the store on the property part of the last two years, Mr. Furnald & Collins a part,—Norton & Strader have occupied the house a part of the last two years, and a Mr. Cook a part, and still does; don't know who has occupied the other house; don't know that Jones has taken possession of any part of it.
- 40 *Cross Examined.*—Think I have testified before in relation to the sale of the property in question by Strader to Jones, at a trial at Geneva, before Probate Court, and a jury on a *ca. sa.* against Strader; have no recollection on that occasion of stating that the consideration paid for the property was \$1,000; am as positive of this as anything I have testified about; I stated upon that occasion, if I recollect right, that Jones told me after the deed was made that Strader owed him \$500 more than what was given to him by the will of his father; that his mother had given him \$500 before she was married, but that the money had never come into his hands; I don't recollect that there was anything

said about a part of the consideration coming from his grandfather; my recollection is that I stated substantially then what I have now stated; I was, and am still at times a practicing lawyer.

- 43 **SILAS WAY.**—Knows the parties—plaintiff and defendant—a long time; knows of no sale of real estate from Strader to Jones; was in the employ of Strader selling goods; commenced in the spring of 1845,—continued a little
44 over 2 years; know the real estate Strader had during 1848 in the village of St. Charles; it consisted of one store lot, and the store house adjoining it, 2 dwelling houses and 3 lots, 1 barn and 1 smoke house; the property was situated on the East side of Fox River; know nothing about Jones taking possession of the house but by hearsay; saw Collins take the store, about 2 years last June; it was in the possession of Stephens at that time; the store and warehouse are
45 worth \$150 rent; the houses are worth 8 and 10 shillings a week; Strader occupied the store and one house and had possession of the other; have never heard of Mr. Jones since 1848—of his having purchased this property of Strader; at the time Collins took possession of the property Jones first got into the building by a back door or window and gave up possession to Collins and left soon after; the store and storehouse were occupied by Strader in selling goods
46 from 1844 to 1848; the dwelling was occupied by Strader from 1844 to 1848 as near as I can tell it; he has occupied different dwelling houses since 1844, but not different stores; it was since 1848 he occupied the dwelling houses I mentioned; he was indebted to Eddy & Brackett previous to Oct. 1848, but not to C. DeWolf, but DeWolf was security for some demands in New York; don't know the amounts of his indebtedness previous to Oct. 1848; Jones resided with Strader a portion of the time from 1844 to 1848,—perhaps a fourth;
47 don't recollect any conversation with any one about Strader's indebtedness prior to Oct. 1848.

- 51 **F. H. HERRICK.**—Know plaintiff, and defendant Strader,—age is 23,—occupation, clerk,—residence, St. Louis, Mo.; Strader borrowed of me sometime during the summer or fall of 1848 \$330 and gave as security therefor his note at sixty days, signed by himself and Calvin DeWolf jointly; Strader paid \$100,—the balance, amounting, with the interest, to about \$250 was paid by DeWolf.

- 55 **T. F. COOK.**—Known DeWolf and Strader since 1848; was clerking for Eddy & Brackett in 1848; have seen Mr. Strader and Eddy conversing about crockery being purchased at Mr. Brackett's in Rochester; heard Strader say he wanted to purchase a bill of crockery from Brackett; think it was in the spring of 1848; the account of Eddy, Brackett & Watkins was for liquors, but the articles I don't recollect.

Cross Int.—Have no other knowledge of Strader's buying goods of Brack-

57 ett than what was derived from reading a letter from Brackett to Eddy; have no distinct recollection of any particular goods being bought by Strader of Eddy, Bracket & Watkins.

Resumed.—Interrogatory 1. What do you mean by not having a recollection of particular goods? (Objected to.)

Answer. I don't recollect the particular names of the goods, but they were liquors; I recollect putting up liquors for Strader, also of charging them in the book.

Int. 2. Can you well refer to the book and find the items? If so, please do so and append a list of the items to your answer to this interrogatory. (Objected to.)

Ans. I can. (Witness examined books, and gave the following items, all of which was objected to by S. S. Jones, defendant's Sol.)

6 bbls. 4 p., 234 gals. Liquor, at 20c.,	-	-	-	\$49,80
1 kg. 8 p. 16 " " " 14s.,	-	-	-	29,00

Exhibit "A."

58 *Cross Examination Resumed.*—Examined said books about two months ago; have no distinct recollection of the matter, except by reference to the books; examined said books for credit, and found some.

Direct Examination Resumed.—Int. 1. Since answering the above interrogatories, state whether you have examined the books of account of Eddy, Brackett & Watkins, and the original entries of the account against David Strader, as referred to in Exhibit "A," above attached,—if yes, state in whose handwriting the original entries are, and also what you now know from an examination of said entries and items, as to the delivering of said goods, mentioned in said item, to Strader. (Objected to.)

Ans. I have examined them,—they are in mine; I put up the liquors to the amount of \$78,30, and charged and delivered them. (Answer objected to.)

Int. 2. State whether or not you know those items to be correct.

Ans. I now know them to be correct. (Question and answer objected to.)

Int. 3. Explain what credit is given upon the books of Eddy, Brackett & Watkins? (Objected to.)

59 Ans. There is a note given for \$78 80, and interest \$1 50. That is the only credit I know of on the book. I think it is the 8th May, 1848.

Cross-Examination Resumed.—Int. 1. Whose handwriting are the credits that you speak of in?

Answer. In Watkins.'

Int. 2. Have you any knowledge of that matter excepting from what you find in the books?

Ans. I have not.

Direct Examination Resumed.—Int. 1. Do you mean by your answer to the last enquiry that you have no knowledge whatever of your own on the subject of the sale and delivery of the goods, or do you mean that your knowledge has been refreshed by an examination of the books! (Objected to.)

Ans. I mean that it has been refreshed to-day.

Int. 2. Having examined the books, state whether your recollection is now clear as to the above account? (Objected to.)

Ans. It is.

Cross-Examination Resumed.—Int. Is it clear because you find it so in the books?

Answer. It is.

60 PHILANDER EDDY. Interrogatory 1. What is your age and occupation, and do you know the parties, plaintiff and defendant to this suit?

(This and all other questions objected to.)

(This witnesses' evidence objected to.)

61 Answer. Age is forty-three; occupation wholesale liquor dealer; am acquainted with parties to this suit; a sale was made by A. J. Brackett to Strader, in April, 1848, and the Exhibit hereto-attached, marked "B." contains a list of the items. There was a note given Jan. 8, 1849, for the amount of the account \$140 40; it was afterwards assigned to C. DeWolf; in 1848 there was an indebtedness from Strader to Eddy, Brackett & Watkins to the amount of about \$78 50; a note was given on January 8th, 1849, for \$80 30; it was transferred to C. DeWolf; know the property in St. Charles, Kane County, Ill., known as the Strader store and lot, near the St. Charles Hotel, and the brick and frame house property in Block 13; the store was occupied by him in 1846-7; should think the store near the St. Charles Hotel should rent for \$15 per month; the dwelling
62 houses all contained on the lot I should think one should rent for \$12 a month, the other \$8 a month, with the out-buildings divided between them; the whole should rent for \$20 per month; have never purchased, bought or sold any property in St. Charles; all I go from is my impression of the value of property there.

L. E. DEWOLF. Was in the office of C. DeWolf, in the year 1848; exact time I can't state; should think in the spring or fore part of summer; Strader and defendant had some conversation respecting the amount that Strader owed

him, and the exact amount was stated; the amount I could not state, but my impression is that it was about \$600.

- 64-65 Exhibit Bill of articles bought by D. Strader of A. J. Brackett to the amount of \$140 40.

EXCEPTIONS TO DEPOSITIONS.

- 66 Excepts to the whole deposition of Barry, for the reason that he is called on to disclose and does disclose what was communicated to him by defendant Jones, while he was a client of said Barry, who was then acting as attorney for said Jones, and said communications were confidential; the questions are all irrelevant, leading and illegal; the answers irrelevant, evasive, and not responsive to the questions.

- 67 Excepts to deposition of P. Eddy, for the reason that said Eddy is an interested witness, he having signed the bail bond for the injunction in this case, and is therefore interested, as appears from the bail bond, now on file, and in force at the present time, as well as when said deposition was taken; questions are leading, irrelevant, and the answers are evasive and not responsive.

Excepts to deposition of L. E. DeWolf, for the reason that he is interested in the event of this suit, and therefore incompetent. He testifies to impressions.

Excepts to deposition of T. F. Cook, for the reason that the questions are leading and irrelevant; the answers are from hearsay and receiving letters, not responsive to questions, giving memorandums from books, and otherwise improper.

- 68 Excepts to deposition of Silas Way. 1st answer to 9th interrogatory is not responsive to questions; it is hearsay evidence; answer to 10th interrogatory is predicated upon hearsay evidence; 11th interrogatory is predicated upon hearsay evidence, and is irrelevant, and presumes that Collins took possession of the store; the answer is responsive to an illegal question; 12th interrogatory and answer are irrelevant; 15th is predicated upon a fact not proved; the answer is not responsive, volunteers answers; 16th and 17th are leading; 20th is leading, answer is not responsive, but volunteers information not asked for. Caption and certificate appended to deposition are insufficient. Excepts to deposition of T. H. Herrick; the 2d interrogatory is leading; answer is not responsive; it is a volunteer answer to a question not put.

ORDER.

- 71 Orders the following portions of said depositions suppressed, viz: of Barry's deposition, all that part of answer to 6th interrogatory, commencing with the words "He said he was willing to secure him in any way;" the answers to the 7th, 12th and 13th. Of the deposition of Herrick, all that part of answer

to the 2d interrogatory, commencing with the words "I understood at the time."

Of Cook's deposition, all that part of answer to 2d interrogatory, commencing with the words "and also know that Mr. Strader did buy;" all of answer to 4th interrogatory.

The whole of Eddy's deposition.

To all which rulings plaintiff excepted.

75-6 Transcript of recovery of a judgment by plaintiff against Strader, shows that suit was brought upon a note for \$550 18, and on the common counts; and
77 another note for \$140 40, and another for \$80 30.

78 Plea confessing judgment, for \$782 18 debt and \$6 06 $\frac{1}{4}$ costs, for which
79 judgment was rendered.

80 Execution issued to the sheriff of Kane County, for \$786 61 $\frac{3}{4}$, on the 10th
81 April, 1849, which came to the hands of sheriff April 16, 1849, and was by him on the same day, levied on lots 5, 6, 7 and 8, and the s. $\frac{1}{2}$ of 1 and 2 in Block 13. Also the w. $\frac{1}{2}$ of Lot 2 in Block 2, in St. Charles, Kane County. Also the n. $\frac{1}{2}$ of Lot 3, Section 16, T 40, N. R. 6 E. of the 3rd P. M., all which was sold
82 according to law on the 17th of May, 1849, and purchased by plaintiff for \$823 05, and for which the sheriff executed a deed to the plaintiff, bearing date the 14th
83-1 Oct. 1850, and which was duly acknowledged on the 16th Dec. 1850, and filed
85 for record on same day, whereupon, the Court entered up a final decree dismissing plaintiff's bill, and for costs.
86-7

Thereupon, the plaintiff sued out his Writ of Error, and assigns the following errors, that is to say:

First. The Court erred in suppressing the several parts of the depositions of Barry, Herrick & Cook, mentioned in the order of the Court, made in that behalf.

Second. The Court erred in suppressing and excluding the deposition of Philander Eddy.

Third. The Court erred in dismissing the plaintiff's bill, and in rendering a decree for defendants, and against the plaintiff.

Fourth. The Court erred in finding the facts in favor of defendants, upon the evidence—and in refusing the relief prayed for in the bill.

Fifth. The Court should have decreed an account of the rents and profits against defendant Jones, and after satisfying the amount of money left him by will, coming into Strader's hands—if any—have decreed the remainder of the property to be applied to the payment of plaintiff's judgment.

SCATES, McALLISTER & JEWETT,

COUNSEL FOR PLAINTIFF.

13 ~~22~~. 122

De Wolf

vs.

Strader & Jones

Abstract

Filed Apr. 10. 1860

L. Ireland

Clerk

State of Illinois 55

Supreme Court

April Term 1860. Third Grand
Division

Calvin De Wolf }
v } Error to Kane
David Strader &
Oliver B. D. Jones }

And now on this day comes
the said Plaintiff in Error
by Scates McAllister & Jewett
his Counsel - and says that
in the record and proceedings
and in the rendition of judg-
ment in this Cause in the
Kane County Circuit Court,
manifest error hath inter-
vened, and for special
Cause assigns the following
causes of error. namely

First The Court Erred in suppressing
the several parts of the depo-
sitions of Garry, Heineke
and Cook - mentioned
in the order of the Court -
made in that behalf

Second The Court erred in suppressing and excluding the deposition of Philander Eddy

Third The Court erred in dismissing the Plaintiff's bill - and in rendering a decree for defendants and against the Plaintiff

Fourth The Court erred in finding the facts in favor of defendants, upon the evidence - and in refusing the relief prayed for in the bill

Fifth The Court should have decreed an account of the rents & profits against defendant Jones, and after deducting the amount of money left him by Mill, ~~if any~~ coming into Thader's hands - if any - ~~the same~~ the remainder of the property to be applied to the payment of Plaintiff's judgment -

Wherefore for the reasons aforesaid and

others apparent in the record and
proceedings aforesaid and in the
 rendition of the decree aforesaid
the said Plaintiff prays judg-
ment of reversal - and that
the said judgment be for
nothing esteemed and that he
be restored to all his rights
unjustly taken from him and
for his costs in this behalf
expended - and that said
Cause be remanded - for
further decree - or that this
Court render a final decree
upon the evidence &c

Scates McAllister and
Jewell of Counsel for
Plaintiff

United States of America }
State of Illinois }

Pleas before the Hon. Isaac G. Wilson
Judge of the Thirteenth Judicial Circuit
of the State of Illinois and presiding
Judge of the Kane County Circuit
Court at a special Term of said
Court begun and held at the Court
House in Geneva in and for the County
of Kane on the sixteenth day of
January in the year of our Lord one
thousand eight hundred and fifty four
in pursuance of an order of said
Court made at the last November Term

Thereof
Present

Hon Isaac G. Wilson Judge
Noah B Spalding Sheriff

Attest

Luther Dearborn Clerk

Be it Remembered that heretofore to wit on the
9th day of May A.D. 1851 there was filed in the
office of the Clerk of the Kane County Circuit
Court a Bill of complaint which is in the words
and figures following to wit:

In Chancery in the Kane }
County Circuit Court }

To the Hon. Judge of the Kane

County Circuit Court in Chancery sitting:

Humblly complaining sheweth unto your Honor your orator Calvin DeWolf of the County of Cook and State of Illinois that prior to the 20th day of October ~~AD~~ 1848 one David Strader of the County of Kane and State of Illinois a defendant in this bill of complaint was possessed of Lots No five (5) six (6) seven (7) and eight (8) and the South half of Lot No one (1) and two (2) in Block No thirteen (13) and also the West half of Lot No two (2) in Block No two (2) all in the Town of St Charles on the East Side of Fox River Kane County Illinois and claimed to be the owner of said property in fee

(2) And your Orator would further show unto your Honor that the said David Strader was indebted to your orator on and before the said 20th day of ~~September~~ ^{October} 1848 in the sum of five hundred and fifty eight & 1/100 dollars for cash lent money paid and expended and which formed part of the consideration of the judgment in favor of your Orator hereinafter mentioned and to Andrew J. Brackett & to Eddy Brackett and Watkins of Chicago for goods sold and delivered upon which promissory notes were afterwards executed by said Strader to them and were duly assigned to your Orator and formed the balance of the consideration of the judgment in favor of your Orator and against the said David Strader as hereinafter set forth.

And your orator would further show unto your Honor that the said David Strader was largely indebted to other persons at the time aforesaid whose names

Fifth Street one hundred (100ft) thence Westerly
 parallel with Illinois Street twenty five feet (25) thence
 Northerly and parallel with Fifth Street 50 feet thence
 Easterly and parallel with Walnut Street one hundred
 feet (100 feet) thence Southerly on Fifth Street one hun-
 dred and fifty feet (150) to the place of beginning said piece
 or parcel of Land lying on the East side of Fox River
 and also the West half of Lot No Seven (7) in Block No
 (13) Thirteen on the East side of Fox River being twenty five feet
 (25ft) front and one hundred feet (100ft) deep fronting Illinois
 Street and also Lot No Eight (8) and the East half
 of Lot No Seven (7) and the South half of Lots No one
 (1) and two (2) in Block No Thirteen (13) bounded as follows
 Commencing at the South East corner of said Block
 No Thirteen (13) running thence Westerly on Illinois Street
 seventy five feet thence Northerly and parallel with Fifth
 Street one hundred (100 feet) thence Westerly parallel with
 Illinois Street twenty five feet (25) thence ^{Northerly} parallel with
 Fifth Street fifty feet (50ft) Easterly and parallel with
 Walnut Street one hundred feet thence Southerly on fifth
 Street one hundred and fifty feet to the place of begin-
 ning all lying on the East side of Fox River and also
 Lots No five (5) and six (6) in Block No Thirteen (13) on
 the East side of Fox River. And also the West half of
 Lot No two (2) in Block No two (2) on the East side of
 Fox River all the above described pieces or parcels of
 Land are situated and lying on the East side of Fox
 River and on the town plat of St Charles Kane County

(5)

& State of Illinois, Together with all and singular the hereditaments and appurtenances thereto in anywise appertaining and the reversion and reversions remainder and remainders rents issues and profits thereof and all the estate right title interest claim or demand whatsoever of the said party of the first part either in Law or Equity of in and to the above bargained premises with the hereditaments and appurtenances.

To have and to hold the above premises above bargained and described with the appurtenances unto the said party of the second part his heirs and assigns forever. And the said party of the first part for themselves their heirs executors and administrators do covenant grant bargain and agree to and with the said party of the second part his heirs and assigns that at the time of the enrolling and delivery of these presents they are well seized of the premises above conveyed as of a good sure perfect absolute and inalienable estate of inheritance in Law and fee simple and have good right full power and lawful authority to grant bargain sell and convey the same in manner and form aforesaid and that the same are free and clear of all former and other grants bargains sales liens judgments taxes assessments and incumbrances of what kind or nature soever and the above bargained premises in the quiet and peaceable possession of the said party of the second part his heirs and assigns against all and every person or persons lawfully claiming or

(6)

or to claim the whole or any part thereof the said
party of the ~~first~~ part shall and will warrant
and ~~execute~~ depend. In witness whereof
the said party of the first part hereunto set their
hands and seals the day and year first above written
Sealed and delivered } David Strader *DS*
In presence of } Susan J. Strader *DS*

(7.) State of Illinois }
Hane County } I Alex V. Sill a Justice of
the Peace in and for said County in
the State aforesaid do hereby certify that David Strader
and Susan J. Strader who are personally known to me
as the real persons whose names are subscribed to the
annexed deed appeared before me this day in person
and acknowledged that they executed the said deed as
their free and voluntary act for the uses and purposes
therein set forth. And the said Susan J. Strader
wife of the said David Strader having been by me ex-
-amined separately and apart and out of the hearing of
her husband and the contents and meaning of the said
deed having been by me made known and fully
explained to her she acknowledged that she had freely
and voluntarily executed the same and relinquished
her dower to the Lands and Tenements therein mentioned
without compulsion of her said husband and that she
did not wish to retract the same.

Given under my hand this twentieth day of

October in the year of our Lord one thousand
Eight hundred and forty eight

Alexander V. Still

Justice of the Peace

Filed October 21, 1848 at 8 o'clock AM

E. H. Swarthout Recorder

(8) And your orator would further show unto your honor that
after the execution and delivery of the said deed by the said
Strader to the said Jones that the said Strader continued
in the possession and occupation of said premises and lots
as your orator is informed and believes until sometime in
the year summer of 1850 without entering into any contract
or agreement with the said Jones and used and occupied
and rented and controlled the same without accounting to
the said Jones for the moneys received from the tenants or
for the rents to the said Jones or any other person or persons

And your Orator would further show unto your
honor that some time in the year 1850 the precise time
your Orator does not know the said Jones took possession
of said premises and lots and the said Jones immediately
thereafter left this State and went to some place in
the State of New Hampshire and various persons pro-
fessing to act by authority of said Jones have continued
to manage and control the said property and lots to
the present time without recognizing the right of your
orator to the said premises and property as hereinafter
mentioned and set forth.

And your orator would further show unto your Honor that upon said Lots there are improvements viz Two Houses and one store erected thereon by said Strader prior to the said conveyance from the said Strader to the said Jones and that the rents of said premises are worth about the sum of two hundred dollars per annum over and above taxes and assessments

(9) And your Orator would further show unto your honor that your Orator on the 10th day of April A.D. 1849 obtained a judgment against the said David Strader upon the indebtedness herein before mentioned for the sum of \$52¹⁸/₁₀₀ dollars besides costs of suit in the Cook County Court of Cook County and upon which judgment an execution was on the same day duly issued directed to the Sheriff of Kane County and by him levied upon the premises hereinbefore mentioned and the same premises were afterwards sold having been duly advertised to one R. F. Burchell agent of your orator and a certificate of such sale was duly issued and delivered to the said Burchell which certificate was duly assigned to your orator and afterwards on the 14th day of October A.D. 1850 the said Sheriff executed a deed of said premises to orator and which deed has been duly recorded in the Recorder's Office of Kane County aforesaid in Book No 25 of Deeds page 290 and is in substance and effect as follows: viz:

Whereas Calvin D. Wolf on the

782-18
6-24
788-24

tenth day of April in the Year of our Lord one
Thousand eight hundred and forty nine in vacation
in the Cook County Court of Cook County Illinois
recovered a judgment by confession against David
Strader for the sum of Seven hundred and eighty two
dollars and eighteen cents damages and six dollars
and six and no fourth cents costs of suit upon which
judgment an Execution was issued dated on the tenth
day of April A.D. 1849 directed to B. L. Yates Sheriff
of Kane County to execute and by virtue of said Execution
the said B. L. Yates Sheriff levied upon the Lands
and Lots hereinafter described and the same were struck
off and sold to P. J. Burchell agent of the said
Calvin D. Wolf plaintiff he being the highest and best
bidder therefor and the time and place of sale having
been duly advertised according to Law and the said
P. J. Burchell agent as aforesaid having duly assigned
the said Certificate (his certificate) of purchase to the
said Calvin D. Wolf.

L101

Now therefore know all by this deed that
I B. L. Yates Sheriff of Kane County in considera-
tion of the premises and of the sum of Eight Hundred
and twenty three dollars and eighty one cents being
the sum bid for the said Lands and lots by the said
Burchell agent have granted bargained and sold
and by these presents do grant bargain sell and convey
to the said Calvin D. Wolf his heirs and assigns the
following described lands and lots to wit:

782-18
6-28
788-24

tenth day of April in the Year of our Lord one
thousand eight hundred and forty nine in vacation
in the Cook County Court of Cook County Illinois
recovered a judgment by confession against David
Strader for the sum of Seven hundred and eighty two
dollars and eighteen cents damages and six dollars
and six and no fourth cents costs of suit upon which
judgment an Execution was issued dated on the tenth
day of April A.D. 1849 directed to B. L. Yates Sheriff
of Kane County to execute and by virtue of said Execution
the said B. L. Yates Sheriff levied upon the Lands
and Lots hereinafter described and the same were struck
off and sold to P. J. Burchell agent of the said
Calvin D. Wolf plaintiff he being the highest and best
bidder therefor and the time and place of sale having
been duly advertised according to Law and the said
P. J. Burchell agent as aforesaid having duly assigned
the said Certificate (his certificate) of purchase to the
said Calvin D. Wolf.

L101

Now therefore know all by this deed that
I B. L. Yates Sheriff of Kane County in considera-
tion of the premises and of the sum of Eight Hundred
and twenty three dollars and eighty one cents being
the sum bid for the said Lands and lots by the said
Burchell agent have granted bargained and sold
and by these presents do grant bargain sell and convey
to the said Calvin D. Wolf his heirs and assigns the
following described lands and lots to wit:

Lots number five (5) six (6) seven (7) and eight (8) and the South half of Lots No one (1) and two (2) in Block No Thirteen (13) and also the West half of Lot No two (2) in Block No two (2) all in the town of St Charles on the East side of Fox River Kane County, Illinois according to the original Survey also the North half of Lot No three (3) in Section No Sixteen (16) in Township No forty (40) North of Range No Six (6) East of the third (3^d) principal Meridian in Kane County Illinois.

(11) Do have and to hold the said described premises with all the appurtenances thereto belonging to the said Calvin De Wolf his heirs and assigns forever

Witness my hand and seal this 14th day of October
AD 1850

Witness }
C. B. Wells }

(Signed) B. C. Yates
Sheriff of Kane County Illinois

State of Illinois }
Kane County } ss. I C. B. Wells Clerk of the
Circuit Court in and for said County
in the State aforesaid do hereby certify that B. C. Yates
Sheriff of Kane County aforesaid personally known to me
as the person whose name is subscribed to the within deed
appeared before me this day in person and acknowledged
that he signed sealed and delivered the said deed as his
free and voluntary act for the uses and purposes therein
set forth. Given under my hand and the seal

of said Court at Geneva this 16th day of December
A.D. 1850

Filed Dec 16th 1850 at 11 o'clock a.m. and
Recorded in Book 20 of deeds page 290

C. B. Wells Recorder
Hancock Mo

(121) And your Orator would further show unto your
Honor that he is informed and believes that the said deed
from the said David Strader and wife to the said Oliver
B. D. Jones was made executed and delivered without
any valuable consideration whatever paid or delivered at
the time of making the same or if any consideration was
paid by the said Jones to the said Strader at any time
before the making and delivery of said deed that the
same was a consideration much less than the actual
value of the said property and that the said deed was
executed and contrived by the said Strader for the
purpose and with the intention of hindering delaying
and defrauding your Orator and to prevent your Orator
from collecting his just and lawful demands and debts
aforesaid against the said Strader and for the purpose
of hindering delaying and defrauding the other creditors
of the said Strader of their just and lawful actions debts
and accounts and that the said Oliver B. D. Jones
received the said deed and now continues to hold and
use said property for the purpose of hindering

delaying and preventing your Orator and the other creditors of the said ^{David} Strader from the collection of their just debts and demands.

And your Orator would further respectfully show unto your honor that he is informed and believes that the said Oliver B. D. Jones is now more than twenty-one years of age.

(13) And your Orator would further show unto your Honor that the deed herein before set forth from the said David Strader to the said Oliver B. D. Jones was obtained by an arrangement between the said David Strader and the said Oliver B. D. Jones for the purpose of hindering delaying and preventing your Orator and the other creditors from collecting their or some one or more of their just debts and accounts. But now so it is may it please your Honor that the said David Strader & Oliver B. D. Jones combining and confederating with divers persons whose names are at present unknown to your Orator but when discovered he prays ~~may~~ leave to add as parties to this Bill of complaint with proper and apt words to charge them in the premises contriving how to injure your Orator and to prevent your Orator from using or occupying or managing the said Real Estate and lots or from collecting the rents or enjoying the profits thereof alledging divers unfounded objections and pretences on that behalf sometimes the said Jones pretended that he had been in the employ of the said Strader for a long time previous to the execution of said deed from the

said Strader to the said Jones and that there was due
the said Jones from the said Strader a large sum
of money to wit the sum of three hundred dollars

Whereas your Orator is informed and believes that
such allegation is wholly unfounded and untrue and
that although the said Jones had occasionally been in
the employ of the said Strader for a year or more prior
to the execution of said deed that he had received money
goods & chattels board washing lodging & tuition in Rush
Medical College at Chicago to an amount more than was
due him for wages from said Strader and that there was
an understanding at the time of the execution of said
deed between the said Strader and Jones that said
parties should make ^{the} pretence aforesaid at other times
said Jones and Strader pretended that the said Strader
was indebted to the said Jones for money received from
the mother of the said Jones (who was the wife of the
said Strader at the time of the execution of said deed)
to wit in the sum of One thousand dollars and that
the said conveyance of the said Land from the said
Strader & wife was made in payment of such indebtedness
Whereas your Orator is informed and believes and so
charges the fact to be that said Strader was not in
any manner indebted to the said Jones or if indebted
at all that the amount of indebtedness was very small
and much less than the value of the said Real Estate
your Orator is informed however that the said Strader
had at some time previous to the execution of said

(14)

(15)

deed received a sum of money amounting to two hundred dollars or thereabouts which legally belonged to said Jones by virtue of a will executed by the father of said Jones in the State of New Hampshire and that it was intended at the time of the execution thereof that whatever might be due in that behalf should be paid to said Jones which sum or so much thereof as still remained unpaid your orator hereby offers to pay said Jones but your Orator expressly charges that said deed was not executed and delivered to said Jones for the purpose of paying any bona fide debt due said Jones from Strader (if any amount whatever was due) but for the purpose of hindering and delaying your Orator and the other creditors or some one or more of them from the collection of their just debts and demands and that there was an understanding or agreement either verbal or written that when the said Strader should have compromised with your Orator and his other Creditors or some one or more of them that the said Jones should reconvey said property to the said Strader or to some other person or persons for the use of said Strader, and your Orator is further informed and believes and charges the fact to be that it was also understood at the time of the execution of said deed that the said Strader should use and occupy said premises and property as he had previously done without any hindrance from the said Jones and that said Strader did so continue to use occupy rent and control the same up to some time in the year 1800 as aforesaid

In tender consideration whereof and for as much as your Orator is remediless in the premises by the strict rules of the Common Law and can only obtain relief in this Honorable Court where matters of this nature are properly cognizable and relievable

(16) Do the end therefore that the said David Strader Oliver B. D. Jones and their confederates may full true and perfect answers make upon the Corporal Oath of the said Strader the oath of the said Oliver B. D. Jones is hereby expressly waived to all and singular the matters herein before stated and charged and that as fully and particularly as if the same were here repeated and they thereto severally and specially interrogated ~~that~~ they shall so answer not only to their respective knowledge and remembrances but also to their information and belief and especially that the said defendants may severally set forth and discover whether any and what consideration was paid for the said deed from the said Strader to said Jones and whether any money was paid ~~to the~~ said Strader by said Jones at the time of the execution of said deed and if any how much and whether the said Oliver B. D. Jones at the time of receiving the same was of the age of twenty-one years and whether he is at the time of the filing of this bill of the age of twenty-one years and whether the said Jones is related to said Strader and how and whether he had resided in the family of said Strader

how long and whether the said Strader was not largely indebted to various persons in the City of New York in Chicago and other places and how much and whom and whether the said Strader was in embarrassed circumstances and whether it was understood between the said Strader and ^{Said} Jones at the time of the execution of said deed from said Strader to said Jones that the said Strader should continue to use and occupy said premises and lots and whether the said Strader did continue so to use and occupy them and how long and whether it was understood between the said Jones and said Strader that said property was to revert to said Strader or to some other person or persons for his use or for the use of his family when the debts of the said Strader should be compromised and whether the said deed was not executed by said Strader for the purpose of hindering or delaying your Orator and the other creditors of said Strader or some one or more of them and which from the collection of their just and lawful debts claims or demands.

(17) And that the said Oliver B. D. Jones and the said David Strader may be enjoined from interfering with or managing or controlling said property and that the said deed from the said Strader to the said Jones may be by order of this Court annulled set aside and cancelled and that the said Jones may be perpetually enjoined from bringing or prosecuting any suit or claiming and maintaining any title to said

premises by virtue of said ~~premises~~ deed and that
some discreet and proper person may be appointed
by this Honorable Court a receiver in this cause to
manage and control said property Lots and buildings
to rent and to receive the rents for the same and with
such other powers as are usually granted to receive-
ers in similar cases and that all tenants in said
premises holding under the said Jones or Strader or
either of them and any and all agents of either of them
may be ordered and directed to pay and hand over
to such receiver all rents moneys bonds bills notes
and property received on account of the use of said
property since the execution of the deed aforesaid from
the Sheriff of said County of Kane to your Orator

And that your Orator may have such other
and further relief in the premises as the nature of the
case may require and as shall be agreeable to
Equity and good conscience.

May it please your honor the premises
considered to grant unto your Orator the People's
writ of Injunction to be issued out of and under the
seal of the Circuit Court of Kane County to be directed
to the said David Strader Oliver B. Jones and
their confederates when discovered and their and
each of their agents attorneys and counsellors clerks
and servants enjoining and restraining them and each
and every of them from intermeddling managing con-
trolling and interfering with said property Houses and

lots and from assigning transferring and disposing
of any property of any kind or nature which they
may have received from said property and houses and
lots and restraining them and each of them from collect-
ing any rents for said property and from doing any other
acts to interfere therewith till the further order of said
Court.

And may it also please your honor
to grant to your orator the People's writ of Summons to
be issued out of and under the seal of said Court to be
directed to the said David Strader Oliver B. D. Jones
aforesaid and their confederates when discovered there-
in and thereby commanding them to appear before
said Court and to answer all and singular the
premises and further to stand to abide by and per-
form such order direction and decree in the premises
as may be made therein And your Orator will ever
pray

Calvin D. Wolf
Complainant in person

State of Illinois }
Deer Creek County }

(19)
Calvin D. Wolf being duly
sworn says that he is the complainant
in the above said that he has read the same and
knows its contents and that the matters and things therein
stated and set forth are true except as to the matters
therein stated upon information or belief and this depo-
nent believes that the matters and things therein stated
upon information and belief are true

Sworn to & subscribed
before me this 19th day of
April 1851

Hugh D. Dickey
Judge Cir Ct 7th
Ind Cir Ill

Calvin D. Wolf

Let an Injunction issue upon the complainants
giving a bond to be approved of by me in the sum of
\$1500. with Elias J. Watkins & Philander Eddy as
sureties
Signed May 3 1851

Hugh D. Dickey
Judge Cir Ct 7th Ind
Cir Ill

(20)

Filed May 9 1851 C. D. Wells Clerk

And afterwards to wit on the said 9th day of May
A.D. 1851 there was filed in the said Office of the
Clerk of said Court a Bond which is in the words and
figures following to wit:

Know all men by these presents that
We Calvin D. Wolf Philander Eddy and Elias
J. Watkins of Chicago in the County of Cook and State
of Illinois are held and firmly bound unto David
Strader of the County of Kane and State of Illinois and
Oliver B. Jones of the State of New Hampshire
jointly and severally in the penal sum of fifteen hundred

dollars to be levied of our goods and chattels lands and tenements for the payment of which sum well and truly to be made we hereby bind ourselves our heirs executors and administrators jointly or severally & firmly by these presents. Sealed with our seals and dated this third day of May A.D. 1861.

(21) The condition of the above obligation is such that whereas the said Calvin D Wolf has this day obtained an order for an Injunction from the Honorable Hugh J. Dickey Judge of the 7th Judicial Circuit of the State of Illinois against the said David Strater and Oliver B. Jones upon a Bill in Chancery which he is about to cause to be filed in the Hann County Circuit Court in and for the County of Hann and State of Illinois. Now if the said Calvin D Wolf shall pay or caused to be paid to the said David Strater and Oliver B. Jones and each of them all costs that may be awarded against the said Calvin D Wolf in case said Injunction should be dissolved and all such costs and damages as they or either of them may sustain by reason of the wrongful issuing of such Injunction and all damages they or either of them may sustain by reason of said injunction having been granted on any wrongful statement of facts in said Bill. Then this obligation to be void otherwise to remain in full force and virtue.

Witness our hands and seals the day and year first above written

Witness to Eddy & Wolf
A Rosseter }

Calvin D Wolf Seal

Witness to Nathan
A W Phillips }

Phileas Eddy Seal

Elias Nathan Seal

Approved May 5-1851
H. F. Dickey
Judge }

Filed May 9 1851 C. B. Wells Clerk

(22)

And afterwards to wit on the 10th day of May ad 1851 there was issued out of the said Office of the Clerk of said Court a writ of Injunction which is in the words and figures following to wit

The People of the State of Illinois to David Strader Oliver B. D. Jones agents attorneys and confederates Greeting:

Whereas it hath been represented in our Court of Chancery of Kane County on the part of Calvin D Wolf that he has exhibited his bill of complaint in our said Court against you and others to be relieved touching matters therein complained of. We therefore in consideration of the premises and the particular matters in said Bill set forth do strictly enjoin and command you the said David Strader Oliver B. D. Jones your agents attorneys & confederates to surcease and desist from

"intermeddling managing controlling and interfering
"with the houses lots and property set out in said
"Bill as Lots No 5 6 7 + 8 and the South half of
"Lot No 1 and 2 in Block No 13 and also the
"West half of Lot No two in Block No Two in Town
"of St Charles East side Fox River Kane Co and
"from transferring assigning and disposing of any
"property of any kind or nature which they have
"received from said property and from collecting any
"rents for said property" until the further order of
"this Court to the contrary and this under the penal-
"ty of the Law

read

(23.)

Witness Charles B Wells Clerk of said
Court and the seal thereof at Geneva
this 10th day of May A D 1851

Charles B. Wells
Clerk

Upon said Injunction appears the following con-
-firmation to wit:

Personally served by copy on the within
named David Strader and S. S. Jones attorney
for O. B. D. Jones May 12 1851

Luther Dearborn

Shff Kane Co

Filed Aug 6/51 CBWells clks

And afterwards to wit on the said 10th day of
May A D 1851 there was issued out of the said

Office of the Clerk of said Court a Summons which
is in the words and figures following to wit

State of Illinois }
Hane County }^{ss} The People of the State of
Illinois to the Sheriff of said
County Greeting:

We command you to summon David
Strader and Oliver B. Jones if to be found in
your County personally to be and appear before the
Circuit Court of said County on the first day of the next
term thereof to be holden at the Court House in Geneva on
the Second Monday of August next to answer unto the
Bill of Complaint filed by Calvin Stolf against them
on the Chancery side of said Court and make due
return of this writ.

(24)
Sealed

Witness Charles B. Wells Clerk of said
Court and the Seal thereof at Geneva
this 10th day of May A D 1857

Charles B Wells
Clerk

Upon which summons appears the following endorsement
Personally served by copy on the within named
David Strader: Oliver B. Jones not found in
my County May 13 1857

Luther Deaton
Suffolk

Filed Aug 6 1857 C B Wells clerk

And afterwards to wit on the 16th day of August AD 1857 the same being one of the days of the August Term for AD 1857 of said Court the following among other proceedings in said Court were had and entered of record on the Chancery side thereof to wit:

19 Calvin Lestolf
vs
David Strader
Oliver B. L. Jones } Bill to set aside decd
This day comes the complainant by Plato his solicitor and the defendant David Strader being three times solemnly called comes not nor any one for him but makes default herein which is ordered by the Court to be entered of record and that the Bill be taken as confessed against said David Strader and suit continued as to Jones for publication.

(25)

And afterwards to wit on the 24th day of November AD 1857 there was filed in the said office of the Clerk of said Court a notice of publication and certificate thereon which is in the words and figures following to wit:
State of Illinois }
Hane County } ss Hane Circuit Court November
Term 1857

Calvin Lestolf
vs
David Strader &c
Oliver B. L. Jones } Bill to set aside decd
Notice is hereby given to

Oliver B. D. Jones one of the defendants in the above
entitled cause that the complainant Calvin DeWitt
has filed in the Office of the Clerk of the Circuit Court
of the said County on the Chancery side thereof his bill to
set aside a deed and a summons having been issued
returnable on the first day of the August Term AD 1857
and also an affidavit having been filed ~~in~~ in the
office of the said Clerk stating that the said defend-
ant is not a resident of the State of Illinois. Now
unless you the said O. B. D. Jones shall personally
be and appear before the Circuit Court of said County
on the first day of the next Term thereof to be holden
at the Court House in Geneva in said County on the second
Monday of November next and plead to answer or
demur to said Bill of Complaint the same will be
taken for confessed and the matters and things set forth
be decreed according to the prayer of said bill
Welf & Plats, CB Wells Clerk

(26)

Complete Solicitors
Geneva Sept 9th 1857

This is to certify that the annexed notice was
published four successive weeks in the Kane
County Democrat a weekly newspaper published
at St Charles in Kane County & State of Illinois
Commencing Sept 10th and ending Oct 18th AD 1857
J. S. Jones Publisher
Filed Nov 24th 1857 CB Wells Clerk

answering says.

He admits that prior to the 20th day of October AD 1848 one David Strader was possessed of the premises + lands in the bill described situated in the town of St Charles and that said Strader claimed to be the owner of said property in fee. But this defendant avers that prior to the 20th day of October AD 1848 to wit on or about the day of AD

[28] the said David Strader intermarried with Susan Jones the mother of this defendant that at the time of such marriage the said David Strader was entirely destitute of property and that at that time the said Susan was in possession of a large amount of money to wit about the sum of two thousand dollars belonging to this defendant the same having been bequeathed to him by his father and given to him by his grandfather that said Strader took said last mentioned money and purchased the lands + property in said bill of Complainant mentioned that said David Strader knew that the same was the money of this defendant when he so invested the same in said Lands and property and the said David Strader purchased + held the same in trust for this defendant.

This defendant further answering denies that on or before the 20th day of October 1848 the said David Strader was indebted to the complainant in any sum and denies that said Strader was indebted to Andrew J Brackett or to Eddy

8
Brackett & Watkins for any consideration or for
any sum

This defendant further answering denies
that said David Strader was largely in debt to
other person at the time in said bill alledged to the
persons or in the amount alledged in said bill and
also denies that said Strader was in embarrassed
circumstances or unable to meet his liabilities

(29) This defendant further answering ad-
mits that on or about the said 20th day of October
AD 1848 this defendant being at that time a minor
under the age of twenty one years was in the employ
as clerk of said David Strader but denies that
he was at all conversant with the circumstances or
business of said Strader or that he knew that said
Strader was unable to make immediate payment to
said complainant and his other creditors and also ad-
mits that on the 20th day of October AD 1848 said
Strader & wife executed to said Jones this defendant a
deed of the said Lots & premises in fee simple in manner
form &c and at the time in bill alledged

This defendant further answering admits
that said Strader continued in possession as alledged
in said bill till some time in the summer of 1850
but denies that it was with this defendant's consent
and avers that he endeavored during all of said time
to get possession of said Lands & premises without the
necessity of instituting legal proceedings for the same

and finally succeeded in doing so sometime in the summer of 1830 since which time till the commencement of this suit he has by himself & agents continued to occupy said premises and receive the rents and profits as alleged in said bill but defendant denies that the rents & profits of said premises are worth two hundred dollars per annum over & above taxes & assessments and avers that the rents & profits of the same are not worth over the sum of one hundred dollars per annum.

(30) This defendant in further answering denies that on the tenth day of April 1849 or at any other time the complainant obtained a judgment against David Strader for the amount or in the Court as in said bill alleged and also denies the issuing of execution the levy upon & the sale of the premises the advertising & purchasing the same and the making delivering & recording of certificate of sale as alleged in said bill of Complaint and avers that if there ever was any such judgment as alleged in the bill obtained, the same was obtained by confession and without any consideration whatever, and was confessed by said Strader fraudulently and for the ^{express} purpose of enabling said Complainant to file his said bill and most unjustly to set aside the conveyance so made by said Strader to this defendant as above stated for the sole benefit of said David Strader.

This defendant further answering

(31) denies that the said deed from the said David Strader + wife to this defendant was made and executed and delivered without any valuable consideration whatever at the time of making the same and denies that the consideration ~~by~~ said defendant to said Strader before the making + delivery of said deed was a consideration much less than the value of said property and denies that the said deed was executed and delivered contrived by said Strader for the purpose or with the intention of hindering, delaying + defrauding the complainant or to prevent him from collecting his just and lawful demands + debts against said Strader or for and with the intention of hindering, delaying and defrauding the complainant or to prevent the complainant from collecting his just + lawful debts against said Strader or for the purpose of hindering, delaying or defrauding any of the creditors of said Strader of their just and lawful demands, debts or accounts. And also denies that this defendant received said deed or that he now continues to hold and use said property for the purpose of hindering, delaying or preventing the complainant or other creditors of said Strader from the collection of their just debts + demands.

This defendant avers that the said deed from said Strader and wife to this defendant was made, executed and delivered upon a full adequate and valuable consideration to wit: for money which said Strader had received which belonged to said defendant + had

been for a long time previous bequeathed to said Jones by his father & given him by his grandfather and for the work & labor and services rendered said Strader by this defendant previous to the time of the giving the said deed.

This defendant further answering admits that at the time of the filing of the Complainants bill in this cause he was of full age.

(32) This defendant further answering denies that the deed from the said Strader to this defendant was obtained by any arrangement between said Strader & this defendant for the purpose of hindering, preventing and delaying the complainant and the other creditors from collecting their or any of their just debts & accounts but avers that the same was made in payment of the just demands due this defendant from said Strader.

This defendant further answering denies all combining & confederation as charged in said bill of complaint and denies that this defendant had received money goods & chattels board washing lodging & tuition in Rush Medical College at the expense of said David Strader and explicitly denies that there was any understanding at the time of the execution of said deed from said Strader to this defendant that the parties to said deed should make any pretence whatever and denies that the amount of indebtedness from said Strader to this defendant was very small or that it was much less than the value of the Real

Estate and denies that there was any understanding or agreement either verbal or written that when said Strader should have compromised with the complainant and his other creditors or any of them that this defendant should reconvey said property to said Strader or to any person or persons for the use of said Strader or that there was any understanding verbal or written whatever. And denies that it was also understood that said Strader should use & occupy said premises as his property without any hindrance whatever from this defendant and denies that there was any agreement understanding or expectation at the time of the making of said deed from said Strader to said Jones or at any ^{other} time either verbal or written expressly or implied that said property was to be reconveyed by this defendant to said Strader or to any person or that the same was to revert to said Strader in any event.

(33)

This defendant is further answering and avers that if previous to the 10th day of April 1849 there had been any indebtedness on the part of said Strader to the complainant or to Andrew J. Brackett or to Eddy Brackett & Watkins the same has been fully paid and satisfied by the said David Strader.

This defendant answering says that all matters things in said bill of Complaint contained which are not herein specifically denied avoided or confessed are not true and he therefore denies the same and he prays the same advantage of the

facts stated in this answer as though he had pleaded
the same and he prays to be hence dismissed
with his proper costs & charges to

Jones & Eastman
Barnesworth & Bergman } O. B. D. Jones
Solr for Jones
Filed Feb 23 1852
C. B. Wells Clerk

And afterwards writ on the 24th day of Febru-
ary AD 1852 there was filed in said Clerk's Office
a Replication which is in the words and figures fol-
lowing to wit

(34)

In Chancery.

State Circuit July Term 1852

The Replication of Calvin LeMay
to the separate answer of Oliver B. D. Jones one
of the defendants to the bill of complaint of the above
named complainant

This complainant having & reserving
to himself all exception to the insufficiency of said
Answer for replication therunto says that he will aver
& prove his said Bill to be true certain & sufficient
and that said answer is uncertain untrue and insuffi-
cient to be replied unto without this that any other
matter or thing whatsoever in said answer contained
material or essential in the law to be replied to confessed
and avowed traversed or denied is true all which

matters this Compt is ready to aver prove and
maintain as the Court may direct to

Calvin DeWolf

by his over Plato

Indul July 24 1852

C. J. Wells Clerk

And afterwards to wit on the 22^d day of May ad
1852 the same being one of the days of the May Term
AD 1852 of said Court the following among other
proceedings in said Court was had and entered of
record to wit:

Calvin DeWolf

(35)

D Strader & O B D Jones

{ Bill to set aside deed

Motion by defendant to
dissolve Injunction & suit continued.

And afterwards to wit on the 9th day of November
AD 1852 there was filed in the said Clerks Office
a Deposition which is in the words and figures
following to wit

On Chauncery
Calvin DeWolf

{ Same Circuit Court

to
David Strader &
Oliver B. D. Jones
State of Illinois
County of Kane

{ Deposition of William
D Barry a witness in
the above entitled suit

taken by Alex. H. Baird a Justice of the Peace of the County and State aforesaid who being duly sworn according to Law to the first Interrogatory

1st Ques

Ans

Do you know the parties to this suit says
Yes Sir I know the parties

2^d

How long have you known them

Ans

I have known David Strader since 1844 and Oliver B. D. Jones about the same time and Mr DeWolf some 3 or 4 years

3^d

(36)

Do you know of the sale of Lands from Strader to Jones and if any at what time did said sale take place

Ans

I know that Strader transferred some Lands by deed to Oliver Jones I made out a deed of some town lots in the town of St Charles from Strader to Jones my best recollection is that it was in the fall of 1847 maybe fall of 1848 says it was on reflection fall of 1848 I think

4th

What consideration if any was paid for the sale of those Lands

Ans

I never saw any consideration paid

5th

What conversation took place at the time of sale between the parties respecting the purchase

Ans I dont now recollect of any between the parties

Quest 6 State what you know in relation to the bargain and transfer of the property

Ans Sometime before the making of this deed Mr Jones called on me and stated to me that Mr Strader had some money in his possession which was left by his father or grandfather not sure which and came into the hands of his mother before her marriage with Strader and that he was afraid he was going to lose it and wanted me to draw a bill in Chancery to get that money I told him to wait a short time and I would see Mr Strader I saw Mr Strader soon after that and told him what Oliver Jones had said to me. { He said he was willing to secure him in any way } He said ^{that} he was willing to deed over all the Land he had in St Charles (if I recollect right) as he had had held long enough at home if that would be satisfactory Strader told me ^{that} he would go home and fetch his deeds down to my office and that I might make a deed to Jones He did so and I accordingly made the deed I saw Mr Jones at or about the time I was making the deed and told him what Mr Strader agreed to He stated that that was satisfactory I asked him Jones how much Strader owed him He thereupon showed me I think a copy of a will and according to my best recollection the

(37)

{ Suppressed

Sept 71

original Amount was three hundred and fifty dollars.

Ques 7 Have you at any other time had any conversation with Jones as to what amount was due him and did he state in such conversation what was the ~~amount~~ amount

Ans { I don't recollect that he claimed anything more at the time the deed was made than what was mentioned in the will and the interest on the same which I think was three hundred and fifty dollars and the interest on the same up to that date
Suppressed
See p 71

Ques 8 Was Jones any connection of Strader

Ans I understood from Strader and Jones both that Strader married Jones' mother

Ques 9 (38) What was the age of Jones at this time

Ans I think Jones told me that he was not twenty one years of age at this time.

Ques 10 What was the value of the property at the time it was conveyed

Ans I don't know as I am a competent judge I should think between two and three thousand dollars

Ques 11 What property was conveyed and what did it consist of.

Ans I think the deed covered all the town lots

that Mr Strader owned in the town of St Charles according to my best recollection.

Ques 12 Do you know whether Strader at the time of this conveyance was largely indebted and to what persons

Ans { Mr Jones told me that he owed more than he
Supplemental
Page 71
Ques 13 ever would pay or could pay.
Did he state to whom

Ans { I don't remember as he did
Supplemental
Page 71

Ques 14 Who has been in the occupancy of this property for the last two years.

(39)
Ans Messrs Stevens and Green have occupied the store a part of the time Messrs Drummond & Collins have occupied the store a part of the time Mr Norton and Strader have occupied the house a part of the time and Mr Cook has occupied the house a part of the time and still does the other house I don't know who has occupied it.

Ques 15 Do you know of Jones having taken possession of the property at any time and if so when if from Strader or his tenants at any time

Ans I don't know that I do

Ques 16 What is the rent of that property worth a year
Ans I don't know

Ques 17 Do you know of any matter or thing that will
be of service to this complaint.
Ans No! that I know of

Cross Interrogatories

Ques 1 Have you ever testified in relation to the sale of
the property in question by Strader to Oliver B. D.
Jones before now

Ans I think I have

Ques 2 Was that at a trial before the Probate
Court in Geneva in a case of Straton and Winslow
against David Strader on a l. & s. a.

(40)

Ans It was at a trial at Geneva before A. V. S. J.
Esq and a jury upon a l. & s. a. The name of the
plaintiff or plaintiffs I do not recollect

Ques 3 Did you state in your evidence on that occasion
that the original consideration which Oliver B.
D. Jones paid for the property in question was upwards
of One Thousand dollars

Ans I think not have no recollection of
any such thing

Ques 4 Are you as positive of that as any thing you
have testified about

Ans I think I am

Ques 5 Did you testify on that occasion that a part of the consideration for said Land was for money given to Jones by his mother and part from his father.

Ans. I stated upon that occasion if I recollect right that Jones told me after the deed was made that Strater owed him five hundred dollars more than what was given to him by the will of his father that his mother had given him five hundred dollars before she was married but that the money had never come into his hands this is as near as I recollect.

Ques 6 Did Jones so tell you

Ans He did
(41)

Ques 7 Did you then swear that he said a part of the consideration came from his grandfather

Ans I don't recollect that there was anything said about the grandfather

Ques 8 Did you not then swear that the whole original consideration amounted to one thousand dollars and upwards

Ans My best recollection is that I swore then as I have now.

Ques 9 What was then and is now your profession

Ans I was practising law then and am sometimes now

W. D. Barry

all the questions and answers were objected to by
S. S. Jones Esq

State of Illinois

Franklin County

} ss I the Subscriber a Justice
of the Peace in and for said County
do certify that the above deposition was taken
by me at my office in Saint Charles on the 11th
day of October 1852 that the witness was first
duly sworn and that the same was carefully
read to him and signed by him

Alex. T. Baird

Justice of the Peace

Filed Nov 9 1852

C. W. Wells Clerk

(42)

And afterwards to wit on the said 9th day of
November AD 1852 there was filed in the said
Clerk's Office a Deposition which is in the
words and figures following to wit:

In Chancery

Calvin Desholf

vs.

David Strater &

Oliver B. D. Jones

Franklin Circuit Court

Deposition of Silas May

a witness in the above entitled

suit taken by Alex. T. Baird

a Justice of the Peace of the

State of Illinois } ss
County of Frank

County and State aforesaid who being duly sworn according to law Octo 11th 1852 to the first Interrogatory

Ques

Do you know Calvin Bestolf the complainant and David Strader and Oliver B. Jones the defendant in this suit if so how long says

Ans

I know them I cannot tell the length of time some six years since I first knew them

Ques

Do you know of the sale of any real estate from Strader to Jones

Ans
(43)

No Sir I don't.

Ques

If so at what time and what did it consist of

Ans

I don't know of any sales.

Ques

Were you ever engaged in the employ of Mr Strader in selling goods and if so at what time and during what years

Ans

I was. Commenced in the Spring of 1845. I was with him some two years a month or two over

Ques

Do you know of the sale of any real estate by Strader to Jones and have you had conversations with Jones in relation to such purchases

Ans

No Sir I have not

Ques Do you know the Real Estate Strader had during the year 1848 in the Village of Saint Charles

Ans I know the property

Ques What did that real Estate consist of and what was its value

Ans One store lot and the store house adjoining it two dwelling houses and three lots one barn and one smoke house

Ques On which side of the River is the property situated

Ans East side of Fox River

Ques 9 Do you know of Jones having obtained possession of this property at any time
(44)

Ans The house I know of nothing about but by hearsay the Store I saw Collins take possession of

Ques At what time was this

Ans I don't know as I can state the time some two years last June cannot state precisely

Ques 11 Do you know in whose possession the store was at the time Collins took possession of it

Ans Stephens had possession of it

Ques 12 Do you know what the value of the rent of those

Several pieces of property mentioned by you as belonging to Strader has been worth for the last two years.

Ans The store and ware house is worth one hundred and fifty dollars the houses are worth eight and ten shillings a week.

Ques 13 Was the store and houses you mentioned ever occupied by Strader and if so when and for what

Ans He occupied the store and one house and had possession of the other

Ques 14 Have you heard ever in any conversation with Mr Jones since 1848 of his having purchased this property of Strader and if so when.

(45)

Ans

Ans Sir.

Ques 15 At the time of taking possession of said property by Collins or at any other time do you know of Jones being present and making any title to the property and if so what.

Ans Jones first got into the building by way of a back door or window and gave up possession to Collins and left soon after

Ques 16 Was the store and store house that you mentioned ever occupied by Strader for selling goods and if so at what time.

Ans It has been from 1844 to 1848

Ques 17 Was the dwelling house you mentioned ever

occupied by Strader for a residence and if so at what time

Ans Yes sir it has been from forty four to forty eight as near as I can tell it

Ques 18 Has Strader ever occupied any other building for a dwelling house or store than the ones you mentioned since 1844.

Ans He has occupied houses but not stores since

Ques 19 Was it before or since 1848 that he occupied the dwelling houses you mentioned

Ans Since 1848.

Ques 20 Do you know whether Strader was indebted to Eddy and Brackett and to Calvin DeWolf (46) previous to October 1848 and at what time and about what amount.

Ans He was indebted to Eddy and Brackett previous not Calvin DeWolf as I recollect but Calvin DeWolf was security for some demands in New York

Ques Do you know the several amount of his indebtedness during the year 1848 previous to the first of October

Ans No sir I don't know the amounts

Ques Do you know whether Jones resided with Strader during any period from 1844 to the present time and if so what portion of the time.

Ans He was with him a small portion of the time per-
haps one fourth of the time from 1844 to 1848

Ques Have you had any conversation with Jones
respecting the indebtedness of Strader previous to the 1st
of October 1848 or with any other person in Jones
presence

Ans I don't recollect of any
Silas Way

The above questions and answers
were objected to by S S Jones Esq

(47) State of Illinois }
County of Kane } ss I the subscriber a Justice
of the Peace of said County do
Certify that the above deposition was taken by me at
my Office in Saint Charles on the 11th day of October
A D 1852 and that the said witness was duly sworn
first and afterwards carefully read to him and
then signed by him

Open'd filed Nov 9 1852

C B Wells Clerk

Alex H Baird
Justice of the Peace

And afterwards to wit on the 9th day of November
A D 1852 there was filed in the said Clerk's office of
said Court a notice Interrogatories Commission &
answers which are in the words and figures following
to wit:

In Chancery Kane County Circuit Court
Calvin D Wolf

vs

Oliver B. Jones
& David Strader

Gentlemen

Please take notice that on the 4th day of October next at ten O'clock A.M. I shall apply to the Clerk of the Kane County Circuit Court to issue a dedimus pro testatone or Commission under the seal of said Court to be directed to Thomas L. Smead of St Louis in the State of Missouri as Commissioner authorizing and requiring him to cause Fletcher H. Herrick a now resident witness in this cause on the part of the said complainant and residing at St Louis aforesaid to come before him at such time as the said Commissioner shall designate and appoint and to take his depositions in pursuance of Law.

The following interrogatories will be propounded to said witness on the part of the said complainant

Intg 1st Do you know the parties to the suit or any or either ~~and~~ which of them and what is your age occupation and residence

Intg 2nd Do you know of the said Strader borrowing ^{and} money in Chicago in the summer or fall of Oct 2 1848 if so state whether said Complainant was his security what amount was borrowed at what time from whom and by

whom the same was paid if paid by any one

July 3rd Do you know of any other matter or thing of benefit to the said complainant if so state the same as fully as if particularly interrogated thereto
Calvin D Wolf.

To Messrs Jones & Eastman & } Complainant
Harnsworth & Ferguson }
Defts attys

on the said notice & interrogatories appears the following endorsement to wit:

Rec^d a copy of this Sept 31 1852
J. F. Harnsworth

(49)

Commission
State of Illinois }
Kane County } ss The People of the State of
Illinois to Thomas L. Greard
Esq St Louis State of Missouri Commissioner
Greetings

You are hereby authorized and required to cause Fletcher H. Herrick to come before you at such time and place as you may designate and appoint and faithfully to take his deposition upon all such interrogatories as shall be enclosed with or attached to this commission both on the part of Calvin D Wolf Plaintiff and Oliver B D Jones & David Strader defendants in a certain suit now pending in the Circuit Court of said County of Kane and State of Illinois in Chancery

sitting and to certify the same when thus taken together with this commission and the Interrogatories unto said Court with the least possible delay

Seal

Witness Charles B Wells Clerk of said Court and the seal thereof at General this 4th day of October A.D. 1852

Chas. B Wells

Clerk

Deposition

(50) The Deposition of Fletcher H. Merriek of the County of St Louis and State of Missouri a witness of lawful age produced sworn and examined upon his corporal oath on the fourteenth day of October in the Year of our Lord One thousand eight hundred fifty-two at the Office of Thomas L. Sneed in the City of St Louis in the County of St Louis & State aforesaid by and Thomas L. Sneed a Commissioner duly appointed by a Decimus potestatem or commission issued out of the Clerks office of the Circuit Court of Kane County in the State of Illinois bearing test in the name of Charles B Wells Esq Clerk of the said Circuit Court with the seal of said Court affixed thereto & to me directed as such Commissioner for the examination of the said Fletcher H. Merriek a witness in a certain suit and matter in controversy now pending and determined in the said Circuit Court wherein Calvin D. Wolf is plaintiff and Oliver B. D. Jones & David Strader are dependants in

behalf of the said plaintiff on the interrogatories of the said plaintiff which were attached to or inclosed with the said Commission & upon none others (no cross interrogatories being attached to said Commission).

The said Fletcher H. Herrick being first duly sworn by me as a witness in the said cause previous to the commencement of this examination to testify the truth as well on the part of the plaintiff as defendants in relation to the matters in controversy between the said plaintiff & defendants so far as he should be interrogated testified and deposed as follows:

(51) Interrogatory First. Do you know the parties to this suit or any or either and which of them and what is your age, occupation and residence

Answer I know the plaintiff in this suit Calvin De Wolf & one of the defendants viz David Strader. My age is twenty three occupation Clerk & residence St Louis Mo.

Interrogatory Second. Do you know of the said Strader borrowing any money in Chicago in the summer or fall of AD 1848 if so state whether said complainant was his security what amount was borrowed at what time from whom and by whom the same was paid if by any one.

Answer to Interrogatory Second

David Strader borrowed of me sometime during the summer or fall of 1848 the sum of Three hundred and thirty dollars and gave me as security therefor

his note at sixty days signed by himself & Calvin DeWolf jointly. Strader made one payment of one hundred dollars on the note. The balance of the note amounting I think including interest to about \$200 was paid subsequently by Calvin DeWolf.

I understood at the time the loan was made that the money was for the use and benefit of Strader and that DeWolf was merely signing as security although the note and power of attorney to congress judgment made differently.

Interrogatory Third. Do you know of any other matter or thing of benefit to the said complainant if so state the same as fully as if particularly interrogated therein.

Answer to Interrogatory Third

I do not.

And further this deponent saith not

J. H. Kerrick

I Thomas L. Enead of the City & County of St. Louis State of Missouri a commissioner duly appointed to take the deposition of the said Fletcher H. Kerrick a witness whose name is subscribed to the foregoing deposition do hereby certify that previous to the commencement of the examination of the said Fletcher H. Kerrick as a witness in the said suit between the said Calvin DeWolf plaintiff and the said Oliver B. Jones and David Strader defendants he was duly sworn by me as such Commissioner to testify the truth in relation to the matters

in controversy between the said Calvin D. Wolf plaintiff and the said Oliver B. Jones and David Strader defendants so far as he should be interrogated concerning the same that the said deposition was taken at my office in the City of St Louis in the County of St Louis and State of Missouri on the fourteenth day of October AD 1852 and that after said deposition was taken by me as aforesaid the interrogatories and answers thereto as written down were read over to the said witness and that thereupon the same was signed and sworn to by the said deponent Fletcher H. Herrick before me the oath being administered by me the said Commissioner as such Commissioner at the place and on the day & year last aforesaid

Thomas L. Sherris
Commissioner

Opened & Filed Nov 9/52

C. B. Wells Clerk

And afterwards to wit on the 11th day of November AD 1852 there was filed in the Clerk's Office of said Court a notice and depositions which are in the words and figures following to wit:

"Notice"

Calvin D. Wolf

vs
David Strader &
Oliver B. Jones

Hannibal County Circuit Court

Gentlemen

Please take notice that

on the fourth day of November next at 10 o'clock
A.M. before Louis D. Howard Esq. Clerk of the Cook
County Circuit Court at his office in Chicago I shall
cause the depositions of Harvey Edward Lyman &
L. Wolf George Flanders Samuel M. Warner
Theodore F. Cook John Phillips Andrew
Combs Philander Eddy & Elias D. Watkins to be
taken to be used in the trial of this cause on behalf of
the complainant said witnesses being resident witnesses
and residing at Chicago aforesaid in said County of
Cook.

The examination if not completed on
that day to be adjourned from day to day till completed

Dated this 19th day of October A.D. 1852

To Messrs Jones Eastman

Warren & Ferguson

Depts Solrs

Yours &c

L. D. Wolf

Complainant

State of Illinois

Cook County

ss L. D. Wolf being duly sworn says
that on the 21st day of October A.D. 1852

this deponent served a notice of which the within is a
duplicate and copy on S. Sprues one of the defendants
attys within named by delivering to him the same on
that day

Sworn to & subscribed before me

this 4th day of November A.D. 1852

L. D. Howard

Clerk

L. D. Wolf

(54)

The Depositions of Theodore Hook of K Phila.
Philander Eddy and Lyman E DeWolf of the County
of Cook and State of Illinois witnesses of lawful age pro-
duced sworn and examined upon their corporate oaths on
the fourth day of November Anno Domini one thousand
eight hundred and fifty two between the hours of ten
o'clock A m and six o'clock P M of said day and
following day by virtue of the notice hereto attached said
depositions to be read in evidence on the trial of a certain
suit now pending and undetermined in the Kane County
Circuit Court wherein Calvin A Wolf is Plaintiff and
David Strader and Oliver B D Jones is defendant

(55) The said Theodore Hook being by me
first duly sworn in answer to the interrogatories propounded
to him testified as follows:

Intg 1st Do you know the party's Plaintiff and defendants
How long have you known them.

Ans I have known DeWolf & Strader since 1848

Intg 2 Do you know of any indebtedness of Strader to A J
Brackett or to Eddy Brackett & Watkins prior to Oct^r
20th 1848 if so state the amount as near as you can &
your means of knowledge

Ans I was clerking for Eddy & Brackett in 1848 I
had frequently seen Mr Strader & Mr Eddy conversing
about crockery being purchased at Mr Brackett's estab-
lishment at Rochester & also knew that Mr Strader

Page 71
Subscribed
Inty 3

did buy a bill of crockery at Mr Brackett's Establishment at Rochester from letters which I had seen Mr Eddy have from Brackett (objected to)

Did you hear any conversations between Eddy & Strader in regard to indebtedness to Brackett if so when & where & what was said

Ans Nothing more than Mr Strader wished to purchase a bill of crockery from Mr Brackett the time was as near as I can recollect at the store in 1848 I think this was in the Spring of 1848

Int 4 Do you know if any crockery was purchased and about what amount if so state

Ans
Subscribed
Inty 5

I should say two hundred & odd dollars

Do you whether Eddy Brackett & Watkins sold a Bill of Goods to Strader in 1848 if so state the amount as near as you can & the time

Ans The amount \$87 as near as I can recollect the time July I think

Inty 6th State what articles if you can the account of Eddy Brackett & Watkins was for

Ans They were Liquors but the articles I don't recollect
Cross Interrogatories

Inty 1st Have you any other knowledge of Straders buying any goods of Brackett than what you derived from reading a letter from Brackett to Eddy

Ans I have not

Inty 1. Have you any distinct recollection of any particular goods being bought by Strader of Eddy Brackett & Walther.

Ans I have not

Resumed

Inty 1st What do you mean by not having a recollection of particular goods (objected to)

Ans I do not recollect the particular names of the goods but they were liquors.

Inty 2 State whether you had any knowledge of the purchase & delivery of the Liquors to Strader

Ans I recollect putting up liquors for Mr Strader also of charging them in the Book.

(57)

Int 3 Can you well refer to the Book & find the items if so please do so & append a list of the items to your answer to this interrogatory (Objected to)

Ans. I can (Witness here left to examine books & returned & gave the following list all of which was objected to by S S Jones Solicitor for Sft Jones

6 Bbl 4 p 234 Gals Ligen at 20[¢] \$49.80

1 Keg of 16 " " 14[¢] 29.

\$78.80

Exhibit "A"

Cross Examination resumed

Int 1 Have you examined said Books previous to being sworn to day or at any time lately

Ans About two months ago I did

Int 2 Have you any distinct recollection of this matter except by reference to the books

Ans I have not.

Int 3 Did you examine said Book for credits

Ans Yes.

Int 4 Did you find any

Ans I did

Direct examination resumed

Int 1 Since answering the above Interrogatories state whether you have examined the Books of account of Eddy Brackett & Watkins & the original entries of the account against David Strader as referred to in exhibit "A" above attached if yes state in whose hand writing the original entries are and also what you ~~know~~ know from an examination of said entries & items as to the delivery of said goods mentioned in said item to Strader objected to

(58)
Ans I have examined them they are in mine I put up the liquors to the amount of \$78.30 and charged I think & delivered them Answer objected to

Int 2 State whether or not you ^{now} know those items to be correct.

Ans I now know they are correct. Question & answer objected to.

Int 3 Explain what credit is given upon the Books of Eddy Brackett & Watkins objected to

Ans There is a note given for \$78.80 and interest

\$1.50 that is the only credit I know of on the books
the 8th of May 1848 I think it is about that time
Cross Examination resumed

Inty 1 Whose hand writing are the credits that you speak of in
Ans In Watkins

Int 2 Have you any knowledge of that matter excepting from
what you find on the Books.

Ans I have not.

Direct Examination resumed

Int 1 Do you mean by your answer to the last interrogatory
that you have no knowledge whatever of your own in the
subject of the sale & delivery of the goods or do you mean
that your knowledge has been refreshed by an examination
(59) of the Books objected to

Ans I mean that it has been refreshed to day

Inty 2 Having examined the books state whether your recollection
is now clear as to the above account objected to

Ans It is

Cross Examination resumed

Int Is it clear because you find it so on the books

Ans It is.

Theodore T. Cook

This deposition of John St. Phillips is witnessed on the
part of the Plaintiff

Inty 1st State what is your age & whether you know David
Strater one of the defendants & how long you have known

him
Ans My age is 28 I have known David Strader
since the winter of fifty

Int 2 State whether you knew Strader earlier than fifty &
when you first knew him as near as you can

Ans I cant say that I was personally acquainted with
him before 1850 but I knew him by reputation as early
as October 1849

J. W. Phillips

Page 71

Supplement

The deposition of Philander Eddy a witness on the
part of the Plaintiff.

Intg 1 What is your age & occupation and do you know
the parties plaintiff and defendant to this suit

(60)

This & all other questions objected to.

This witnesses evidence objected to.

Ans My age is forty three my occupation wholesale liquor
dealer. I am acquainted with all the parties to the
suit to the best of my knowledge

Int 2 Do you know of any goods having been sold in
1848 by Andrew J Brackett to David Strader if so
state by whom any sale was made about what time &
append to your answer a list of the items.

Ans A sale was made by Andrew J. Brackett to David
Strader in April 1848 & the exhibit hereto attached
marked "B" contains a list of those items

Q 3 State whether any note was ever given for this account & if so to whom the note was afterwards assigned if to any one

A There was a note given Jan'y 8th 1849 for the amount of the account \$140.40 It was afterwards assigned to Calvin De Wolf.

Q 4 State whether you know of the existence of any indebtedness from David Strader to Eddy Brackett & Watkins in the year 1848 if so give the amount & state whether any note was given for the same & if so what became of it

A In 1848 there was an indebtedness to the amount of about \$78⁰⁰ a note was given in Jan'y 8th 1849 for \$80.30 it was transferred to Calvin De Wolf

Q 5 State whether you are acquainted with the property in St Charles Town known as the Strader Store and Lot near the St Charles Hotel and the brick & frame house property in Block Thirteen on the East Side of Fox River & Lots and if so what in your judgment has said property been worth per annum since July 1850

A I believe I am I know the property the store was occupied by him in 1846 & 1847 I should think the store near the St Charles Hotel should rent for \$15 a month the dwelling houses all contained in the lot I should think one should rent for \$12 a month & the other for \$8⁰⁰ with the out buildings divided between

State of Illinois }
Cook County } J. Louis D. Hoard Clerk of
the Circuit Court in and for said

County do hereby certify that previous to the examination
of said Theodore J. Cook J. H. Phillips Philander
Eddy and Lyman E. DeWolf as witnesses in the
before mentioned suit they were severally duly sworn by
me to testify the truth in relation to the matters in contro-
versy between the said Calvin DeWolf Plaintiff and the
said David Strader and Oliver B. A. Jones defendants
so far as they should severally be interrogated concern-
ing the same that the said depositions were taken at
my office in the City of Chicago on the fourth day of
(63) November eighteen hundred and fifty two and on the following
day that after said depositions were taken by me as
aforesaid the interrogatories and answers thereto as written
down were read over to each of the said witnesses and
that thereupon the same were severally signed and sworn
to by each of the said deponents (each for himself at the
place aforesaid and on the days and year last aforesaid

Given

under my hand and the Seal of said
Court at Chicago in the County aforesaid the
6th day of November AD 1852

L. D. Hoard
Clerk

Exhibit B^o Mr David Wadsworth

1848

Bought of A. J. Brackett

April 17	4 doz	Moulded Tumblers	8/-	4 10
	2	" 8 fl fruit do	14/-	3 50
	2	" 4 in Glass Stoppies	5/-	1 25
	1	" C. C. Chambers		2 00
	1	" " Ewers & Basins		4 75
	4	" Edge Tweeters	45	1 80
	1/2	" W. G. Pitchers	36/-	2 25
	2	" C. C. Bowls	4/6	1 13
	1/3	" Brit Sea Pots	7 ²⁰	2 50
	3	" Chapin Sea Setts	6/-	2 25
	1/2 doz	" " Seas	36/-	2 25
	6 doz	" " Plates 3 ⁰ 5 ⁰		3 60
	1	" W Granite Sea Sett		75
(64)	1 doz	" " Seas		75
	2	" " Plates 3 ⁰ 5 ⁰		1 20
	2	" Moselle Sea Setts	7/-	1 75
	2	" " Seas	6/6	1 13
	4	" " Plates 6 ² 5 ²		2 60
	1/4	" Chapin Bowls	9/4	29
	1/12	" W Granite "	9/6	89
	2/12	" Moselle "	10/-	21

Le rate
Freight 495-

32⁰

Sept 4 3 Hong Sea Setts 30 pieces 18/-

1 doz	Corn Seas	2	2
4 doz	Woods Bowls	37	4 1/2
4	" C. C.	4 1/2	3 1/2
6	" Hong Plates	137	3 1/2
1	" " Pitchers	136	1 1/2
2	" " Bowls	14	1 1/2

Am't for

75
21 58
842 88
6 75
1 75
2 25
2 00
5 25
3 65
3 25
67.76

		Mar 27 th 06				
8 doz	King Plates	7 ¹¹ / ₁₆	10 ¹¹ / ₁₆			67 76
1	" " Platters	10 ³ / ₈	7 ³ / ₄	4 ³ / ₈	3 ³ / ₈	10 50
4	Chapin Sea Setts				6 ¹ / ₂	9 35
1 gro	" Seas					3 00
12 doz	" Plates	9 ⁴ / ₁₀	7 ⁴ / ₁₀	5 ⁴ / ₁₀		4 50
1	" " Pitchers	1 ¹ / ₂ 21 ¹ / ₂	1 ¹ / ₂ 16 ¹ / ₂			8 40
2	" " Bowls	1 ¹ / ₁₀ 6	9 ¹ / ₁₀			2 13
1 ¹ / ₂	" " Moco Pitchers	1 ¹ / ₂ 22 ¹ / ₂	1 ¹ / ₂ 13 ¹ / ₂	1 ¹ / ₂ 9 ¹ / ₂		2 50
6	" " Edge Plates				45 ⁰ / ₁₀	2 70
2	" " Tumblers				6 ¹ / ₁₆	1 13
6	Brit Castors 4 hole				6 ¹ / ₂	4 50
1 doz	Gap Lamps					2 50
1 ¹ / ₂ doz	C & Pitchers	1 ¹ / ₂ 16 ¹ / ₂	1 ¹ / ₂ 9 ¹ / ₂	1 ¹ / ₂ 5 ¹ / ₂		2 03
4	Looking Glasses	14 ¹ / ₂	14 x 10	9 ¹ / ₂		4 50
1 ¹ / ₃	" " " Band	12 x 9		48 ¹ / ₂		2 50
1 ¹ / ₂	" " " "	10 x 8		36 ¹ / ₂		2 35
1 ¹ / ₂	" " " "	9 x 7		30 ¹ / ₂		1 88
1 ¹ / ₃	" " " "	8 x 6		22 ¹ / ₂		92
	Crates & Cases					1 25
	Freight 942				30 ⁰ / ₁₀	2 82
Rochester						140 40

Opened Filed Nov 11th 1852

C. B. Wells Aug 2

And afterwards to wit in the 18th day of November
AD 1852 there was filed in the said office of the

Clerk of said Court the following exceptions to the foregoing depositions. to wit:

State of Illinois

Haw County Circuit Court Nov Term 1852
vs
to E. L. Wolf

David Strader &
O. B. D. Jones

And now comes O. B. D. Jones
by Jones his solicitor & excepts
to all the depositions taken by Plff. in this
cause and each & every interrogatory and answer
in each of the several depositions

1st He excepts to the deposition and each and every in-
terrogatory and answer severally of Wm D. Barry
for the reason that he is called upon to disclose &
does disclose what was communicated to him by defendant
Jones while he was a client of said Barry who was
then acting in the capacity of attorney & counsellor at
Law for said Jones and said communications made to
said Barry were confidential to him as his attorney.

The questions are all leading irrelevant & illegal the
answers are irrelevant evasive and not responsive
to the questions.

2^d Each question & answer are irrelevant the questions
are leading the answers are not responsive to the
questions and they are ambiguous & uncertain.

He excepts to the depositions of Philander Eddy and
the evidence therein contained for the reason first

(66)
Ex & Barry's dep.

That said Eddy is an interested witness he having signed the bail bond for the injunction in this case & is therefore interested as appears from said bond now on file & in force at the present time as well as when said deposition was taken. Also for the reason that the questions are leading and the answers are evasive not responsive to questions voluntary ambiguous irrelevant and illegal

We except specially to the deposition of Lyman E. Sesself for the reason that he is interested in the event of this suit & therefore incompetent That witness testifies to impressions

1671

To the deposition of Theodore Flook and each interrogatory & answer severally for the further reason that the questions are leading & irrelevant the answers are from hearsay & receiving letters & testifying to contents of letters & lies & not responsive to questions giving memorandums from books & testifying from books and otherwise improper

To the deposition of John H. Phillips for the reason that his answers are severally irrelevant to the subject in controversy

To the deposition of Elias May exceptions are further taken. 1st The answer to the 9th Interrogatory is not responsive to question it is hearsay evidence. The answer to 10th Interrogatory is predicated upon

hearsay evidence. He volunteers answer

The Eleventh interrogatory is predicated upon hearsay evidence & is irrelevant & presumes that Collins took possession of certain store. The answer is objected to as it is responsive to an illegal question & predicated upon hearsay statements. The 13th interrogatory and answer are irrelevant.

15th is predicated upon a fact not pro-
bated. The answer thereto is not responsive. It volunteers an answer not called for.

16 + 17 Interrogatories are leading.

The 20 Interrogatory is leading and the answer is not responsive but volunteers answers not asked.

(68) The Caption & Certificate appended to the deposition is insufficient.

So the deposition of J. H. Kerrick the Sft Jones excepts further specifically to the 2^d Interrogatory of Piff. It is leading, to the answer thereto it is not responsive. It is a volunteer answer to a question not put. The question & answer are irrelevant.

By J. D. Jones
Solr for O. B. D. Jones

Filed Nov 18th 1852

C. B. Wells Clerk

And afterwards writ: on the 4th day of December AD 1852 the same being one of the days of the

November ^{Term} AD 1852 of said Court the following among other proceedings in said Court were had and entered of record to wit:

Calvin DeWolf

v
David Strader
O. T. D. Jones

Bill to set aside decr

This day comes the defend-
-ant and excepts to the depositions
on file and moves to dissolve the Injunction herein

And afterwards to wit on the 6th day of December
AD 1852 the same being one of the days of the said
November ~~Term~~ ^{Term} for AD 1852 of said Court the
following among other proceedings in said Court were
had and entered of record to wit:

(69)

Calvin DeWolf

v
David Strader
O. T. D. Jones

Bill to set aside decr

This day comes on to be heard
the defendants motion heretofore entered
herein to dissolve the injunction: the Court being
fully advised sustains said Motion & orders said
injunction dissolved and for naught held

And afterwards to wit on the 14th day of February
AD 1853 the same being one of the days of the ~~Term~~
say ^{Term} for AD 1853 of said Court the following among
other proceedings in said Court was had and entered

of record to wit:

Calvin DeStolf

v

David Strater &

O. B. D. Jones

} Bill to set aside deed

This day comes Balling-
-gall for the complainant and
moves the Court for a rehearing of the exceptions to the
depositions filed in this cause. The Court being fully
advised sustains said motion and orders a rehearing
of the same

And afterwards to wit on the 5th day of March
A.D. 1853 the same being one of the days of the
February Term A.D. 1853 of said Court the following
among other proceedings in said Court was had and
entered of record to wit:

Calvin DeStolf

v

David Strater

& O. B. D. Jones

} Bill to set aside Deed

By agreement of parties the
time for filing exceptions extended to
the tenth April.

And afterwards to wit on the 20th day of May
A.D. 1853 the same being one of the days of the
May Term for A.D. 1853 of said Court the following
among other proceedings in said Court was had and
entered of Record to wit:

Calvin DeWolf

vs

David Strauter &

Oliver B. D Jones

Bill to set aside deed

This day comes the
Complainant by Ballingall his
~~Attorney~~ and the defendant Jones by Jones & East-
man Earnsworth & Ferguson his Sols and
the Court having heard a reargument upon defend-
ant Jones exceptions to depositions on file and being
fully advised sustains said exceptions in part and
orders the following portions of said depositions sup-
pressed viz:

(71) Of the deposition of William D. Barry all that part of the answer to the 6th Interrogatory commencing with the words "He said he was willing to sewe him in any way" The whole of the answer to the seventh Interrogatory. The whole of the answer to the thirteenth interrogatory. The whole of the answer to the twelfth interrogatory.

Of the deposition of Fletcher N. Merriett all that part of the answer to the second interrogatory commen-
cing with the words "I understood at the time"

Of the deposition of Theodore E. Cook all that part of the answer to the second interrogatory commen-
cing with the words "and also know that Mr Strauter did say" all of the answer to the fourth interro-
gatory. The whole of the deposition of Phileas Eddy. To which rulings of the Court in suppressing said several portions of the said

depositions and to each of said rulings the complainant by Ballingab his Solicitor excepts. And on motion leave is given Complainant to file his bill of exceptions herein by the 10th day of June next.

And afterwards to wit on the 21st day of May AD 1853 the same being one of the days of the May Term for AD 1853 of said Court the following among other proceedings in said Court was had and entered of record to wit

to alvin DeWolf

David Snater &

Oliver B. D. Jones

} Bill to set aside deed

} On motion of Defts Solicitor the time for taking depositions in this cause is extended to the first day of September next

The following are copies of a Transcript of a Judgment an Execution and a Sheriffs deed on file in the Clerks office of said Court among the papers in the above entitled cause.

Transcript

State of Illinois }
Cook County }

Plas before the Honorable Hugh
D. Dickey Judge of the Cook County Court

in and for the County aforesaid in the State aforesaid
 had in vacation after the October Term of said Court
 in the year of our Lord One thousand eight hundred
 and forty eight and of the Independence of the
 United States the seventy third

Present the Hon Hugh S. Dickey Judge
 of the Court

James Curtis Clerk

Be it Remembered that heretofore to wit on the tenth
 day of April in the year of our Lord One thousand
 eight hundred and forty nine came Calvin De
 Wolf in his own proper person and filed in the office
 of the Clerk of said Court his declaration in assumpsit
 against David Strader defendant and also filed
 with said declaration three notes and which said
 declaration is in words and figures as follows to wit

State of Illinois

Cook County Court

In Vacation in the year of
 our Lord one thousand eight
 hundred and forty nine

Cook County ss

Calvin De Wolf Plaintiff in the
 suit in his own ~~proper~~ person complains of David Strader
 defendant who is summoned to in a plea of trespass on
 the case ~~as~~ ^{for} promises: For that whereas the said
 defendant heretofore to wit on the fourth day of April in
 the year of our Lord One thousand eight hundred and

75) forty nine at Chicago to wit at Chicago in said County of Cook made his certain promissory note and then and there delivered the same to said plaintiff in and by which said note said defendant by the name style and description of David Strader promised to pay to the order of the said plaintiff one day after the said date the sum of five hundred and fifty dollars and eighteen cents with interest payable at the office of said plaintiff in Chicago for value received. And the said David Strader then and there delivered the same to the said plaintiff. By means whereof and force of the Statute in such case made and provided the said defendant became liable to pay said plaintiff said sum of money mentioned in said note and being so liable in consideration thereof then and there undertook and promised to pay the same to the said plaintiff according to the tenor and effect true intent and meaning of said note to wit at the place aforesaid.

And whereas also the said defendant afterwards to wit on the ninth day of April in the year of our Lord One thousand eight hundred and forty nine to wit at Chicago in said County became and was indebted unto the Plaintiff in a large sum of money to wit the sum of One thousand dollars for money before that time lent and advanced to and paid laid out and expended for said defendant by said plaintiff at said defendants request and for money before that time had and received by said defendant to and

for the use of said plaintiff and also in the like sum for goods wares and merchandize before that time sold and delivered by said plaintiff to said defendant at like special instance and request and also in the like sum for the labor care and diligence of said plaintiff before that time done and performed by said plaintiff for said defendant and at the like instance and request of said defendant and being so indebted said defendant in consideration thereof then and there undertook and promised to pay said plaintiff said last mentioned sums of money when thereunto afterwards requested.

(76)

Yet the said defendant not regarding his said promises and undertakings but contravened although often requested so to do has not paid said plaintiff either of said sums of money above mentioned or any part thereof but so to do has hitherto wholly neglected and refused and still do neglect and refuse to the damage of said plaintiff of One Thousand dollars and therefore he brings this suit to

Calvin A. Wolf
in his own proper person

And which said three notes are in words and figures as follows to wit

\$55812

Chicago April 4th 1869

One day after date for value received I promise to pay Calvin A. Wolf or order five hundred

fifty eight \$100 dollars with interest. Payable
at his office Chicago

David Strader

"\$140 $\frac{4}{100}$ Due A. J. Brackett or bearer or
bearer One hundred and forty $\frac{4}{100}$ dollars for
value rec^d with use

St Charles Jan'y 8th 1849

David Strader

Endorsed "Pay Calvin D Wolf or order

A. J. Brackett"

(77) "\$80 $\frac{30}{100}$ Due Eddy Brackett Watkins or
bearer Eighty $\frac{30}{100}$ dollars for value rec^d with
interest being for balance of acct to date
St Charles Jan'y 8th 1849

David Strader

Endorsed "Pay Calvin D Wolf or order

Eddy Brackett & Watkins"

And thereupon on the said day came the defend-
ant David Strader in his own proper person and
files his Cognovit confessing the action of the said plain-
tiff against him which said Cognovit is in words and
figures as follows to wit

"David Strader

ads

to C. D. Wolf

Cook County Court in
Vacation April 10 1849

And now comes the said defendant in his own proper person and says he cannot deny the action of the said plaintiff in manner and form as the said plaintiff hath thereof declared against him nor but that he did undertake and promise in manner and form as the said plaintiff hath declared nor but said plaintiff hath sustained damages by occasion of the non performance of his several agreements in the sum of seven hundred and eighty two dollars and eighteen cents (\$782.18) wherefore said defendant confesses judgment in favor of said plaintiff for said sum and costs of suit.

David Strader

(78)

And thereupon on the same day to wit the tenth day of April in the year of our Lord one thousand eight hundred and forty nine the said day being one of the days in Vacation of said Court the following proceedings were had and entered of record in said Court to wit

Calvin DeHoff

vs

David Strader

Confession In Vacation

April 10 1849

And now on this tenth day of April AD 1849 comes the said plaintiff in his own proper person and files his declaration herein of a plea of trespass on the case upon promises and thereupon comes the said defendant in his own proper person and files his Cognovit and admits the execution thereof and confesses the said

action of the plaintiffs herof against him and that he has sustained damages by occasion of the premises to the sum of seven hundred and eighty two dollars and eighteen cents.

Therefore it is considered that the said plaintiff do recover against the said defendant the said sum of Seven hundred and eighty two dollars and eighteen cents his damages aforesaid in form aforesaid confessed and also his costs and charges in this behalf expended and had execution therefor "

(79) And afterwards on the same day to wit the tenth day of April A D 1849 execution issued in said Cause out of the Office of the Clerk of said Court directed to the Sheriff of Kane County for the sum of Seven hundred and eighty two dollars and eighteen cents damages and six dollars and six $\frac{1}{4}$ cents plaintiffs costs which said execution has not been returned into the Office of the Clerk of said Court

State of Illinois }
Cook County } ss I Walter Kimball Clerk of
the Cook County Court of Common
Pleas (formerly Cook County Court) do hereby certify
that the above and foregoing is a full true and correct
Transcript from the records of said Court and of the
papers on file in my office in the case of Calvin
DeHoff Plaintiff and David Strater defendant

Seal

In testimony whereof I have hereunto set
my hand and affixed the seal of said Court
at the City of Chicago in said County this
Eighth day of November AD 1852
Walter Kimball

CLK

Said Execution is in the words and figures following
to wit:

State of Illinois }
County of Cook }
The People of the State of
Illinois to the Sheriff of Home County

Greeting:

We command you that of the Lands
and tenements goods and chattels of David Strader
defendant in your County you caused to be made the
sum of Seven hundred and eighty two dollars and
eighteen cents which Calvin De Wolf Plaintiff lately
in the Cook County Court of said County at Chicago
in said County on the tenth day of April instant
recovered against the said defendant and which by
the said Court was adjudged to the said Plaintiff for
his Damages. And also the further sum of Four
dollars and forty three $\frac{3}{4}$ cents which were adjudged
to the said Plaintiff for his costs and charges in that
behalf expended whereby the said defendant was convict-
ed as appears to us of record. And have you then
moneys ready to render to the said Plaintiff for his
damages and costs aforesaid and make return

(80)

of this writ with an endorsement thereon in what manner you shall have executed the same in ninety days from the date hereof.

Witness James Curtiss Clerk of our said Court and the Seal thereof at Chicago in said County this tenth day of April AD 1849
James Curtiss
Clerk

Upon the said Execution appear the following endorsements to wit

"In trust from April 10, 1849"

(81) "Rec'd this Execution April 16, 1849 at Eleven O'clock A.M.

B. C. Yates Sheriff"

I have by virtue of the within writ of fi. fa. levied upon the following Real Estate to wit: Lots No 5-6, 7 & 8 and the South half of Lots No one and two in Block No 13 & also the West half of Lot No 2 in Block No 2 all in the town of St Charles in said County of Kane according to the original survey also the North half of Lot No 3 in Section No 16 in Township No 40 N R Six E of the 3. P.M.

B. C. Yates Sheriff
Given April 16, 1849"

"This Execution of Bill satisfied by the sale of the

property levied upon by virtue of this writ of fieri facias which was bid in by P. J. Burchell the agent of plaintiff for the amount of Eight hundred & twenty three dollars and five cents it being the amount of Judgment Interest and costs the plaintiff being the highest & best bidder at the sale

B. C. Yates Sheriff

Geneva May the 17th 1849

The said Sheriff's deed is in the words and figures following to wit

(82) "Whereas Calvin D. Wolf on the tenth day of April in the year of our Lord One thousand Eight hundred and forty nine in vacation in the Cook County Court of Cook County Illinois recovered a Judgment by confession against David Strader for the sum of seven hundred and eighty two dollars and Eighteen cents damages and six dollars and six and one fourth cents costs of suit upon which judgment an execution was issued dated on the tenth day of April AD 1849 directed to B. C. Yates Sheriff of Cook County to execute and by virtue of said execution the said B. C. Yates Sheriff levied upon the Lands and lots herein after described and the same were struck off and sold to P. J. Burchell agent of the said Calvin D. Wolf plaintiff he being the highest and best bidder therefor and the time and place of sale having been duly advertised according to Law and the

said R. J. Burchell Agent as aforesaid having duly assigned the said Certificate (his certificate) of purchase to the said Calvin D. Wolf.

Now therefore know all by this deed that
S. B. C. Yates Sheriff of Kane County in consideration of the premises and of the sum of Eight hundred and twenty three dollars and eighty one cents being the sum bid for the said lands and lots by the said Burchell agent have granted bargained and sold and by these presents do grant bargain sell and convey to the said Calvin D. Wolf his heirs and assigns the following described Lands and lots to wit: Lots Number five (5) six (6) seven (7) and eight (8) and the South half of Lots No One (1) and two (2) in Block No thirteen (13) and also the West half of Lot No two (2) in Block No two (2) all in the Town of St Charles on the East side of Fox River Kane County Illinois according to the original survey. also the North half of Lot No three (3) in Section No Sixteen (16) in Township No forty (40) North of Range No six (6) East of the third (3) principal Meridian in Kane County Illinois. To Have and To Hold the said described premises with all the appurtenances thereto belonging to the said Calvin D. Wolf his heirs and assigns forever.

Witness my hand and seal this 14th day of October A.D. 1850

Witness
C. B. Wells }

B. C. Yates
Sheriff of Kane County
Illinois

(83)

State of Illinois }
Hame County } ss I C. B. Wells Clerk of the
Circuit Court in and for said County
in the State aforesaid do hereby certify that B. L. Yates
Sheriff of Hame County aforesaid personally known
to me as the person whose name is subscribed to the
within deed appeared before me this day in person and
acknowledged that he signed sealed and delivered the
said deed as his free voluntary act for the uses and
purposes therein set forth Given under my hand
and the seal of said Court at Geneva this 16th day of
December AD 1850

Sealed

C. B. Wells Clerk

Filed Dec 16 1850 at 11 7/8 AM and
Recorded in Book 20 of Deeds Page 290

C. B. Wells Recorder

Hame Co. Ill.

(84)

And afterwards to wit on the 17th day of January
AD 1854 the said being one of the days of the January
Special Term AD 1854 of said Court the following
among other proceedings were had and entered of record
in said Court to wit

to allow De Wolf

David Strader
Oliver B. Jones

Bill to set aside deed

The complainant having filed
his bill of complaint herein showing

to this Court among other things that the defendant Oliver B. Jones was wrongfully invested with the title to the lands and tenements hereinafter and in said bill ^{of complaint} described by virtue of a certain conveyance from said ~~Deceased~~ Strader for the purpose of defrauding the complainant and other creditors of said Strader which said lands and tenements are described as follows viz:

Situate lying and being in the County of Kane and State of Illinois and described as follows to wit:

(85) Commencing at the South West corner of Lot No two (2) in Block No Thirteen (13) in the town of McCharles Kane County aforesaid and described on the recorded plat of said town of the East side of Fox River thence running Northerly on the West line of said lot fifty feet (50) thence Easterly and parallel with the North line of said Lot twenty five (25) feet thence Southerly and parallel with the West line of said Lot fifty (50) feet to the South line of said Lot thence ^{proceeding} along said South line twenty five (25) feet to the place of beginning. And also Lot No Eight (8) and the East half of Lot No Seven (7) and the South half of Lot No one (1) and two (2) in Block No thirteen (13) and described as follows to wit: Commencing at the South East corner of said Block No thirteen (13) thence running Westerly on Illinois Street seventy five (75) feet thence Northerly and parallel with Fifth Street One hundred (100) feet thence Westerly parallel with Illinois Street twenty five feet (25) thence Northerly

and parallel with Fifth Street fifty feet (50) thence Easterly and parallel with Walnut Street one hundred (100) feet. thence Southerly on Fifth Street one hundred and fifty feet (150) to the place of beginning said piece or parcel of Land lying on the East side of Fox River and also the West half of Lot No Seven (7) in Block No Thirteen (13) on the East side of Fox River being twenty five (25) feet front and one hundred (100) feet deep fronting Illinois Street and also Lot No Eight (8) and the East half of Lot No Seven (7) and the South half of Lot No one (1) and two (2) in Block No Thirteen (13) bounded as follows to wit: Commencing at the South East corner of said Block No Thirteen (13) running thence westerly on Illinois Street seventy five (75) feet thence Northerly and parallel with Fifth Street One hundred (100) feet thence Westerly parallel with Illinois Street twenty five feet thence Northerly parallel with Fifth Street fifty (50) feet Easterly and parallel with Walnut Street one hundred feet thence Southerly on Fifth Street one hundred and fifty feet to the place of beginning all lying on the East side of Fox River and also Lots number five and six (5 & 6) in Block No Thirteen (13) on the East side of Fox River and also the West half of Lot No two (2) in Block No two (2) on the East side of Fox River together with the hereditaments and appurtenances.

And the said Complainant is and by his said Att. having prayed this Court as a Court of Equity to set

aside and annul said conveyance from said
David Strader to said Oliver B. Jones and
for a more full and explicit statement of the matters
and things set forth therein reference is hereby made

And the said Oliver B. Jones by his Counsel
having entered his appearance and filed his answer
denying all the material allegations of said bill
and Complainant having filed a general Replication
to said answer reference being had to said answer
and replication and proofs having taken herein

And this cause this day coming on to be heard
in its regular order on the docket upon pleadings and
proofs as to the said Oliver B. Jones and the
Court being fully advised finds the facts set forth in
said Complainant's bill of complaint are not true

(87) It is therefore ordered adjudged and decreed
by the Court that the defendant Oliver B. Jones
be hence dismissed And it is further ordered
adjudged and decreed that the said defendant have
and recover of and from said Complainant his costs
in this suit expended and have execution therefor

State of Illinois
Kane County

I, Paul R. Wright, Clerk of the Circuit Court of said Kane County, do hereby certify that the foregoing is a true, perfect and complete transcript of the Record in a certain Cause in said Court on the Chancery side thereof, wherein Calvin Aetholf was Complainant and David Strader and Oliver B. D. Jones were defendants, including the Summons & Return thereof, Proof of Publication of notice, all the pleadings in the Cause, all the depositions and other evidence on file in said Cause, and all the orders made by the Court and entered of Record therein, as appears from the Records of said Court and the files in my office.

Witness my hand and the Seal of said Court at Geneva in said County this 23^d day of March A.D. 1859.

P. R. Wright
Clerk



(88)

~~22~~ ~~73~~
Keane County Circuit Court

Calvin Delhoff

v 13

David ~~Strader~~ Strader

Oliver B. H. Jones

Verdict

Filed April 12, 1860
L. Leland
Clerk

Clerk's Fees \$23.00.

Supreme Court the Grand
Division of the State of Illinois
At Alvin Drusolf

vs
Oliver B D Jones & David Sholler } Error to Home

And now } Now comes the
said Oliver B D Jones (one of the
above named defendants)
by W D B Orry his attorney &
says there is no error in the
said ~~record~~ above record
filed in this case

W D B Orry atty for
Jones