

No. 13347

Supreme Court of Illinois

Brown Goddin & Co.

vs.

Moore

STATE OF ILLINOIS

SUPREME COURT,

Third Grand Division.

No. 266.

133-
1861

Elshaham Brown et al
266 vs
Wm Moore

Appeal from Putnam

Geo. C. Campbell
being first duly sworn says that
he is of Counsel for the Appellants
in said Cause that in said
Cause an appeal was ~~proposed~~
allowed from the Circuit Court
of Putnam County with leave
to appellants to file their Bond
+ Bill of Exceptions ~~within~~ thirty days from the
last day of the then Term of
said Court which said last
day was the 16th day of March
A.D. 1861. Affiant further states
that his law partner B. C. Leach
informed said Bill of Exceptions
sent the same to Princeton
which was the residence of the
Judge of said Circuit Court ^{office} on the
8th day of April A.D. 1861 by his Clerk
S. C. Walker, that Mr Walker found
said Judge away from home &
was obliged to send follow

Judge to
said Woodford County where said
Judge was holding Court & there
said Bill of Exceptions was signed
by said Judge & was by said
Walker immediately taken to
the Clerk of said Circuit Court of
said Putnam County & filed in
his Office, as this Affiant has
been informed by said Walker,
on the 10th day of April 1861 -
and said Clerk was requested
by said Walker on the part of said
Appellants to prepare the Trans-
cript of Record in said Cause
immediately and to employ an
Extra force to work upon the
same & informed said Clerk
of the necessity of having said
Transcript prepared so that it
could be filed in this Court by
this 18th day of April 1861 - and
that on the 15th day of April 1861 -
the said Walker as agent of Ap-
pellants filed the Appeal Bond
in said Cause & again urged

upon the said Clerk the necessity
of having said record prepared
that at said 15th of April said
Clerk had not finished said
record & informed said Walker
that said record could not
possibly be finished ^{in less than} by the 15th
^{two weeks thereafter} of April ~~for some days~~ ^{after} - And as a reason why
said Appeal Bond was not filed
before said 15th of April, Affiant
states that ^{a part of} said Appellants re-
side in St Louis Missouri and
~~said~~ the rest in Jacksonville Fla.
that the former of Attorney under
which said bond was executed
on the part of said Appellants
was not received at the office of
Affiant from said Appellants
until said 15th day of April
in consequence of the time taken
up in getting the same properly ex-
ecuted. Affiant further states
that said Walker directed said
Clerk or said Clerk promised to
send said Transcript to this

place as soon as the same
was completed directed to
affiant's law firm that the same
has not yet arrived & affiant
fears that the same is not yet
fully prepared. Said Walker fur-
ther made arrangements with
one Hollander to pay said Clerk
the fee for preparing said record
as soon as the same should be
completed & also left an
envelope with said Clerk di-
rected to Glover, Cook & Camp-
bell at this place in which
to enclose said Record.

Affiant therefore on the part
of said Applicant asks that the
time for filing said record be ex-
tended till the 29th day of April
1861.

Subscribed Sworn to
before me this 18th day
of April 1861.

Lt. Island Clerk
J. M. Newberry

Rob Campbell

State of Illinois
LaSalle County

ps
Saml. C. Walker being

first duly sworn says he has
made the aforesaid affidavit of
Geo C Campbell & that the same
is true

Saml C Walker

Subscribed & sworn
to before me this 14th
of April AD 1861

L. Leland Clerk
by J. B. Rice Deputy

266
Brown
y

Moore

affdnt

Frid April 18. 1861
L. Leland
Cen

SUPREME COURT OF ILLINOIS,

THIRD GRAND DIVISION,

APRIL TERM, 1861, AT OTTAWA.

BROWN, GODDIN & CO. }
 ^{vs.} } *Appeal from Putnam.*
WILLIAM MOORE. }

BRIEF OF APPELLANT.

I. THE petition is insufficient.

1. There is no time limited by the written contract for the completion of any portion of the work, except one engine, of 16-inch bore and 30-inch stroke, with iron frame; one main shaft, 9 inches in diameter; two pillow-blocks, lined with composition; one balance-wheel, 17 1-2 feet in diameter; one force-pump, with shaft and pulleys to work the same; one Judson's governor-valve; one governor;—in all making a perfect workable engine, which was to cost \$1800 only, (see contract,) and this \$1800, by the terms of the contract, was to be paid, one-quarter when contract was made, one-quarter on the delivery of the engine, June 1st, 1857, one-quarter Sept. 1st, 1857, and the last payment Dec. 1st, 1857—six months from that day would expire June 1st, 1857, at which time the lien would expire.

But it is said that petitioner did not get the length of the main shaft in time to complete the engine by 1st June. That is immaterial, for the engine was completed on the 22d June, 1857, (see Smith's testimony,) and the mill was completed on the 14th of October, 1857, (see Barlow's testimony.) Date from either time gives the same credit given by contract, and the lien had expired before the petition was filed, November 12th, 1858.

This time could not be extended by a new agreement entered into after the work was done, so as to extend the lien; if it could the parties might modify the statute, and the lien would accrue under a contract made after the work was done. Such a subsequent contract would not be a contract under which "work

was done or material furnished," in the language of the statute.

Cook vs. Heald, 21 Illinois, 428.

Cook vs. Vreeland, ib., 431.

Cook vs. Rafinot, ib., 437.

Moser vs. Matt., 24 Illinois, 198.

In relation to the castings other than the engine, there is no time fixed in the contract when they were to be delivered; and for those castings which comprise the whole bill but \$1800, there is no lien. The case of *Cook vs. Rafinot* is precisely in point (24 Ill., 437—*Brady vs. Anderson*, 24 Ill., 110.) Therefore the petition was wholly insufficient, and allowing a lien for those castings was erroneous. (*Senior vs. Brabner*, 22 Ill., 252, *McClurken vs. Logan*, 23 Ill., 79, *Rogers vs. Wood*, 23 Ill., 473.)

II. The petition is not proven. There is no evidence whatever showing that the time for completing the work was extended by new contracts from time to time—if there was it would not help, for the extension must have been for a time certain, and there is no pretence that there is any evidence of this. Suppose the contract was extended indefinitely, then it became such a contract that no lien could accrue under it.

2. There is no proof whatever of any contract between the parties on the 11th of May, 1858, (see Record, page 80) as is alleged in the petition, and is expressly denied in the answer. (Record, page 110.)

The variance is fatal.

Stein vs. Shultz, 23 Ill., 646.

Van Court vs. Bushnell, 21 Ill., 624

The contract alleged in the petition is not proven at all.

III. The answer was under oath, and must have been; the law expressly requires it—oath could not be waived.

Scates Statutes, 157, section 7.

There is no evidence at all to contradict the answer; the only evidence there is, to wit: the written contract and Smith's and Barlow's testimony, sustains it.

Morison vs. Stewart, 24 Ill., 24.

IV. The instructions given to plaintiff were wrong.

V. The instructions asked by defendants should have been given.

VI. The decree was wrong; 1st, Because the mortgage of defendants, which existed before the lien had all accrued, was totally set aside. This was in plain contradiction of the provision of the statute.

Cooke's Stat., 159, sec. 20, (*Nibbe vs. Brauhn*, 24 Ill. 268.)

2. The decree did not allow defendants to redeem, but provided for an absolute sale without redemption, whether defendants were willing to pay the amount of petitioner's lien or not.

3. The notice was to be only the same as upon sale of real estate upon execution, and that is 20 days.

Purple's Stat., 646, section 11.

4. This notice will not do.

Link vs. Achitectural Iron Works, 24 Illinois, 551.

Every decision of the Court in the cause was erroneous—there is not one thing in the case or about it that is legal.

B. C. COOK,
Attorney for Brown. Goddin & Co.

²⁶⁶
Brow, Goddin & Co
NY

W Moore

Filed May 1st 1861

L. Leland
blank

SUPREME COURT OF ILLINOIS,

THIRD GRAND DIVISION,
APRIL TERM, 1861, AT OTTAWA.

BROWN, GODDIN & Co., Appellants, }
vs. } *Appeal from Putnam.*
WILLIAM MOORE, Appellee.

ABSTRACT OF RECORD.

PAGE OF REC.

1 Nov. 12, A.D. 1858, appellee filed his petition for a mechanic's
2 lien *vs.* Simpson, Wild & Co. The appellants were made parties
as mortgagors. The land upon which the lien was sought was
part of the SW fr. qr. of sec. 9, T. 22, R. 2, containing 9 acres.

39, 40, 42 Oct. 25, 1859, A. C. Goddin, one of the appellants, filed a de-
murrer to petition. Defendants Simpson, and Minahan also de-
murred. Demurrer of Simpson and Minahan sustained; demur-
rer of Goddin overruled.

43 Jury. Verdict for petitioner \$3,646.10.

45 A decree was entered.

51 On motion of appellants decree is opened and they allowed to
answer.

55 Answer filed Nov. 23, 1859.

65 Leave given to appellee to amend his petition.

71 Amendment to the petition was filed.

70 June 4th, 1860, without further leave, an amended petition
was filed. It alleges that, on the 18th day of February, 1857,
and prior thereto, Simpson, Wild & Co. owned the nine acres
71 aforesaid and were about to erect, and afterwards did erect, a
distillery and flouring mill upon the premises; and on that day
Simpson, Wild & Co. made a written contract with petitioner,
whereby petitioner was to furnish for Simpson, Wild & Co. a
72 steam engine and its appurtenances and all castings necessary
for the perfect completion of the distillery and flouring mill to
73 be erected upon said premises, which written contract was dated

⁷³ Feb. 18, 1857, between Simpson, Wild & Co. and petitioner, and provided that petitioner should furnish to Simpson, Wild & Co., at petitioner's shop in Peoria, on or before June 1st, 1857, one engine of 16 inch bore and 30 inch stroke, with iron frame ; also main shaft 9 inches in diameter, with length to be hereafter determined ; also 2 pillow blocks, lined with composition ; one balance wheel 17 1-2 feet in diameter ; one force pump with shaft and pulley to work the same ; one Judson's governor valve, and one governor—making a perfect workable engine : all of the
⁷⁴ above work to be finished and fitted up ready for use, to be of the best material, and in all respects to be completed, except copper pipe, in a good workmanlike manner, and warranted not to break, with fair usage, for one year. The petitioner also agreed to deliver at his shop, to Simpson, Wild & Co., all castings required and necessary for the perfect completion of a distillery and flouring mill, for five and a half cents per pound, the finishing of the same to be extra, but to be at a reasonable price, and in no case greater than the rates charged others ; all wrought iron work to be done at the lowest rates charged Peoria distillers. Simpson, Wild & Co. agreed to pay for the engine completed \$1800, one-fourth down, one-fourth on the delivery of the same on 1st day of June next, one-fourth on the 1st day of September, and the last payment December 1st, 1857 ; castings and wrought iron work to be paid for on same terms as specified for the engine.

The petitioner then alleges that he fully performed the contract on his part, except that the articles were not furnished by the 1st day of June, 1857 ; that the engine was furnished on the 22d of June, and the remainder of the articles from 7th of March, 1857, to 23d of April, 1858 ; that by the consent of petitioner and Simpson, Wild & Co., the time for the performance of the work mentioned was extended from time to time up to April 23d, 1858, for the reason that defendants found it impossible, or at least very difficult, to proceed with the erection of the distillery as fast as was contemplated when the contract was made ; that he furnished articles and performed work under
⁷⁶ said original contract thus extended, as set out in his bill of particulars, marked A, and that the articles were of the value and were furnished at the time stated in the petition, amounting in all to \$7,048.33, of which Simpson, Wild & Co. have paid \$4,019.76, leaving due and unpaid, on 29th day of April, 1858, \$3,020.57 ; and by the agreement of both parties the time of payment was so modified, on the 29th day of April, 1858, that the credit of three and six months after the delivery of the

PAGE OF REC. articles and the completion of the works, provided for by the contract, should be restricted and lessened, so that \$1,000 should be paid in thirty days from April 29th, 1858, \$1,000 in ninety days, and \$1020.57 in four months from said time, with
 78 interest thereon at ten per cent. from said date, and Simpson, Wild & Co. gave to petitioner one note for one thousand dollars, dated April 29th, 1858, payable thirty days after date.

One note for \$1,000, same date, payable in ninety days;

79 And one for \$1020.57, payable at four months, dated April 29th, 1857, each of said notes drawing interest at ten per cent.

Petitioner alleges that the giving of the notes was not designed as a discharge of the lien; that there was a mistake in the date of the last note, it was intended to be April 19th, 1858; that the notes have not been paid; that on the 11th day of May, 1858, said Simpson, Wild & Co. made another contract with petitioner to furnish certain other machinery for said distillery and mill, and to do certain repairs thereon, which were to be fully completed within one year from that time, and to be paid for when delivered at what they were reasonably worth, and that under that last contract petitioner furnished the articles,
 80 mentioned in schedule B, which amounts to \$75, which were used in said distillery and mill, and the last of the articles were delivered on 22d day of September, 1858, but Simpson, Wild & Co. have not paid the same; that Sidney Pulsefer has a mortgage on the premises for about \$1,000; Brown, Goddin & Co. have a mortgage for \$21,000, which has been foreclosed by Brown, Goddin & Co., and the premises sold thereon, and that Brown, Goddin & Co. have a judgement against Simpson, Wild & Co. for about \$6,000, in the Circuit Court of Putnam county, which became a lien upon the premises, about half which judgment has since been paid; that Henry Reeder, of Peoria, claims a mechanic's lien upon said premises, which has passed into a judgment for \$652.91, and the premises decreed to be sold, subject to the mortgage of Brown, Goddin & Co.; Loker, Leiler & Co., of Peoria, have a lien—firm is composed of Jacob Loker, Samuel Leiler, and John C. Maher—which has passed into judgment, subject to the mortgage of Brown, Goddin & Co.; and that Oaks Turner, for the use of Putnam county, has a judgment against Simpson, Wild & Co. for about \$1108.33; and the county of Putnam has a judgment against Simpson, Wild & Co. for \$140, and against Timon Minahan for \$1253.25, in Putnam county Circuit Court. Petitioner alleges that his lein has
 84 priority over all the liens aforesaid. The time for completing

PAGE OF REC. the contracts aforesaid was not extended for a longer period
 85 than three years, nor the time of payment beyond the period of
 one year from the time stipulated for the completion thereof.

Makes James Simpson, Sagor Wild, Timon Minahan, Sidney Pulsifer, Henry Rehder, Jacob Loker, Samuel Leilor, and John C. Maher; Elisha W. Brown, A. C. Goddin, Barton S. Wilson, and James J. Johnson; Oaks Turner and Putnam county, defendants; prays for the enforcement of his lien, and that it may have priority over all other liens.

Schedule A.

82 to 104 Shows an account for machine work, commencing March 7th, 1857, ending April 19th, 1858, amounting to \$7,040 33.

Schedule B.

104 Account commencing April 28, 1858, ending Sept. 22, 1858, being nearly all repairing, amount \$75 98.

107 To this petition Goddin demurred.

109 Feb. 2d, 1861, appellees filed demurrer and answer; demurrer is to so much of petition as claims lien for work done under the written contract set out in the bill. Causes of demurrer:

110 1st. The time of payment for the work done under the contract is limited to be made Dec. 1st, 1857, more than 6 months before the filing of the original petition.

2d. Because no time is limited in said contract when the casting necessary to complete the mill, other than the articles specifically described in the contract, were to be delivered, and no time mentioned for the payment of the same. As to the residue of the petition they deny that a contract was made between petitioner and Simpson, Wild & Co., on the 11th day of May, 1858, as is alleged in the petition; they do not know what articles were furnished by petitioner upon the mill and distillery, and leave him to prove the same as advised.

111 They deny that petitioner did furnish any labor or material for erecting or repairing the mill or distillery within 6 months before the filing of the original petition in this cause, or that any contract existed between said Moore and said Simpson, Wild & Co., by which said materials and labor were furnished, and the time of payment for any portion of the price of the same extended, so that the payment would become due within six months prior to the filing of the original petition in this cause, or subsequent to that time.

PAGE OF REC.

That Simpson, Wild & Co. did erect a mill and distillery upon the tract of land described in the petition, and they were completed on or before the 15th day of October, 1857, and that the petitioner did furnish certain machinery and materials therefor, but they cannot state whether the same are correctly stated in the bill, and they aver that long after the materials and machinery had been furnished and the price thereof had become due, to wit: on the 29th of April, 1858, it was agreed by and between the petitioner and said Simpson, Wild & Co., that the petitioner would give them further time for the payment of the balance which was then due him, and the time of payment was extended for one, three and four months, and that Simpson, Wild & Co. should give their notes for the sum due, payable as aforesaid, which they did; that the last note was by mistake dated in 1857, instead of 1858, which was the true date; that the sum for which the notes were given was due and payable a long time before the notes were given; that the time was extended because Simpson, Wild & Co. were unable to pay the money when it became due.

113 That before Simpson, Wild & Co. erected said mill and distillery they borrowed of these respondents the sum of \$21,000, which was borrowed for the purpose of being used in the erection of the mill and distillery, and was so used, and for which Simpson, Wild & Co. gave to Brown, Goddin & Co. a mortgage for the sum of \$21,000, upon the tract of land mentioned in the petition, which mortgage was duly recorded, Oct. 22, 1857; 114 that on Oct. 30, 1858, respondents recovered a judgment against said Simpson, Wild & Co. for \$5,522 69, besides costs, which is unpaid and unreversed, and is a lien upon the premises described in the petition, which lien is not affected by the lien claimed by petitioner, because more than 6 months had expired after the materials were furnished by petitioner, and after the payment for the same became due before the filing of the petition in this cause, and for the same reason the lien of their mortgage 115 is not affected by the lien claimed by petitioner; that the mortgage had been acknowledged and recorded, and the lien was perfect before petitioner made his contract with Simpson, Wild & Co.; that the whole value of the premises was much less than the amount named in the mortgage; that the mortgage has been foreclosed and the premises sold to satisfy the same, on the 3d day of November, 1859, for the sum of \$9,900; the balance of the mortgage is unpaid; this answer was sworn to.

117 Demurrer overruled.

PAGE OF REC.

118

Brown, Goddin & Co. moved for a continuance, at March term, 1861; overruled.

March 14th, 1861, Moore filed replication.

March 15th, 1861, trial by jury.

123 Jury found for plaintiff \$3892.59, and that the lien of petitioner has precedence and priority as against the lien of Brown, Goddin & Co., and all other liens. The defendants moved for a new trial, which motion was overruled. Defendants moved in arrest of judgment—motion overruled, and appeal prayed and allowed.

125, 127, 128

Decree entered March 16th, 1861, making the petitioner's claim, to the amount of \$3892.59, a lien upon the premises described in the petition, to have precedence and priority of lien over all of the judgments, mortgages, or other liens of defendants, and that the premises be sold at auction, upon giving the like notice that is required in cases of real estate sold upon execution, to the highest bidder, for cash in hand, without redemption, and appoints a special commissioner to make the sale, and that he execute to the purchaser a deed, which shall convey all the right of Simpson, Wild & Co. and Brown, Goddin & Co. Commissioner shall pay the petitioner first, and shall pay the surplus to the parties entitled thereto, (without saying who is entitled to the surplus,) and that the judgments and mortgages of defendants be forever barred and foreclosed as against the plaintiff or the purchaser under said sale; and if the proceeds of the sale be insufficient, that execution be issued for the balance, (without saying against whom the execution shall issue.)

129, 130

Bill of Exceptions.

129, 130

The petitioner, on trial, introduced evidence tending to show that the complainant had furnished to Simpson, Wild & Co. the materials attached to the amended bill, and for the prices mentioned in said account, except the last small bill of account for about \$70, which the plaintiff did not claim. It was admitted, on the trial of said cause, by the said defendants, that the labor was performed and the articles furnished to Simpson, Wild & Co. by the plaintiff, as charged in the petition and account thereto annexed, and was used in and about said mill, as charged in the petition. H. W. Smith, a witness for petitioner, testified:—In February, 1857, I was in the employ of plaintiff; I was manager in his establishment; it was a general foundry business. I was not present when the original contract was made. I never saw it until the last term of the Putnam court. The pe-

PAGE OF REC. tioner then asked the witness this question: State why the articles were not furnished at the time mentioned in the written contract, if you know. Objected to by defendants—objection overruled and exception. The witness then stated that the engine was built according to agreement. The length of the pump-shaft had not been given when the rest was made. As we received an order for these things we went to work and made the engine. It was completed on the 22d day of June, 1857; as to work for the mill, it was ordered from time to time, as Simpson, Wild & Co. wanted. They ordered it sometimes by letter and sometimes verbally. We had no specifications for the work; we finished the articles as fast as we could under the circumstances. The engine was to have been completed by 1st June, 1857, had the length of the main shaft been given; as soon as that was given we went on, and finished the engine by 22d June, 1857. As to the other work for the mill, Mr. Moore finished the same as soon as possible after reception of specifications, rendered necessary from the fact that Wild & Co. made some alterations in their work from time to time. Moore did the work according to the contract, as per orders, and was always ready and able to fulfil the contract to the letter. On the 29th day of April, 1858, the plaintiff and Simpson, Wild & Co. made a settlement. The notes attached to the bill were for work done and materials furnished for mill and distillery.

132 The notes, to wit:—

One note for \$1,000, due in thirty days,
One note for \$1,000, due in ninety days,
One note for \$1020.59, due in four months—

All dated April 29th, 1858, and drawing ten per cent. interest, were read in evidence.

The written contract was read in evidence; it was as follows:

ARTICLE OF AGREEMENT entered into this eighteenth day of February, A. D. 1857, between Simpson, Wild & Co., of Hennepin, Putnam county, Illinois, of the first part, and William Moore, of the city and county of Peoria, and State aforesaid, of the second part,—

Witnesseth: In consideration of the payments hereinafter to be made by the parties of the first part, the said party of the second part agrees to furnish to the parties of the first part, at his shop in the city of Peoria, on or before the first day of June next, one engine, of sixteen-inch bore and thirty-inch stroke, with iron frame; also main shaft, nine inches in diameter, with
133 length to be hereinafter determined; also two pillow-blocks lined with composition; one balance wheel, seventeen and one-

PAGE OF REC. half feet in diameter; one force-pump, with shaft and pulleys to work the same; one Judson's governor-valve; one governor; making a pefect workable engine, &c. All the above work to be finished and fitted up ready for use, to be of the best material, and in all respects to be completed, except copper pipe, in a good workmanlike manner; and the same are warranted not to break, with fair usage, for the term of one year from the delivery of the same. Furthermore, the party of the second part agrees to furnish the parties of the first part, deliverable to our shop, all castings required and necessary for the completion of a distillery and flouring mill for five and one-half cents per pound, the finishing of the same to be extra, but to be at a reasonable price, and in no case to be at a charge greater for the same kind of work than the rates charged Dobbin's or other distilleries of the city of Peoria. In consideration, the parties of the first part are to pay, for the
 134 engine complete, eighteen hundred dollars, one-quarter of which is to be paid in cash, on the execution of this contract; one-quarter on the delivery of the same on the first day of June; one-quarter on the first day of September next; one-quarter, and the last payment, on the first day of December, A. D. 1857; castings and wrought iron work to be paid for on same terms as specified for the engine.

SIMPSON, WILD & Co., [seal.]
 WILLIAM MOORE, [seal.]

Witness stated that petitioner was at all times ready and had the means to furnish all the materials mentioned in the contract, and was only prevented from so doing by not getting orders. The reason the time for the payment of the money by Simpson, Wild & Co. was extended by plaintiff was, that I went, as the agent of Moore, to settle with Simpson, Wild & Co., and they
 135 were not ready to pay, and the time was extended to the time mentioned in the notes. The defendants moved to exclude from the jury the evidence of the extension of time. Motion overruled and exception.

136 The last of the said articles was furnished on the 23d day of April, 1858.

Aaron Barlow was then sworn as a witness. Testified as follows: The mill mentioned in the petition commenced to run on the 13th or 14th day of October, 1857. The same engine and machinery run both the mill and distillery. The mill was completed about the same time. The distillery was running early in January, 1858. Boiler, balance-wheels, pillow-blocks, force-pumps, and all necessary castings to run the mill, were in the mill on the 13th or 14th day of October, A. D. 1857. This was all the evidence.

PAGE OF REC. Before the trial commenced the defendants moved to continue
 137 the cause, because the replication of petitioner to defendants' answer was filed that day for first time. Motion overruled and exception.

Instructions for plaintiff:—

If the jury believe the allegations in the plaintiff's petition have been sustained by the proofs, then the jury will find for the plaintiff the amount of the principal and interest of the notes given in evidence to the jury, and that the plaintiff is entitled to a mechanic's lien upon the premises and improvements thereon, described in complainant's bill, in preference to the mortgage of Brown, Goddin & Co., and of all other liens claimed by Brown, Goddin & Co.

113 2d. That it is no objection to the plaintiff's claim for a lien that all the machinery was not furnished within the time fixed by the written contract, if the time of such delivery was postponed by the mutual consent of the parties to such contract, as stated in the plaintiff's petition, and such consent may be implied from the acts of the parties and their acquiescence, if any, and such other evidence as would sustain a contract in other cases; to the giving of each of which instructions defendants then and there excepted.

Defendants asked the following instructions:—

When an agreement, upon which a mechanic's lien is sought to be enforced, specifies the time within which the work is to be completed, or within which the materials are to be furnished, and within which the money is to be paid for such work or materials, the time so specified must be the periods limited by the statute; and these periods must be fixed when the contract is first entered into, and the same cannot be extended by a subsequent contract, although the terms of such subsequent contract be within the periods fixed by the statute.

2. The plaintiff having alleged in his bill that the contract read to the jury was extended, he is bound to prove the same, and in order to prove it, the testimony must show, to the satisfaction of the jury, that there was an express contract made between Simpson, Wild & Co. and plaintiff, extending the time of the payment of the money after the 1st day of December, A. D. 1857, and prove simply that the former ordered the goods from plaintiff, and that he furnished them on such order alone, is not sufficient to establish such contract of extension, and on

PAGE OF REC. these facts the plaintiff has no lien on the property in controversy as against Brown, Goddin & Co., and if the jury believe them they will so find.

140 These instructions were each refused, and defendants excepted. Defendants moved for a new trial,—overruled; exception.

ERRORS ASSIGNED.

1. The Court erred in overruling the demurrer to plaintiff's amended petition.

2. The Court erred in overruling defendant's motion for a continuance.

3. The Court erred in overruling motion of defendants to exclude testimony from the jury.

4. The Court erred in admitting improper evidence to the jury.

5. The Court erred in giving plaintiff's instructions severally.

6. The Court erred in refusing the instructions severally asked by defendants.

7. The Court erred in rendering the decree aforesaid in manner and form aforesaid.

266 11
Brown Goddin & Co
vs
Moore
Abstract

Filed May 1st 1861

L. Leland
Clerk

Brown Goddess No 2

Appeals from Putnam.

3

The Record in this Case presents this
State of facts.

That on the 18th February 1857 Moore made a Contract with Simpson Wild & Co of Kennebec to build them a Steam Engine; and to furnish castings for a Mill and distillery - The Price of the Engine is fixed at \$1,800. the Castings at 5 1/2 Cents per pound, Finishing Extra-Payments are to be made for the Engine 1/4 on the Execution of the Contract 1/4 June 1st 1/4 Sept. 1st and 1/4 Dec. 1st. 1857. By the terms of the Contract the Work was to be finished by the first of June 1857 - and the "Castings and wrought Iron work to be paid for on Same Terms as Specified for the Engine",

The Bill alleged that the Engine was not completed til the 2nd June 1857; and that by consent of parties the time for the delivery of the Cottings was postponed, and that they were delivered along between the 7th of March 1857 and the 2nd of April 1858 to suit the convenience of the purchasers

The Repellen, s whole bill amounted to \$7.048.33. of which \$4.019.76 was paid by

Simpson Mill Co. Leaving on the 29th Apr 1858 a balance of \$3020.57.

That on this day, the time of the payment of the balance was extended on \$1000. 30 days on \$1000. 90 days 2 on \$1020.57. 4 months So that by the Contract of Payment as extended the last payment would become due August 29. 1858. For these several payments Simpson Mill Co gave their notes

On the 10th Nov. 1858 Moore filed his Petition for a lien upon the land and Mills situated on the same in which the Machinery had been placed, Making Appellants, and Others parties

The Appellants loaned Simpson Mill Co Money to the amount of \$21,000. for which they gave a Mortgage on the same property in question which was Recorded Oct 22nd 1857— They also recovered a Judgment against Simpson Mill Co on the 30th October 1858 in the Circuit Court of Putnam County for \$5,522.69.— and they claim that their Mortgage and Judgment aforesaid are prior liens to any claim of Moore under his Contracts.

Moore proved that he furnished the materials, and performed the labor as charged in his Petition, and the same was

also admitted on the trial— and that the materials were used in and about the mill as stated in the Petition

Moore Proved by H. M. Smith that he was his Moore's agent, that he went to settle with Simpson Mill & Co on the 29th Apr 1858, they not being prepared at that time to pay the amount due, the time of payment of the residue of the purchase money was extended as before stated. The abstract does not contain a full and fair statement of Smith's Evidence, and the Court is referred to his Evidence in the Record

These, I believe are all the facts necessary to a Right understanding of the points in the Case.

By the Original Contract, all the work was to be done by the 1st of June 1857 and the last payment was to be made by the 1st Dec. 1857; But for Reasons mentioned in the Evidence and without any fault on the part of the Appellee, Moore the work was not all delivered till the 23rd ^{Apr} 1858— and on the 29th day of the same Month, the time for the payment

Of the balance due, was Extended 30. 90 & 120 days. This Extension was agreed to, before the time limited by the Original Contract, and the law, for filing the lien had expired - That is to say, Six Months had not elapsed, since the time when by the Original Contract the last payment was to have been made; when this Extension of the time of payment was agreed to. The Petition was filed as before stated on the 10th Nov. 1858, less than six months after the Expiration of the time of payment as Extended - But more than six months after the time of payment as specified in the Original Contract.

In the mean time, that is Oct 22. 1857 Appellants Mortgage was Recorded and their lien attached to the premises, Subject however to Moon's Contract with Simpson Wild & Co, unless Moore lost his lien subsequently by Extending the time for the payment of the balance due under his Contract -

That he held his lien, and might have enforced the same at the time he took Simpson & Co's Notes and gave indulgence to them, there is no doubt.

The only question in this case is Whether by thus Extending the time of

payment he, Moore lost his lien upon the premises.

(The question does not arise as between a subsequent creditor, and the Appellee, But between appellee and one whose claim had previously become a lien, with full legal notice of Appellee's prior Contract and Superior Lien.

I am not aware that this precise question has ever been decided by this Court.

It has been settled by Repeated decisions that there must be a Contract that by the Contract, the time of furnishing the materials and labor and the time of payment therefor must be specified - That the Petition must show that the time for completing the Contract was limited to three years, and the time of payment to one year thereafter. And this I take it, is all that is intended by any expressions used in opinions given in Cases Referred to in Appellants Brief. (Not that the parties may not change alter and amend their Contracts to suit their own convenience - But that it must appear that there was originally

a Contract, Such as is authorized by the Statute.

It will not I imagine be held that because a Contract to build a house by a Specified time is not completed by that time for want of material which the other party is to furnish, or even if the Contractor on such account should be unable to complete his work until after Six months when by the terms of his Contract, the money was to be paid, that he will thereby lose his lien — He can not file his lien for all his pay until he has done all his work; and surely he will not be deprived of his lien by the fault or misconduct of the other party, in failing to comply with his Contract.

That the time of performance may be extended, is distinctly decided in the Case of *Hibbe v Brauker* 24 Ill. 268.

It necessarily follows that the time of Payment may, and in some cases, must also be deferred — Who is injured by it? Who has any right to complain that a Creditor does not insist upon his rigid right to enforce payment by suit the moment his cause of action accrues?

7.

In the Present Case, How are the Appellants injured by Moore's Extension of the time of Payment to Simpson & Co for a few months?

Are they in any worse position, than they would otherwise have occupied? The account was settled, the amount adjusted, The Lien existed, The Materials and labor had all been furnished; and they could, had they chosen to do so, at any time have paid the debt and removed the Lien. They gave no Credit to Simpson & Co upon the faith, or belief that Moore's Claim had expired, or ceased to be a Lien.

This being the only point made in this Case which I deem at all material or deserving Serious Consideration, I forbear making any Comments upon other points—Considering them only as branches or subdivisions of the main question

If I am Right on this question the decree of the Circuit Court is Correct.

266-110
Brown Goddard
(266-1)

Wm Moore

Argument of
J. W. Phipps

For Appella

May 2. 1861.

Filed May 4 1861

L. Leland
Clerk

266/110
Elisha W.

et al.

vs

Wm Moore

Record

Filed April 24 1881

L. Leland
Clerk

Putnam County Circuit Court -

March Term A.D. 1859, Monday March 14, 1859.

State of Illinois,
Putnam County 3^d p.

Pleas before the Hon. Martin Ballou, Judge of the Circuit Court in and for said County (in the 23rd Judicial District of which he is Judge) at a term of said Circuit Court begun and held at the Court-House in Keeneburg on Monday the Fourteenth day of March A.D. 1859.

Present, Hon. Martin Ballou, Judge &c.

George Dent, Clerk.

John R. Gerlach, Esq. Sheriff.

F. M. Shaw, States atty

vs. ten

Be it remembered that heretofore, to wit: on the 12th day of November A.D. 1858, a Petition was filed in said Court which is in the words & figures, as follows, viz:

2

To the Hon. Judge of the 23^d Judicial Circuit of the State of Illinois in the County of Putnam in said State.

Your Petitioner William Moore of the County of Peoria in said State unto your Honor would respectfully represent that on the 29th day of January A.D. 1857 prior thereto James B. Simpson, Sagar Wild, and Simon Miniham Composing the firm of Simpson Wild & Co. were the owners in fee simple of the following described Real Estate in the County of Putnam in said State, to wit: all that part of the S. W. fractional qr. of Sec. 9 in Township 32 North of Range 2 West of the 3^d P. M. that lies South of the recorded plat of the Western Addition to the Town of Hennepin in said Putnam County, containing nine acres more or less, and were about to erect & did ^{soon after} erect and complete a Distillery on said premises -

That on the said 29th day of January A.D. 1857 the said Simpson Wild & Co. made a written contract with your Petitioner whereby your Petitioner was to furnish an engine and other Castings for said Distillery then erecting upon said premises. The articles so to be furnished & put up by your Petitioner on said premises with the prices for the same

are specified in the Account herewith filed, marked "A." and made a part of this Petition and that for the materials so furnished and the work and labor so to be done and performed by your Petitioner upon said premises your Petitioner was to receive one fourth cash on the completion of said Contract - one fourth on the completion of the Distillery - one fourth in ninety days thereafter and one fourth in six months thereafter, and your Petitioner further avers that the price of such materials + the work and labor so done & performed by your Petitioner under & by virtue of such Contract amounted to seven Thousand + eighty-eight $\frac{1}{100}$ dollars and that said Contract was fully completed by your Petitioner at the time and in the manner required by such Contract and that such materials & such work & labor were accepted and settled for by the said Simpson Wild & Co. by them giving their notes as hereinafter stated and that said Contract nor a copy thereof is in the possession or under the control of your Petitioner but that the same is substantially as above set forth —

Your Petitioner also represents that said Contract was, as to the time of payments, Changed by the Consent of both parties

4 and that apart of the price of such materials and of such work and labor was paid for by the said Simpson Wild & Co. and that for the balance the said Simpson Wild & Co. give their three ^{certain} promissory notes to your Petitioner, each dated the 29th day of April A.D. 1858, and each drawing ten per cent interest from date one of which notes is for the sum of one thousand dollars due & payable in thirty days from said date, another for one thousand dollars due & payable in ninety days from said date & the other for one thousand twenty $\frac{57}{100}$ dollars in four months from said date and that the amount of such balance as evidenced by said notes aside from the interest thereon accruing is Three thousand & twenty $\frac{57}{100}$ dollars and that said notes have long since been due & payable yet the said Simpson Wild & Co. have not paid the same or any part thereof —

Your Petitioner also shows that the said 1020 $\frac{57}{100}$ dollar note bears date the 29th April 1857 — but that it was a mistake in so dating it & that it should have been dated 29th April 1858, and that it was the intention of all the parties so to have dated, & its not being so dated was a mere slip of

5 the pen in the person who wrote the same.

Your Petitioner also shows that the materials so furnished and placed upon said premises & the work & labor thereon done and performed by your Petitioner as aforesaid were of the best quality and of the kind required by said Contract and that said Simpson Wild & Co. were well satisfied with the said materials work & labor & in part paid for the same & gave their notes as aforesaid for the balance due on the same. —

"Here inset amendment in lieu of the that part of the Petition describing the second contract"

And your Petitioner further represents that after said settlement and after said notes were given additional materials were furnished the said Simpson Wild & Co. by your Petitioner to be used in said Distillery upon said premises and which materials were by the said Simpson Wild & Co. received and used and placed in said Distillery and upon said premises which said additional materials so furnished by your Petitioner amount in value to the sum of seventy-one \$700 dollars an account of which materials with the dates of delivery & prices of the same, is herewith filed marked "B" and made

6. a part of this Petition, and the said Simpson Wild & Co. agreed to give for said additional materials what they were worth & your Petitioner avers that they were worth what your Petitioner has charged for them as shown by said account, and that the value of the same is now due to your Petitioner.

Your Petitioner further represents that Sidney Pulsifer has a mortgage on said premises for about one thousand dollars, also that Elisha W. Brown, Archibald C. Goddin, Barton S. Wilson & James P. Johnson partners composing the firm of Brown Goddin & Co. of St. Louis, Mo. have a mortgage on said premises for about the sum of twenty-one thousand dollars and also that the said firm composed of the same individuals with the addition thereto of John P. Hopkins but called by the same firm name, have a judgment against the said Simpson Wild & Co. for about six thousand dollars, in the Circuit Court of Putnam County, Illinois which is a lien on said premises, also that Henry Rheder claims some interest in said premises, also that Jacob Loker, Samuel Seiler and John C. Maher, composing the

7 firm of Loker, Seiler & Co. claim to have a mechanics Lien on said premises for materials & work and labor furnished and bestowed on said premises, also Oaks Turner for the use of Putnam County, has a judgment against said Simpson Wild & Co. for about Eleven hundred eight dollars and thirty-three cents, also the County of Putnam has a judgment against said Simpson Wild & Co. for about the sum of one hundred and forty-one dollars, also the County of Putnam has a judgment against Simon Minihan being one of the firm of Simpson Wild & Co. who is impleaded with Robert Patten, for about the sum of Three hundred and fifty-three dollars and twenty-five cents, which judgments were obtained at the Putnam County Circuit Court, at the October Term A.D. 1858-

Your Petitioner further represents that by virtue of the said contract and the furnishing of the said materials for said Distillery & flouring mill on said premises & the work & labor aforesaid your Petitioner has a lien upon said premises for the amount due him for such materials and work and labor, and that his said lien takes priority over the liens of all other parties to the extent of the value of such materials

8 and such work and labor and that
your Petitioner's said lien is a valid sub-
sisting Lien & that your Petitioner is enti-
tled to have said premises sold for the pur-
pose of satisfying his said lien - -

Your Petitioner therefore in
consideration of the premises pray that the
said James E. Simpson, Edgar Wild & Simon
Minihan partners composing the firm of Simp-
son Wild & Co. Sidney Pillsifer, Henry Rheder
Jacob Loker, Samuel Seiler & John C. Maher
composing the firm of Loker Seiler & Co. Eli-
sha W. Brown, Archibald C. Goddin, Barton
S. Wilson & James T. Johnson composing the
Brown ^{Goddin} & Co. also the said Brown, Goddin,
Wilson, Johnson & John P. Hopkins partners
composing the firm of Brown, Goddin & Co.
County of Putnam & Oakes Turner may be made
party defendants herein & that they each of
them be required to make full, true and
perfect answer to all the allegations herein
contained as fully & particularly as if the
said defendants were specifically interroga-
ted thereunto and that on a final hearing
it may be ascertained and determined
how much the said Simpson, Wild & Co.
are indebted to your Petitioner as shown

9 by the said notes and account and
his lien on said premises may be declared
and that said premises may be sold for
the satisfaction of said lien & that if the
same is insufficient that execution
may issue against the goods & chattels
lands and tenements of the said Simpson
Wild & Co. and that your Petitioner may
have such other and further relief as
to your Honor may seem meet - -

Peters & Farwell

For Petitioner - -

Copy of notes sued on -
\$ 1000.00 Thirty days after date we promise
to pay William Moore or his order, one
thousand dollars - value Rec'd -
Kennebec, April 29th 1858 and interest
at ten per cent. Simpson, Wild & Co."

\$ 1000.00 Ninety days after date we
promise to pay William Moore or his
order one thousand dollars - value
Rec'd Kennebec April 29th 1858 and
interest at ten per cent. pr. annum -
Simpson, Wild & Co."

" \$1020.57 - Four months after date we promise
 10 to pay William Moore or his order one thou-
 sand and twenty 5/100 dollars, value Recd
 Kennepin, April 29, 1857 and interest at
 ten per cent Simpson, Wild & Co. "

The following is a true copy of Ex-
 hibit "A", filed November 12, 1858-
 Messrs. Simpson, Wild & Co.

To William Moore Dr.

1857				
March 7	To. 2 Four Boxes	46 lbs		
9	" 2 8 in Rullies & 2 four Centre	173 = 219 - 5 1/2 % =	\$12.04	
16	4 bolts for fan		.60	
April 7	3 Spunde Bridge pots	381 -	20.96	
	Stock of fitting Fan		40.00	
16	16 Eyes 4 -		2.00	
	32 Brackets 88		2.56	
30	4 - 5 1/2 in plain gudgeons			
	9 - 5 1/2 in. Conpley " 1-6 in 7-5 1/2 in			
	3 - 6 in - 1-6 in 14-5 1/2 1-5 1/2 in gudgeons.		378	
May 4	6 - 24 in Rullies		506 884 = 48.62	
Feb. 24	1 Sp. nail for line shaft. run		583 - 32.06	
May 8	6 12 in. Mule. men		132	
	2 Bevil wheels for mash upright		348	
	2 Gudgeons 7-8 in men		46	
14	4 Gudgeons		75 = 60 1/2 33.05	
	Turning 10 plain Gudgeon		5.00	
	20 Bands		5.00	
	Turning 10 Concau Gudgeon		5.00	
	3 Bands		7.50	
16	Turning 5 gudgeon		4.50	
	Boring 4 wheels		4.00	
	Fitting Keys		2.00	
	11 Bands 24		2.75	
	Turning 8 gudgeons		8.00	
	Boring 8 wheels		8.00	
	Fitting 8 Keys		4.00	
	Turning 1 con- or gudgeon & plain Gudgeon		1.00	
	21 Bands 24		5.25	
20	1 Box 24. 10ragage 24.		.50	
	Bolts 120 lb 16 %		19.20	

amt. over

\$273.59.

11
185-7
May 16.

To amt over

\$273.59

" 1- 34 in. shft + 1-6 in gudgeon 89

1- 24 in Rully 58

1- 24 in " + gudgeon 75

21. 1 Bevil wheel for Engine Shaft. 10.18

5- 1.5 in spur wheel $238 = 1478\text{lb}$ 81.29

Overlaying Bevil center .50

June 1 11 Bolts for Bolting engine 309^{lb} 1/- 38.62

8 1 Spur pinion for Engine Shaft. 201

9 1 Line shaft No. 1 (Mark) 1174

11 plates for engine frame $356 = 1731$ 95.20

Drilling 2 flanges 1.5

17. 5 wrought shafts 638^{lb} 5.08

Boring 24 in Rully 1.25

" 34 in " 1.50

20 Turning 6 shafts 6.00

Boring 6 pulleys 6.00

Fitting 8 Keys 4.00

Boring 2 nuts 1.50

1 set Hog chains 527^{lb} 1/- 65.87

Bolts 29 15^{lb} 4.33

22 3 wrenches 8.00

Turning upright shaft 20.00

Boring & Turning bar wheel 18.00

" 1 Bevil Wheel 8.00

" 1 Coupling 2.00

Boring & turning step & pint 6.00

1 Pint 30^{lb} 2/- 7.50

Fitting keys 11.00

1 steel step 8^{lb} 4/- 4.00

amt. over 669.40

12	To amt over		\$669.40
June 11.	" 3 mill spindle pinions 1171 th		
	3 " Spindles	719	
	2 flanges	28	
	1 upright	1666	
16.	Flanges	238	
	6 24 in Bullies	422	
	5 15 in Spur Wheels	238	
	1 32 in Bevel Wheel	93	
	1 Elevator shaft with coupling on end	17	
	1 Bevel Wheel for main upright	1012	
	1 cone wheel for "	1498	
	Linings for doors for front	544	
	2 - 8 in mitre	20	
	2 plates for Boiler front	1164	
	1 double throttle valve stand	353	
	5 Columns for boiler front	475	
	Boiler front Castings	1224	
20.	3 - 36 x 1-2 in pulley	560	
	1 line shaft	600	
	1 " Mash "	808	
23	Linings to pillow blocks for centre shaft 5 1/2 in diameter	39	
	1 - 44 Cog Bevel 6 in face	318	
	2 pillow blocks for centre shaft	388	
	altering mitre wheel cut for upright		747.72
22	one 16 in Cylinder engine		.75
	12 Bolts for Chimney 1/4 x 4 1/2 in		1800.00
	2 " " horse frame 11 1/2 in		55.50
	Boring 1 Bevel wheel for engine shaft		1.38
	" 1 spur " " " "		8.00
	Fitting 2 Keys		8.00
	amt over		7.00
			3297.85

1857
June 23.
13

Aunt Brot over		3297.85
Do Bolts fitting fire front		25.00
	" 1-65 Spur Shaft (win. face)	583
	2 Coupling for Mash Shaft	525
25.	2 Boxes for 1st line shaft	206
	1 Bevil for mash upright	258
	2 Coupling	257
	2 Rake heads for mash	706
	1-56 Bevil - Mash line	407
	1 fan Counter Shaft	254
	1 line Shaft No 3	628
	1 Bevil Wheel	389
	1 Mash upright Shaft	745
	1 Bridge for main upright	120
	Washers for Engine frame etc	62
July 1-	1 Mash upright	754
	1-34 Bevil Wheel	32
	1 Line Shaft	458
3.	3 Boxes for do.	283
	2 " " Counter frame Shaft	78 = 6745 - 370.97
	1 sack	.10
	P plate for Chimney	178
	1 upright Coupling	53 = 231 12.60
	3 steel paint-block heads	18 th 4/ 9.00
	Turning Counter line shaft	12.00
	Boring 1 Spur wheel + 1 bevil wheel	10.00
	Fitting 2 Keys	6.00
	" 2 pillow blocks	18.00
	Composition in do.	18-30¢ 5.40
	Turning 1st line Shaft	15.00
	Boring 1 Bevil wheel	5.00
	Aunt - over	3786.92

1857.	Amt. Brought over		\$ 3786.92
July 3.	Turning 2 nd line shaft		15.00
14	Boring 22 Bevil wheels		8.00
	Turning 3 rd line shaft		14.00
	Boring 1 Bevil wheel		5.00
	Turning 4 th line shaft		12.00
	Boring 1 Bevil wheel		4.00
	" 3 Ps. Coupling		24.00
	Composition	7 p ^{ts} 30 p ^{ts}	23.40
	Fitting 11 Keys		31.00
	Turning Counter Pan shaft		12.00
	Boring 3 pulleys		9.00
	Fitting 3 Keys		7.00
	Composition in Boxes	14 p ^{ts} 30 p ^{ts}	4.20
	Turning 2 Mash shafts		24.00
	Boring 2 Bevil & 2 Counter		16.00
	Fitting 2 pairs		8.00
	" 4 Keys		12.00
	Fitting 3 mill spindles		60.00
	Dressing 3 " " Pinions 111 Cog		111.00
	Fitting 3 sliding Br inputs		42.00
	2 Bolts		1.00
P.	2 steel pairs for mash shaft 22 th 4/-		11.00
	1 mash upright Bridg port	112 th	
	1 Lat Bore	331	
	2 Bale & Drive	105	
	9 Chimney plates	192	
	3 Boiler stands	360	
13.	3 Bushes	82 = 1182	65.01
15.	1 Plate	66.82	.48
	Drilling amt Bore		1.00
	Amt over		4307.01

15	To amt over		\$11307.01
July 20	2 steel steps for main shaft 13-4		6.50
	Boring & setting do.		5.00
	Drilling Lever		1.50
	Composition packing 32 1/2 - 400		13.00
	Copper ring 4 1/2 PDR		3.20
	Iron forging 30 - 200		6.00
	3 Lighter screws		9.00
	2 hop jacks		30.00
	2 steam valves		30.00
	Drilling 3 Leavers		.75
24	2 drayages		.50
28	2 - 2 1/4 wrought shafts	204	
	1 - 2 1/4 " "	75	
	1 - 2 1/2 " "	26	
	2 - 2 1/2 " "	348	
	1 - 3 in " "	278	931 1/2 8 1/2 74.48
18	1 mitre wheel	300	
20	2 Leavers & stands	252	
	1 mitre wheel	300	
	8 plates for Chimney	177	
	3 spindle leavers	150	
	1 Line Shaft	396	
	1 Box for counter shaft	38	
31	3 sections stand pipes	984	
	1 upright shaft	479	
	3 1/2 do Coupling & upright shaft.	419 = 3495 =	192.62
August 13.	Turning & drilling stand pipes		10.00
	1 Cluck valve		16.00
	Turning 5 gudgeons		5.00
	Boring 5 mitre wheels		5.00
	amt. over		4715.56

1857.
Aug.
16

To amt. over	\$ 47 15.56
" Fitting 5 keys	4.00
Turning 5 plain & 2 Concave gudgeon	3.58
26 Bands	6.50
Turning 2-24 upright shafts	18.00
Boring 8-12 in & 2 19 1/2 Mitre wheels	10.00
Fitting 10 stub Keys	12.00
2 stub steps & paints 12 1/4 4/-	6.00
Fitting " & "	7.00
Turning 1 2 1/2 shafts	4.00
Boring 2-24 in pulleys & 1-42 in shaft	3.00
Fitting 3 Keys	3.00
Turning 1 1 1/2 in shaft	2.75
Boring 1-18 pulley 1-20 Cog bevil	2.00
Fitting 2 Keys	1.75
Turning shaft to drive Fan	9.00
Boring 1-3 ft pulley & 1 Bevil wheel	5.00
Fitting 2 Keys	4.00
Composition in Boxes 6 1/2 30 1/2	1.00
Turning 1-3 in W. shaft	10.00
Boring 3-24 in pulleys	4.50
" 2 Bevil wheels	4.00
Fitting 5 Keys	7.50
Turning 2-2 1/2 in W. shafts	10.00
Boring 1-24 in pulley & 2-42 in shaft	4.50
Fitting 3 Keys	3.50
Boring & Turning 2 pr. coupling	7.50
" & " 2 collar	2.50
Fitting 4 Keys in Coupling	5.00
Turning 1 1/4 upright shaft	7.00
" 2 " " "	14.00
Boring 2 Bevil wheels	7.00
Fitting 2 Keys	6.00
amt over	49 11.86

Aug. 13.
17

To amt over		\$ 119 11.86
" turning 3 rd upright		10.00
Boring 1 Bevil wheel		2.00
" + drilling 1 spindle pin		3.50
Fitting 2 Keys		4.00
Turning 4 th upright shaft		6.00
Boring 1 Bevil wheel		2.00
Fitting 1 Key		1.50
Boring 3 1/2 pr. Coupling		15.00
Fitting 7 Keys		14.00
Boring & cutting Key seats in 42 in spur		1.50
Drilling 4 Brackets		.75
" 1 Wheel		.50
15 1 Sack		.10
500 flights	30	15.00
5 Drayages		1.25
1 1 Shaft	636	
8-12 in Mitre wheels	199	
1 upright shaft	285	
6-24 in pulleys 1-18 in pulley 3 + 2 Bevil wheels	654	
1 upright shaft	198	
5 2 Gudgeons + 1-8 in mitre	35	
2-19 1/2 in mitre	107	
2-42 spurs	206	
2 Bridgepots + 1 Bevil Pinion	28	
7 1 Bevil wheel	136	
10 Gudgeons 4-12 in mitres } + 1-18 in shaft pin }	261	
1-69 Bevil 1-42 - 1-56 - 46 } + 8-8 in Bevil }	302	
1-6 + 1-5 1/2 Gudgeons	32	
	3079 th	
		= 169.30
		5758.26

amt. over

1857	To amt over		\$ 5158.26
Aug. 12	" 2-42 Spur wheels	215	
18	2 Water valves for cold & hot water	161	
	1-28 in spider Rin	68	
	4 Brackets & Box stays	59	
	1-97 Bevil wheel	113	
	1 square Block	109 = 725 th	39.87
17.	Drayage		.25
6.	Altering flange on still pipe		.50
	2 Brass painted steps	15 th	7.50
	2 Stay Straps for Boiler Wall	387	
	7 Grates	637	
	2 caps & 2 stuffing Box	56	
	1-5 1/2 in Gudgeon	18	
24.	6 Conveyors hinges	48	
	2 Coupling for pump shaft	109	
	2-12 in Mitre Wheels	45	
28.	2-19 1/2 in Mitre Wheels	106	
	2-44 Cog Spur. "	140	
	1-80 " Bevil "	67	
	1-6 3/4 flange	15 - 1628 =	\$9.52
15.	3 studs turning		1.75
25.	2-2 1/4 in shaft	139 - 88	11.12
	2-2 in " for pump	48 - "	3.84
	Extra length pump shaft	200 th	16.00
28.	Boring 1 wheel & cast Rysar		2.00
Sept 7.	Turning 1-2 1/2 in shaft		4.00
	Boring 2 mitre wheels & Bevil		3.00
	Fitting 3 Keys		3.00
	Turning 1-2 1/4 in shaft		3.00
	Boring 2-19 1/2 in mitres		2.00
	amt. over		5345.61

1157
Sept. 7.
19

	To amt over		\$5345.61
	" Fitting 2 keys		2.00
	4 loose collars turning		11.00
	Boring & fitting 1.56 cog Bevil wheel		1.75
	Turning 1 Gudgeon		1.00
	2 Bands		.50
	Turning 1 Gudgeon		1.00
	Boring & fitting 1.69 Bevil wheel		1.75
	2 Bands		.50
	Turning 1 Gudgeon		1.00
	Boring 1-23 in spur wheel & fit		1.75
	2 Bands		.50
	Turning 2 shafts & collars for rotary pump		8.00
	Boring 2 wheels		2.00
	" 2 pr. Coupling		4.00
	Fitting 4. Pedders & cut keg seat in wheel & cap		10.00
	2 steel springs		3.00
	Turning & Boring 2 brass steps & paints		2.50
	Drilling 7 hangers & 1 wheel		1.00
	Turning 1 shaft		6.00
	Boring 1 miter & 1 Bevil wheel		3.00
	Fitting 2 keys		3.00
P.	1-2 in. shaft	39-SP.	3.12
	Turning do.		3.00
	Boring 1 spur & 1 Bevil wheel		2.00
	Fitting 2 keys		2.00
	1 steel step	3-41	1.50
	Boring & fitting do.		1.25
14.	4 Sacks		.50
	3 drayages		.75
	amt. over		5418.08

	To amt. over		\$ 5418.08
Sept. 1.	" 1 Line shaft	287	
20	1-73 Bevil wheel	3	
	1-19 1/2 Mitre "		150
	1-69 Bevil wheel		57
	1 upright for smut mill		200
	1-36 in. Pulley		138
	1-11 " " H Box		105
5.	1-23 Spur wheel 1-69 Bevil		
	1-12 in Mitre & 1-6 in Gudgeon	}	149
	15-6 3/4 in. flanges		226
	2 Bridgepins		14
	2 door frames & doors		140
	2 Boxes		47
	1 Silent feeder & hand wheel	27 = 1536 =	\$4.48
	2 mask valves		\$.50
8.	2 large water valves for mask tub		67.06
14.	4 flanges	67	
	1-19 1/2 in Mitre wheel	54	
	3 Hall straps	588	
	2 door frames	33	
	1 Branch Pipe	153	\$95 = 49.22
	1550 flights		46.50
26.	2 drayages		.50
28.	500 flights		24.00
	3 sacks		.30
14.	1 safety valve with throttle valve & weight		35.00
	2 hot water & cold water valves for tub		45.00
	amt. over		- 5778.58

1857.	To. Amt. over	\$ 5778.58
Sept. 10.	" 2 pipes for still	
21	1 " " double throttle valve	
	1 " safety "	
	1 flange	3372.
15.	3 flanges for water valve	21
	Mud valve Casting	180
	1 - T pipe for safety valve	
	1 " " " pipe on still	106
	1 - 14 in Rully	31
18.	1 - 19 1/2 in Mitre & flang	94
	1 - 20 in Rully & 1 Box	102.
	1 spur wheel for pump	287
	1 - 27 in. Rully	86
	1 - 88 spur wheel	150
	2 flanges	29
22.	1 Butterfly valve pipe	59
	1 face plate for Beer pump	159
	Flanges	216
	1 stuffing Box for Beer pump	40
	1 - 18 in Rully	22
25.	1 - 14 Cog Rimor	07
	1 shaft	266
	1 Bendulum	193
	6 Boxes	523
	1 Pump Arm	116
26.	1 Line shaft	795
	1 Pump "	333
	15 Strates	1410
	1 Boiler wall strap	190
	1 - 56 spur 1 - 24 in. mitre - 1 - 31 Bevil	574
	1 - 50 Bevil wheel	648
	1 upright shaft	302
	1 - 59 Bevil & 1 - 55 mitre	6257 = 343.50
	Amt. over	6122.38

1857:

1857.

Sept. 22.

22

To. Amt. over

\$6122.38

" 1 Brass Butterfly valve 8th 24-

4.00

1 Blank flang Pattern

.25

Putting on circular flang to mind valve pipe

.75

3 cylinder Cock

5.25

Fitting Wheel & Gudgeon & 2 Bonds

3.00

Composition in 2 Boxes 8th 30.

2.40

2 Samseles

8.00

Fitting 2 Doors

5.00

Drilling 4 pipes

6.00

Boring 1-19 $\frac{1}{2}$ Nitre & fitting Key

1.50

" & drilling & fitting 1 spur wheel

6.50

Drilling pipe & flang

1.50

Coupling nut for whistle

2.00

Drilling flanges

2.50

1-1 $\frac{3}{4}$ in wrought shaft

38-88.

3.04

Turning do.

1.50

Boring 1-17 $\frac{1}{2}$ in Pulley

1.00

" 1 Rimion & fit. Key

1.25

Oct. 25.

2.

1-2 $\frac{1}{2}$ in shaft142th 88.

11.36

Drilling flanges

1.00

1 Rotchet drill slack

12.00

Steel step & paint

130th 41-

6.50

Boring & turning do.

5.00

Turning upright shaft

12.00

Boring 2 wheels

8.00

Fitting 2 Keys

6.00

Turning 1 line shaft

12.00

Boring 2 wheels & 1 pulley

11.00

Fitting 3 keys

9.00

Turning 1 pump shaft

(Rack)

7.00

Boring Revolverum & Arm

8.00

Fitting 2 keys

6.00

Turning 2 counter pump shafts

14.00

Amt. over

6306.68

Oct. 2.	To. Amb. over	\$63 06.68	
	" Boring 3 wheels	12.00	
23	" 1 face plate with wrist hole	8.00	
	Fitting 4 keys	4.00	
	1 pipe to connect mud valve to recir 66 ft.		
	1-27 in. Pulley	78	
	1- I pipe flange	106	
1	flanges	104	
	3 Boxes	214	
	1 Bridgeport	57	
	60 ft. Track	97	
	Flange	34	
	7 Grate Bars	651	
	1-12 in Pulley	22	
5.	Stand & flang for Boiling tub	37	
	flanges	20	
	1 Bevil wheel 31 bog 5 1/2 feet 2 in pitch 186		
	4 Return plates 2 weights		
	Blank flang	615	
	4 Grain Gear Wheels	37	
	21 ft. Truck	33 = 2357 = 129.63	
	Composition in Boxes	85 = 31	25.50
	Fitting Butterfly Valve		8.00
	1 Mud valve		18.00
	Drilling 2 pipes & flange		1.50
	Turning 1 line shaft		5.00
	Boring 2 pulleys & fit keys		4.00
	Composition in 1 Box		90
	Fitting silent feeder		5.00
	2 Balls & stands for mill stones 35 - 15		10.50
	Composition in 3 Boxes 30 - 30		9.00
7.	Drilling flanges		75
	Amb. over		\$6548.46

1857	To. Amt over		\$6548.46
Oct. 7.	Drilling return plate		.75
24	Boring 1 wheel & cut Key seat		4.50
	" 1 Pulley & fit set screw		1.25
9.	2 Eyes for grain bar		1.70
	Fitting Eyes & wheels		2.00
	Forging for Beer Rump	171 th 20 th	34.20
	Fitting 2 strap joints		28.00
	Fitting Pump Rod & twist		12.00
	Turning Plunger		4.50
	1 wrist & turning		3.00
13.	drum head Pattern		2.00
	Work on 82 Bevil to split wheel		.75
	1 flange	31.	
16.	1-30 in Pulley & 1-11 in Pulley	300.	
	1-63 Bevil wheel	55	
	2 Drum heads	109	
	1-7.5 Bevil Wheel for mule	259	
20.	flanges	<u>10</u> = 764 =	42.02
	Fitting double throttle valve inclining Brass valve }		30.00
21.	1-82 Bevil wheel hoisting machine	90	4.95
	Work on iron for splitting machine		.50
	flanges	61	3.35
	1 upright shaft	135-88	10.80
	Turning 1 shaft	59	4.72
	Boring 1 Bevil wheel & fit & screw		4.00
	Fitting 1 feather in strap		1.50
	2 Collars & turning		2.00
	Boring & turning 10 in Pulley		4.00
	Fitting 1 Key		1.00
	Turning 1 shaft		4.50
	Amt over		<u>6758.45</u>

25	To. Amt. over		6758.45
Oct. 14.	Boring & Turning 2 heads		3.50
	" & " 30 in. Pulley		9.00
	Fitting 3 Keys		3.00
	Composition in Boxes		1.80
	Drilling 1 wheel & cutting Key seat		2.00
19.	" 12 Picks		2.00
	Turning Saws for Mill Bale		.75
Nov. 5.	Paid Charges on Coupling Express		.25
	2 shafts for hoisting machine 216 to 80.		17.28
7.	Turning 2 shafts		6.00
	Fitting 4 Keys in 6 Coupling		3.00
	Stock & welding shovel shaft		3.50
	Turning do.		2.00
11.	1 Coupling pattern for hoisting Coal		2.00
12.	3 Boxes & 1/2 Coupling	132	
	1- 30 in. Pulley	130	
	1 coupling to connect with shaft.	104	
	1- 88 Spur wheel	186	- 552 = 30.36
	1- 2 1/4 in. Shaft	112.8	8.96
	1- 2 1/4 " "	86 - "	6.88
	Stock & milling shaft	50	6.00
	" & " "	18	3.44
	Turning spool shaft		1.50
	" 1 shaft to couple spool shaft		3.00
	Turning 3 line shafts		8.00
	Boring 3 in. Coupling & turning one		7.50
	Fitting 5 Keys		5.00
	Boring 1- 30 in Pulley & fit Key		2.50
	Composition in 2 Boxes		1.75
	Boring & Coupling for spool		2.75
	Fitting Key		1.00
	Amt over		6903.17

1857.	To amt over		\$6903.17
Nov. 14.	Boring stuffing Box		2.00
26	" 1 wheel		3.00
22.	2 Plates	412 th	2.31
	3 Brass Cocks		6.00
Dec. 11.	1 Sherr	09	
14.	2 - 24 in. Mitre wheels & 2 Bevels	569 = 578 =	31.79
	Boring Sherr		.20
	10 1/2 Antimony	3/4	3.81
	Boring 4 wheels		12.00
1858	Fitting 5 sets screws		4.00
March 4.	1 cap pattern for Pump		.50
9.	1 upright shaft	247	
	1 - 36 in. Pulley	154 = 401 =	22.05
	1 Brass Coupling	3 1/2 th	2.75
	Fitting do.		.75
	Drayage		.40
11.	Turning & Boring 1 shaft		5.00
	Boring 3 ft. Pulley		2.00
	Fitting 1 Key		1.00
31.	1 Brass valve	4 1/4	2.13
	1 Iron " & stuffing Box	6	.36
April 3.	1 Brass valve	9	4.50
	2 Shafts	15 - 8	1.20
	Turning do.		1.25
	Fitting Check valve		1.00
	" 1 stuffing Box		.75
	" 2 valves		2.00
	Iron valve seat	14	.77
23.	1 - 36 in. Pulley	163	8.90
	1 - 6 in. Locken Pattern		4.00
	Amt. over -		7077.41

27
1858
April 23.

To amt Brod over	\$ 7077.41
" 1-2 1/2 in shaft 43 ^{lb} . 88	3.44
Turning do.	2.50
2 collars & turning & steel sett & steel	3.00
Boring Pulley & cutting key seat	1.50
Drayage	.25
	<u>\$ 7088.10</u>

1857.
Feb. 19 -
March 14.
June 13.
July 20.
Sept. 15.
28
Oct. 14.
Nov. 14.
Dec. 29.
1858
April 19.
29

Dr.	
By Cash	\$ 500.00
" Cash	950.35
" Cash	1450.00
" Difference in Revil wheel & mitre 125°	6.87
" 2 Water valves & 3 flanges (mistake) 182-	
" - 69 Revil + 1-5 1/2 in Gudgeon	" $\frac{68}{250} = 250$
" Cash	800.00
" old iron	186 th 2.32
" " "	140 = 1.40
	<u>3725.19</u>
" Draft	300.00
" Work not received (Error)	42.34
" Three Notes	3020.57
	<u>\$ 7088.10</u>

The following is a true copy of the
Exhibit "B." filed November 12 - 1858.

28	Messrs. Simpson Wild & Co.	
1858.	To Wm Moore	Dr.
April 28.	To Drayage	.25
May 7	Brass Rings & fitting for Governor	1.00
	Boring 3 ft. Pully	1.75
	Drayage	.25
Aug. 9.	1-12 in Spur wheel 23 th	1.15
19.	2 Brass Putnam Box 29 ¹ / ₂ 9-	14.75
	1 " valve & stuffing Box 6 ¹ / ₂	3.25
	Work on followed Pattern	.50
	2 - 6 ¹ / ₂ in flanges 29	1.45
	Boring wheel	1.00
	Fitting 1 pr. Boxes	5.00
	Repr valve	3.00
25.	Fitting fallow + 4 left screws	5.00
	Sucking rings 14 th . 400.	5.60
Sept. 22.	6-4 ft. Grate Bars 538 th .	27.90
		<u>\$71.85</u>

To-wit: on the 12th day of November
A.D. 1858 - the following was filed; viz:
State of Illinois, Putnam County, ss.
William Moore } Circuit Court April Term
vs. } A.D. 1859 -
James S. Simpson }
Sagar Wild & } Petition for Mechanics Lien -
Simon Minihan, parties
Composing the firm of Simpson, Wild & Co.

²⁹
Elisha W. Brown, Archibald C. Goddin,
Barton S. Wilson & James D. Johnson,
partners composing the firm of Brown,
Goddin & Co. Elisha W. Brown,
Archibald C. Goddin, Barton S. Wilson,
James D. Johnson & John P. Hopkins, partners
composing the firm of Brown, Goddin & Co.,
Jacob Loker, Samuel Seiler & John C. Maher
partners, composing the firm of Loker Seiler & Co.,
Sidney Pulsifer & Henry Rheder, The County
of Putnam, Ills. & Oaks Turner -

The Clerk will please issue summons
returnable as above to the Sheriffs of Putnam
& Peoria Counties, also to LaSalle Co. if
any of the debt live there -

Peter & Farwell

For Petitioner -

On the same day - to wit: Nov. 12, 1858
the following writ was issued, viz:

State of Illinois,
Putnam County 353

The People of the State of Illinois,
To the Sheriff of said County: Greeting -
We command you that you summon
James S. Simpson, Sagar Wild, Simon Min-
shaw, partners, composing the firm of Simp-
son, Wild & Co. Elisha W. Brown, Archibald

C. Goddin, Barton S. Wilson & James P. Johnson, partners, Composing the firm of Brown Goddin & Co., Elisha W. Brown, Archibald C. Goddin, Barton S. Wilson, James P. Johnson & John P. Hopkins, partners, Composing the firm of Brown Goddin & Co., Jacob Loker, Samuel Seiler & John C. Maher, partners, Composing the firm of Loker, Seiler & Co., Sidney Puliger, Henry Rheder, The County of Putnam, Illinois and Oaks Turner, if they shall 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 Keeneville in Putnam County on the fourth Monday of April next to answer unto William Moore in his certain Bill of Complaint (on Petition for Mechanics Lien) filed in the said Court on the Chancery side thereof and have then and there this writ ~~with~~ an endorsement thereon in what manner you shall have executed the same

L. S. } Witness George Dent, Clerk of our said Court and the seal thereof at Keeneville this 12th day of November A.D. 1858.

George Dent, Clerk

Which writ was returned by the Sheriff with the following endorsement thereon, to-wit: I served the within summons

by reading the same to James J. Simpson, Sagar Wild, Dimon Minihan, Oaks Turner, and Amos P. Purniance, Clerk of the County Court of Putnam County, Ills., and leaving a true copy with said Clerk, and each one of the other above named persons this 31st day of December A.D., 1858 -

Elisha W. Brown, Archibald C. Goddin, Barton E. Wilson, James P. Johnson, John P. Hopkins, Jacob Foker, Samuel Seiler, John C. Maher, Sidney Pulsifer, Henry Rehder are not found in my County -

John P. Geberich,

Sheriff of Putnam Co. Ills.,

On the same day, to-wit: on the 12th day of November A.D. 1858, the following writ was issued, viz:

State of Illinois,
Putnam County 3^d.

The People of the State of Illinois,
To the Sheriff of Peoria County, Greeting:

We Command you that you Summon James J. Simpson, Sagar Wild, Dimon Minihan, partners, composing the firm of Simpson, Wild & Co., Elisha W. Brown, Archibald C. Goddin, Barton E. Wilson & James P. Johnson, partners, composing the firm of Brown, Goddin & Co., Elisha W. Brown, Archibald C. Goddin, Barton E.

Wilson, James P. Johnson & John P. Hopkins, partners, composing the firm of Brown, Goddard & Co., Jacob Loker, Samuel Seiler & John C. Maher, partners, composing the firm of Loker, Seiler & Co. Sidney Pulsifer, Henry Rhider, The County of Putnam, Illinois and Oaks Turner, if they shall 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 Hennepin in Putnam County on the fourth Monday of April next to answer unto William Moore in his certain Bill of Complaint (on Petition for Mechanics Lien) filed in the said Court on the Chancery side thereof, and have then and there this writ, an endorsement thereof in what manner you shall have executed the same.

Witness George Dent, Clerk
of our said Court and the seal thereof at
Hennepin this 12th day of November A.D.
1858.

George Dent, Clerk

Which writ was returned by the Sheriff with the following endorsement thereon, to-wit:

I have served this ~~Summons~~ by delivering a true copy of this writ to the within

33 named Jacob Loker, Sidney Pulsifer
Henry Rehder and Samuel Seiler this
10th day of February A.D. 1859. But John
C. Maher & Asa Turner was not found in
my County this 10th day of February A.D.
1859 -

John Bryner, Sheriff.
By T. A. L. Murry, Deft.

At the same Term, (to-wit: March Term
A.D. 1859), to wit: March 17th A.D. 1859,
the following order was made -

William Moore

Petition for
Mechanics Lien.

^{N.S.}
James S. Simpson, Sagar Wild &
Simon Minihan, partners, composing
the firm of Simpson, Wild & Co.,
Elisha W. Brown, Archibald C. Goddin,
Barton S. Wilson & Jas. T. Johnson,
partners, composing the firm of Brown,
Goddin & Co., Elisha W. Brown, Archibald
C. Goddin, Barton S. Wilson, Jas. T.
Johnson, & John P. Hopkins, partners
composing the firm of Brown, Goddin & Co.,
Jacob Loker, Samuel Seiler, Jno. C. Maher,
partners composing the firm of Loker,
Seiler & Co., Sidney Pulsifer & Henry
Rehder, The County of Putnam, Ill.,

and Oaks Turner.

34

The Plaintiff appeared by Peter Barwell, his attorney and it appearing that the summons had not been served on all the defendants and a portion were non-residents of the State of Illinois; it is ordered by the court that this case be continued until the next Term of this Court, for want of publication.

Afterwards, to wit: on the 6th day of June A.D. 1859, the following was filed,

State of Illinois, Circuit Court October
Patnam County 3rd Term A.D. 1859.

William Moore

vs. } Petition for me-
James S. Simpson, Sagar Wild } Charie's Lien
Simon Minihaw, Composing the }
firm of Simpson, Wild & Co.,
Elisha W. Brown, Archibald C. Goddin,
Barton S. Wilson, & James T. Johnson,
Composing firm of Brown, Goddin & Co.,
Elisha W. Brown, Archibald C. Goddin,
Barton S. Wilson, James T. Johnson & John
P. Hopkins, Composing firm of Brown,
Goddin & Co., Jacob Loker, Samuel Seiler,
& John C. Maher, Composing firm

of Loker, Seiler & Co., Sidney,
Pulsifer, Henry Rehder & others }

Robt Farwell being by
me first duly sworn on oath says he is one
of the Attorneys for the Plff. in the above cause
and that the said Elisha W. Brown, Archi-
bald C. Goddin, Barton S. Wilson & James S.
Johnson, composing firm of Brown, Goddin
& Co., & Elisha W. Brown, Archibald C. Goddin,
Barton S. Wilson, James S. Johnson & John P.
Heopkins, Composing firm of Brown, Goddin
& Co., are not residents of the State of Illinois,
but are residents of the State of Missouri as
Affiant is informed and believes & further
this Affiant saith not
Sworn ~~to~~ subscribed } Robt. Farwell -
before me, this 7th day }
of June A.D. 1859. }
Geo. Dent, Clk. }

Afterwards, to wit: Oct. 24th 1859,
the following was filed, viz:
William Moore } In Rutnam
vs. } County Circuit
James S. Simpson, Sagar } Court. Vacation
Wild, Simon Minihan, partners } after the March
the firm of Simpson, Wild & Co., } Term A.D. 1859
Elisha W. Brown, Archibald C. } Continued to

Goddin, Barton S. Wilson, & Jas. P. Johnson, partners composing the firm of Brown, Goddin & Co., Elisha W. Brown, Archibald C. Goddin, Barton S. Wilson, James P. Hopkins, partners, composing the firm of Brown, Goddin & Co. Jacob Loker, Samuel Seiler & John C. Maher, partners, composing the firm of Loker, Seiler & Co., Sidney Pulsifer, Henry Rheder The County of Putnam, Ill., and Oaks Turner.

the October Term A.D. 1859.

Petition for Mechanics Lien.

Affidavit having been filed in the office of the Circuit Clerk of said County, satisfactorily showing that said defendants Elisha W. Brown, Archibald C. Goddin, Barton S. Wilson, James P. Johnson, composing the firm of Brown, Goddin & Co., and Elisha W. Brown, Archibald C. Goddin, Barton S. Wilson, James P. Johnson and James P. Hopkins are not residents of the State of Illinois, and subpoena having been issued against them, returnable on the Second Monday of March A.D. 1859 (which has been duly returned not found). Now, therefore, notice is hereby given to you the said Elisha W. Brown, Archibald C. Goddin, Barton S. Wilson, James P. Johnson and James P. Hopkins, that the above entitled suit is

now pending in the Putnam County Circuit Court, and that unless you shall be and appear before said Court on the first day of the next term thereof, to be holden at the Court-House in Keeneville on the fourth Monday of October A.D. 1859, and plead, answer or demur to said Bill, the same will be taken as Confessed against you and a decree rendered according to the prayer thereof.

Dated at Keeneville this 7th day of June A.D. 1859.

Peters & Farwell for Petitioners } George Dent, Clerk.

This is to certify that the foregoing notice of "Petition for Mechanic's Lien" was published in the "Bureau County Democrat" a weekly newspaper published at Princeton, Ill., for four consecutive weeks, from the 22nd day of June 1859 to the 20th day of July 1859.

The Charge for publication amounting to \$5.00 the receipt of which in full, from the hands of Peters & Farwell, is hereby acknowledged.

MesenKop & Myers -
Publishers. "Bureau Co. Democrat."

At a subsequent term of said Court, begun and held at Keeneville

to wit: on the 24th day of October A.D.
1859, the following order was entered of
Record on said day, being one of the
days of said Term, viz:
William Moore

vs. } Petition for
James S. Simpson, Sagar Wild, } Mechanics Lien.
& Simon Minihan, partners, composing
the firm of Simpson, Wild & Co., Elisha
H. Brown, Archibald C. Goddin, Barton
S. Wilson, & James D. Johnson, partners com-
posing the firm of Brown, Goddin & Co.,
Elisha H. Brown, Archibald C. Goddin, Bar-
ton S. Wilson & James D. Hopkins, partners
composing the firm of Brown, Goddin & Co.,
Jacob Loker, Samuel Seiler & John C.
Maher, partners, composing the firm of
Loker, Seiler & Co., Sidney Pulsifer,
Henry Rheder, The County of Putnam,
Ill., & Oakes Turner.

The Plaintiff comes by Peter &
Farwell, a certificate of the Publisher of the "Bu-
reau County Democrat" a weekly newspaper
published at Princeton, Bureau County, Illinois,
is filed and has annexed to it a printed
copy of the notice stating when, at whose suit,
against whom the said notice was issued
and also giving the title of this Court and

the time and place of return of said notice; it appears from ^{the} said Certificate that said notice was published in said newspaper four successive weeks first in the paper June 22nd 1859 to the 20th day of July A.D. 1859 and the Court is of opinion that such notice is sufficient as to Elisha W. Brown, Archibald C. Goddin, Barton S. Wilson & James P. Johnson of the firm of Brown, Goddin & Co. and John P. Hopkins.

Afterwards, to wit: on the 25th day of Oct. 1859 - the following was filed,

William Moore

vs. } Petition for Mechanics
James E. Simpson et al } Lien -

And now comes the said Archibald C. Goddin, one of said defendants and says that said Petition is insufficient, wherefore he demurs to the same - and this he is ready to verify, &c.

Thomas Dent,

Solr. for said Goddin.

And the said Plaintiff says that the said Petition is sufficient, wherefore he prays Judgment &c.

Retus & Fairwell, for Plffs.

Also, the following was filed on
the same day, to wit: Oct. 25, 1859 -
Wm Moore

vs. } Petition for mechanics Lien.
Simpson et. al. }

And now come defendants
James S. Simpson and Simon Minihan and
demur to the Petition and say that the
same is insufficient, and this they are
ready to verify, &c -

1. And for Cause of demurrer said defts
says that the County of Putnam, and
Oaks Turner, who are shown by said peti-
tion to have an interest in the premises are
not made parties therein.

2. And that said Petition is other-
wise insufficient in law

Thomas Dent,

for said defts -

On the same day, to wit: Oct. 25, 1859.
being the second day of said Term, the
following order was entered of Record,

viz:

William Moore

} Petition for
} mechanics Lien.

vs. }
James S. Simpson, Sagar }
Wild, & Simon Minihan, part- }
ners, composing the firm of Simpson

Wild & Co. Elisha W. Brown, }
 Archibald C. Goddin, Barton }
 S. Wilson & James D. Johnson,
 partners, Composing the firm of
 Brown, Goddin & Co., Elisha W.
 Brown, Archibald C. Goddin, Barton }
 S. Wilson, James D. Hopkins, part. }
 new, Composing the firm of Brown }
 Goddin & Co., Jacob Loker, Samuel
 Seiler & John C. Maher, partners,
 Composing the firm of Loker, Seiler & Co., }
 Sidney Pulsifer, Henry Rheder, }
 The County of Putnam, Ills. & }
 Oaks Turner? - }

Now, again come the parties
 by their attorneys, Peters & Farwell for Plaintiff
 and Thomas Dent for defendants. The de-
 mures of the defendant James S. Simpson
 and Simon Minihan to the Plaintiff's Petition
 Come on to be heard and on consideration thereof
 after the arguments of the Counsel have been
 heard the demurer is considered to be well
 taken, and the petition is considered to be in-
 sufficient in law; thereupon on motion of
 said Plaintiff leave is granted to amend
 his Bill by inserting the names of Putnam
 county and Oaks Turner in the prayer of
 his Petition; the demures of the defendant

43

A. C. Goddin is duly considered and over-ruled, Jacob Loker, Samuel Seiler, John C. Maher, and Henry Rheder, appear in their own proper persons - James S. Simpson, Sugar Wild, Simon Minihan, Elisha W. Brown, Archibald C. Goddin, Barton S. Wilson, James T. Johnson & John P. Hopkins, The County of Putnam and Oaks Turner are three times solemnly called, Come not but make default - And now come a jury of good and lawful men, to wit: Kiram Colby, Isaac Wright, M. C. Hoyt, Harvey B. Leeper, David Swaney, George P. Merritt, Alanson Whitaker, Alexander Moore, Thomas Real, William E. Parret, H. C. Thomas, and Alexander Laughlin - duly elected and sworn to well and truly to find and assess the amount due the Petitioner and a true verdict give according to the evidence, and the jury do upon their oaths say, 'We the jury assess the amount due Petitioner by reason of the premises at Thirty - six hundred and forty - six dollars and ten cents. -

The following is a copy of the affidavit of Harlow M. Smith, filed Oct. 25, 1859, to wit:

State of Illinois,
Putnam County } S. C. Circuit Court Oct. Term, 1859,
Harlow M. Smith, being duly sworn,

44 deposes and saith that he attended said
Court as a witness two days at the
in a case between William Moore plain-
tiff and James S. Simpson et. al. defendant,
at the instance of Plaintiff and traveled
from Reoria Co. 60 miles

Sworn to and subscribed } Harlow M. Smith,
before me at Hennepin }
this 28th day of Oct. 1859. }

Geo. Dent, Clerk.

Afterwards at the same term of said
Court, to wit: October Term A.D. 1859, on
the fourth day of said October Term, being
the 27th day of October 1859, and one of
the days of said Term, the following De-
cree was entered of Record, which is in
the words and figures, as follows, viz:
William Moore

vs. { Petition for
James S. Simpson, Sagar Wild, { Mechanic's Lien.
Simon Minihan, partners com-
posing the firm of Simpson, Wild
& Co., Elisha W. Brown, Archibald
C. Goddin, Barton S. Wilson & James
P. Johnson, partners, composing the
firm of Brown, Goddin & Co., Elisha
W. Brown, Archibald C. Goddin, }

45- Barton S. Wilson, John P. Hopkins,
partners, composing the firm of Brown, }
Goddin & Co., Jacob Loker, Samuel }
Seiler, & John C. Maher, partners com- }
posing the firm of Loker, Seiler & Co., }
Sidney Pulsifer, Henry Rheder, }
The County of Putnam, Ill., & Oaks }
Turner.

On this 25th October A.D. 1859
this cause come on for hearing and it appear-
ing to the Court that James S. Simpson, Sagar
Wild & Simon Minihaw, composing the firm of
Simpson Wild & Co., Jacob Loker, Samuel Seiler
of the firm of Loker, Seiler & Co., Sidney Pulsifer,
Henry Rheder, County of Putnam, Ill., & Oaks
Turner had all been duly served with process
more than ten days before the commencement
of this Term of Court, and it further appearing
to the Court that Elisha W. Brown, Archibald
C. Goddin, Barton S. Wilson & James P. Hopkins
composing the firm of Brown, Goddin & Co., and
the same last named persons with James P.
Hopkins also composing a firm of the said
title last named were at the commencement
of this suit and have ever since been non-
residents of the State of Illinois, and that
affidavit of such non-residence had been
duly filed in this Court on the 6th day of

46 June A.D. 1859 - and it further appearing
to the Court that neither at that time or since has there
been any newspaper published in said County
of Putnam, but that due notice had been
given to all of the said persons, composing both
firms of Brown, Goddin & Co., by publication
for four successive weeks, more than sixty
days before this term of ~~the~~ Court (the first in-
sertion being on the 22nd June A.D. 1859 and
the last insertion the 20th July A.D. 1859) in
the "Bureau County Democrat" a weekly
newspaper, then published in Princeton, Bu-
reau County, Illinois, which will duly appear
by the Certificate of the publishers of said news-
paper herewith filed and made a part of de-
cree, the Court held that all of said defendants
were duly brought into Court and thereupon the
said Henry Rehder and Jacob Loker, Samuel
Seiler & John C. Maher came into Court and
entered their appearance in person and the
said James S. Simpson & Simon Minihan came
and filed their general and special demur-
rer to Pltff Petition and the said Archibald
C. Goddin filed his general demurrer to Plff.
Petition. The Plaintiff confessed the special
cause of demurrer set up by the demurrer
of Simpson & Minihan so far as it related
to the prayer in the Petition that Oaks

47

Turner & the County of Putnam be made parties to the Petition, but that they were made parties otherwise by the Petition & in the process, which had issued in this case and Jeff. asked leave to amend the Petition instante in that respect which was granted by the Court and said amendment duly made by the Plaintiff instante so as to remove such obstruction and thereupon the Court overruled the general demurres of said Goddin & also the general demurres of said Simpson & Minihaw & the said Simpson & Minihaw & Goddin declining to answer further, they were duly called and defaulted for the want of a plea or answer, all the other parties except those that had entered their appearance in person were then duly called and defaulted for want of demurres, plea or answer to said Petition and thereupon a jury was duly impaneled to assess and determine the Plaintiff's claim, the jury after hearing the evidence return into Court their verdict for the Plaintiff for the sum of thirty six hundred & forty-six dollars & ten Cents, and it was therefore considered by the Court that the said Plaintiff have and recover of the said Simpson, Wild & Minihaw said sum of \$3646.⁴⁰/₁₀₀ - & costs of suit - and it further appearing to the Court that all the allegations in Plaintiff's Petition were true

and that the Plaintiff's lien herein as set up in said Petition to the extent found by said verdict upon the premises described in the petition had accrued before any of the judgments or mortgages of the said defendants or either of them had become a lien upon the said premises - and that the Plaintiff was entitled to a priority of lien to the extent of the Amount found for P'ty by the verdict of jury over all of said defendants on the premises in the Petition described except Henry Rehder & Loker & Seiler & Co., and that they Rehder & Loker, Seiler & Co. and the Plaintiff had no preference over each other but that their liens were all equal and had no preference so far as they were concerned it was thereupon decreed by the Court that the Plaintiff's lien for \$3646.¹⁰/₁₀₀ upon the premises in the petition described & that he be held to be entitled to priority of lien over all of said judgments & mortgages of Defts to the extent of said thirty-six hundred & forty-six dollars & ten cents upon the premises in the Petition described and that said premises described in the petition, to wit: the following described real estate in said County of Putnam, to wit: all that part of the South West fractional quarter of Section

9 in Township 32 North of Range 2 West of
 the 3rd P. M., that lies South of the recorded
 plat of the western addition to the Town of
 Hennepin in said County, consisting of
 nine acres, more or less, together with all
 the improvements thereon & privileges and ap-
 purtenance and that the same be sold by ^{the} Sher-
 iff of Putnam County at public auction, at
 the front door of the Court House at Hennepin
 upon giving the like notice that is required
 in cases of real estate sold upon execution to
 the highest bidder for cash in hand, without
 redemption and that he execute to the purcha-
 ser or purchasers thereof a deed for said
 premises conveying all the right, title and
 interest of the said Simpson, Wild & Mini-
 han in preference to all the parties to this suit,
 except Loker, Seiber & Co. & Henry Rehder, that as
 to them said sale shall give the purchaser
 no preference over the purchaser or purchasers
 at the sales on their decrees rendered at this
 term vs. James S. Simpson et al but the
 rights of all such purchasers shall be equal,
 and that out of ^{the proceeds of} such sale the said Sheriff
 shall first pay the costs of this suit and said
 sale and then pay the remainder to the Plain-
 tiff in satisfaction of this decree unless
 there is a surplus & then in that event, if

any thing shall remain after paying the decrees rendered at this term in favor of Henry Rehder & Loker, Seiler & Co. vs. Jas. S. Simpson et. al. the same be paid over to the parties entitled thereto and that the said judgments & mortgages and rights of the other defendants be forever barred & precluded as to the said plaintiff & said purchasers both in law & equity - & ~~if~~ that if the proceeds of such sale shall not be sufficient to satisfy this decree & costs that then execution issue to make the balance as in other cases -

Mark Bangs -

Judge 23rd Judicial Circuit Court
Ill.

Afterwards, at the same Term of said Court, to wit October Term A.D. 1859, on the fifth day of said Term, & one of the days of said Court, being the 28th day of October A.D. 1859. the following order was entered of Record, to wit:

William Moore

vs. } Petition for Mechanics
James S. Simpson et. al. } Lien

Now Come defend-
ants Elisha W. Brown, Archibald C. Goddin,
Barton S. Wilson, James T. Johnson and

51

John P. Hopkins, by Glover Hook, their Solicitors, as also the Petitioner by M. J. Petewhis Solicitor; and thereupon comes on to be heard and argued the motion of said defendants Brown, Goddin, Wilson Johnson and Hopkins, to open the decree hereinbefore entered, and for leave to answer in this cause, and the Court being fully advised in the premises, it is considered that said motion be granted, and the same is granted, and it is further considered that said five defendants file their answers herein by the first day of January next. And it is further considered that said defendants pay the costs occasioned by this application and order, to be taxed and that special execution may issue therefor.

Afterwards, to wit: on the 29th day of October A.D. 1859, the following was filed in said Court, viz:

State of Illinois,
Putnam County }

Joseph Holland being duly sworn saith on oath that he had no authority from Brown, Goddin & Co. or either of them to employ or authorize Counsel to appear for said Brown, Goddin & Co., or ei-

then of them in any suit in this Court that whatever he did in asking Mr. Dent to appear for A. C. Goddin in any case in said Court he did as a friend of said Goddin and because he believed that he should in that way serve the interest of said Goddin, but it was of his own motion, and without authority from said Goddin & further saith not.

J. Holland -

Subscribed and sworn }
to this 28 day of Oct. }
1859 Geo. Dent, CLK }

Also, on the same day, to wit: October 29, 1859, the following was filed in said Court - viz:

State of Illinois,
Putnam County }

Thomas Dent, being first duly sworn, saith on oath that A. C. Goddin of the late firm of Brown, Goddin & Co., of St. Louis, had employed this affiant to attend to a suit in this Court for them which was not one of the suits to enforce a mechanic's Lien hereinafter mentioned. That affiant had not been employed for Brown, Goddin & Co., in said lien suits.

That Affiant believes that said Goddin would be present at this Term of the Court, That when the suits of Henry Moore vs Simpson et. al. Jacob Loker et. al. vs. Simpson et. al. & Henry Rehder vs Simpson et. al. each of said suits being a petition to enforce a mechanic's lien were called up, affiant was duly expecting the arrival of said Goddin and desired if possible that no decree should be rendered against said Brown, Goddin & Co., until the arrival of said Goddin. In this condition of affairs J. Holland who was a friend of Brown, Goddin & Co., & their agent in some matters, asked affiant to do what he could for them and under these circumstances affiant filed the demurrer which was filed in said cases and without other authority as aforesaid.

Subscribed & sworn to before me this 28th day of Oct. A.D. 1859.
 Geo. Dent, CLK. } Thomas Dent

Afterwards, to wit: on the 23^d day of November, 1859, the following answer was filed, which is as follows, viz:

William Moor

vs

James S. Simpson Etal

Putnam County Circuit-
Court - to March Term A.D.
1860. Petition for Mechanics
Law.

The separate answer of Elisha M. Brown, Archibald C. Goddin, Barton S. Wilson, James S. Johnson and John R. Hopkins, comprising the firm of Brown Goddin & Company of St. Louis Missouri to the petition for a mechanics lien filed in this Court by William Moor against James S. Simpson Simon Minihan Sayer Wild and others.

These respondents saving and reserving unto themselves all advantage of exception to the many errors and insufficiencies of the petition herein, for answer thereto or so much thereof as they are advised as is material for them to answer say - That it is true that prior to the twenty-ninth day of January A.D. 1857 that James S. Simpson, Simon Minihan and Sayer Wild composing the firm of Simpson Wild and Company were the owners of the lots and tracts of land described in the petition filed herein, That they were the owners of said land on the 29th day of January A.D. 1857 except so far as they had encumbered the same by ^{creating} ~~extending~~ liens thereon and it is true that said Simpson Wild & Co. erected a distilling and mill upon the premises

ies, aforesaid which was completed on or about the fifteenth day of October 1857

These respondents further answering, respectively deny that the Said William Moor made with Said Simpson Wild and Company any such Contract as is declared in Said Petition but the Contract which was made by Said Simpson Wild and Company and the Said William Moor was made on the 18th day of February A D 1857 and was in ~~existing~~ ^{and} was and is in Substance as follows;

Article of Agreement entered into this Eighteenth day of February A D 1857, between Simpson Wild and Co of Herrin in Ruman County Duinois of the first-part and William Moore of the City and County of Peoria and State of Aforesaid of the Second part =

Witnesseth; In consideration of the payments hereinafter to be made by the parties of the first-part the Said party of the Second part agree to furnish to the parties of the first-part at his Shop in the City of Peoria on or before the first day of June next - An Engine of sixteen inch bore and thirty inch Stroke with iron frame, also main Shaft nine inches in diameter with length to be hereinafter determined - Also two pillow blocks ^{lined} ~~cast~~ with Composition, and balance wheel Ser-

57

enters one half feet in diameter, one four
 pump with shaft and pulleys to work the same
 One Indsons Governor valve, one Governor
 making a perfect-workable engine so all
 of the above work to finished and fixed up
 ready for use, to be of the best material and
 in all respects to be completed except Copper
 pipe in a good workmanlike manner, and
 the same are warranted not to break with
 fair usage for the term of one year from the
 delivery of the same. Furthermore the party
 of the second part agree to furnish the par-
 ties of the first part deliverable to and shop
 all castings required and necessary for the
 perfect completion of a distilling and flowing
 mill ~~for~~ five and one half cwt per pound
 the furnishing of the same to be at the best
 be at a reasonable price and in no case at a
 charge greater for the same kind of work than
 the rates charged Dobbins or other distillers
 of the City of Peoria, all wrought-iron work to
 be done at the lowest rates charged for to
 distillers at Peoria, In consideration the par-
 ties of the first part are to pay for the engine,
 complete Eighteen hundred dollars, one quarter
 of which is to be paid in cash on the execution
 of this contract, one quarter on the delivery of
 the same and the first day of June next;

and quarter on the first day of September
next, and quarter and the last payment -
on the first day of December A, D, 1857, Castings
and wrought-iron work to be paid for on same
terms as specified for the Engine

Simpson Wild & Co *Seal*

William Moor *Seal*

These respondents further answering say that
they do not know and therefore cannot
state what amount of material and ma-
chinery was furnished by said Moor under
said Contract and whether the said is cor-
rectly stated in said petition or not and
leaves the petitioners to prove the same or not
as he may be advised.

These respondents further answering insist
that whatever was furnished by said Moor
under said Contract was furnished during
the year 1857 as they are informed and be-
lieve, and that by the terms of the Contract
between said Simpson Wild & Co all of said
material and machinery furnished by them
under said Contract was to be paid for fully
and entirely by the first day of December
1857. Respondents admit that said pe-
titioners did furnish said Simpson Wild & Co
material and machinery which was used
in a mill and distillery erected during

the year 1857 by said Simpson Wild & Co
on the property mentioned in said petition.
These respondents further answering that
the contract above set forth, under which ma-
terial Machinery work and labor furnished
by said Moore to ^{said} Simpson Wild & Co was fur-
nished and done, was ever changed before
the said material and machinery had
been furnished and such work and labor
done and the money therefor, had become
due and payable from said Simpson Wild
& Co to said petitioners, but they admit that
long after said material and machinery
had been furnished and said work and
labor done and the price thereof had be-
come due and payable it was agreed be-
tween said Simpson Wild & Co and said
petitioners to wit, on the 29th day of April
A.D. 1858 It was agreed between said pe-
titioners and the said Simpson Wild & Co
that the said petitioners would give the
said Simpson Wild & Co further time for the
payment of the balance which was then
due him from them under the contract
aforesaid and which balance they had
long been due him should be extended
for one, three and four months and that
said Simpson Wild & Co should accept this

notes to Said Moore for Said balance
 payable as aforesaid, and therefore Said
 Simpson Wild & Co executed and assigned
 to Said Moore for Said balance their three
 Several promissory notes one for \$1000⁰⁰ pay-
 able in thirty days, one for \$1000⁰⁰ payable in
 thirty days, and one for \$1020²⁴ payable
 four months after date, and Said last-named
 note was dated April 29th 1857 by mistake
 and a mere clerical error, that it was intend-
 ed to be and should have been dated April
 29th 1858, and these Respondents aver that
 the sum of money for which Said notes
 was given was due and payable by the
 terms of the contract between the parties
 a long time before Said notes was given
 to wit: on the 1st day of December 1857 and
 that the time was given by Said Moore to
 Said Simpson Wild & Co for the reason that
 Said Simpson Wild & Co were not able to
 pay Said sums of money when it was due

These respondents further answering say that
 before Said Simpson Wild & Co erected & com-
 pleted the distillery and mill they borrowed
 of Said Brown, Goddin & Co the sum of \$20,000⁰⁰
 which sum was used in building the mill
 and distillery, and afterwards to wit on the
 22^d day of October A.D. 1857, Said Simpson,

wild be executed and delivered to these respondents John-Saml Hopkins a mortgage for the sum of \$21,000⁰⁰ so loaned and used as aforesaid upon the following described real estate to wit; all the lot or piece of ground lying and being in the County of Putnam and State of Illinois, known and described as follows to wit; all that part of the South West fractional quarter of Section number nine (9) in Township Number thirty two (32) North of Range Number two (2) West of the third (3^d) principal Meridian, that lies South of the recorded plat of the Western Addition to the town of Hennepin, containing nine (9) acres more or less, which mortgage was duly recorded in the Records Office of Putnam County Illinois on the 22^d day of October A D 1857 in Book No 26 pages 31 and 32 a reference to which is hereby made and the same is made a part of this answer, and these respondents insist that the lien of their mortgage is not in any manner affected by the mechanics lien claimed by said Moore in said petition, for the reason that more than six months had expired from the time the machinery and material mentioned in said petition were furnished and the work and labor mentioned in said petition was

102
done, and from the time when the price
to be paid by Said Simpson Wild & Co to
Said Moore became due and pay-
able according to the terms of the Contract be-
tween them and the time of the filing of
the petition in this case, and that ~~therefore~~
to wit; on or about the 30th day of October
1858, which then consisted of all these re-
spondents received a judgment against Simp-
son Wild & Co in this Court on the Com-
mon Law Side thereof for the Sum of \$5522.49
besides Costs which judgment is still unsat-
isfied and unsatisfied a copy of which
will be filed herewith in exhibits

These respondents further answering say that
they do not know whether in the year A.D.
1858, the Said Moore furnished to the Said
Simpson Wild & Co materials to be used in said
distilling and which were used in said dis-
tilling to the amount of \$7132 and they
can neither admit or deny the same, but
they leave the Said petitioners to prove the
same as he may be advised, but these
respondents insist that if such materials
were furnished by Said Moore and were
used in said distilling by Said Simpson
Wild & Co upon the distilling aforesaid the
same were not furnished under the Con-

Trust hereinbefore set forth and had no connection with said Contract in any manner and was not furnished until after the account arising from said Contract had been finally closed,

These respondents further answering say that they are advised and believe that if all the Materials named in the petition were furnished by said Moore to said Simpson Will Ho, yet that said Moore has no lien therefor as against the mortgage of respondents for a greater sum than \$71⁵⁵

And having fully answered they pray to be dismissed with reasonable costs

Glover & Cook

Solicitors for Respondents

State of Missouri
City of St. Louis ^{3rd} Archibald C. Goddard and
John R. Hopkins being first duly Sworn severally say on oath that the matters and things contained in the foregoing answer so far as the same is stated, as of their own knowledge is true and so far as the same are stated upon their information and belief they are true to the best of their knowledge information and belief

Arch. C. Goddard

John R. Hopkins



Sworn & Subscribed before me this 14th day
of November 1859, Elisha W. Brown
Public in testimony whereof I have
hereunto set my hand and affixed
my Notarial Seal

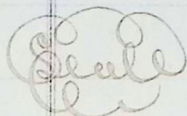
State of Missouri
City of Boonville } SS Barton S. Wilson, Elisha
M. Brown and James T. Johnson being
first duly sworn, Severally Say on oath
that the matters and things contained
in the foregoing answer so far as the same
is stated as of their own knowledge is true
and so far as the same are stated upon
their information and belief they are true
to the best of their knowledge ^{information} and belief

Barton S. Wilson

Elisha M. Brown

James T. Johnson

Subscribed and Sworn to before me the
undersigned a Notary Public
within and for said County on
this 16th day of November A.D. 1859,
In witness whereof I have hereunto
Signed my name and affixed
my Notarial Seal on the day
and year aforesaid



Joseph E. Stephens Notary Pub.

At a subsequent Term of said Court begun and held at Keeneville, in said County, on the 12th day of March A.D. 1860, to wit: on the 13th day of March 1860, being one of the days of said Term, the following order was entered of Record, viz:

William Moore

} Petition for
} Mechanics'
} Lien — —

^{VS.}
James S. Simpson, Sagar Wild
and Simon Minihan, partners
Composing firm of Simpson, Wild
& Co., Sidney Pulifer, Henry Rheder,
Jacob Loker, Samuel Seiler and
John C. Maher Composing firm of
Loker, Seiler & Co., Elisha W. Brown,
Archibald C. Goddin, Barton S. Wilson,
and James T. Johnson, Composing firm
of Brown, Goddin & Co., Elisha W. Brown,
Archibald C. Goddin, Barton S. Wilson,
James T. Johnson, and John P. Hopkins,
partners, Composing firm of Brown God-
din & Co., The County of Putnam and
Oaks Turner —

Now this day comes the Peti-
tioner by Peter Farwell his attorneys and
enters a motion for leave to amend the peti-
tion in this cause; which motion, the

Court having duly considered the same, sustains, and thereupon it is considered that leave be granted to petitioner to amend his petition, and that this cause be continued to the next term of the Court at costs of petitioner. On motion of Glover, their attorney, after due consideration by the Court, leave is granted to defendants Brown, Goddin, Wilson, Johnson and Hopkins till the first day of July to file their amended answer --

To-wit: on the 13th day of March A.D. 1860, the following was filed, viz:

William Moore

vs.

James Simpson & others

In the Putnam circuit
Court March 3. 1860
Amend ment to original
Petition

And now comes the said petitioner and files this his amended petition herein and the amendment to be inserted in the original petition on the 5th page thereof in lieu or place of that part of the petition describing the second contract.

And your petitioner further

represents that after said settlement and after said notes were given, to wit: in the month of May A.D. 1838 the said Simpson Wild & Co. made another contract with your petitioner (who is a mechanic and carries on the business of casting iron and brass and making and repairing Brass and Iron machinery and engines and the appurtenances thereof in the City of Peoria Illinois) to furnish certain other machinery for said distillery and mill as above described and do certain repairs thereon which last mentioned materials and repairs were to be furnished by your petitioner and fully completed within one year from the time of the making of such last named contract and were to be paid for when such last mentioned articles were furnished and delivered to the said Simpson Wild & Co. And your petitioner by said contract was to receive for said last mentioned articles such sum as they were reasonably worth.

And your petitioner further says that under such last mentioned contract he did furnish and deliver to said Simpson Wild & Co. the several articles mentioned in the account^{and} Schedule filed herein marked "B"

which your petitioner prays may be taken and considered as a part of ~~this~~ amended petition - that said articles were reasonably worth the sum specified and named in said account and amount in the whole to the sum of Seventy one and Eighty five one hundredths Dollars which is a lien upon the premises herein before described in this petition and that the last of said articles were delivered to said Simpson Wild & Co. on the 25th day of August A.D. 1858 at which time the last payment for such articles so furnished as aforesaid became due and payable.

And your petitioner further shows that said sum of \$ 71.85 cents so so last named had never been paid to your petitioner nor any part thereof, but the same is still due and owing to your petitioner although he has often demanded the same from the said Simpson, Wild & Co.

+ Simpson, Wild & Co the several articles mentioned in the account & schedule filed herein marked "B" which your petitioner prays may be taken and considered as a part of his petition that said articles were of the value named

and specified in said account and that the last of said articles, viz: six grate bars were delivered to said Simpson Wild & Co. on the 23rd day of August A.D. 1838 at which time the last payment for said articles so furnished as aforesaid became due and payable.

And your petitioner further represents that after said settlement and after said notes were given ^{to-wit:} on the 11th day of May A.D. 1838 the said Simpson Wild & Co. made another contract with your petitioner (who is a mechanic and carries on the business casting iron and brass and ^{making} ~~iron~~ machinery and engines and the appurtenances thereof in the city of St. Louis Illinois) to furnish certain other machinery for said distillery and mill as above described and do certain repairs thereon which said last mentioned material and repairs were to be furnished by your petitioner and fully completed within one year from the time of making such last named contract and were to be paid for when such last mentioned articles were furnished and delivered to the said Simpson Wild & Co. and such articles were to be furnished at such

price or sum as they were reasonably worth.

And your petitioner further says that under such contract they did furnish and deliver to +

And afterwards, to wit: on the 4th day of June AD 1860, the following amended ^{Petition} ~~Bill~~ was filed, which is in the words and figures, viz: