

No.

12121

Supreme Court of Illinois

LLOFF
~~Gottlop.~~

vs.

Henry, et al.

71641  7

State of Illinois }
Cook County }

Plas before the Honorable Hugh
T. Liskey Judge of the seventh Judicial Circuit
Court of the State of Illinois and sole presi-
ding Judge of the Circuit Court of the
County of Cook in said state and Circuit
at a Term thereof begun and held at the
Court House in the City of Chicago in
said County on the first Monday (it
being the first day) of December in the
year of our Lord one thousand eight hun-
dred and fifty one and of the Indepen-
dence of the United States the twenty
sixth.

Present Hon Hugh T. Liskey Judge of said Court
Daniel McElroy State's attorney pro tem
William L. Church Sheriff of said County.
Attest Louis A. Board.
Clerk of said Court.

Be it remembered that on the twenty third
day of June in the year of our Lord one thousand
eight hundred and fifty one there was filed in
the Clerk's Office of the Court aforesaid a certain
affidavit which is in words and figures as follows

To wit:

State of Illinois }
Cook County }

John Gottlof of said County being duly sworn says, That Daniel J. Wood and James Henry have taken and detain from this Dependent one span yellow ponies about five years old on Madison Street Chicago on the West side of the Chicago River and now have them as he is informed in the Stable of Gray & Butler in Dearborn Street Chicago, and that said Ponies are worth one hundred dollars.

And that this Dependent is the owner of said span of yellow ponies about five years old, and is entitled to the possession thereof and that the same have not been taken from any tax assessment or fine levied by virtue of any laws of this State nor seized under any execution or attachment against the goods and chattels of this Dependent liable to execution or attachment; Therefore he prays writ of Replevin and says that the Sheriff of Cook County is interested in this suit;

Sworn to and Subscribed
before me this 23rd day of
June 1857,

Louis A. Hoard. Ck

J. Gottlof,

And afterwards to wit on the same day and year
last aforesaid there issued out of the Clerk's office
aforesaid the Peoples writ of Replevin which is in
words and figures as follows to wit:

State of Illinois
County of Cook } p

The People of the State of Illinois
to the Coroner of said County. Greeting

Whereas John Gott of Plaintiff
complains that Daniel T. Wood and James Henry
defendants unlawfully and wrongfully have taken
and do detain the following described goods and
chattels, to wit:

One Span of yellow Sows about five
years old, of the value of One hundred Dollars

Therefore we command you, That if the
said Plaintiff shall give you bond with good and
sufficient security in double the value of the said
goods and chattels, as required by law, to prosecute
his suit in this behalf to effect and without delay
and to make return of the said goods and chattels
if return thereof shall be awarded, and to save
and keep you harmless in replevying said goods and
chattels, you cause the said goods and chattels
to be replevied and delivered to the said Plaintiff
without delay; and also that you summon the
said Defendants to be and appear before the
Circuit Court for said County, on the first day

of the next Term thereof, to be holden at Chicago
in said County, on the first Monday in December
next, to answer said Plaintiff in the premises.
And have you then and there this writ, with
an endorsement thereon in what manner you
have executed the same, together with the bond
which you shall have taken from the said
Plaintiff as before commanded. before executing
this writ.

Witness Louis L. Howard Clerk of the Circuit
Court and the seal thereof at Chicago in
said County, the 23rd day of June A.D.
1857.

L. L. Howard
CLK

And afterwards to wit on the same day and
year last aforesaid there was filed in the Clerk's
Office aforesaid by the Plaintiff aforesaid his certain
declaration which is in the words and figures as
follows to wit;

State of Illinois }
Cook County } Cook Circuit Court

of December Term 1857

John Gottlof Plaintiff in this suit by C.
S. Cresswell his attorneys complains of James
Henry and Daniel J. Wood Defendants being
in custody re of a plea wherefore they took the
goods and chattels of the said Plaintiff and

now

By that the said defendants on this 23rd day of June 1857 in the City of Chicago in the County of Cook and State of Illinois took the goods and chattels herein to them shown here of Bullen & Jones about five years old of the said Plaintiff of great value to wit of the value of three hundred dollars and wrongfully detained the same against said Plaintiff's demand.

unjustly detained the same against said Plaintiff's demand and pledges until so. Wherefore the said Plaintiff says he is injured and has sustained damages to the amount of Three hundred dollars and thereupon he brings suit so,

C. S. Edgely,
Offt. Atty.

And afterwards to wit on the first day of December in the year last aforesaid there was filed in the Clerk's Office aforesaid by the Sheriff of the County aforesaid a certain Bond which is in words and figures as follows to wit:

Know all Men by these Presents That we John Gottlof, M. L. Leopold and Joseph Schlon men of the County of Cook and State of Illinois are held and firmly bound unto Nicholas Bondel Coroner of said County in the penal sum of three hundred dollars for the payment of which sum well and truly to be made we bind ourselves our heirs executors administrators and assigns jointly severally and firmly by these presents, Witness our hands and seals this 23rd day of June 1857.

The condition of the above obligation is such That whereas the said John Gottlof has this day caused to be issued out of the Cook Circuit Court a writ of Replevin directed to

the said Nicholas Bredel Comor as aforesaid
for the Replevying of one Span of Yellow Pines
about five years old, against the said Daniel
T. Wood and James Henry and which with the
said Comor is about to execute. Now if the
said John Gottlof shall prosecute such suit to
effect and without delay and make return
of the property if returned thereof shall be awarded
and save and keep harmless the said Comor
in Replevying said property then this obligation
shall be void otherwise be and remain in full
force and virtue,

J. Gottlof 
M. L. Leopold 
Joseph Schlossman 

And afterwards to wit on the eighth
day of December in the year last aforesaid there
was filed in the Clerk's Office aforesaid a certain
~~plea~~ ^{Repetition} which is in words and figures as follows
to wit;

In Cook Cir. Court at Dec 5 1887,
John Gottlof
v
James Henry &
Daniel T. Wood } Replevin

And the said Plaintiff as to the
said plea of the said Defendants by them first above

pleaded and whereof they now put themselves
upon the Country doth the like,

C. & L. C. Dwyer
Atty for Off

Defendants
6 - 1/2

And the said Plaintiff as to the said pleas of the
said Defendants by them second, third fourth fifth
and sixth above pleaded, and whereof they have
put themselves upon the Country doth the like,

C. & L. C. Dwyer
Offs attys

And afterwards to wit on the nineteenth day of
December eighteen hundred and fifty one there
was filed in the Clerk's Office aforesaid a certain
affidavit which is in words and figures as follows to
wit:

John Gottlof
James Quay &
W. F. Wood

In Cir. Court Cook County
Decr 1851

John Gottlof Plaintiff in the above
case being duly sworn according to law deposes
and saith that this action of Replevin is brought
to recover a span of Horses claimed in the declaration
and that the said horses were depments at the
time of bringing such suit, and that W. F.
Morrison & Reed M. Brumth are material witnesses
on the part of the Plaintiff to prove that the said

Plaintiff owned the said horses and that he
owned them at the time of the bringing the Replevin
and that while in his possession they were un-
lawfully taken from said Plaintiff by said de-
fendants. and defendant further states that
said witnesses reside in Logansport Indiana
and have promised to be here at this term of Court
but have not come. and defendant further states that
this suit was brought to this Term of Court and
that he has had no opportunity to obtain the
testimony since that cause was at issue. defendant
further states that he expects to prove by said wit-
nesses that the horses claimed in this suit were
purchased of said James Henry sometime pro-
xior to the bringing of this suit, and that the
horses were delivered to said Plaintiff at the time
of such purchase and that said purchase was
made sometime in the forepart of last summer that
Plaintiff paid for the said horses the sum of fifty
dollars and a gold Smoking Watch and Gold
chain for the sum of ninety dollars and that said
money was paid and said Watch and chain was
delivered at the time of said purchase and was
taken by said defendant as a payment in full
for said horses. and defendant further states
That he expects to prove all of the aforesaid facts
by said witnesses. and that this application is
not made for the purpose of delay but

procure said testimony that Justice may be done
between the parties. Defendant further states that
said testimony can be obtained in season for trial
at the next Term of Court
Sworn and subscribed before } J. G. Galt
me Dec 5th 1857,
L. J. Ward cler

And afterwards to wit on the twenty seventh
day of December in the year last aforesaid it
being one of the days of the December Term of
said Court the following proceedings among others
were had to wit:

John Galt

A. J. Wood & James Newry

} Replevin

By agreement of parties It is
Ordered, that this cause be continued to the next
Term of this Court at the cost of the said plaintiff.

And afterwards to wit on the twentieth day
of April in the year of our Lord one thousand
eight hundred and fifty two, there issued out
of the Clerks Office aforesaid a certain Commission
which is in the words and figures as follows to wit:

State of Illinois }
County of Cook } The People of the State of Illinois
vs. John Wright Mayor of Logansport in the

County of Cass and State of Indiana, crany Justice
of the peace of the said City as Commissioner;

Whereas it has been represented to us
that William C. Jones, Richard T. Parish
Mitchell Blair, Washington Obriane and
Joseph Sellers, are material witnesses in a certain
cause now depending in our Circuit Court, in
and for the County of Cook aforesaid, between John
Gottloff, Plaintiff, and Daniel T. Wood and James
Newry Defendants, and that the said witnesses
reside at Logansport aforesaid without the said
State of Illinois, and that their personal atten-
dance cannot be procured at the trial of the
said cause, Now know ye that we in confidence
of your prudence and fidelity, have appointed
you Commissioner to examine the said witnesses
and do therefore authorize and require you
to cause the said witnesses to come before you
at such time and place as you may therefore
designate and appoint, and diligently to ex-
amine the said witnesses on the oath or affir-
mation of the said Witnesses by you first duly
in that behalf administered, and faithfully
to take the depositions of the said witnesses
upon all interrogatories inclosed with or attach-
ed to these presents, both on the part of the
said Plaintiffs, and of the said Defendants,
and none others: and the same when thus

taken, together with this Commission and the said Interrogatories, to certify into our said Circuit Court with the least possible delay.

Witness Louis Edwards, Clerk of said Court and the seal thereof at Chicago in said County this 20th day of April AD 1852
L. Edwards Clerk

And attached to said Commission were the following Interrogatories and Notice.

May Term AD 1852,
Messrs C. & S. Edwards
& J. A. Arnold Esqrs Attorneys of John Gault,

Daniel T. Hood &
James Henry
vs,
John Gault,

Replevin,

Heard take notice that on the twentieth day of April next at ten o'clock A.M. we shall apply to the Clerk of said Court Circuit Court to issue a commission under the seal of said Court to be directed to John H. Wright Mayor of Logansport in County of Cass and State of Indiana or any Justice of the peace of the said City as Commissioners to take the depositions of William C. Jones, Richard T. Parish Mitchell Blaid Washington Oben-jane & Joseph Sellers non resident witnesses

in the said action to be sworn on the part of the
Defendant now residing at said Logansport;

Your Obedt Servts
Turner & Woodbridge
Attys for Defendant;

Chicago April 19, 1832,

We acknowledge due legal service
of the above notice & waive all defects in same and
two days notice thereof & consent that a Commission
may issue as stated,

C & S E. H. Tracy
Offs Attys

Direct Interrogatories to be propounded to Joseph
Sellers a witness to be sworn on the part of the Defen-
dant in the above mentioned case,

Int 1. What is your name age, residence and occu-
pation?

Int 2. Are you acquainted with the parties to the
present action?

Int 3. State whether or not you had conversation
with Reub M. Brownth after the return of said
Morrison in Logansport concerning the difficulty
respecting the ponies for which this suit is brought some-
time in June 1831? if you state where said conversation
was, what was said by said Brownth as to his having
bought the said ponies of said Henry and what as
to the sale of the same by said Morrison?

Int 4. Do you know any other matter or thing

Objected to by C. & S. E. H. Tracy
Offs attys

in relation to the case which would be of advantage
to the defendant please state the same,
To Joseph Sellers,

Cross Interrogatory for Off. by C. de Hoff.

Did you ever hear
Henry the deft say that he had authorized Morrison
to sell the yellow ponies also you know anything of
benefit to Off if so state?

Geo Wolf & Arnold

for Off.

Direct Interrogatories to be proposed propounded to
Washington Obenjan a witness for the defendant
in the above mentioned cause,

Qnty 1st What is your name, age, residence and
occupation?

Qnty 2. Are you acquainted with the parties to the
present action if yea for how long have you
known them?

Qnty 3. Have you at any time been employed
in the manufacture of Justice's machines, if
yea when and for whom?

Qnty 4th If you state in answer to the last question
state if you have been employed by Reuben M. Bosworth
& David Morrison, and what you know in relation
to the said Bosworth and Morrison being partners
and jointly interested in the business of selling said
machines. State all you know in relation to the
same.

Entry 5th State if you have had any conversation with said Brewster and Morrison in regard to their being partners in said business and what was said in said conversation if anything in relation to their having hired a pair of ponies of said defendant to go on a peddling tour with said machines?

Entry 6th If you know any other matter or thing in relation to the matter in controversy in said case which would be of use to the said defendant please state the same?

Larned & Woodbridge

Attys for Deft

The 3rd 4th 5th & 6th Entries to Obujane objected to by Off.

C & Secy for Off.

Cross Interrogatories to be administered to Washington Obujane in part of the Off.

If you answer that you have had any conversation with Morrison and Brewster State where it was and who was present and if you know of any thing of benefit to Plaintiff on the trial of this cause State the same, and state whether you were present when Kerry authorized either Morrison or any other person to sell the said ponies,

C & Secy
for Offs

Direct Interrogatories to be propounded to
Mitchell Blaid of Logansport Indiana a witness
for the respondents in the aforesaid case,

Duty 1st What is your name, age, residence and
occupation?

Duty 2nd Are you acquainted with the parties to
the present action?

Duty 3rd Were you acquainted with a pair of ponies
owned by the defendant in May 1881, if so describe
said ponies?

Duty 4th State what you know in regard to David
Morrison and Reed M. Boworth coming and getting
the said ponies from Henry's Stable. When was it
who came for them what if anything was said by
either of them at the time they took them in regard
to selling the said ponies.

Duty 5th Did said Morrison ask said Morrison at
said time for what he would sell said ponies if so
what reply was made by said Henry?

Duty 6th If you know of any other thing of advantage
to the defendant in this action please state the
same.

Larned Woodbridge

Attorney at Law

The 4th & 5th Interrogatories above to Mitchell
Blaid objected to by Off.

Cross Interrogatories to be administered to

Mitchell Blair on behalf of Off.
1st Do you know of Morris selling said pines to
Gottlof for a watch & cash and if so have you seen
the watch in the possession of Henry the defendant?
2nd Do you know any other matter or thing of benefit
to Off if so state the same as fully as if particularly
interrogated thereon.

Let Wolf & Stroud
for Off.

Re Examination

Duty 1 If you state that you have seen said Watch
in said Henry's possession for how long did you see
it in his possession, and do you not know that
he refused to receive said Watch or to have it in
his possession.

Duty 2 If you saw said Watch state if you are
acquainted with the value of watches and if so what
the value of said watch was.

Signed & Subscribed

Attest,

Direct Interrogatories to be propounded to Richard
T. Parish of Logansport Indiana a witness on the
part of the defendant in the case in Replevin
wherein John Gottlof is Plaintiff and Daniel E
Wood and James Henry Defendants.

Duty 1st

What is your name, age, residence and

occupation

Interrogatory Second,

Are you acquainted with the parties to the present action, and if yes how long have you known them?

Interrogatory Third,

Did you know of the defendants owning a pair of ponies in the summer of 1887, and if you describe the said ponies and state where you last saw them.

Interrogatory Fourth,

State what you know with regard to the identity of the ponies replied in this suit with the said ponies belonging to said defendant?

Interrogatory Fifth

State whether or not the ponies replied in this suit are the same which belonged to the said defendant. If yes state how you know them to be the same?

Interrogatory Sixth

Has you present a conversation between David Morrison and the said Defendant somewhere in the month of June 1887, in front of Vanemans House in Logansport Indiana. If yes state what was said by said Morrison relate the said conversation in full as nearly as you can recollect it.

* Interrogatory ~~Seventh~~, Eighth

What did said Morrison say (if anything) in regard

* Interrogatory Seventh. What did said Morrison say (if any thing) in regard to his having or not authority from Mary to sell said horses or in regard to his having done any in selling them.

Objected to by off. atty.
Objected to by off. atty.
S. M. 107

said conversation in relation to the defendants having said to him just before leaving with said ponies, about the time he might stay away with said ponies and what as to the reason given by said Henry for wishing the horses back in such time,?

Interrogatory ninth

What do you know in relation to a watch and other property in money brought back by Morrison and stated by him to have been received in part payment for said ponies.

State all you know in relation to said watch, What was said about it by Morrison, into whose possession did Morrison deliver it. If it was delivered at any time to you, state all the circumstances under which it was so delivered, State what was done with it, and where it now is and what has become of said money?

Interrogatory Tenth

In the conversation alluded to in Interrogatories Sixth and Seventh what if anything was said by said Morrison in relation to said defendants going to Chicago after said ponies, and as to the effect it would have on his character or business if he should go,

Interrogatory Eleventh

State any other matter relating pertaining to the matter in controversy which

Objections by off atty
admitted

Objections by
off atty - agreed

is within your knowledge and would be of advantage to the defendant;

Interrogatory Twelfth,

Do you know anything in regard to the responsibility of the said Morrison at the time he went away with said ponies? If you state all that you know?

Interrogatory Thirteenth

Are you acquainted with the value of watches? if so state what was the value of the said watch.

Comp Interrogatories to be administered to Richard C. Parish on behalf of the Off

1st Have you ever been in the employ of the defendant Henry?

Entry 2nd Did you not come to Chicago with Henry after said ponies and either commence or aid a prosecution against the Plaintiff for stealing said Ponies,

Entry 3rd Were you not sworn in the occasion of such a prosecution by Esquire Archer of Chicago and did you not then state on your examination in his Office that you were in partnership with Henry and did you not state that Henry had the watch and would soon have the ponies?

Entry 4th Have you ever seen the watch Morrison had of Gottel, in the possession of Henry?

Interrogatory 5th Was Gottel the Plaintiff present at any of the conversations mentioned by you in your

Directed to by
Off. of the
Jury

direct examination if so which? And who besides yourself was present at each of the conversations referred to in each question in the direct examination?

Interrog 6th How much has Henry paid you, if any thing, for coming with him to Chicago and have you had any difficulty with Morrison or Branch

Interrog 7th Did you not swear in your examination before Cyrus Tucker as alluded to in the 3rd Cross Interrogatory, That Morrison told you in Henrys presence that he had authority to sell the ponies and that Henry did not deny it, and did not Henry the defendant swear on that occasion that Morrison had his permission to sell said ponies or something to that effect?

Interrog 8th Do you know anything further of benefit to the Off if so state the same fully?

Let Mr J & Amos for Off

Direct Interrogatories to be propounded to William C. Jones of Logansport Indiana a witness on the part of the defendant in the said Case of John Galtley vs Daniel S. Wood & James Henry

Entry 1. What is your name, age, residence and occupation?

Entry 2 Are you acquainted with the parties to this suit?

Entry 3 Were you present in the month of May 1854 in Logansport near Tucker & Jones Store

when a bargain was made for the use of a pair of
ponies belonging to said Defendant by one Rud M.
Bourne? If you state all that was said at said
time, what were the terms on which said Bourne
was to have said ponies and for how long he was
to have them. And ~~was~~ were the said ponies the
same for which that action is brought?

Entry 4th Where was said Bourne to go with
said ponies and when was he to return with them?

Entry 5th What is the occupation of the said de-
fendant Henry? How long have you known said
Henry to pursue said business? How long have
you been acquainted with his business. During
that time have you ever known of his having in
his employ a person by the name of David Morrison

Entry 6th On what condition did said Bourne
agree to return said ponies and what (if any)
conditions were made by said Defendant in respect
to the manner in which they should be used on
said Journey?

Entry 7th Do you know whether said Bourne
did or did not go with said ponies on said Journey
and if not, why not and whether or not he sent
any person with said ponies in his place, and
if so who it was, and what if any thing, he stated
to you was the reason of his not going?

Entry 8th State if you had any conversation with
Bourne after the pretended sale of said ponies

by said Morrison in respect to said sale and
what was stated in said conversation by said
Bosworth in regard to Morriss having done
~~nothing~~ wrong in selling said ponies and having
~~done wrong~~ no authority to sell them?

Entry 9th Were you acquainted with said ponies
and if so describe them?

Entry 10th Do you know any other matter or thing
in relation to the matter in controversy at the
dance?

Excp Interrogatories to be administered to William
C. Sims on behalf of the plaintiff each of the
questions on behalf of the defendant is objected to,

Entry 1st Which if either of the matters stated
by you in each of the direct Interrogatories is
stated upon information and whose information
and which upon belief if either?

Entry 2nd Was G. C. of the Plaintiff present
at any of the conversations mentioned by you in your
direct examination,

Entry 3rd Were you present when Morrison took
away the ponies alluded to in your direct ex-
amination and do you know of your own knowledge
what authority and direction Henry the defendant
gave him at that time,

Entry 4th Give your answer to any of the
direct Interrogatories of the defendants you

state that you heard any bargain between
defendant Henry and Brownth state whether
any consideration was paid by either party and
which, what and how much and to
whom was it paid, and state how long after
such conversation before the ponies were taken
away?

Outcry 3th Were not the ponies alluded to
a young span of Ponies that had never been
broken and were they not in the stable of Henry
with horses kept for sale by Henry?

Outcry 6th

Do you know when Gottlof bought the
ponies (if ever) and what he paid for them, and
have you ever seen the Gold Watch received
from Gottlof as a part of the price paid for them,
in the possession of Henry,

Gottlof & Amold
for Off

Further Cross Interrogatories to be answered sever-
ally by W^m Le Jones, Richard S Parish, Mitchell
Blair, Washington Obiyanne and Graph Sellers.

Were you present at the time the
ponies, for the recovery of which this suit is brought
were delivered by the defendant Henry to
Morrison if so who else was present, and if
you have stated any conversation between

Bosworth or Morrison and James Henry the
defendant. State also whether such conversation
and before or after the sale of the premises to Gottf
if you know; and give the time and place
of such conversation.

Wm. H. Arnold.
for Off.

And afterwards to wit on the same day and year
last aforesaid there issued out of the Clerk's Office
aforesaid a certain other Commission with notice
and Interrogatories thereto attached which are
in the words and figures as follow to wit:

State of Illinois

County of Cook } of

The People of the State of Illinois
To Sidney Baldwin Esquire of Logansport Cass
County Indiana

Whereas it has been represented to us
that And M. Bosworth, Samuel A. Morrison, B. J.
Burch, Samuel Stargess and J. J. Cummings are
material witnesses in a certain cause now depending
in our Circuit Court, in and for the County of Cook
aforesaid between John Gottf. Hamilton and
James Henry and Daniel J. Wood defendants,
and that the said witnesses reside at Logansport
aforesaid without the ^{and} State of Illinois and
that their personal attendance cannot be pro-

secured at the trial of the said cause. Now know
Ye That we, in confidence of your prudence and fidelity
have appointed you Commissioners to examine
the said Witnesses, and do therefore authorize and
require you to cause the said witnesses to come
before you at such time and place as you may
therefore designate and appoint, and diligently
to examine the said witnesses on the oaths or
affirmations of the said witnesses by you first
duly in that behalf administered, and faithfully
to take the depositions of the said witnesses upon
all Interrogatories inclosed with or attached
to these presents, both on the part of the said plain-
tiff, and of the said Defendants and none others
and the same when thus taken, together with
this Commission and the said Interrogatories to
certify into our said Circuit Court with the least
possible delay.

Witness Louis Howard, Clerk of our said Court
and the seal thereof at Chicago in said County
this 20th day of April A.D. 1892
L. S. Howard Clerk

Good County Circuit Court,
Shaw Gortley }
James Henry & } Replevin
Daniel H. Hove }
Please take notice that on

the 20th day of April inst at 10 O'clock AM we shall
apply to the Clerk of said Court Circuit Court
to issue a commission under the seal of said Court
to be directed to Sidney Baldwin Esquire of Logans-
port Indiana as Commissioner to take the depositions
of Reed M. Brownth, A. A. Morrison, B. J. Burch
Samuel Sturgum and T. J. Cummings, non resident
witnesses in this cause on behalf of said Plaintiff
and residing at Logansport Cass County Indiana

The following is a copy of the Interrogatories
intended to be put to said witnesses,

To Reed M. Brownth, A. A. Morrison, B. J. Burch
Samuel Sturgum and T. J. Cummings, severally,

Entry 1st Do you know the parties to this suit
either of them and which of them and what is
your age and occupation

Entry 2^d Do you know any thing of a span of yellow
ish or yellow ponies, being in possession of owners
by the defendant James Hury in the spring of 1851
if you state whether said Hury delivered them
into the hands of any other person to be used or for
any other purpose and what and whom, and whether
you heard anything said by the said Hury
and what in regard to such person having
the right to sell said ponies, state all that
was said on the subject as particularly as you
can,

Entry 3^d Do you know any other matter or thing

of benefit to the said Plaintiff in the trial of
this cause if so state the same, as fully as
if particularly interrogated thereon,
Interrogatories to be administered to D. A.
Morrison and R. M. Burroughs severally

4th Do you or either of you know of any sale of
any yellow pines to the Plaintiff in the spring
or early part of the summer of 1858? if yes state
all the circumstances of such sale by whom the
sale was made and for whom, whether the pines
were delivered to anyone and paid for and have
you seen any of the money or property paid for the
pines since that time in the hands of the defendants
James Henry.

To D^r McHenry Esq^r
Sept City

Calvin A. Wolf
Off^r atty.

State of Illinois }
Cook County } C. A. Wolf being duly sworn
says that on this 9th day of April 1859, this depo-
nent served a notice and Interrogatories of which
the within is a copy upon D^r McHenry the attorney
of the said defendants James Henry and R. M. Bur-
roughs before me this
12 April 1859,
L. L. Board
att

C. A. Wolf

Cross Interrogatories to be propounded to David Morrison.

The Defendant objects to the taking of the testimony of the said Morrison and also of Reuben Brown & T. M. Cummings upon the notice given and on any commission to be used on such notice. A Commission having already issued out of this Court for the taking of the said Morrison Brown & Cummings deposition and this Defendant having filed cross Interrogatories to said witnesses said depositions of said Witnesses having been taken under said Commission, And this Defendant waiving his right of exception to this Commission & all the depositions taken thereunder and filing his cross Interrogatories without prejudice to any rights of objection or exception in the premises propounded the following Cross Interrogatories to said Morrison

He object to this sort of a disclaimer

Let the Court & Amicus
Offs Attys

Cross Inty 1st

Have you become responsible for any of the costs incurred for or other expenses of this suit or are you in anywise either directly or indirectly liable for or have you in any agreed to pay any of the same,
Cross Inty 2nd Are you in anywise interested

in the court of this suit?

Cross Entry Third, If this sale to the Plaintiff is defeated in this action are you not liable to him for the purchase money of said horses and all costs & damages
Cross Entry the 4th

State who was present when the conversation between you and Henry in relation to the sale of the ponies took place,

Q. Entry 5. State at what time & in what place in Logansport the agency to sell said ponies was given you and give the exact language used by defendant
Q. Entry 6. Were you authorized to sell said ponies on any other terms than for cash?

Q. Entry 7th. Did you ever buy said ponies of said defendant Henry?

Q. Entry 8. Were you ever authorized to barter off the said ponies?

Q. Entry 9th. Did you not try to make a trade for said ponies with Henry in the way of barter and to get them on credit, and did he not refuse to sell them except for cash down,

Cross Interrogatory 10th. Had you ever been in the employ of said Henry prior to the time when you say he made you his Agent & how long had you been acquainted with him?

Cross Entry 11th. Was not the pretence on which you obtained said horses from Henry that you wanted to break them?

Cross Entry 12th Did you make any bargain about the use of the Horses with said Hury?

Ex Entry 13th Was not the bargain for the use of the horses made with Rud M Brewster, and did not you go with them in the stead of Brewster by Hury's consent on account of Brewster's sickness preventing him from going?

Ex Entry 14, Were you not connected in business at said time with said Brewster in the peddling business and were not said horses obtained by said Brewster of said Hury to go on said business,

Cross Entry 15th Just as you were starting in your stage did not Hury ride up and tell you to be sure and not be gone over twelve days as he wanted to use the horses to go to Saco State,

Ex Entry 16th

What did he say at said time

Ex Entry 17th Who was present at this time when he rode up and spoke to you just before you left?

Cross Entry 18th What did you receive from the plaintiff for said horses?

Cross Entry 19th Was he to pay you anything more at any future time?

Ex Entry 20th Did you disclose the name of said Hury to said Gotloff as your principal or inform him that you were acting as agent?

Ex Entry 21. Was the sale an absolute or a conditional sale and if conditional on what con-

dition was it?

Qr Entry 22. To whom when and where did you make such sale, who was present and what was said by Gottlof, did he ask any questions as to your title to said horses or your right to sell them?

Ans Entry 23, Did not said Henry state to you & Bosworth in presence of Mitchell & Reid in the month of May 1837, in Logansport that he would not sell said horses at any price if they would use words to that effect?

Q Entry 23. What has become of the money and watch & chain which you said you received in exchange for the horses?

Q Entry 24th. How much of the amount received from Gottlof did you return with to Logansport and what did you do with the balance?

Qr Entry 25. Did you ever tender to Henry \$500 in cash in account of said sale if so when & in whose presence?

Q Entry 26th. Did Henry accept your proffer or refuse it?

Qr Entry 27. What has become of the amount which you say you brought back?

Qr Entry 28th. Why did you deliver the watch and money to Bosworth?

Qr Entry 29th. Did you not come after your return to Logansport in presence of one Richard

S Parish when said Henry and Parish were about starting North after said Jones say to said Henry in presence of said Parish that you had done wrong in selling the horses, that you had no right to sell them, and that you would do anything in reason to make the matter up or come to that effect?

Or Entry 30, If you state that you did not stay above did you have any conversation with said Henry at said time and what did you say in such conversation?

Or Entry 31, Did you not in said conversation state that said Henry would not get said Jones as they had gone to New York some such statement true?

Or Entry 32, Have you corresponded with the Attorney of the plaintiff in reference to the preparation of the case for trial, have you aided or assisted in such preparation or given said plaintiff or his Attorney counsel in respect to the same?

Or Entry 34th, Did you not in reply to a declaration of Henry made in the conversation in presence of Parish above mentioned that he would follow the Jones so long as he had a dollar left, say to Henry in the presence of said Parish at same time and place that you did not want him to go out there, that it would ruin you in your business?

Or Entry 35, Did not the said Henry in the same conversation say to you in the Presence of said Parish as follows "you know you have injured me, you

took the poms telling me you would return them
in twelve days instead of that you have said
Heu brought back no pay & did not come to see
me when you returned, but kept away & offers
me no compensation"?

Ex Entry 36, Did you not then and there in that
same conversation and in the presence of said Parish
say to the Defendant Henry that you had down any
that you had no right to all the poms & that if he
Henry would go back that he might go into your house
take a mortgage on anything you had?

Ex Entry 37, Have you received from the Plaintiff in
this suit before testifying any value of liability to
him on account of the sale of said poms in an
inventory, or any value whatever?

Ex Entry 38, Do you mean to answer that in the event
the Plaintiff shall fail in this action you will not
be liable to him on account of the sale of said Poms
You state on what grounds do you expect to escape
his recourse on you,

Ex Entry 39, Have you had any correspondence
or interview with the Plaintiff his agent or
Attorney since the commencement of this suit
& before testifying to the case? If so state
with whom?

Ex Entry 40, Who answered that Correspondence

Ex Entry 41, Have you stated to him what your
evidence would be in the case?

Ex Interrog 42. Do you furnish either means or your credit to prosecute this suit or do you defray any of the expenses of this suit or advance the costs of taking these depositions?

Ex Interrog 43. Did you not when hearing that the defendant Henry was going out to reclaim the horses, send a telegraph dispatch to the plaintiff & if so state the substance or language of that dispatch.

Ex Interrog 44. Was there any suggestion in the dispatch that the horses should be secured or put out of the way?

Larned & Woodbridge,
Attys for Deft

Cross Interrogatories to be propounded to
Aid M. Brewster,

1. Were you and David Morrison connected together in the business of selling Morton's Machines at the time he had the ponies of said Henry?

2. Did he have said ponies for the purpose of going on journey to sell said machines?

3. Did you make the original arrangement with said Henry the Defendant for the use of said ponies and did you obtain the use of said ponies from him for yourself for the purpose of making said Journey and if so why did said Morrison go instead of you?

4 What was the arrangement made by you with Henry for the use of said ponies. How long were you to have them. How many miles to travel a day. To what place to go & what were the terms?

5 Had you broken said ponies for said Henry and how long were you to have the use of them in consideration thereof?

6 Had you not frequently tried to buy the said ponies of said Henry and made him offers for the same and do you not know of Morrison's having done so were not said offers refused by said Henry? Had he not stated repeatedly to you that he would not sell said ponies except for cash?

7 Had Morrison anything to do with the arrangement made by you with said Henry for the use of said ponies in said Journey and was not the placing Morrison in your place and as your substitute an act of your own to which said Henry at your request consented?

8 Are the ponies replied in this suit the same ponies owned by the Defendant which Morrison left Logansport with in March 1837.

9 After said Morrison to Logansport without said ponies did you not repeatedly state that you were very sorry he had sold them that he had done very wrong in selling them & that he had no authority to sell them?

10 Did you not state to William C. Jones in Logansport

in the month of June 1857. after the return of said Morrison without said pines that said Morrison had sold said pines when he has no right to sell them and that he was very much to blame for so doing?

11. Did you not state to said Jones in some conversation in answer to the question how Morrison came to sell the pines that you did not know but that you thought it must have been that he was bewildered at the idea of carrying a good watch?

12. Were you responsible to said Henry for the safe keeping and care of said pines on said Journey and if injured or lost would you not have been responsible for such loss or injury?

13. Did not Morrison act in the matter as your representative substitute and did you not employ him to go for you with said Pines on said Journey in the stead of going yourself?

14. Did Morrison give you the watch & money or any part of the money which he received for the pines and if so how much money and what have you done with the watch and money? State all you know respecting the custody and use of said watch and money from the time of its being handed to you by said Morrison?

15. Have you pledged the said watch to Jos H. Leane Esq the Justice who took the deposition in this suit for the payment of the expenses of this suit?

16 Have you made any arrangement or agreement of any kind with said Lewis directly or indirectly as to the expenses of taking said depositions and are you in any way liable for the same?

17 Have you advanced any money to pay expenses in this suit and if this suit is decided against said Plaintiffs do you expect to pay any of the expenses?

18. If Morrison is obliged to pay the amount of the price of said ponies to said Plaintiffs or any of the said debts do you expect to pay a proportion of the same?

19. Were ^{not} you & Morrison jointly interested in all the profits & losses of the said Journey made with said ponies?

20. Did you not state to Washington Obeyane in May 1857 in Logansport Just before Morrisons being there with said ponies that you and Morrison were jointly interested and that you had hired or obtained Henrys ponies to go on a peddling tour for the sale of Morton's Machines?

21 Did you go with Morrison to Henrys Stable and get said ponies Just before he left with them and did not said Henry at said time in answer to a question put to him by yourself or Morrison respecting the price which he would take for said ponies reply in presence of said Obeyane that if they would work he would not sell them for any price, or words to that effect?

22. Did you not just before the time of said Morrisons

departure with said ponies in presence of man by the name of Welch, state to a person applying to purchase said ponies of Henry that nobody could purchase them at present, because you had hired them for two weeks, or words to that effect?

Lamar & Woodbridge,

Depts atty.

Prop Interrogatories to be propounded to Thomas S. Cummings, B. J. Burch and Samuel Stinson.

Exhdy 1. If you state in your direct examination that you heard Henry the defendant authorize Morrison to sell said ponies state the exact language used by Henry & where he was at the time & who was present

Exhdy 2. Was not the language used by Henry something like this "that he would sell the ponies for \$1000 or for \$2000"

Exhdy 3. Was Morrison ever been in the employ of said Henry as his Agent to sell Horses?

Exhdy 4. Do you know anything as to the responsibility of said Morrison at time of the sale?

Exhdy 5. Have you ever heard Morrison say that he did wrong in selling the Horses and had no authority to sell them

Exhdy 6. In any statements made by you on your direct examination have you stated anything which you know only by hearsay and not of your own knowledge

Exhdy 7. Have you had much conversation

with Reed M. Brewster or David Morrison res-
pecting this suit &c?

Ex Inty 8. Who inquired of you with reference
to your knowledge of this case or procured your
depositions to be taken as witnesses to the same

Ex Inty 9. Who has the management of the prepara-
tion of this cause for trial at Leguaport?

Have you seen said Brewster or Morrison taking
any part in the matter?

Ex Inty 10th. State if you know anything about
the watch and chain spoken of if the same has
not been in the possession of said Brewster since
the sale of said horse and is not now in his
possession or that of his agents?

Ex Inty 11. If you know any other matter or thing
which would benefit the defendant in this suit please
state the same

James Woodbridge,
Attys for defts.

And afterwards to wit on the fourth day of May in
the year last aforesaid there was filed in the Clerk
Office aforesaid a certain motion which is in words
and figures as follows to wit;

John Goldtop

James Henry

Court Circuit Court

And now comes the said plaintiff by

by Messrs. Arnold his Attorneys and aims to include the depositions of William C. Jones, Richard T. Parish, Michael Blaid, Washington Abigail and Joseph Sellers for the following reasons,

✓ 1st The Person George Smith before whom the depositions are taken does not show whether he executes the Commission as Justice of the peace or Commissioner,

2nd If the depositions were taken before said Smith as Commissioner, then he is not the person to whom the Commission was directed and had no authority to take them,

3rd If the depositions are taken before him as Justice of the peace, then there is no proper evidence of his official character,

4th The oaths were administered to witnesses by said Smith as Commissioner when they ought to have been administered by him as Justice of the peace,

5th The depositions as appears from the handwriting were reduced to form by three persons and the Interrogatories and answers by two different persons supposed to be Charles B. Laselle and J. T. Tucker, whereas the person Smith certifies that they are reduced to writing by Charles B. Laselle,

6th The said depositions are otherwise informally taken and the answers are not proper

W. C. Arnold Messrs. attys,

And afterwards to wit on the same day and
year last aforesaid it being one of the days of
the May Term of said Court the following
among other proceedings were had to wit:

John Gottlof

vs
Daniel T. Wood
vs James Henry

Defendant

This day comes the said Plaintiff
by C. A. A. his Attorney and moves the Court to
exclude the depositions taken by the defendants
in this cause,

And afterwards to wit on the eighth
day of May in the year last aforesaid it being one
of the days of said May Term the following among
other proceedings were had to wit:

John Gottlof

vs
D. T. Wood and
James Henry

Defendant

This day comes the said Plaintiff
by A. A. his Attorney and moves the Court to
suppress the depositions of the said defendant. filed
in this cause, which motion after argument heard
thereon is overruled by the Court, to which the
said Plaintiff excepts,

And Afterwards to wit on the twentieth
day of May in the year last aforesaid there was
filed in the Clerk's Office aforesaid a certain
objection which is in words and figures as follows
to wit;

Cook Circuit Court
May Term a.d. 1852,

James Henry &
D. T. Word

vs
John Gottlof

} Replevin

And now comes the said de-
fendant & objects to the issue of a commission to take
depositions issuing in the above entitled cause,
in term time;

By his attorney,

Samuel Woodbridge

And afterwards to wit on the twenty first
day of May in the year last aforesaid it being
one of the days of the May Term of said Court
the following among other proceedings were had to
wit;

John Gottlof

vs
Daniel T. Word &

James Henry

} Replevin,

This day again came the said parties
by their Attornies and issue being joined herein

Jury -

It is Ordered that a Jury come. Whereupon come
the Jurors of a Jury of good and lawful men to wit
H. E. Dwyer, B. F. Barry, W. B. Bay, J. C. Boyd,
H. A. Fairman, George Hamilton, S. H. Curtis,
James McNeil, Reuben Taylor, A. H. Howard
William Coleman, and G. M. Cobb, who being
duly elected tried and sworn well and truly to try
the issue joined according to law and the evidence
and they having heard the testimony of witnesses, Disagree-
ment of parties It is Ordered that the Jury have leave
to separate and that this cause be postponed till the
coming in of the Court on to morrow morning;

Saturday May 22nd 1882,

Court met pursuant to adjournment
Present as on Yesterday,

John Wetloff

Samuel T. Hook
& James Henry

Replevin.

This day again come the said
parties by their Attorneys and the Jurors aforesaid
also come and it having been represented to the Court
that W. B. Bay one of the Jurors on this cause is un-
able to attend on account of sickness in his family
It is Ordered that he be excused; Whereupon
by agreement of parties It is Ordered that the trial
proceed with the remaining eleven Jurors, and
they having heard the arguments of Counsel

and instructions from the Court retire to consider of
their verdict.

And afterwards to wit on the twenty fourth
day of May in the year last aforesaid it being also
one of the days of said May Term the following pro-
ceedings amongst others were had to wit;

John Gottlof

^{or}
D. S. Wood & J. Henry

Replevin

This day again came the said
parties by their Attornies and the Jurors aforesaid
also came and render their verdict and say in of
the Jurys find the rights of the property replevin in the
said defendant James Henry.

Whereupon the said
defendant by his Attorney moves the Court for a
new trial.

And afterwards to wit on the twenty ninth
day of May in the year last aforesaid it being
one of the days of said May Term the following
further proceedings were had to wit;

John Gottlof.

^D
D. S. Wood and
James Henry

Replevin

This day again came the said
parties by their Attornies and the Court having heard

verdict,

the arguments of Counsel upon the motion for a new trial herein orders that the same be overruled, Therefore it is considered that the said defendants do have return of the property replevied as aforesaid and also that they recover of the said Plaintiff their costs and charges by them about their suit herein expended and have execution therefor;

Whereupon the said Plaintiff by his Attorney prays an appeal of this cause which is allowed by the Court on the said Plaintiff filing a Bond within fifteen days from date in the sum of Three hundred dollars with security to be approved of by the Clerk,

And afterwards to wit on the Twelfth day of June in the year last aforesaid there was filed in the Clerk's Office aforesaid a certain Power of Attorney which is in the words and figures as follows to wit;

Know all men by these Presents That I John. Grotz of Chicago Illinois have made constituted and appointed and by these presents do make constitute and appoint Calvin Gletto of my true and lawful attorney for me and in my name to sign any appeal or other Bond as he shall think proper, to take an appeal to the Supreme Court of the State of Illinois in the Case of myself against James Henry and Daniel T. Wood for Replevin of a span of yellowish ponies or for any other matter connected purpose whatever

Connected with said suit, and I hereby satisfy
and confirm all and singular the acts and doings
of my said Attorney by virtue hereof.

Witness

Lyman E. DeWolf

J. J. Gottlof ²³ 1853

And afterwards to wit on the same day and
year last aforesaid there was filed in the Clerk's office
aforesaid a certain Bond which is in the words and figures
as follows to wit:

Know all men by these presents That we
John Gottlof as principal and Joseph Schlossman
and Henry Leopold as sureties, are held and firmly
bound unto James Henry and Daniel T. Wood in
the penal sum of Three hundred Dollars to be paid
unto the said Daniel T. Wood and James Henry
their executors Administrators or assigns for which
payment well and truly to be made we bind our-
selves our executors and administrators jointly
severally and firmly by these presents sealed
with our seals and Dated this tenth day of June
A.D. 1852,

Whereas at the May Term of the Cook
Circuit Court in the year of our Lord one thou-
sand eight hundred and fifty two, Judgment
was rendered by the said Court in an action
of Replevin for a span of Pines against the
said John Gottlof Plaintiff and return of the

property awarded to the said Henry one of the
 defendants. And Whereas the said John Gottlof
 has prayed an appeal from the said Judgment to the
 Supreme Court of the State of Illinois. Now therefore
 The condition of the above obligation is such, that
 if the above bounded John Gottlof shall prosecute
 the said appeal with effect and shall and will
 pay and cause to be paid the said Judgment
 interest and costs and make return of said
 property replied in case the said Judgment
 shall be affirmed, Then this obligation to be void
 otherwise to remain in full force and virtue
 C. de Stroff

J. Gottlof.
 Joseph Schlossmann
 Henry Leopold
 Levi Rosinfield

Received of
 John Gottlof
 Joseph Schlossmann
 Henry Leopold
 Levi Rosinfield
 the sum of
 \$100.00
 for
 the
 above
 stated
 purpose
 C. de Stroff

And afterwards to wit on the same day
 and year last aforesaid there was filed in the Clerk's office
 aforesaid a certain Bill of Exceptions which is in the
 words and figures as follows to wit:

Bill, John Gottlof
 vs
 James Henry &
 Daniel T. Wood } Cook Circuit Court,
 of May Term 1882
 Replevin

Be it remembered that on the trial
 of this cause to wit on the twenty first and twenty second

days of May in the year of our Lord one thousand eight hundred and fifty two. The Plaintiff offers and read in evidence to the Jury the depositions of Reed M. Brown, David A. Morrison, B. J. Birch and E. J. Cummings which depositions are in the words and figures following to wit:

Depositions of Reed M. Brown, David A. Morrison, B. J. Birch and E. J. Cummings of the County of Cass State of Indiana Witnesses produced, sworn and examined upon their Ojural oaths on the Twenty eighth day of April in the year of our Lord one thousand eight hundred and fifty two at the Office of L. Chamberlain in the Town of Logansport in the County of Cass and State of Indiana aforesaid by me Sidney Caldwell a Commissioner duly appointed by a *Verdunus Potestatem* a Commission issued out of the Clerk's Office of the Circuit Court of Cook County in the State of Illinois, bearing Teste in the name of Louis A. Ward Esquire Select of the said Circuit Court with the seal of said Court affixed thereto, and to me directed as such Commissioner for examination of the said Reed M. Brown, David A. Morrison, B. J. Birch and E. J. Cummings Witnesses in a certain suit, and matter in controversy now pending and undetermined in the said Circuit Court, wherein John Gottsch is Plaintiff and James Hury and Daniel T. Wood is Defendants in behalf of the said Plaintiff as well upon the cross Interrogatories of the defendants as on the Interrogatories

of the Plaintiff, which were attached to or inclosed with the said Commission, and upon none others. The said Reuben M. Bosworth David A. Morrison, B. J. Burck and J. S. Cummings being first duly sworn by me as witnesses in said cause previous to the commencement of their examination to testify the truth as well on the part of the Plaintiff as the Defendants in relation to the matter in controversy between the said Plaintiff and Defendants so far as they should be interrogated testified and deposed as follows:

Interrogatories propounded to the said Reuben M. Bosworth a witness produced and sworn as aforesaid on the part of the said Plaintiff and his answers thereto as follows:

Interrogatory 1st Do you know the parties to this suit or either of them, and which of them and what is your age and occupation?

Answer I know John Gottloff and James Henry of the above named parties my age is forty six years my occupation is laborer.

Interrogatory 2nd

Do you know anything of a Span of Yellowish or yellow pines being in possession of or owned by the Defendant James Henry in the Spring of eighteen hundred and fifty one?

If you state whether said Henry delivered them into the hands of any other person to be sold or for any other purpose and what and whom and whether you heard anything said by the said Henry and what in regard to such person having the

right to sell said ponies state all that was said on
the subject as particular as you can.

Answer

I know a span of Yellowish or Yellow ponies that James
Henry the Defendant owned in the Spring of eighteen
hundred and fifty one, said Henry the Defendant de-
livered the said ponies to David A. Morrison as
understood by Henry & D. A. Morrison that Henry the
Defendant left the ponies in Morrison's possession to do as
he wished with them, to drive and break them and
sell them if he Morrison chose or return them if
sold to sell them for \$150. Henry the Defendant
told Morrison in two or three different conversations
that if he Morrison could stand \$150 for the ponies he
could do what he please with the ponies. Morrison
had the ponies two or three days before he started
his Journey with the ponies. The Morning that
Morrison started off with the ponies Henry the Defen-
dant said to Morrison that he hopes he Morrison
would not get a chance to sell the ponies for he
had a little rather the ponies would come back as
he would like to take a ride after the ponies himself
as he talked of taking a Journey. On a moment
or two after Henry the Defendant told Morrison
if any body was fool enough to offer \$200 for
the ponies let them slide. This last conversation of
Henry stood to be in a Joke as it was spoke in a
Jesting manner, Henry left with Morrison for the

Wishfully
to sell

purpose of seeing how the ponies worked Henry
was on horseback Morrison was in a wagon which
was drawn by the ponies?

Interrogatory 3rd

Do you know any other matter or thing of import to
the said Plaintiff in the trial of this cause if so state
the same as fully as if particularly interrogated direct,
Answer. Morrison returned from his said journey
to this place on Saturday evening, on Monday morning
I was present at Morrisons House in Company with
Morrison & Henry the Defendant, Henry enquired of
Morrison, asked him what he got for the ponies
Morrison said he did know, Henry asked Morrison
why he did not know, Morrison said he had taken
a gold watch and chain and fifty dollars in cash
for the ponies, Henry did not find any fault with
the selling of the ponies but did not like to take the
Gold Watch in part pay for them. Morrison remark-
ed that he thought he could sell the Watch
for the money Henry said that all he wanted was the
money for the ponies, Henry expressed no dissatisfaction
concerning the sale of the ponies at this conversation

Interrogatories to be administered to A. V. Morrison
and R. M. Brownth, severally?

4th Do you or either of you know of any sale of any
yellow ponies to the plaintiff in the spring or early
part of the summer of A.D. 1887 If you state all the

Circumstances of such sale, by whom the sale was made and for whom, whether the ponies were delivered to any one and paid for. And have you seen any of the money or property paid for the ponies since that time in the hands of the defendant James Henry.

Objected to Answer of R. M. Bosworth I know nothing of the sale of the Ponies I have not seen any of the property in the hands of the Defendant James Henry directly, I considered that the Defendant controlled the watch chain & having five dollars in Cash, whilst in the hands of Richard J. Parish from the time that Henry & Parish went North to get the ponies until about a month ago I have often called on Parish for the said Watch Chain & Money and he said he would be glad to give it up, but Henry would not consent also have called on Henry to have him give his consent and he refused so to do. I have made offers to Henry to have the Watch prized and if he would receive it he could have it in part pay for the ponies, and he refused.

Reed M. Bosworth

Cross Interrogatories to be propounded to Reed M. Bosworth.

1st Were you and said David & Morrison connected together in the business of selling Morton's Machines at the time he had the ponies of said Henry?
Answer— Yes Morrison had an interest in selling

Mortice Machines with me at the time he had the
ponies of said Henry.

2nd Did he have said Ponies for the purpose of going
on a Journey to sell said Machines.

Answer

I understood he did

3rd Did you make the Original Arrangement with said
Henry the Defendant for the use of said Ponies, and
did you obtain the use of said ponies from him for
yourself for the purpose of making said Journey and
if so why did said Morrison go instead of you,

Answer.

Three weeks before Morrison started the Journey with
the ponies I made an arrangement with Henry for the
ponies to go the Journey for myself, my health was
bad and in consequence of some other business I was
up going the said Journey. I saw Henry and
told him I had given up going the Journey and
that Morrison would go it. I then asked Henry
if he was willing that Morrison should take the
ponies to go the Journey, ^{Henry said he was willing that Morrison should take the ponies to go the Journey} I then told Morrison that
he could get the ponies to go the Journey of Henry.

Henry stated that he had as leave Morrison
would take the ponies as I for he was acquainted with
Morrison and knew about his way of keeping his horses
and he considered him a good horseman & he wished his
Ponies back.

4th What was the arrangement made by you and

Henry for the use of said ponies. How long were you to have them. How many miles to travel a day. To what place to go and what were the terms,

Answer. A definite time set, supposed to be gone about twelve or fifteen days. the drive per day was supposed to be from fifteen to twenty miles per day as circumstances required in my business, if the ponies came back in good trim & flight Henry was to receive nothing from me for the use of the ponies, if the ponies were galled, looked bad and showed the appearance of being abused Henry should require some pay.

Qth Had you broken said ponies for said Henry and how long were you to have ^{the use of} them in consideration thereof

Answer,

Did not break said Ponies. Persisted in breaking them to the harness!

Qth Had you not frequently tried to buy said ponies of said Henry and made him offers for the same and do you not know of Morrison's having done so and were not said offers refused by said Henry! Had he not stated repeatedly to you that he would not sell said ponies except for cash

Answer,

I think I asked Henry if he would trade for a Team Lot. his answer was if it was the right kind of a one I asked him no more questions about it. I heard Morrison ask him if he would trade the ponies for a Horse his answer was no nothing but cash or Real

Estate would take the ponies. Henry told Morrison
that if the ponies were only kind and gentle he would
not part with them for any thing,
9th Had Morrison anything to do with the arrangement
made by you with said Henry for the use of the ponies
in said Journey and was not the pleasing Morrison
in your place and as you substituted an act of
your own to which said Henry at your request
consented,

Answer,

I did not consider that Morrison had anything to do
with the arrangement I had made with Henry
for the ponies to go said Journey, said Henry con-
sented that Morrison might go the Journey
and take the ponies with him for the same consid-
eration that I was to have the ponies to go my Jour-
ney,

9th And the ponies referred in this and the
same ponies owned by the Refrigrant which Morrison
left Logansport with in March 1837,

Answer I do not know

9th After said Morrison to Logansport without said
ponies did you not repeatedly state that you were very
sorry he had sold them that he had done very
wrong in selling them and that he had done very
wrong in selling them and that he had no authority
to sell them.

Answer I have frequently stated that I was sorry that

To my father-in-law
Dear Mother-in-law
See Jones. No. 8.

he took the Match in part pay for the ponies as that seemed to be the cause of the difficulty on the part of Henry. I never said he had no authority to sell the ponies.

10th Did you not state to William C. Jones in Logansport in the month of June 1897, after the return of said Morrison without said ponies, that said Morrison had sold said ponies when he had no right to sell them and that he was very much to blame for so doing.
Answer, I did not not;

11th Did you not state to said Jones in same answer in answer to the question how Morrison came to sell the ponies that you did not know but that you thought it must have been that he was bewildered at the idea of carrying a good Match?
Answer I told Mr Jones that Morrison had a legal right to sell the ponies, but I was sorry that he took the Match in payment that if he had brought the money for the ponies there would not have been any difficulty because Henry told me so.

12th Were you responsible to said Henry for the safe keeping and care of said ponies on said journey and if injured or lost would you not have been responsible for such loss or injury.

Answer I did not consider that I was anywise liable for said Ponies after Morrison had made

a contract with Henry;

13th Did not Morrison act in the matter as your representative and substitute and did you not employ him to go for you with said ponies on said Journey in the stead of going yourself,

Answer. W Sir,

14th Did Morrison give you the Watch and money, any part of the money which he received for the Ponies and if so how much money and what have you done with the watch and money state all you know respecting the custody and use of said watch and money from the time of its being handed to you by said Morrison;

Answer. Morrison gave me the Watch and fifteen dollars in Cash and requested me to see Henry and see if I could make any arrangements with him for to satisfy him for the Ponies, I made propositions to Henry he said he would accept except of the proposition he did not finally except, the Watch and Chain and Twenty five dollars in Cash I put into the hands of Richard C. Parish as Henry and Parish had started to go after the ponies to Chicago in presence of Henry I told Parish if Henry got his ponies to give Gottlof the Watch and Chain and fifty dollars in cash and they was to have Twenty five dollars from me when they returned if they succeeded in getting the ponies and if they did ~~not succeed~~ effect a settlement with Gottlof then Parish was to return the Watch & Chain

Wheat

and Twenty five dollars to me when he returned to Logansport, Parish did not return the watch and chain and money. I made a demand on Parish for the Watch and chain and money, he Parish told me that Henry had given him a bond of indemnification (and wished him to keep Watch Chain and money and he Parish refused to give Watch Chain & money up to me because Henry would not answer to it. I prosecuted Parish for the money got a Judgment against him for \$25 he stayed the judgment when the Execution issued Esquire Dunn called on Parish and Parish agreed that if Esquire Dunn would release the Judgment he would give the Watch and Chain to Esquire Dunn. I likewise commenced a suit by action of Trover for the Watch and Chain, Parish to compromise the suit gave the Watch and chain into the hands of Esquire Dunn I consenting thereto,

15th Have you pledged the said Watch to Jas W. Dunn Esquire the Justice who took the Deposition in this suit for the payment of the expenses of this suit?

Answer. No Sir I have not.

16th Have you made any arrangement or agreement of any kind with said Dunn directly or indirectly as to the expenses of taking said deposition or are you in any way liable for the same?

Answer. No Sir In no way.

17th Have you advanced any money to pay

expenses in this suit and if this suit is decided against said Plaintiff do you expect to pay any of the expenses,

Answer I do not,

18th If Morrison is obliged to repay the amount of the price of said ponies to said Plaintiff or any of the said costs do you expect to pay a proportion of the same,

Answer I do not,

19th Were not you and Morrison jointly interested in all the profits and losses of the said Journey made with said ponies?

Answer No not at all

20th Did you not state to Washington Obriane in May 1837 in Logansport just before Morrisons leaving there with said ponies that you and Morrison were jointly interested and that you had hired or obtained Henry, ^{ponies,} ~~ponies~~ to go on a peddling tour for the sale of Morton's Machines;

Answer I do not recollect that I did;

21st Did you go with Morrison to Henrys Stable and get said ponies Just before he left with them and did not said Henry at said time in answer to a question put to him by yourself or Morrison respecting the price which he would take for said ponies, reply in the presence of said Obriane that if they would work he would not sell them for any price or words to that

effect,

Answer I do not recollect never having any conversation with Henry in presence of Obiniane;

22nd Q^{ues} Did you not just before the time of said Morris's departure with said ponies in presence of a man by the name of Welch state to a person applying to purchase said ponies of Henry that nobody could purchase them at present because you had hired them for two weeks or more to that effect,

Answer I do not recollect having any such conversation with any person.

And M. Brumby,

I Sidney Baldwin of the County of Cass and State of Indiana a Commissioner duly appointed to take the deposition of the said And M. Brumby a witness whose name is subscribed to the foregoing deposition do hereby Certify that previous to the commencement of the examination of the said And M. Brumby as a witness in the said suit between the said John Gottlof Plaintiff and the said James Henry and Daniel T. Wood Defendants; he was duly sworn by me as such Commissioner to testify the truth in relation to the matters in controversy between the said John Gottlof Plaintiff and the said James Henry and Daniel T. Wood Defendants so far as he should be interrogated concerning the same; that the said deposition was taken at the

Office of S. Chamberlain in the Town of Logansport
in the County of Cass and State of Indiana
on the 27th day of April. 1852, and that
after said deposition was taken by me as aforesaid
the interrogatories and answers thereto, as
written down were read over to the said witness
And that thereupon the same was signed and
sworn to by the said deponent And on 27th March
before me the oath being administered by
Sidney Baldwin as such Commissioner at the
place and on the day and year last aforesaid,
Sidney Baldwin,
Commissioner.

Interrogatories propounded to the said
Thomas S. Cummings a Witness produced & sworn
as aforesaid in the part of the said John Grady
and the answers thereto are as follows

Interrogatory 1st Do you know the parties to this
suit or either of them and which of them and what
is your age and occupation,

Answer I know James Henry the Defendant in
this suit my age is forty five years old my occu-
pation Farmer.

Interrogatory 2nd Do you know any thing of a
span of yellowish or yellow pines being in posses-
sion of or owned by the Defendant James Henry

in the Spring of eighteen hundred and fifty one
if New State whether said Newry delivered them
into the hands of any other person to be sold
or for any other purpose and what and whom
and whether you heard any thing said by the said
Newry and what in regard to such person having
the right to sell said ponies state all that was
said on the subject as particularly as you can.

Answer, I know said Newry had a span of yellow
ponies in the spring of 1851. I have heard Newry
say that he let Bosworth have the ponies to travel
for the purpose of breaking them. I have heard
Newry say that Morrison & Bosworth was to have
the ponies and he had given them the privilege of
selling the ponies for one hundred and fifty dol-
lars. That it was the understanding between Newry
Bosworth & Morrison that previous to Morrison starting
the Journey that they could sell the ponies for one
hundred and fifty dollars. Newry said that at the
time that Morrison started his Journey he liked
the appearance of the ponies so well and they
worked so well that as Morrison started he told
him that he must bring back the ponies or
sell them for Two hundred dollars.

Interrogatory Third,

Do you know any other matter or thing of benefit
to the said Plaintiff in the trial of this cause
if so state the same as fully as if particularly

\$150 X

interrogated direct.

Answer. It is about all I know.

Cross Interrogatories to be propounded to Thomas S. Cumming, B. J. Birch and Samuel Stinson
To Thomas S. Cumming

Q^y. Entry 1st If you state in your direct examination that you heard Henry the defendant authorize Morrison to sell said ponies state the exact language used by Henry and where he was at the time, and who was present?

Answer I never heard Henry the defendant authorize Morrison to sell the ponies, but heard the defendant Henry say after Morrison had sold the ponies that he did authorize them to sell the ponies meaning Brownth and Morrison the conversation took place in Harvey Tucker's store, Harvey Tucker was present several others that I do not recollect.

Q^y. Entry 2nd Was not the language ~~of~~ used by Henry something like this, that he would sell the ponies for one hundred and fifty dollars or for two hundred dollars.

Answered to Sir the language was just as I stated before.

Q^y. Entry 3rd Has Morrison ever been in the employ of said Henry as his agent to sell horses.

Answered Not that I know of no further than

I have stated about the fumes,

Ex Entry 4th Do you know anything as to the responsibility of said Morrison at the time of the said service? Do not

Ex Entry 5. Have you ever heard Morrison say that he did wrong in selling the horses and has no authority to sell them?

Answer. I never did.

Ex Entry 6th On any statement made by you on your direct examination have you stated anything which you knew only by hearsay and not of your own knowledge?

Answer. Nothing, only what I have heard the Defendant say.

Ex Entry 7. Have you had much conversation with Red W. Burroughs or David Morrison respecting this suit?

Answer. Not a great deal.

Ex Entry 8th Who enquired of you with reference to your knowledge of this case or procured your deposition to be taken as a witness in the same?

Answer. I do not know.

Ex Entry 9th

Who has the management of the preparation of this cause for trial at Logansport. Have you seen said Burroughs or Morrison taking any part in the matter?

Answer. I do not know who has the preparation of this cause at Logansport. I have not seen

Bosworth or Morrison take any part in the matter.

Ex Entry 10th

State if you know anything about the watch and Chain spoken of, if the same has not been in the possession of said Bosworth since the sale of said ponies and is not now in his possession or that of his agents,

Answer I saw the watch and Chain it was in possession of Richard T. Parish. Parish told me that they gave him the watch and chain and some money to give to Gottel if Henry got the ponies back,

Ex Entry 11th If you know any other matter nothing which would benefit the defendant in this suit please state the same,

Answer I don't,

Thomas J. Cummings,

I Sidney Baldwin of the County of Cass and State of Indiana a Commissioner duly appointed to take the deposition of the said Thomas J. Cummings a witness, whose name is subscribed to the foregoing deposition, do hereby certify that previous to the commencement of the examination of the said Thomas J. Cummings as a witness in the said suit between the said John Gottel Plaintiff, and the said James Henry and Daniel T. Wood defendants as far as he should be interrogated concerning the same, that the said

deposition was taken at the Office of S. Chamberlain
in the Town of Logansport in the County of Cass
and State of Indiana on the 27th day of April
A.D. 1852, and that after said deposition was taken
by me as aforesaid, the interrogatories and answers
thereto, as written down, were read over to the said
witness, and that thereupon the same was signed
and sworn to by the said deponent Thomas J
Cummings before me the oath being administered
by Sidney Baldwin as such commissioned at
the place and on the day and year lastaforesaid
Sidney Baldwin
Commissioner

Witness

Interrogatories propounded to the said
David H. Morrison a Witness produced and sworn
as aforesaid on the part of the said Plaintiff and
his answers thereto as follows:

Interrogatory 1st Do you know the parties to this
suit or either of them and which of them and what
is your age and occupation,

Answer I am acquainted with John Wittloff & James
Henry My age is over forty four years my occupation
is a Miller.

Interrogatory 2nd Do you know any thing of a span
of Yellowish or Yellow pines, being in possession of
or owned by the defendant James Henry in the
Spring of 1851, if you state whether said Henry

delivered them into the hands of any other person to be sold or for any other purpose and what and whom, and whether you heard anything said by the said Henry and what in regard to such person having the right to sell said ponies, state all that was said on the subject as particularly as you can.

Answer I did know a pair of Yellow Ponies that Henry the Defendant turned in the Spring of 1857 Henry delivered said ponies into my hands for the purpose of going a Journey North with authority to sell said ponies if I could get one hundred and fifty dollars for them. I told Henry that if I took his ponies to go the Journey I wanted the privilege of selling said ponies, and his lowest price he told me that he would not take less than one hundred and fifty dollars for them, if I could get that for them, I might do what I pleased with them.

Interrogatory 3.^d Do you know of any other matter or thing of benefit to the said Plaintiff on the trial of this cause if so state them as fully as if particularly interrogated direct.

Answer I cannot say that I do.

Interrogatories to be administered to D. of Morrison and Rich M. Bissell the secondly.

4th Do you ~~know~~ or wish if you know of any sale of any yellow Ponies to the Plaintiff in the Spring or any part of the summer of 1857

1881, if you state all the circumstances of such sale by whom the sale was made and for whom whether the ponies were delivered to anyone and paid for and have you seen any of the money or property paid for the ponies since that time in the hands of the Defendant James Henry,

A. A. Morrison. Answer

I do know of a sale of a pair of yellow Ponies to the Plaintiff in May or June of 1881, sale was made by me to John Gotlof in Michigan City Indiana the sale was made for the benefit of James Henry. the ponies were delivered to Gotlof by me and Gotlof paid me for them. I have not seen any of the property that I received for said ponies in the hands of Defendant James Henry since that time,

Cross Interrogatories to be propounded to David Morrison. Cr Int: 1. Have you become responsible for any of the costs, counsel fees or other expenses of this suit, or are you in any wise either directly or indirectly liable for, or have you in any agreed to pay any of the same.

Answer I am not liable nor responsible for the costs counsel fees or any other expenses of this suit in any way shape nor manner.

Cr Inty 2nd Are you in any wise interested in the result of this suit.

Answer I am not,

Or Entry 3rd If this sale to the Plaintiff is defeated in this action are you not liable to him for the purchase money of said Horses and all costs and damages;

Answer I do not consider that I am,

Or Entry 4th State who was present when the conversation between you and Henry in relation to the sale of the ponies took place,

Answer I do not recollect anyone but A. M. Burmish he was present at one time

Or Entry 5 State at what time and at what place in Loganport the agency to sell said ponies was given you and give the exact language used by defendant,

Answer, I cannot state the time exactly, I think it was the fore part of May 1831, the conversation was had at different places about town at two or three different times whilst training the ponies previous to starting the Journey North,

Or Entry 6th Were you authorized to sell said ponies on any other terms than for cash;

Answer, There was nothing particular said about our selling the ponies for cash Henry told me his price was one hundred and fifty dollars, if I could stand that I could do as I pleased with the ponies if not bring the ponies back,

Or Entry 7th Did you ever buy said ponies of said Defendant Henry,

Answer No Sir

Or Entry 8th Were you ever authorized to barter off,

said ponies,

Answer 'No further than I have already stated with regard to the authority given me by Henry.'

Or Interrogatory 8th 'Did you not try to make a trade for said ponies with Henry in the way of barter and to get them on credit and did he not refuse to sell them except for cash down?'

Answer 'I did never try to buy said ponies on credit. I asked Henry what he would take for said ponies part property & part cash. He said it would have to be good property if he sold them for part property and part cash. His price then was one hundred and fifty dollars.'

Or Interrogatory 10th 'Had you ever been in the employ of said Henry prior to the time when you say he made you his agent and how long had you been acquainted with him?'

Answer 'I was never in said Henry's employ must. I have been acquainted with said Henry about three years.'

Or Interrogatory 11th 'Was not the pretence on which you obtained said horses from Henry that you wanted to break them?'

Answer 'No Sir.'

Or Interrogatory 12th 'Did you make any bargain about the use of the horses with said Henry?'

Answer 'I did make the bargain that I have stated about selling said ponies. I made no

bargain about the use of said ponies.

Ex Inty 13th Was not the bargain for the use of the Horses made with said W. Brownth, and did not you go with them in the stead of Brownth sickness preventing him from going?

Answer I never heard any contract between Brownth and Henry about the ponies after Brownth gave up going the Journey. I then made the contract as I have stated about selling the Ponies.

Ex Inty 14th Was you not connected in business at said time with said Brownth in the peddling business and were not said Horses obtained by said Brownth of said Henry to go in said business,

Answer I was connected with said Brownth in selling some Machines it was for that purpose I took the ponies and went the Journey I obtained the said ponies of Henry myself to go said Journey after Brownth gave up going.

Ex Inty 15th Did as you were starting in your wagon did not Henry ride up and tell you to be sure and not be gone over 12 days as he wanted to use the ponies to go to Terre Haute,

Answer He did not make any such statement.

Ex Inty 16 What did he say at said time
Answer Henry rode up about the time that I was starting and said he guessed I had better bring the ponies back unless I could find some-

body fool enough to give me two hundred dollars for them. I supposed he was a joking. I had had the ponies several days in my possession under the first contract that I made,

Ex Entry 17th Who was present at this time when he rode up and spoke to you just before he left?

Answer C. M. Besworth. Saml Sturgeon and a man by the name of McCarty.

Ex Entry 18th What did you receive from the plaintiff for said horses,

Answer, 4 Good Siver Satchs, Good chain, and fifty dollars in cash.

Ex Entry 19th Was he to pay you anything more at any future time?

Answer He was on condition if he done well with the ponies so that he could afford it he was to give me ten dollars more.

Ex Entry 20th Did you declare the name of said Henry to said Galtly as your principal, or inform him that you were acting as agent?

Answer I did not say anything to him about it as I recollect.

Ex Entry 21st Was the sale an absolute or a conditional sale and if conditional on what condition was it?

Answer the sale was an absolute sale all the conditions there was about it was the ten dollars as I have stated before.

Ex Entry 22nd To whom when and where did you

sub at
m. city

make sale, who was present and what was said by
Gottlof, did he ask any questions as to your title to said
ponies, or your right to sell them?

Answer I made sale to John Gottlof at the Lake House
Michigan City in May or June 1857, a number pre-
sent pretty much all strangers, Gottlof did not ask
any questions about the title as I recollect he did
not ask if I had any right to sell the ponies,
Ex Entry 23 I did not said Henry state to you and
Bretzick in presence of Mitchell Blaid in the
month of May 1857, in Logansport that he would
not sell the said ponies at any price if they would
ask or words to that effect.

Answer I do not know Mitchell Blaid, I have no
recollection of having any such conversation with
Henry

Ex Entry 24, What has become of Hatch and
Chain and money which you ^{did you} received in exchange
for the horses?

Answer, The last I saw of the Hatch and
Chain I gave it to Rossmore and a part of
the money, part of the money I made use of
on my way home, intending to make up
when I returned home.

Ex Entry 25th How much of the amount received
of Gottlof did you return with to Logansport
What did you do with the balance?

Answer, I cannot tell the exact amount

I had when I returned to Logansport I gave Bosworth fifteen dollars the rest I kept myself,
Q. Or Entry 26, Did you ever tender Henry Fifty dollars in cash on account of said sale, if so when and in whose presence,

A. Answer I cannot say that I ever tendered Henry any money I offered Henry that if he would accept the watch and fifty dollars I would give it to him in one week and he refused to do it.

Q. Or Entry 27. Did Henry accept your proffer or refuse it. Answer He refused it.

Q. Or Entry 28th What has become of the amount which you brought back,

A. Answer. I have stated once that I gave the watch to Bosworth,

Q. Or Entry 29th Why did you deliver the watch and money to Bosworth,

A. Answer for the purpose of compromising the matter with Henry,

Q. Or Entry 30th Did you not some time after your return to Logansport in presence of one Richard C. Parish when said Henry and Parish was about starting north after said Parish say to said Henry in presence of said Parish that you had been wrong in selling the horses, that you had no right to sell them and that you would do anything in reason to make the matter up or words to that effect,

Maryson
for 200.
for 200.
for 200.

70 day

Answer. As I've never said any such thing if I had I should have told a lie.

Or Entry 31st. If you state that you did not say as above, did you have any conversation with said Henry at said time and what did you say in such conversation.

Answer I did have conversation with Henry in presence of Parish when they were about starting north after said ponies. I contended that I had authority to do as I had done, but was sorry that there was any difficulty about the ponies. I was willing to do anything that was in my power to effect a compromise.

Or Entry 32nd. Did you not in said conversation state that said Henry would not get said ponies as they had gone to New York and was such statement true.

Answer I did tell Henry that he would not get the ponies if he went after them. I told him I supposed that they were on the way to New York then. As for the truth, Gottlieb stated when I sold the ponies that he was going to New York shortly after goods and he showed take the ponies with him.

Or Entry 33rd. Have you corresponded with the Attorney of the Plaintiff in reference to the preparation of this case for trial. Have you aided or assisted in such preparation and

given said plaintiffs or his Attorney Counsel in respect to the same.

Answer I have corresponded with the Plaintiffs Attorney in answer to their letters to say in reference to what testimony they could get in the case. I wrote and stated to them what testimony they could get.

Exhibit 34. Did you not in reply to a declaration of Henry made in the conversation in presence of Parish above mentioned that he would follow the ponies so long as he had a dollar left, say to Henry in the presence of said Parish at some time and place that you did not want him to go out there that it would ruin you in your business,

Answer I told Henry that I did not want any difficulty about the ponies and did not want him to go out there as I was a doing business there and it would injure me in my business in that place.

Exhibit 35. Did not the said Henry in the same conversation say to you in the presence of said Parish as follows "you know you have injured me you took the ponies telling me you would return them in twelve days instead of that you have sold them and brought back no pay and did not come to see me when you returned but kept away and offered me no compensation."

Answer I do not recollect any such statement.
Exhibit 36. Did you not then and there in that

same conversation and in the presence of said Parish
say to the Defendant Henry that you had done wrong
that you had no right to sell the ponies and that
if he Henry would go back that he might go into
your house and take a mortgage on anything you
had.

Answer As sir I did not make any such statement
Or Entry 37th Have you received from the plaintiff in
this suit before testifying any value of liability to him
on account of the sale of said ponies in controversy
or any value whatever?

Answer I have not.

Or Entry 38. Do you mean to answer that in
the event the Plaintiff shall fail in this action
you will not be liable to him on account of the sale
of said ponies. If so state on what ground do you
expect to escape his recourse on you.

Answer I do not consider myself in any way liable to the
Plaintiff if he should fail in his suit, the reason why
I always acted in the selling the ponies according
to the authority given me by Henry.

Or Entry 39. Have you had any correspondence or
interview with the Plaintiff his Agent or Attorney since
the commencement of this suit and before testifying
in relation to the case. if so state with whom.

Answer Nothing more than I have stated before
the correspondence with the Attorney.

Or Entry 40th Who assumed that correspondence

Answer the Attorney of the Plaintiff,
Ex Entry 41. Have you stated to him what your
evidence would be in the case,

Answer I think I have;

Ex Entry 42, do you furnish either means or your
credit to prosecute this suit or do you defray any of
the expenses of this suit, advance the costs of taking
these depositions,

Answer I do not,

Ex Entry 43, did you not when hearing that the
Defendant ^{Henry} was going out to reclaim the horses send
a Telegraph dispatch to the Plaintiff and if so
state the substance or language of that dispatch,

Answer I did not send a Telegraph dispatch to the
Plaintiff,

Ex Entry 44th Was there any suggestion in the
dispatch that the horses should be secreted or
put out of the way,

Answer There was not,

D. A. Morrison

I Sidney Baldwin of the County of Cass and
State of Indiana a Commissioner duly appointed
to take the deposition of the said David A. Morrison
a Witness whose name is subscribed to the foregoing
deposition, do hereby Certify that previous to
the Commencement of the examination of the said
David A. Morrison as a Witness in the said

between the said John Gotloff Plaintiff and the
said James Henry and Daniel T. Wood Defen-
dants; he was duly sworn by me as such com-
missioner to testify the truth in relation to the
matters in controversy between the said John
Gotloff Plaintiff and the said James Henry
and Daniel T. Wood Defendants, so far as he
should be interrogated concerning the same; that
the said deposition was taken at the Office of
S. Chamberlain in the Town of Logansport in
the County of Cass and State of Indiana on the
27th day of April A.D. 1882, and that after said
deposition was taken by me as aforesaid, the interro-
gatories and answers thereto as written down were read
over to the said Dutess; and that thereupon
the same was signed and sworn to by the said
Defendant David A. Morrison before me the oath
being administered by Sidney Baldwin as such
Commissioner at the place, and on the day and year
last aforesaid,

Sidney Baldwin, Commissioner

Interrogatories propounded to the said
Barney L. Burch a witness produced & sworn
as aforesaid on the part of the said John Gotloff
and his answers therunto are as follows:
Interrogatory 1. Do you know the parties to this
suit or either of them, and what is your age

and occupations.

Answer I know James Henry one of the Defendants in this suit. my age is 32 years old. I am a Cabinet Maker Putney 2nd Do you know any thing of a pair of Yellowish or Yellow Ponies being in possession of or owned by the Defendant James Henry in the Spring of 1831. if you state whether said Henry delivered them into the hands of any other person to be sold or for any other purpose and what and when And whether you heard anything said by the said Henry and what in regard to such person having the right to sell said ponies. State all that was said on the subject as particularly as you can.

Answer I know that Henry owned a couple of Yellow ponies in the Spring of 1831. Henry told me that Morrison had the ponies of to Michigan and he expected he would sell them before he returned.

Entry 3. Do you know any other matter or thing of benefit to the said Plaintiff in the trial of this cause if so state the same as fully as if particularly interrogated direct

Answer I know no more than what I have stated.

Prop Interrogatories to be propounded to Thomas J. Cummings, B. F. Birch and Samuel Sturgeon

Ex Entry 1st You state in your direct examination that you heard Henry the defendant authorize Morrison to sell said Ponies state the exact language used by Henry and where he was at the time and who was present.
Answer I did not hear him authorize Morrison to sell the ponies.

Ex Entry 2nd Was not the language used by Henry something like this that he would sell the ponies for one hundred and fifty dollars or for two hundred dollars.

Answer I heard no such language.

Ex Entry 3rd Was Morrison ever been in the employ of said Henry as his agent to sell horses.

Answer I know nothing of it.

Ex Entry 4th Do you know anything as to the responsibility of said Morrison at the time of the sale.

Answer I do not.

Ex Entry 5th Have you ever heard Morrison say that he did wrong in selling the horses that had authority to sell them.

Answer I have not.

Ex Entry 6th In any statements made by you on your direct examination have you stated anything which you knew only by hearing and not of your own knowledge.

Answer No Sir I have not.

Ex Entry 7th Have you had much conversation

with said Mr. Brewster or David A. Morrison
respecting this suit.

Answer They have had conversation with me frequently
about the suit.

Or Entry 8. Who enquired of you with reference to your
knowledge of this case - or procured your depositions to be
taken as witnesses in the same.

Answer Mr. Morrison & Mr. Brewster enquired of
me as to my knowledge of this case. I do not know
who procured my deposition to be taken in this case.

Or Entry 9th Who has the management of the pre-
paration of this cause for trial at Logansport.
Have you seen said Brewster or Morrison taking
any part in the matter.

Answer I do not know who has the preparation of
this cause at Logansport. I have not seen Brewster
and Morrison taking any part in the matter.

Or Entry 10. State if you know any thing about the
Watch and Chain spoken of, if the same has
not been in the possession of said Brewster
since the sale of said Horse and is not now
in his possession or that of his Agents.

Answer I know nothing about the watch
and chain.

Or Entry 11th If you know any other matter or
thing which would benefit the defendant in
this suit please state the same.

Answer I do not, Bernard J. Burch

J. Sidney Baldwin of the County of Cass
and State of Indiana a Commissioner duly
appointed to take the deposition of the said Ber-
nard J. Burch a Witness whose name is subscribed
to the foregoing deposition, do certify that pre-
vious to the commencement of the examination
of the said Bernard J. Burch as a Witness in
the said suit between the said John Gottlof
Plaintiff and the said James Henry and Daniel
J. Wood Defendants, he being duly sworn by me
as such Commissioner to testify the truth in rela-
tion to the matters in controversy between the said
John Gottlof Plaintiff and the said James Henry
and Daniel J. Wood Defendants so far as he should
be interrogated concerning the same; that the said
deposition was taken at L. Chamberlain's office in
the Town of Logansport in the County of Cass and
State of Indiana on the 27th day of April A.D. 1882,
and that after said deposition was taken by me
as aforesaid, the Interrogatories and answers thereto
as written down were read over to the said Witness
and that thereupon the same was signed and sworn
to by the said deponent Bernard J. Burch before
me the oath being administered by Sidney Baldwin
as such Commissioner, at the place and on the
day and year last aforesaid.

Sidney Baldwin
Commissioner

Costs of Eaten the within Depositions
taped as follows:

Issuing 4 Spas	25
Constable's Fee on Spas	59
Witness Attendance & Delay	2.00
Suaveing Witness	25
For taking and certifying the Depositions	1.00
" Writing the Interrogatories & the answers to the same,	3 10 82
	<u>\$ 14.91</u>

The above cost paid by the Plaintiff John
Staff April 27th 1882

Edney Baldwin

Commissioner

Patrick
Morgan

The Plaintiff then offered Patrick Morgan as a witness who having been duly sworn, the Plaintiff's Attorney asked him the following questions which were objected to by Defendants Attorney and the objections sustained by the Court to which the Plaintiff by his Attorney then and there excepted.

1st What is your age business and how long have you been engaged in that business?

Custom -

2nd Do you know whether there is any general and known custom or usage in Michigan City in the Horse trade, as to selling for cash or part cash and part Marten if so state what it is?

3rd Is there any general custom in the subject
in Michigan City and Northern Indiana
If so what is it?

which was all the testimony introduced by the
Plaintiff.

The Defendant then introduced and read in evidence
the depositions of William C. Ines, Richard
T. Parish, Michael Blaid, Washington Bengene
and Joseph Sellers, which are in the words
and figures following to wit:

The depositions of William
C. Ines, Richard T. Parish, Michael Blaid
Washington Bengene and Joseph Sellers of
the County of Cass and State of Indiana
witnesses of lawful age, produced sworn and
examined in their respective corporal oaths
on the 26th 27th & 28th days of April in the year
four Lord one thousand eight hundred and fifty
two at the Office of George Smith a Justice of the
Peace of said County of Cass in the City of Logans
port in said County of Cass and State of Indiana
by me George Smith a Justice of the peace in and
for said City and County and a Commissioner
duly appointed by a Medians Petition or
Commission issued out of the Clerk's Office of the
Circuit Court of Cook County, in the State
of Illinois. bearing test in the name of Louis
DeKard Esquire Clerk of the said Circuit Court

with the seal of said Court affixed thereto, and
to me directed as such Commissioner for the exami-
nation of the said William C. Sney, Richard
T. Parish, Mitchell Blair, Washington Obuyane
and Joseph Sellers, witnesses in a certain suit
and matter in controversy, now pending and unde-
termined in the said Circuit Court wherein John
Gottlof is Plaintiff and Samuel T. Hobb and James
Nunry are Defendants, in behalf of the said de-
fendants, as well upon the cross interrogatories of the
said John Gottlof, as on the Interrogatories of the said
defendants which were attached to or inclosed
with the said Commission and upon none other,
The said William C. Sney, Richard T. Parish,
Mitchell Blair, Washington Obuyane and Joseph
Sellers being first duly sworn by me as witnesses
in the said cause previous to the commencing
ment of their examination to testify the truth
as well on the part of the Plaintiff as the defen-
dants in relation to the matters in controversy
between the said Plaintiff and Defendants as
far as they should be interrogated testified and
deposed as follows:

Interrogatories propounded to the said
Mitchell Blair a witness produced and sworn
as aforesaid, on the part of the said Defendants
and his answers thereto as follows:
Interrogatory 1st. What is your name, age,

residence and occupation
Answer to 1st Interrogatory. My name is Mitchell
Blaid my age is 21 years the 1st of last March
I live in this Country I am a laborer,
Interrogatory 2nd Are you acquainted with
the parties to the present action?

Answer to 2nd Interrogatory. I am acquainted
with M^r Henry, but not with either of the other
parties,

Interrogatory 3rd Were you acquainted with a
pair of ponies owned by the Defendant in
May 1857, if so describe said Ponies?

Answer to 3rd Interrogatory. I was acquainted with
a pair of Ponies owned by one of the Defendants
M^r Henry in May 1857. The ponies were both
of a dun colour and had a dark list or stripe
along their backs, from the withers to the tails
I do not remember any other mark.

Interrogatory 4th State what you know in regard
to David Morrison and Reuben Brownth coming
and getting the said ponies from Henry's Stable? When
was it. Who came for them. What if anything was said
by either of them at the time they took them in
regard to selling said ponies?

Answer to 4th Interrogatory. I was at M^r Henry's
Stable in company with M^r Henry, and David
Morrison & Reuben Brownth when the two latter
got the ponies of M^r Henry. This was in May 1857.

Morrison and Brown, themselves came together and got the ponies, all that I recollect of being said by any of the parties at the time is that Morrison came to where Henry was sitting and slapped him on the knee and asked him what he would take for the ponies. Henry replied that if the ponies worked he would not sell them. Brown at the same time borrowed a pair of lines to break the ponies with.

Interrogatory 8th Did said Morrison ask said Morrison at said time for what he would sell said ponies, if so what reply was made by said Henry?

Answer to 8th Interrogatory, Morrison at the same time asked Henry what he would take for the ponies and Henry replied that if they worked he would not sell them. This being the same conversation that I spoke of in the 4th Interrogatory and is all that was said about the sale of the ponies that I recollect of.

Interrogatory 6th If you know of any other thing of advantage to the defendant in this action, please state the same.

Answer to 6th Interrogatory. I don't know any more about the matter.

Cross Interrogatories and the answers thereto by the witnesses on the part of the plaintiffs.

1st Do you know of Morrisons selling said ponies

to Gottlof for a Watch and cash, and if so have you
seen the watch in the possession of Henry, the defen-
dant

Answer to 1st Cross Interrogatory,

I know nothing of the sale by Morrison to Gottlof
nor of Henry's possession of the watch.

2^d Do you know of any other matter or thing of benefit
to Plaintiff, if so state the same as fully as if particularly
interrogated thereto.

Answer to second Cross Interrogatory, I know
nothing about it.

Re-examination

Entry 1st If you state that you have seen said watch
in said Henry's possession, for how long did you see
it in his possession, And do you not know that he
refused to receive said watch and chain in his
possession.

Answer, I state that I know nothing of said
possession of the watch and I know nothing of the
matters contained in last interrogatory.

Entry 2^d If you saw said watch state if you are
acquainted with the value of watches, and if so
what the value of said watch was?

Answer I know nothing about it
attest. J. Tucker

Mitchell ^{by} Blades,
mark

The said Mitchell was recalled to answer the ones

Interrogatories to be answered severally by all of the said Witnesses, the same having been omitted to be propounded to him at the time of his examination, and under his oath aforesaid answered said Cross Interrogatories as follows;

3rd Further Cross Interrogatory. Were you present at the time the ponies, for the recovery of which this suit is brought, were delivered by the defendant Henry to Morrison? if so who else was present? And if you have stated any conversation between Bosworth or Morrison and James Henry the Defendant, state also whether such conversation was before or after the sale of the ponies to Gottley, if you know? And give the time and place of such conversation

Answer to further Cross Interrogatory 3rd
The only time of delivery that I know anything of, was that mentioned in my answer to Interrogatory 4th The only persons present were Bosworth, Morrison, Henry & myself, the said time of this meeting, delivery and conversation was before the sale to Gottley. These occurred at the stable of Henry in Logansport Indiana in the fore part of May 1857.

Attest

Wm. J. Lusk

Mitchel L. Blader
mark

Interrogatories propounded to the said William

W. E. Jones
C. Jones a Witness produced and sworn as afore-
said on the part of the said defendants and his an-
swers thereto as follows:

W. E. Jones
Interrogatory 1st What is your name, age, residence
and occupation?

Answer to 1st Interrogatory. My name is William
E. Jones. my age is 34 years, my residence in Logans-
port, Indiana, and my occupation is at present
that of a Farmer.

Interrogatory 2^d Are you acquainted with the
parties to this suit?

Answer to 2^d Interrogatory. I am acquainted only
with McNary personally, I am acquainted with Mr
Gottsch and Mr Wood only by sight.

Interrogatory 3^d Were you present in the month of
May 1857, in Logansport near Tucker and Jones Store
where a bargain was made for the use of a pair of
horses belonging to said Defendant, by one Reed W.
Barnworth. If you state all that was said at said
time what were the terms in which said Barnworth
was to have said ponies, and for how long he
was to have them, and were the said ponies
the same for which this action is brought?

Answer to 3^d Interrogatory. I was present at
the corner of Tucker and Jones Store in Logans-
port Indiana, sometime in the Spring of 1857
at a conversation, between McNary and Bar-
worth, in relation to an agreement between

them concerning the said ponies. At that conversation Brewster proposed to Henry to let him have the use of his ponies for the space of ten or twelve days in consideration of his breaking them for the buggy. Henry refused to let him have them as proposed but upon my suggestion afterwards agreed to let Brewster have them upon the following terms. Brewster was to have the use of the ponies for ten or twelve days for the purpose of training them better for the buggy, in consideration of his taking good care of them, and returning them in good condition, making reasonable allowance for the use and wear of them; but if Brewster should use and employ them over that time he was to pay him, Henry, for the use of them, I believe the ponies to be the same for which the present action is brought. They were of a color called by different persons a dun yellow or straw color, were about 13 or 14 hands high, had dark lists or stripes along their backs, had, I think, soiled manes and tails, had a little white in the face one having more white than the other and the sheath of one slightly swollen and larger than that of the other. The stone of Tucker and Spots above mentioned was sometimes called Tucker and Jones' Stone, but I was only a clerk in it.

Interrogatory 4th Where was said Brewster

to go with said ponies, and when was he to return with them?

Answer to 4th Interrogatory, I cannot say positively that anything or what was said as to when Bosworth was to go with the ponies though it is my impression from the conversation then had that Bosworth was to go to the Northern part of this State, as to how long he was to have them or when he was to return with the ponies I have already stated that he was to have them for ten or twelve days which time he was to have them for,

Interrogatory 5th What is the occupation of said Defendant Neury? How long have you known said Neury to pursue said business? How long have you been acquainted with his business? During that time, have you ever known of his having in his employ a person by the name of said David Morrison?

Answer to 5th Interrogatory Neury's occupation at the time of agreeing to let Bosworth have his ponies was that of a Soring Stable Keeper, his occupation now is diversified into that of a Keeper of teams for hire, and occasionally a mail contractor and Cabinet Maker, Mr Neury has been in the Soring business for about five years he has been teaming and carrying the mail but recently, a few months. Cabinet making is his

regular trade, and ever since I have known him he has occasionally worked at it in that line. I have been acquainted with Mr. Hany and his business for about five years. I have never known him during that time, to have a man in his employment by the name of Morrison.

Interrogatory 6th. In what condition did said Bosworth agree to return said ponies and what, if any, conditions were made by said Defendant in respect to the manner in which they should be used in said Journey.

Answer to 6th Interrogatory. I state as I have already stated, that Bosworth was to ~~have~~ return said ponies in good condition except the usual wear and tear of using them, Bosworth was to take good care of them, use them well, and not drive hard.

Interrogatory 7th. Do you know whether said Bosworth did or did not go with said ponies on said Journey, and if not why not? And whether or not he sent any person with said ponies in his place, and if so, who it was, and what (if anything) he stated to you was the reason of his not going.

Answer to 7th Interrogatory. I think Bosworth did not go with the ponies, as I saw him and conversed with him a few days after they left. I do not know why he did not go. He told me that he had sent David Morrison with the

so 7.
Question

over
applied
on this

ponies he Morrison being quite as good a horse-
man as himself. I do not recollect that he stated
to me the reasons why he did not go with the
ponies himself.

Interrogatory 8th. State if you had any conver-
sation with Bosworth after the pretended sale
of said ponies by said Morrison in respect to said
sales, and what was stated in said conversation
by said Bosworth in regard to Morrison's having
done wrong in selling said ponies, and having no
authority to sell them?

Answer to Interrogatory 8th. Some time after
Morrison returned from his trip northward with
the Ponies. I had two conversations with Bosworth
in relation to the sale of the ponies by Morris-
son. In one of these conversations he admitted
to me that Morrison had done wrong, in
selling the ponies, that he had no authority
to do so, and that he Bosworth was sorry
that such had occurred, he further stated
that he supposed that Morrison was induced
to sell the Ponies on account of the gold watch
that he had before been anxious to get a
gold watch and had tried to get his own
Bosworths. This conversation with Bosworth
was brought about by my ascertaining him in
relation to the sale of the ponies by Morrison
inasmuch as I had interceded in behalf

of Bosworth in the conversation mentioned
in my answer to the 8th Interrogatory with
Henry to let Bosworth have his ponies on the
terms upon which he obtained them,
Interrogatory 9th Were you acquainted with
said ponies and if so describe them?

Answer to 9th Interrogatory. I was well acquaint-
ed with the said ponies, and describe them
as I have already done in my answer to Interro-
gatory 4th & 8th. The description therein given is as full
as I can give,

Interrogatory 10th If you know of any other
matter or thing in relation to the matter in con-
troversy, state the same,

Answer to 10th Interrogatory. I do not know that
I know of any other matter, except that about
3 days after the agreement between Henry and
Bosworth near Tucker & Spoutys store in relation
to the use by Bosworth of the ponies, I saw the
ponies in the possession of Bosworth, training them
in harness about the streets of the said Town of
Logansport; and the next day or two, I saw Bosworth
and Morrison jointly in possession of the ponies
I saw also state, if it be of any interest, that the
time that Morrison left with the ponies for the
trip North, was about six or seven days after
the agreement between Bosworth and Henry near
Tucker & Spoutys store, in relation to the use

of the pmiss by Brewster,

Cross Interrogatories, and the answers thereto by the witness on the part of the plaintiff.

Interrogatory 1st. Which of either of the matters stated by you in each of the direct Interrogatories is stated upon information and whose information and which upon belief of either?

Answer to 1st Interrogatory, The matters stated by me are stated upon my own knowledge and upon information derived from Brewster and Brewster and Henry Smith. The matters contained in my answers, however will themselves convince the authority upon which they are based.

Interrogatory 2^d. Was Gottlob the Plaintiff present at any of the conversations mentioned by you in your direct examination?

Answer to 2^d Interrogatory, He was not.

Interrogatory 3^d. Were you present when Herrison took away the pmiss, alluded to in your direct examination? And do you know of your own knowledge what direction and authority Henry the Defendant, gave him at that time?

Answer to 3^d Interrogatory, I was not present when Herrison actually took away the pmiss, and know nothing of any directions from Henry to him.

Interrogatory 4th. If you answer to any of

the direct Interrogatories of the Defendant you state that you heard any bargain between the Defendant Henry & Brewster, state whether any consideration was paid by either party and which, what, and how much, and to whom, was it paid, and state how long after such conversation before the ponies were taken away
Answer to 4th Int. There was nothing said to be paid by Brewster to Henry for the use of the ponies, all that Brewster was to do in consideration of such use, was to take good care of the ponies and return them in good condition. If however, Brewster were to use the ponies over ten or twelve days then according to the agreement between him and Henry, he was to pay Henry a reasonable compensation for all over and above that time, I should think that the ponies were taken away somewhere about five to seven days after the agreement between Brewster and Henry for their use.

Interrogatory 5th Were not the ponies alluded to a young span of ponies that had never been broke and were they not in the stable of Henry with horses kept for sale by Henry?

Answer to 5th Interrogatory. They were young ponies, but had been worked some; and were kept in Henry's stable for hire for the saddle. Henry kept no horses for sale that I know of. I had

myself offered to carry a large price, as I thought
for the same ponies, but he would not sell.

Interrogatory 6th Do you know when Gottlof
bought the ponies (if ever); and what he paid
for them and have you seen the Gold Watch
received from Gottlof as a part of the price
paid for them in the possession of Henry

Answer I know nothing of the purchase of the
ponies by Gottlof of my own knowledge; and
have never seen in Henry's possession, a gold
watch paid by Gottlof for the ponies?

Interrogatory 7th Were you present at the time
the ponies, for the recovery of which this suit is
brought, were delivered by the defendant Henry
to Morrison; if so state who else was present?
And if you have stated any conversation between
Bosworth or Morrison and James Henry, the
defendant state also whether such conversation
was before or after the sale of the ponies to Gottlof
if you know? And give the time and place
of such conversation.

Answer to Interrogatory 7th I was not present
when the ponies were delivered by Henry to Morrison
if they were so delivered.

The conversation which I have stated as having
taken place between Henry & Bosworth near
Tucker & Spentys Store, in relation to the use
of the ponies, was had between them before

the sale of the premises to Gottlob, that conversation occurred sometime in the Spring of 1881 though I cannot recollect the precise time it was as I have before stated, near Tucker and Spots Store in the Town of Logansport Indiana
Jm C. Jones

Interrogatories propounded to ^{the said} Joseph Sellers a witness produced and sworn as aforesaid on the part of the said defendants, and his answers thereto, as follows:

Interrogatory 1st What is your name, age, residence and occupation?

Answer to 1st Interrogatory. My name is Joseph Sellers my age is fifty three years and upwards; my residence is in Logansport Indiana; my occupation is principally farming.

Interrogatory 2^d Are you acquainted with the parties to the present action?

Answer to 2^d Interrogatory: I am acquainted with Wm. Curry personally; but know Mr. Wood & Mr. Gottlob by sight only.

Interrogatory 3^d State whether or not you had a conversation with Aud. Ch. Brewster after the return of David Morrison in Logansport concerning the difficulty respecting the premises for which this suit is brought, sometime in June 1881, if yes, where said conversation was

what was said by said Borworth as to his having hired the said ponies of said Henry and what as to the sale of the same by said Morrison.

Answer to 3^d Interrogatory. I had a conversation with Reed M. Borworth at two different times sometime in June 1857, shortly after Morrisons return, and in the Town of Logansport Indiana. In both conversations he stated to me that he had hired the ponies of James Henry to take a trip North, and that having been unwell and prevented by circumstances he had got Mr Morrison to go with the ponies in his place. He also stated at the same time and place that Mr Morrison had sold the ponies that he was foolish in doing so, and that he had no authority then to act. He also stated that he Borworth was to pay Henry a reward for the use of the ponies for the time he might use them over ten or twelve days, that, Just before Morrison started with the ponies, Henry had told him and Morrison not to sell the ponies; that he Henry said he liked the ponies and wished to take a jaunt with them; In one of the conversations, he also stated that he had handed the gold watch and the money that had been received from Gottf of our St Richard Parish of Logansport to be returned to Gottf in case

Henry should get back his ponies, which he hoped Henry would do, and that there would be no further trouble about them.

Interrogatory 4th If you know any other matter or thing in relation to the case which would be of advantage to the defendant please state the same,

Answer to 4th Interrogatory, 'I do not know anything more in relation to the case.'

Cross Interrogatories and answers thereto by the witness on the part of the plaintiff:

Interrogatory 1st Did you ever hear Henry the defendant say that he had authorized Morrison to sell the yellow ponies, and do you know anything of benefit to the plaintiff, if so state,

Answer to Interrogatory 1st I never heard Henry say that he had authorized Morrison to sell the Yellow Ponies. I do not know anything of benefit to the Plaintiff in this case.

Interrogatory 2nd were you present at the time the ponies for the recovery of which this suit is brought, were delivered by the defendant Henry to Morrison; if so state who else was present?

And if you have stated any conversation between Brewster or Morrison and James Henry the defendant state also whether such conversation was before or after the sale of the ponies to Gottolof if you know; and give the time and place

of such conversation.
Answer to 2^d Interrogatory I was not present
at the time the ponies were delivered to Morris-
son, if they were delivered by Henry. I only saw
Brewer and Morrison driving the ponies
about town. Logansport a day or so before the
ponies were taken north. I believe I have not sta-
ted any conversation between Brewer or Morrison
with Henry.

Joseph Sellen

Parish Interrogatories propounded to the said Richard
T. Parish a witness produced and sworn as aforesaid
on the part of the said Defendants and his answers
there to, as follows.

Interrogatory 1st What is your name, age, residence
and occupation?

Answer to 1st Interrogatory. My name is Richard
T. Parish my age is forty years my residence in
Logansport Indiana and my occupation that
of a Mason or Brick Layer.

Interrogatory 2nd Are you acquainted with the
parties to the present action, and if yes, how long
have you known them?

Answer to 2^d Interrogatory. I am personally ac-
quainted with James Henry slightly acquainted
with Mr Wood and know Mr Gottel only by
sight I have been acquainted with W^m Henry for

eighteen years. I have seen Mr Wood several times within the last ten months and have seen Mr Gottlof several times within the same time.

Interrogatory 3^d. Did you know of the defendant owning a pair of ponies in the summer of 1881 and if you describe the said ponies, and state when you last saw them.

Answer to 3^d Interrogatory. I knew of the defendant Henry owning a pair of ponies in the Spring of 1881. They were of a dun or called by some a yellow color about thirteen and a half hands high, dark sorrel manes & tails had dark lists or stripes along their backs and I think had small blazes in the face. They were young gelding ponies. The last time I saw them was in the City of Chicago Ill, in the month of June 1881, and in the hands of Mr Gottlof the Plaintiff.

Interrogatory 4th. State what you know with regard to the identity of the ponies replevied in this suit with the said ponies belonging to said defendant. Answer to 4th Interrogatory. I was well acquainted with the ponies before they were taken from Logansport and having seen them in the hands of Mr Gottlof after they were taken by him out of Henry & Woods possession and writ of Replevin. I know that they are the same ponies replevied in this suit.

Interrogatory 5th. State whether or not the ponies re-

-pleined in this suit are the same which belongs
to the said Defendant, If you state how you
know them to be the same,

Answer to Int 3th They are the same which I know
from the facts stated by me in my answer to Int 4th
I will add however, that I had frequently examined
the ponies with the object of buying them, and when
I saw them at Chicago in the hands of W. G. Little
I again examined them closely enough to be con-
vinced beyond any doubt whatever, that they are
the same ponies.

Parish

objection

Interrogatory 6th Were you present at a conversation
between David Morrison and the said Defendant
somewhere in June 1887, in front of Vaniman's House
in Logansport Indiana, If you state what was
said by said Morrison; relate the said conver-
sation as nearly as you can relate it.

Answer to 6th Interrogatory,

I was present at a conversation between Morrison
and Henry near Vaniman's House in or near
Logansport, sometime in June 1887 in relation
to the said ponies. Mr Morrison asked Henry
if he was going after his ponies to which Henry
replied that he was. Morrison told him that
he hoped he would not go; that he M. & Geo
M. Brown were engaged in getting up Patent
rights in Heilugan City and that if Henry
went out there for the purpose of recovering his

ponies it would injure his business, that it would be useless for Henry to go for his ponies, that he Mr. had sold his ponies, and that by that time they were in New York Henry replied that he did not care where they were, that he would follow them anywhere so as to recover them back Morrison then observed to Henry, that if he Henry had received one hundred and fifty dollars for his ponies, or rather, if he Morrison had brought back and given to Henry one hundred and fifty dollars in cash for his Ponies, then Henry would not have made any fuss about the ponies, Henry replied that he did not want to sell the ponies that Morrison knew that he did not want to sell them and that he Morrison knew that he Henry had told him when he left with the ponies not to sell them that he had let him have them for ten or twelve days to go to La Bata and the Smith on business Morrison then stated to Henry that knew he Mr. had done wrong in selling them and offered to do anything in his power to compensate him for the sale of the ponies he offered also to give a lien upon his property to Henry This in substance is all that passed in the conversation that I recollect of

Interrogatory 7th What did Morrison say (if any thing in regard to his having or not authority from Henry to sell the said horses, or in regard

Y. B.
H.

is not having done wrong in selling them,
Answer to Int 7th Morrison did not say
that he had or had not authority from Henry
to sell the ponies. He admitted that he had done
wrong in selling them as I have already stated
in my answer to Interrogatory 6th

Interrogatory 8th What did said Morrison
say (if anything in said conversation in relation
to the defendants having said to him just
before leaving with said ponies, about the time
he might stay away with the said ponies, and
what as to the reason given by said Henry
for wishing the horses back in such time?

Answer to Int 8. When Henry told him that
he had let him have the ponies only fourteen
or twelve days to go to Sapoto and the North
Morrison admitted that he ought to have
returned them in that time. Henry also told
him that he had stated to him just before he
left with the ponies that he wanted to go to
Terre Haute with the ponies but Morrison
insisted that he Henry had told him that
he wanted them to go to Ohio. On this
point they seemed to differ; but Morrison
admitted that as to the time he ought to
have returned them.

Interrogatory 9th What do you know in
relation to a Watch, and other property

in money. brought back by Morrison, and
stated by him to have been received in part
payment for said ponies. State all you know
in relation to said Watch. What was said about
it by Morrison? Into whose possession did Morri-
son deliver it. If it was delivered at any time to
you state all the circumstances under which it
was so delivered, state what was done with it, and
where it now is, and what has become of said
money?

Answer to 9th Int, About the 1st June 1881
Mr. Morrison stated in my presence, to Mr.
Henry that he had received a gold watch and
Fifty dollars in money for the ponies; that he
had spent all the money but fifteen dollars
and he would give Mr. Henry the Watch and
the balance of the money if he would
accept of it. The next morning after this con-
versation, Reed M. Brown, came to me
and handed me a Gold Watch and Twenty
five dollars in money, saying that the gold
watch had been received by Morrison for the
ponies, and that as to the money, Morrison
had spent all the money received for the ponies
except fifteen dollars and that he Brown
had raised Ten dollars making the twenty five
which with the Watch, he asked me to re-
turn to Edley upon Henrys getting the ponies.

stating that the sale of the ponies by
Harrison to Gottlof was upon the condition that
Henry should be satisfied with the sale, and
that if I would hand the Watch and money to
Gottlof, the matter would be compromised, reques-
ting me at the same time to obtain the further
sum of twenty five dollars in money to make up
the Fifty dollars received from Gottlof and to
hand all over to Gottlof. The Watch and the
Twenty five dollars in money being thus placed
in my hands and Mr Henry not having received
back his ponies, and the matter not compromised
I retained the same in my possession until re-
cently, when having been importuned and bothered
on all sides about both money and watch I
have returned the same; the watch I handed
into the possession of James H. Allen of this
place sometime in last February, at the ins-
tance and request of Boworth. As to the money
I have paid the same as follows. I was sued for
the same by Boworth and not appearing at the
trial, I suffered Judgment for the amount of the
Twenty five dollars. Afterwards settled the judg-
ment by putting in a claim I had against
Harrison in part payment and giving my note
for the balance. I don't know and don't care
where the watch is now
Interrogatory 11th In the conversation alluded

to in interrogatories sixth and seventh, what if anything, was said by Morrison in relation to said Defendants going to Chicago after said ponies, and as to the effect it would have on his business and character, if he should go?

Answer to Int 10th Morrison did not speak of the Defendants going to Chicago, for it was not then known from Morrison or otherwise that the ponies had been sold in Chicago or that they were there. I am in Michigan City that Henry was going to; and it was at that place that Morrison, in the conversation alluded to, said that he and Newirth were getting up patent rights, and that he hoped Henry would not go, as it would injure his business there. Morrison did not speak of Henry's going there as an injury to his character in particular that I know of. He spoke of its effect on his business as mentioned hereinbefore and in my answer to Interrogatory 6th.

Interrogatory 11th State any other matter nothing pertaining to the matter in controversy which is within your knowledge, and would be of advantage to the defendant.

Answer to Interrogatory 11th I do not know of anything more, except as to the finding the ponies at Chicago. I went in company with Henry to Chicago for that purpose, and

after hunting for them sometime and after considerable trouble we at last found them, in company with one or two others whose names are now forgotten, in a small shed or stable in the outskirts of Chicago near a Dutch farm we had before this sent gone to the stable in Chicago, in which we were told Mr. Gellat kept his horses, but did not find them there.

12th

Interrogatory 12th Do you know anything of the responsibility of the said Morrison at the time he went away with said ponies; if you state all that you know.

Answer to 12th Int. He had no Real Estate and but little personal property that I know of. It was the general opinion of this community that he was not a responsible person and his credit was not good.

Interrogatory 13th Are you acquainted with the value of Watches, if so, state what was the value of the said Watch?

Answer to Interrogatory 13th I am no silver smith; but I have traded in Watches, have a tolerably good knowledge of their value and should say that the said Watch and the chain was worth about sixty five dollars. not more certainly.

Cross Interrogatories and the answers

thereto by the witness, on the part of the Plaintiff.

Interrogatory 1st Have you ever been in the employ of the defendant Hury?

Answer to Q¹. I have never been in his employ in any manner that I recollect of. When I went with him to Chicago, I started principally on my own business and I never received nor expect to receive any compensation from ^{him} for that trip.

Interrogatory 2^d. Did you not come to Chicago with Hury after said ponies and either announced or aid a prosecution against the Plaintiff for stealing the said ponies.

Ans^r to Q² I went to Chicago with Hury but never announced, or aided a prosecution as mentioned. I went with him only to identify the ponies, as I well knew them.

Interrogatory 3^d Were you not sworn on the occasion of such a prosecution by Esquire Ruston of Chicago, And did you not then state in your examination in his Office that you were in partnership with Hury, and that Hury had the watch and would soon have the ponies.

Answer to 3^d Q¹. I was sworn before some Officer in Chicago for the purpose of identifying the ponies; but I did not state that Hury had the watch, nor that he would soon have the ponies. I may have stated that I had the

watch which was the case, under the circumstances already herein stated, whether did I state that we were in partnership?

Interrogatory 4th Have you ever seen the watch Morrison had of Gottsch in the possession of Henry?

Answer to Int 4. I have not, and do not suppose that he ever had it at all; for I had it in my own possession from the time Bowditch handed it to me in June 1831, until I handed it to Cyrus Almon in Logansport, in February 1832, at Bowditch's request.

Interrogatory 5th Was Gottsch present at any of the conversations mentioned by you in your direct examination, if so ~~to~~, which? And who besides yourself was present at each of the conversations referred to in each question in the direct examination.

Answer to 5th Int Gottsch was not present at any of the conversations mentioned by me. In the conversation between Morrison and Henry near Timmermans' house and before stated in my answer there was no one present but myself, Morrison and Henry. In the conversation I had with Bowditch at the time he gave me the watch and money, there was no one present but Henry Bowditch and myself.

Interrogatory 6th How much has Henry paid you if any thing for coming with him to Chicago? And have you had any difficulty with Morrison or Bowditch?

Answer to Int 6 Henry never paid, nor is he to

6 Int

pay, me any thing for going to Chicago I never had any difficulty with either Morrison or Brewster. Brewster, it is true, as I have already stated, brought a suit against me for the money. Twenty five dollars deposited by him with me; but I never had that no difficulty with him, as it occasioned no ill feeling on my part then; and has not since.

Interrogatory 7th

Did you not swear, in your examination, before Equire Tucker alluded to in the 2^d Cross interrogatory that Morrison told you in Henry's presence that he had authority to sell the pines, and that Henry did not deny it? And did not Henry, the defendant, swear on that occasion that Morrison had his permission to sell said pines, or something to that effect?

Answer to 7th Int. I never swore I was confident that any such conversation ever occurred between Morrison Henry and myself. I do not think that Henry swore as implied in the interrogatory; I have no recollection of such a statement by Henry at that time and place or elsewhere.

Interrogatory 8th Do you know of any thing further of benefit to the Plaintiff; if so state the same freely.

Answer to 8th Int. I do not.

Interrogatory 9th Were you present at the time the pines, for the recovery of which this suit

is brought, were delivered by the defendants
Henry to Morrison; if so, who else was present
~~And~~ if you have stated any conversation
between Brown & Morrison and Henry the
defendant, state also whether such conversation
was before or after the sale of the ponies to Gott-
loff, if you know? And give the time and place
of such conversation?

Answer to 9th Interrogatory I was not present
when the ponies were so delivered. The conversation
which I have stated as occurring between Morris-
on and Henry, took place near Hannam's in
the outskirts of Logansport, about the 1st May
of June 1881, and after the sale of the ponies
to Gottloff. There were no others present but Henry
and myself.

Richard T. Parish.

Interrogatories propounded to the said
Washington ~~Cheney~~ Cheney Cheney a witness pro-
duced and sworn as aforesaid, on the part of
the said defendants, and his answer thereto
as follows:

Interrogatory 1st What is your name age
residence and occupation?

Answer to 1st Int. My name is Washington Chen-
ey. my age thirty one years, my residence
in Logansport, Indiana, and my occupation

is that of a machinist.

Interrogatory 2^d Are you acquainted with the parties to the present action? if yes, for how long have you known them?

Answer to 2nd Int. I am acquainted with Mr. Henry but not with either of the other parties, I have been acquainted with for about 5 years.

Interrogatory 3^d Have you at any time been employed in the manufacture of Motters machines. if yes when and for whom?

Ans^r to 3^d Int. I have been employed in the manufacture of such machines, Rud M. Brownth and David Morrison of this place employed me in the fore part of May 1851 to make such machines for them a few days before Morrison left with the punies for the North.

Interrogatory 4th If you state yes in answer to the last question, state if you have been employed by Rud M. Brownth and David Morrison, and what you know in relation to the said Brownth and Morrison being partners and jointly interested in the business of selling said Machines: state all you know in relation to the same.

Answer to 4th Interrogatory. All I know about their partnership is that they both visited me while making such machines for them, and seemed to exercise equal authority in speaking about

them, Bosworth employed me to build the machine, there having been but one built and delivered to them, but both came to me while building it to look at it; Morrison told me that he was going to peddle it, and he had it taken away. Bosworth afterwards requested me to make out my Bill against ~~them~~ him and Morrison stating that he and Morrison were partners in the business. I have never heard Morrison say that they were partners; but my impression derived from their language and conduct towards the machine I was making for them was that they were partners in that machine.

Interrogatory 3. State if you have had any conversation with said Bosworth and Morrison in regard to their being partners in said business and what was said in said conversation, if anything, in relation to their having hired a pair of ponies of said defendant to go on a peddling tour with said Machines?

Answer to 3rd. Not to more than what I have stated, as to the conversation with Bosworth in regard to their partnership. Morrison in a conversation with me. I think the day he took the Machine away and a day or two before he left for the North with the ponies told me that he had got Henry's ponies to peddle the machines with

Interrogatory 6th If you know any other matter or thing in relation to the matters in controversy in said case which would be of benefit to the defendant, please state the same.

Answer to 6th Int I know nothing more to my recollection.

Cross Interrogatories and the answers thereto by the witness on the part of the Plaintiff.

Interrogatory 1st If you answer that you had any conversation with Morrison & Brewster state when it was, and who was present, and if you know of anything of benefit to the Plaintiff in the trial of this cause state the same.

And state whether you were present when Henry authorized ~~you~~ Morrison or any other person to sell the said ponies.

Answer to Int 1st I had no conversation with Morrison and Brewster jointly at the same time. I know of nothing of benefit to the Plaintiff. I was not present and have no knowledge of Henry authorizing anybody to sell his ponies.

Interrogatory 2^d Were you present at the time the ponies, for the recovery of which this suit is brought, were delivered by the defendant Henry to Morrison if so, who else was present. And if you have stated any conversations between

Forworth or Morrison and James Murry the
defendant, state also whether such conversation
was before or after the sale of the pines to
Gottly, if you know, and give the time and place
of such conversation,

Ans to D Int. I have no knowledge whatever
of the matters contained in the above question

Washington Obengain

State of Indiana }
Cass County }
City of Logansport. } I George Smith of the County
of Cass and State of Indiana and a Justice
of the peace of the City of Logansport in the
County and State aforesaid, Commissioner duly
appointed to take the deposition of the said Mitchell
Blaid. William C. Jones, Joseph Sellers, Richard
T. Parish and Washington Obengain, the several
witnesses whose names are subscribed to the
foregoing depositions respectively, do hereby certify
that previous to the commencement of the exami-
nation of the said Mitchell Blaid. William C. Jones
Joseph Sellers, Richard T. Parish and Washington
Obengain, as witnesses in the said suit between
the said John Gottly Plaintiff and the said
Daniel T. Wood and James Murry Defendant
they the said Witnesses and every of them were
duly sworn by me as such Commissioner, to testify

the truth in relation to the matters in controversy
between the said John Gatty Plaintiff and the said
Daniel T. Wood and James Henry Defendants, so
far as they should be interrogated concerning the
same: that all the said several depositions were taken
at the office used and occupied by me as a Justice
of the peace in the City of Logansport in the County
of Cass and State of Indiana on the 26th, 27th and
28th days of April A.D. 1832, as follows to wit the
depositions of the said Hestered Blado were taken
at the place aforesaid on the 26th day of April
1832, and there not being time to conclude the
taking of the depositions of the other witnesses I adjourned
the further taking of said depositions to the 27th
day of April 1832. The depositions of the said
William C. Jones and Joseph Sellers were taken
at the place aforesaid on the 27th day of April
1832, in pursuance of said adjournment, and there
not being time to conclude the taking of the deposition
of the other witnesses on that day. I adjourned the
further taking of said depositions to the 28th day of
April 1832. The depositions of the said Richard
T. Parish and Washington Chapman were taken
at the place aforesaid on the said 28th day of April
1832, in pursuance of said last named adjournment.
And I further certify that after the said several
depositions were taken by me as aforesaid the interro-
gatories and answers thereto as written down were

read over to the said several witnesses respectively
and that thereupon the same were signed and
sworn to by the said several deponents respectively
as follows, by the said deponent Mitchell Blado on the
26th day of April 1852, by the said deponent William
C. Sims and Joseph Sellers on the 27th day of April 1852,
and by the said deponents Richard T. Smith and
Washington Obeyman on the 28th day of April 1852, the
oaths to said several witnesses being adminis-
tered by me as such Commissioner at the place
and on the day and year respectively as last aforesaid.
Further Certify that all the said several
answers of the said several witnesses were reduced
to writing in my presence and under my direction
by Charles B. Russell a disinterested person neither
a party to said suit or the Attorney or agent of
either party or at all interested in the result of the
said suit, but a person selected by myself as
wholly impartial and disinterested,
I further certify that the Attorney of the Plaintiff
John G. Goff, Lewis Chamberlain was present
during the taking of the greater portion of said
depositions and made a copy of the same.
Further Certify that the deposition of each
of said witnesses was subscribed and sworn to by
such witnesses respectively and as thus subscri-
bed and sworn to are herewith enclosed.
Witness my hand and seal at Longuepoint

of record on this April 29th 1832,

Geo Smith ~~34~~
Commissioner

I Certify that the costs of taking the foregoing depositions are as follows to wit:

Fees of Mitchell Blake and	1.00
" Joseph Sellers	1.00
" William C. Sims	1.00
" Richard T. Parish	1.00
" Washington Chapman	50.450

Fees for taking said deposition are as follows

For swearing the witnesses twice	67 1/2
" Issuing a Subpoena	25
" Writing the depositions &c &c	8.00
" Certificate	25
	<u>9.62 1/2</u>

Joseph S. Coraulet fees as Constable	3
for Subpoenaing witnesses	3
	<u>82 1/2</u>
	14.95

Postage on Commission by Henry	30
" on Return of depositions	60
	<u>\$15.85</u>

All of which costs fees and expenses are paid by the defendant James Henry. April 29. 1832,

Geo Smith,
Commissioner

To the reading to the Jury of answers to the 3. 4. 7th and 8th Interrogatories

Jefferson
Baird
answers
to questions

to Oth C. Jones and the 6th 7th 8th 9th 12th
Interrogatories to Richard T. Parish The said
Plaintiff by his Attorneys then said there objections
and the objections were overruled by the Court
to which the Plaintiff then said there exceptions
after which the said defendant introduced Wm
H. Baldwin as a Witness who being duly sworn
testified as follows. I know the parties to this suit
went with Henry when he came to Chicago for the
ponies, to the sale stable where Plaintiff had the
ponies a few days before to show him Henry the
ponies, but could not find them. Saw plaintiff
tell him Henry claimed the ponies, he said
they were sold. They were not in the stable at
that time. Plaintiff is a German speaks English
very imperfectly. I have no doubt he stated that
the ponies were sold and think very likely he
said he had bought them and paid for them
my recollection of his exact words is not very dis-
tinct. Defendants also introduced William
H. Eddy sworn said I know ponies, was
employed to find them by Henry found them
in a small stable on the West side of the Chicago
River near the corner of Clinton and Madison
streets. Stable. I think was about twelve by
eighteen feet rather dark kept by a black-
man. Also Simon Powell sworn said he had
the ponies in his stable at the time defendants

took them away. They were put there by Grotto who paid him for their keeping, stable was large enough for four horses witness did not keep a sale stable, which was all the testimony introduced on the trial of the cause

The Plaintiffs attorneys then asked the Court to give the Jury the following instructions.

1st If the Jury believe from the evidence that Grotto Bought the ponies in good faith and paid a fair and valuable consideration therefor, and that Morrison was the agent of Henry the owner and had been authorized by Henry to sell the ponies, then the plaintiff is entitled to recover. Provided however that if the authority to sell is special Morrison could not deviate from his special authority in the terms and price, and if he did in such case, the sale would be void.

2nd If the Jury believe from the evidence, that Henry placed the ponies in the possession of Morrison with authority or instructions to do what he pleased with them and that Grotto finding them in Morrison's possession bought them in good faith and paid for them then the law is for the Plaintiff.

3rd If the Jury believe from the evidence that Henry placed the ponies in the possession of Morrison with directions to sell them and he sold them in the usual ordinary and known

course of trade, and that Gottlof bought them and paid a valuable consideration therefor then the Plaintiff is entitled to recover. I provided however that if the authority to Morrison was a special authority he could not deviate from his special authority in the terms or price and if he did so deviate the sale in such case would be void.

4th If the Jury believe from the evidence that Gottlof purchased the horses of Morrison and that after the purchase Henry sanctioned and ratified the sale, then even if Morrison had not full authority in the first instance. The subsequent sanction and ratification if made would make such sale valid,

all of which the Court gave after modifying the 1st and 3^d instructions by inserting in each that part after the words I provided However to which modification the plaintiff excepted the Defendants then asked the Court to give the Jury the following instruction which were given by the Court.

1st If the Jury believe from the evidence that Morrison had never been in the employ of Henry or invested by him with any general authority to act as his agent then he had no right to make a sale of the horses unless he was clothed by Henry with a special authority to sell them.

2^d If the Jury shall believe from the evidence

that the authority given by Henry to sell was a special authority then all parties dealing with Morrison were bound to ascertain the extent of that authority and if the sale made was not in conformity to such authority it would not convey any title to the plaintiff.

3- If the Jury believe from the evidence that Morrison took the ponies from Henry to go on a journey and that Morrison had never been in the employment of Henry as his agent for the sale of his horses then the authority to sell the ponies if any was given constituted him a special Agent and if the Jury shall further believe from the evidence that Morrison sold at a less price than he was authorized or bartered the horses for other property without having any special authority to barter such sale or barter would be in such case unauthorized and would convey no title to the plaintiff and the law would be for the Defendants.

4th The mere possession of goods where such possession is not under circumstances which necessarily or properly imply a possession for the purpose of sale, does not of itself give any authority to sell.

5th There is no difference between the rights and liabilities of an agent whose authority is created by parol and one whose authority

is ~~repeated~~ given in writing:

6. If the Jury believe from the evidence that the witnesses ~~Forrest~~ and ~~Morrison~~ have a direct interest in the event of this suit then this circumstance is proper for the Jury to consider in determining the degree of credibility to be given to those witnesses,

to the giving of each of which instructions the Plaintiff by his Counsel then and there accepted and prays that His his Bill of exceptions may be signed and entered of Record and it is done.

Affirmed Samuel Woodbridge

Hugh T. Dickey
Judge

State of Illinois
Cook County 3rd Sec.

I Louis A. Hoard Clerk of the
Circuit Court of the County of Cook in said
State of Illinois do hereby certify that the
aforegoing is a full true and perfect transcript
of the Records and proceedings of said Circuit
Court in the cause within entitled between
John Galloff plaintiff and Daniel J. Wood and
James Henry defendants, except the pleas of
the said defendants, and I hereby certify that
said pleas have been taken from the files
in my office, and that I cannot procure
the same to insert in this record.



In testimony whereof I have hereunto
set my hand and affixed the seal
of said Court at Chicago this 13th
day of June A.D. 1853.

L. A. Hoard
Clerk

Pres. In Transcript 38.30
City 50
188.80

68
Cook Circuit Court

John G. Goff

Co.

Wood and Henry

Transcript

Filed June 15. 1853.
Holland Clk.

170-151075

Supreme Court

John Galt
appellant

James Henry et al

This was an action of Replevin brought by
appellant vs Defendant - for
1 Span of Gelding ponies -

Span. is for Gelding &
settling - 1 span Ponies &c

appellus - filed 6 pleas.

1. non Detinet Capt -

2. Property of Defendants -

Henry reads separately
3. Property in James Henry one of
Defts - no defense for road
& one on the other side of road
more obstructed

4 - Property in Road - shadly him

5. Road reads that he held as
Bailer of Road - does not own
property in Road - Henry -

6 - The Defts plead property in
John Doe - no defense

Issue was taken on these
pleas - by Replevin & answer
was tried by jury -

Verdict - "We of the jury find the
right of the property
upheld in the said
Defendant James Henry"

on this verdict - there is a
judgment for a return of property
to defendants -

on the other the 3^d Error is
assigned -

That no judgment could be
rendered - until all the
issues were disposed of -

1. There was no finding in favor of
Wm. Lipitt -

The right of property may have been in
Henry - & yet he has manifestly
turned the goods - & manifestly obtained
them - The jury have not
passed on this question -

2. Plas - Property in both Defts -
No finding on this -

3. Plas - Henry Plas property in
himself -

This is the only issue - on
which jury have found -
But it does not warrant
return to Henry & Wm -

4. Plas - by Wm - property in himself -

Jury have
not passed
on question } He may or may not have
had a special property

5. Must show property in himself as Bailor.
of Henry - alleging no property in
Henry - this plan not supported.

6. Property in John Doe.

Jury must find on all issues -

2. Gil R. 342 -

3 Blackf. R. 256

4 do — 19-

Garland & Davis

4 Am. Rep. 147
148-

If jury do not find on all
11 Whelan 416 issues bad -

~~2. Sup. U. S. Cir. -~~

~~12-9/14. Sec. 17-18.~~

Must find on all the issues -

11 Pickg. 47.

4 How U.S. R. 131.

3 Humphreys R. - 8

6 do — 45-

4 do — 345-

7 Hatched 352 -

11 Pickray 45-

3 How Rep. 667-

674-

The Customs provisions to Patrick
Morgan - now improperly
excluded -

This note was called to man a custom at
Michigan City ^{as to Northern Indiana} as to selling horses for
Barto - sent Cash &c -

This was sought for the purpose
of showing that the agent who sold
the horses ^{had not} ~~not~~ ^{violated} instructions
in selling them to Ruff & Oppellant.

Morris had authority from Henry to
sell horses for \$150. He sold to
Ruff - for \$50. Cash & gold watch
&c.

David Morrison - Prop Int. "There was nothing
particular said about
selling - the horses for cash. Henry
told me the price was \$150.

See Ruffs. Part. No. 1 -
to show materiality of this evidence -
Expts. No. 3.

Customs & usage, proper & competent to show authority
to Barto.

1. Gunniff. Ev. Sec. 292 -

2. Gunniff. Ev. Sec. 251.

5. Pickg. Prop - 15.

The assignment of Errors also questions
the correctness of the 3. 4. 7. & 8th
Interrogatories propounded to

Will. C. Jones, a witness for defence.

Particular attention is requested
to 7. & 8. Questions to this Witness

"What reason did Bosworth state
as reason for his not going
with Ponies?"

This evidence is incompetent.
It was hearsay evidence
Bosworth, was not then a
competent witness.

3rd Question to Jones, is erroneous on
3rd ground -

If introduced for purpose of
contradicting Bosworth, no
proper foundation has been
laid -

See 10th Crap. Art. to Bosworth
Morse

In the above question - there is
nothing to identify it, with the
one about which B. has
been interrogated -

It appears from answer that
there were two conversations

How unjust to impeach a
Witness in this way -

1. Gault. Ev. Sec. 462 (3)
See Note 1.

Now Questions No 6, 7, 8-9, & 12, to
Richard Y. Parish, Comptroller.

It was offered to contradict Relfs.
Witnup Morris on -
So proper foundation laid.

So identification of place as

No 6, 7, 8 -

are all based on

Cup Ret. No. 30. to

A Y^o 8th Ret. to Parish. Then

is no cross. to Morrison to lay
foundation for contradiction
So of No. 9 -

No 12. is erroneous

The testimony as to Morrison
responsibility is wholly
irrelevant -

Sup. Court

Ans. Gottsch
appellant

vs

Henry & Wood
appellee

Bruf -

Supreme Court.

James Henry &
Daniel T Wood

Appellants

vs

John Gould
Appellant

And now come the said James Henry
& Daniel T Wood defendants at this
term to wit the twenty third day of June in
the term of June and by Samuel Woodbridge
their attorney say that in the record & proceedings in the
giving of the judgment aforesaid there is no error And they pray
that the matter assigned as error may be examined and the record
and proceedings aforesaid inspected by this Court And that
the Judgment aforesaid may be affirmed in all things

Samuel Woodbridge
Atty for Defts

Supreme Court

Saml S. Hild

Samuel J. Woods

and

John Gott

Grinder in error

Filed June 23^d - 1858
Leland Clk.

Supreme Court

John Gottlieb
appellant

vs.

James Henry
Daniel Y. Wood
appellees

Assignment
of Error

And the said John Gottlieb, appellant
by J. H. Arnold assigns & assigns
the following errors in the
verdict & proceedings in this
case -

1. Judgment was pro defect &
should have been pro
Plaintiff below -
2. The court erred in overruling the motion
to exclude the objections taken
in the case - & rule & ruling of
them -
3. The jury do not find but one of
the issues - & it appears from
the record that there were
several issues ^{6-issues} joined. No judgment
could be properly rendered until all
the issues were found by the
jury - The verdict is an
special verdict -

4. The verdict being special - & not finding on the facts it was error to render judgment upon the verdict.
5. The court erred in overruling motion for new trial -
6. The court erred in excluding the evidence of Patrick Morgan - & in overruling ~~some~~ the questions propounded to him - & in overruling some of said questions -
7. The court erred in allowing - the answer to the 6th interrogatory - proposed to the witness Richard G. Parish to be read to jury -
- 8 - Also in allowing answer to interrogatory ~~to be~~ to be -

9. Also in ~~reading~~ allowing answer to
8. 9 & 12th Interrogatories

10. The Court read in allowing the
statements of B & M etc - contained
in answer to 9th Interrogatory
to Parish to be read in evidence

11. The Court read in allowing the
answer to the 12th Interrogatory
of to Parish to be read to the
jury -

12. The Court read in allowing the
answers to the 3. 4. 7th & 8th
Interrogatories propounded to
W. C. Jones to be read to the
jury & each of them -

13. The Court read in modifying the
instructions - asked for by appellants -

14. The Court read in giving each
& all of the instructions asked
for by appellee -

15. The court erred in
instructing the jury -

For these errors the appellant
says that the judge erred
in the above manner and
he set aside - removed & tried
for weight & that - he may
use his certificate -

J. H. Arnold
for Appellant

Filed June 15 1859.
William D. Orr.

John Scott
James Henry Hall.
Served -

John Golloff
as
James Henry &
Daniel S. Wood } Cooks Lencart Court.

1. And the said defendants by Larned & Woodbridge
their Attorneys come and defend the wrong and injury
when &c and say that they did not take the
said cattle goods & chattels in the said declaration
mentioned or any or either of them, or any part
thereof, in manner and form as the said plaintiff
hath above thereof complained against him, and of
this the said defendants put themselves upon the
Country &c.

Larned & Woodbridge
Attys for Dfs

2. And the said defendants for a further plea
in this behalf by leave of the Court here, for
this purpose first had and obtained according to
the form of the Statute in such case made and
provided say that the said plaintiff ought not
to have or maintain his aforesaid action therein
against them because they say that the said
cattle goods & chattels in the said declaration
mentioned at the said time when &c were the
property of the said defendants, and not of the
said plaintiff as by the said declaration is
above supposed. And this they the said defend-
ants are ready to verify. Whereupon they pray

judgment if the said plaintiff ought to have or
maintain his aforesaid action thereof against them
and they also pray the return of the said
Cattle goods and Chattels together with their
cost in this behalf according to the form of
the Statute in such case made and provided
to be adjudged to them &c

Larned & Woodbridge

Attys for Deft

3.

And for a further plea in this behalf
the said defendant ^{Larned & Woodbridge} by leave of the Court here in
~~in~~ ~~this~~ ~~behalf~~ for this purpose first had
and obtained according to the form of the Statute in
such case made and provided says that the said
plaintiff ought not to have and maintain his aforesaid
action against him. Because he saith that the said
Cattle goods and Chattels in the said declaration
mentioned at the said time when &c were the
property of the said defendant and not of the
said plaintiff, as by the said declaration is
above supposed. And that the said defen-
dant is ready to verify. Wherefore he prays
judgment if the said plaintiff ought to have or
maintain his aforesaid action thereof against him
and he also prays the return of the said Cattle
goods and Chattels together with his costs in this
behalf, according to the form of the Statute in such
case made and provided to be adjudged to him &c

Larned & Woodbridge

Attys for Deft

And for a further plea in this behalf Daniel
 T Wood one of the said defendants by leave of
 the Court here for this purpose first had and
 obtained, according to the form of the Statute in such
 case made and provided, say that the said plaintiff
 ought not to have or maintain his aforesaid action
 against him. Because he saith that the
 said cattle good and chattels in said declara-
 =tion mentioned at the said time when he won the
 property of the said defendant, and not of the
 said plaintiff as by the said declaration is abso-
 lute supposed And this he the said defendant is
 ready to verify; Wherefore he prays judgement if
 the said plaintiff ought to have or maintain his
 aforesaid action against him, and he also prays
 return of the said cattle good and chattels, together
 with his costs in this behalf sustained accor-
 =ding to the form of the Statute in such case
 made and provided, to be adjudged him he

Samuel Woodbridge Atty for Dfr

And for a further plea in this behalf

Daniel T Wood one of the defendants by leave
 of the Court here for this purpose first had
 and obtained according to the form of the Statute in such
 case made and provided say that the said plaintiff
 ought not to have or maintain his aforesaid action

action against him: Because he saith that the
said Cattle good and Chattels, at the time when
he was the property of the said Defendant as bailee
of said James Keary the other defendant and not
the property of the Plaintiff as by the said declar-
=ation is above supposed: And this he the said
Defendant is ready to verify: Wherefore he pray judg-
ment if the said Plaintiff ought to have or maintain
his aforesaid action against him, and he also
pray return of the said Cattle good and Chattels
together with his costs in this behalf sustained
according to the form of the Statute in such case
made and provided, to be adjudged to him &c

Larned & Woodbridge

Attys for D^f

And for a further plea in this behalf
the said defendants by leave of the Court here
for this purpose first had and obtained according
to the form of the Statute in such case made
and provided say that the said Plaintiff ought not to have
or maintain his aforesaid action against them: Because
they say that the said Cattle good and Chattels at
the time when he was the property of one John Doe
and not the property of the Plaintiff as by the said
declaration is above supposed: And this they the
said defendants are ready to verify: Wherefore they
pray judgment if the said Plaintiff ought to have
or maintain his aforesaid action against them

and they also pray return of the said cattle
good and chattels together with his costs in
this behalf sustained according to the form of
the statute in such case made and provided
to be adjudged them &c.

Samuel & Woodbridge

Attys for Jth

It is agreed that the foregoing pleas are
repairs of the Pleas originally filed
in the foregoing cause and are to
be considered as a part of the
Record ^{filed} in the cause in the Supreme
Court -

Samuel & Woodbridge ^{oppositely}
June 17. 1853, for G. H. Winston

D Wolf & Arnold
attys for Jth

Gottsch
vs

Wood & Henry

Thus omitted
in record filed
by stipulation.

Filed June 20. 1853.
S. Ireland Clk.

68
John Gottlof

James Henry Stal.

1853

68

12/21

Received

1853