

No. 12816

Supreme Court of Illinois

Robinson.

vs.

Nye, et al.

71641  7

Henry Robinson } In Supreme
 vs } Court
 James Ayre } April Term
 and others } 1858

And the said plain-
 tiff in error comes and says that
 in the record proceedings and in the
 rendition of judgment in this
 cause manifest injury, hath in-
 tervened to the injury of the plaintiffs
 And for assignment of error
 shows to the Court as the fol-
 lowing:

1. The Court excluded proper evidence
offered by the Pff.
2. The Court below erred in excluding
the assignment in connection with
the amendments to each.
3. The Court ~~admitted~~ admitted
to improper evidence offered by
the defendants below.
4. The Court erred in excluding
the evidence offered by the plaintiffs.
5. The Court gave improper instructions
on the part of the defendant.
6. The Court gave refusal proper in-
structions offered by the plaintiffs.
7. The verdict is against the law
of evidence.
8. The verdict & judgment should have been for
the Pff.

The Court such in refusing
to grant a new trial

And the plaintiff
prays that said judgment
be reversed set aside and
wholly for new trial entered
Thos. Dawson
for P. H.

And now comes the said de-
fendants by Wm. H. H. Attorney
and say that in the record & proceedings
aforementioned & in the judgment
aforementioned no such error hath intervened
as is alleged above & this he prays may
be engraver of by the Court
By Wm. H. H. Attorney
for deft

Be it Remembered that heretofore to wit on the thirteenth day of April in the year of our Lord one thousand eight hundred and fifty seven there was filed in the office of the Clerk of the Circuit Court in and for the County of Georgia in the State of Illinois a declaration which with the process thereto attached is in the words and figures following to wit:

State of Illinois
Florida County, ss.

Henry Robinson

vs. Henry M.

Matthews, William M. Hulbut,

Philip Van Volkenburgh, &

William B. Leonard & Isaac

W. French

In the Circuit Court
of Florida County
To the May Term
thereof, A.D. 1857
In Trespass
Damages \$10,000.

Henry Robinson plaintiff in the above entitled cause complains of Henry M. Matthews, William M. Hulbut, Philip Van Volkenburgh, & William B. Leonard & Isaac W. French defendants in the above entitled suit of a plea of Trespass:

For that whereas the said defendants heretofore to wit on the twelfth day of February, A.D. 1857, at Chillicothe in the County & State aforesaid with force & arms seized, took and

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Carried away certain goods & chattels - to wit, the following enumerated of the value set opposite each particular item -

4	Long Handle Shovels	50	\$ 2. 50
11	Garden Rakes		\$ 5. 50
20	Scythes		\$ 20. 00
6	Short handle Spades		\$ 3. 00
13	Hay forks		\$ 10. 00
5	Dung forks		\$ 5. 10
27	Sudths		\$ 20. 00
3	Willow waggons		\$ 6. 00
5	Iron tea Kettles		\$ 2. 00
4	Lanterns		\$ 2. 10
22	Scives		\$ 3. 50
8 1/2	Setts Cups & Saucers		\$ 20. 00
70	Bowls		\$ 3. 75
700	Plates		\$ 40. 00
40	Nappies		\$ 10. 00
5	Wash Bowls & 2 pitchers		\$ 3. 50
26	Crucets		\$ 1. 50
2	Shoe Castors		\$ 1. 00
1 Doz	Lamp chimneys		\$ 2. 50
7 1/2	Fluted Glass jars		\$ 1. 50
14	Molasses Pitchers		\$ 2. 50
4	Glass jars		\$ 1. 00
8	CC Chambers		\$ 2. 00
7	CC Tea Setts		\$ 15. 00
33	Cream Pitchers		\$ 10. 00
105	"		\$ 18. 00
9 W G	Tea Setts		\$ 9. 00
4 1/2 Doz.	W. B CC Meat plates		\$ 1. 00
1/6 "	"		\$. 40
1/4 "	"		\$. 55
1/3 "	"		\$. 35
1/4 "	"		\$. 45
1/4 "	W. G		\$ 1. 65
1/3 "	"		\$ 1. 60
1/4 "	Blue Edge		\$. 75

1/12	"	"	\$.20	1	"	"	\$ 1.50
1/6	"	"	\$.135	1/4	"	"	\$ 1.80
1/3	"	"	\$.60	1/3	"	Coffee Mill	\$ 1.20
1/4	"	"	\$.40	170	"	Cotton Linn	\$ 30.00
1/6	"	Blue & W. G. Meat dishes	\$ 1.30	26	"	Wrapping Twine	\$ 4.50
1/6	"	"	\$ 1.10	34 1/2	"	Yds Red Tick	\$ 21.76
1/4	"	"	\$ 1.50	39 1/2	"	Hard times	\$ 6.40
1/4	"	"	\$ 1.20	42	"	Denims a g	\$ 4.00
1/6	Lozen	Meat dishes	\$.70	46	"	"	\$ 3.70
1/6	"	"	\$.70	39	"	Blue Drill	\$ 4.29
1/6	"	"	\$.63	40	"	Red Tick	\$ 4.40
1/6	"	"	\$.50	160	"	Cotton Muslin cloth 4 1/2	\$ 7.20
1/6	"	"	\$.40	37	"	"	\$ 2.96
5/12	"	"	\$.55	35	"	"	\$ 4.55
1/4	"	Yellow Wal	\$.60	54	"	"	
1/4	"	"	\$.56	53	"	"	
1/3	"	"	\$.60	51	"	"	
1/3	"	"	\$.40	54	"	"	\$ 18.86
1/12	"	"	\$.40	44	"	"	
1/3	"	"	\$.35	35	"	"	
1/6	"	"	\$.20	38	"	"	\$ 4.18
4/12	"	"	\$ 2.40	43	"	"	\$ 5.59
1/4	"	"	\$ 1.80	40	"	"	\$ 6.00
5/12	"	"	\$.50	21	"	"	\$ 2.25
7/12	"	"	\$ 6.30	42	"	"	\$ 6.34
1 5/12	"	W. G. Bowls large	\$ 3.00	42	"	"	\$ 6.41
3/12	"	"	\$.45	43	"	"	\$ 5.72
1 5/12	"	"	\$ 1.88	41	"	"	\$ 5.40
1/2	"	"	\$.60	35	"	"	\$ 4.65
8/12	"	Blue	\$ 1.50	46	"	"	\$ 6.97
1/4	"	"	\$.45	54	"	"	\$ 4.86
1/6	"	"	\$.30	35	"	"	
1/6	"	"	\$.50	36	"	"	5 1/2 \$ 5.69
2	"	Soup Turners large	\$ 5.00	32	"	"	
1/3	"	def. Blue G. Pitchers	\$ 1.20	280	"	"	4 1/2 \$ 12.60
1/6	"	"	\$ 1.00	36	"	"	
1/4	"	"	\$.90	34	"	"	
1/6	"	"	\$ 1.00	35	"	"	5 1/2 \$ 11.85

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2 Scoop Shovels	\$1,80	1 " Salerators 5 1/2	\$3,30
1/4 doz Steel Jaws large	\$3,75	1 " Castile Soap	\$2,20
1/12 " " " Small	\$1,40	1 Reg Sup, Carbonate Soda	\$5,00
1 1/2 " axes	\$14,00	10 1/2 doz. Fur hats	\$3,60 \$36,00
1/2 " Mortice locks	\$2,64	5 " Blacking, large	\$2,00
1/2 " "	\$4,80	6 " " Small	\$1,80
1/4 " Rein locks	\$3,45	3 Mats cinnamon	\$3,00
1/2 " Chest " "	\$1,68	50 " Hinges	\$4,00
5 " Brass " "	\$1,65	40 lbs Log chain	\$2,80
2 " Padlocks	\$1,20	6 Pr Trace chain	\$2,40
5 " "	\$1,35	125 Cth. Warp	\$20,00
5 " "	\$2,20	60 Yds Sheeting	\$4,50
6 " "	\$1,50	50 " "	\$2,75
10 1/2 doz Bed Keys	\$1,66	60 C.C. Plates	\$3,00
2 1/2 " Coat Hooks	\$1,62 1/2	22 " "	\$1,66
21 " Rein Snaps	\$2,52	24 Blue Grainite	\$1,72
3/4 Gro, Tag Snaps	\$3,73	42 " "	\$2,10
2 doz Jew Pins	\$1,25	16 " "	\$1,85
2 " Yds, Jack chain	\$1,44	2 1/3 doz Salt Lbs Glass	\$1,68
6 " Japan. Door button	\$1,68	1 " " " "	\$1,25
1 Brass lock	\$1,44	1/2 " W. G. Soups	\$1,00
1 doz Lill Locks	\$1,00	1/6 " " " " long	\$1,60
1 " Spike Gimlet	\$1,00	1/4 " " " " covered	\$1,60
1/2 " Peg buttons	\$2,28	1/2 " Pickle W.B. G.	\$1,50
1 Bek. Saw	\$1,00	1 Pr Glass C. Sticks	\$1,40
2 " "	\$1,50	2 1/2 doz Molasses Cans	\$1,80
5 Wood Saws + handles	\$3,00	1/12 " " "	\$1,35
2 Hand Saws	\$2,00	1 W. G. Wash Bowl & P.	\$1,90
2 " "	\$3,00	2 C.C. " " "	\$1,20
1 " "	\$2,00	3 " " Small	\$1,50
2 " "	\$1,60	2 Tin Trunks	\$1,90
2 Set Chisels	\$3,00	2 1/2 doz Nails & Staples	\$2,70
1 " Socket Chisel	\$2,00	3 " " " "	\$2,16
1 " "	\$2,50	5 Gun locks	\$4,25
1/2 doz Flush Handles	\$2,28	3 1/2 doz Thumb latches	\$2,63
1 Box Variegated Soap	\$1,50	1/4 " Turn Screws	\$1,75
1 " Pop Sauce	\$1,00	1/3 " " " "	\$1,76
2 " Pipes & Gro C 2/	\$3,00	1/4 " Butchers Stab	\$1,94

1/4	"	"	"	\$1.50	1	Butter dish	\$	40
8	Tack	Hammers		\$.50	4	Nappies	\$1.	20
1/2	doz	Spoke Shaves		\$1.80	4	"	\$1.	00
1/2	"	Sheep Shears		\$1.20	4	"	\$	.88
4	Iron	Bolts		\$.20	4	"	\$	.80
1	doz.	Barrel Bolts		\$2.40	1/6	doz Veg	\$	.50
10 1/2	"	Spectacle Cases		\$.62	1/6	"	\$	.44
10 1/2	"	Chopping Knives		\$1.80	1/6	"	\$	.40
1/2	"	Shoe Pincers		\$1.68	1/2	"	\$	.15
1/2	"	Forceps		\$1.20	4	Bowls	\$	.68
4	Shoe	Punches		\$1.80	3	"	\$	.45
10 1/2	doz.	Metalic Jender Flasks		\$3.75	1	"		12
73	Horn			\$2.50	8	Setts Cups & Saucers	\$3.	50
5 1/2	doz.	Shot pouches		\$3.40	3	1/2 Gal. Pitcher	\$1.	20
1/2	"	File		\$2.28	3	3 qt.	\$1.	80
5	"			\$1.75	1	Tea Sett	\$	.90
10	"			\$4.00	1	Sett China	\$7.	50
9	"			\$2.70	1	Pr Flower Vases	\$1.	50
38	"			\$2.28	1	"	\$1.	25
6	"			\$2.64	6	doz Cup Plates W.G	\$2.	40
10	Saw	files		\$.63	1	" Small Sauce	\$	.40
6	chisels	a 60	\$3.60	5 1/2	"	"	\$4.	31
5	"	40	\$2.00	3 1/2	"	Small Butter plate	\$1.	20
3	"	60	\$1.80	1	doz. Sarge	"	\$	.40
6	"	41	\$3.00	2	"	"	\$	.90
2	"	6	\$1.50	1	"	"	\$	.80
3	"	55	\$1.65	1 10/12	"	"	\$1.	75
100	Cucumers		\$7.50	2	Setts Cups & Saucers	\$	.90	
1	chisel		\$.70	3	Cor. Veg	"	\$2.	70
2	Setts Sugar Bts		\$1.50	2	"	"	\$1.	50
2	Car. Knives & forks		\$1.00	2	doz Sauce dishes	\$	.80	
1/2	doz Car	"	\$3.90	3	Gravy Boats	\$	.50	
9	Blue Granite W.		\$.75	4	Mugs	\$	.40	
2	doz. Soup		\$1.64	2	Bowls	\$	.32	
1/2	" Butter		\$2.25	2	Nappies W.G.	\$	.80	
42	Sauce plates		\$.90	3	"	"	\$1.	00
3	Cor W.G. Veg. Dishes		\$2.70	3	"	"	\$	.90
4	Gray Boats		\$1.60	4	"	"	\$1.	00
2	Cor lance. Dishes		\$.40	4	Meat dishes	\$2.	.40	

6	3	"	"	\$1. 50	1/2	"	Cup plates	\$	40
	2	"	"	\$. 80	1/2	"	Small sauce,	\$	60
	3	"	"	\$. 70	5/12	"	"	\$	50
	2	"	"	\$. 60	2	def.	Te & Forks	\$	2.00
	1	Yellow	"	\$. 20	4	"	"	\$	3.00
	2	"	"	\$. 38	6	"	"	\$	3.00
	3	"	"	\$. 45	5	"	"	\$	5.50
	6	Yellow Bakers	"	\$. 60	2	"	"	\$	1.50
	4	Meat C.C.	"	\$. 80	10		Shoe Knives	\$	.83
	3	"	"	\$. 80	10		Butcher "	\$	.83
	2	"	"	\$. 56	6		razors	\$	4.50
	3	Wappies	"	\$. 60	6		"	\$	4.50
	6	"	"	\$. 24	6		"	\$	4.50
	1	Salt. W. G. Tea	"	\$. 90	12		"	\$	6.00
	8	W. G. Cream	"	\$ 2. 00	17		"	\$	6.00
	5	Pitchers	"	\$ 1. 50	6		Scissors	\$	1.80
	7	"	"	\$ 1. 05	4		"	\$	1.60
	1/4	"	"	\$ 1. 20	42		"	\$	15.00
	2	"	"	\$. 80	162		Pocket Knives	\$	60.00
	6	Glass oil lamps	"	\$ 1. 50	500		Marbles	\$	1.00
	4	Cut " " "	"	\$ 2. 00	3		Masons Trowels	\$	1.50
	6	" " Fluid	"	\$ 3. 00	2	def.	Rifles	\$	2.00
	1	" " "	"	\$. 75	1	"	Red Cords	\$	2.75
	4	Britania tea pots	"	\$ 4. 00	14		Umbrellas	\$	11.00
	2	Tea Trays	"	\$ 1. 64	26		Whips	\$	8.25
	2	" " "	"	\$ 1. 80	30		lashes	\$	4.61
	3	" " "	"	\$. 84	20		Carpet bags	\$	15.00
	3	Spittoons	"	\$ 1. 00	7	def.	Chains	\$	1.05
	1	China Chambers	"	\$. 90	19		Halter "	\$	3.85
	1/2	def. Rt Tumblers	"	\$ 1. 13	36 3/4		Gds. Kern. 218	\$	6.61
	1/2	" " "	"	\$ 1. 12	44	"	Beans	\$	7.92
	3/4	" " "	"	\$ 1. 12	43	"	Drills	9 1/2	\$ 4.08
	1	Spoon Holder	"	\$. 25	130	"	Cut	9	\$ 11.70
	1	Pr Stand Preserve Tubes Glass	"	\$ 1. 25	38 1/2	"	"	38	\$ 14.63
	1	def. " " "	"	\$ 1. 20	46 3/4	"	"	15	\$ 7.01
	1/3	" " "	"	\$ 1. 05	35	"	"	18	\$ 6.34
	2/3	" " "	"	\$ 2. 40	14	"	"	"	\$ 2.52
	5/12	Sauce	"	\$ 7. 50	22	"	"	20	\$ 4.40

26	"	"	18	\$4.68	1	"	Compasses	\$3.00
25	"	"	20	\$5.00	2	Sett Bed Castles		\$40
12	"	"	15	\$1.80	1/2	doz Brass Snuffer		\$1.50
10	"	"	20	\$2.00	1/2	" Iron "		\$1.75
15	"	Linen	20	\$3.00	10	doz Saws		\$6.00
10	"	"	7	\$2.50	2	Doz Window Springs		\$1.75
35	"	Leans	30	\$10.50	2 1/2	" Blind Rollers		\$1.75
153	"	"		\$12.24	1/2	Doz Window Fast		\$5.40
44	"	"		\$4.40	4	Brass Bolts		\$1.40
9	"	"		\$1.81	2	" Chisel Handles		\$1.00
84	"	"		\$7.82	1/2	" Snuffer Trays		\$1.60
221	"	Tick		\$28.00	10	Drawer Knobs		\$1.25
30	Bro	Linen		\$6.60	10	Gro. Tack		\$4.50
4 1/2	Doz	Collars		\$7.25	5	" Prads		\$1.35
8	Parasols			\$11.00	"	" Shoe Nails		\$2.00
20	cloth caps			\$10.55	1	" Pat Reg. Aut. Hells		\$2.00
20	Garn			\$14.00	5	" Gim Hells		\$1.50
6	Pr B. Gloves			\$6.50	5	" Iron Spoons		\$1.00
10	Hats			\$10.70	27	Sett Tea Spoon		\$3.40
64	Straw & Palm leaf hats			\$38.35	46	Shears		\$8.00
28	"			\$4.08	100	Butts		\$7.50
109	P. Pants			\$45.25	1	Doz Walker caps		\$3.00
37	Coats			\$185.00	4	" Brass Hook		\$1.40
12	Hickory Shirts	3/		\$4.50	8	" " Nails		\$1.30
9	Calico			\$5.85	8	" Carpenter Calves		\$1.50
60	Vests			\$90.00	1	" Cabin, Door Hooks		\$1.50
20	Doz Knives & Forks			\$18.00	8	" Screw Ring		\$1.50
10	Basting Spoons			\$1.88	1/2	Gro. Pt Balls		\$1.00
3	Bezel Squares			\$1.50	3	Cum Tubes		\$1.31
3	Saw Knives			\$1.20	20	Vers Harps		\$1.50
6	Draw Shaves			\$3.90	20	Nails		\$1.00
1	Sett chisels			\$5.00	5	Pocket Rules		\$1.00
4	Tea Bells			\$1.80	1	Doz 4 Fold Box rules		\$4.20
2	Horse Brushes			\$1.60	110	gr Augurs		\$10.00
10	Pocket, Ink Stands			\$1.87		Coffin Trimmings		\$4.50
3	Scratch awls			\$1.20	21	Pager Straps		\$6.60
2	Saw Sets			\$1.50	5	Wd Caps		\$3.20
1	Doz Window Fastening			\$1.00	2	Doz Brushes		\$1.50
1/3	" Plane Bits			\$1.60	14	Shaving Boxes		\$1.87

6	Dof. Blacking	\$ 2, 00	100 lbs	Ginger	\$ 5, 00
1/2	" Iron Flesh Tools	\$, 60	100 "	Medder	\$ 2, 00
1 1/2	" Memorandum Books	\$ 2, 75	10 chests	Tea	\$ 40, 00
1	Dof. Memorandum Books	\$ 1, 32	100 lbs	Rawson's	\$ 2, 00
42	" " "	\$ 8, 00	90 lbs	Tobacco	\$ 18, 00
4	blk Books	\$, 80	277 lbs	"	\$ 85, 00
6	" " "	\$ 6, 00	1	Box Soap	\$ 1, 50
4	" " "		1/2 dof brass C. Stick	\$ 2, 04	
5 lbs	Indigo	\$ 5, 50	15	W. 5 in.	\$ 7, 98
30	" Shred Thread	\$ 3, 00	9	Coffee Mills	\$ 2, 70
50	" Exh Logwood	\$ 3, 00	6	Spice "	\$ 1, 80
5	Dof. Tobacco	\$ 1, 50	1/2	Dof dirt brushes	\$ 1, 80
1	" Bu Windsor Soap	\$, 75	15	W. Wash "	\$ 6, 50
1/4	Gro Lye Ration	\$ 3, 75	8	Scruber "	\$ 1, 60
2/3	dof Hands Hair Gloss	\$ 1, 00	22	Shoes	18 \$ 3, 96
1/2	" Bears Oil	\$, 75	2	Mouse traps	\$, 18
1	" Slates	\$ 1, 00	3	Rat "	\$, 90
5	" Tobacco	\$ 1, 25	100	sheets Sand Paper	\$ 1, 50
4	" Transparent Soap	\$ 3, 50	10	Wood Panels	\$, 83
4	" Mustard	\$ 2, 50	6	Mouse traps	75
2	" Yank Soap	\$ 1, 40	3	Spirit Levels	\$ 2, 50
1	Box Soap	\$ 1, 50	10	Rep. Sauce	\$, 83
2	dof Soot Ticks	\$ 2, 00	10	Lock Glass	\$ 10, 00
6	" C Pins	\$, 66	50, beam, paper & 10, 1000 Engr. Paper & Engr.	\$ 15, 00	
4	" Ground Ginger	\$ 1, 20	2	Chests Tea	\$ 40, 00
6	Pepper	\$ 1, 75	100 lbs	Rope	\$ 15, 00
1/4	Gro Spice	\$ 2, 00	2	Bench Screws	\$, 60
11 lbs	Chocolate	\$ 1, 40	5	Spiders	\$ 1, 60
19	Bors Soap	\$ 2, 66	4	Pr. Shov. & Tong. Iron	\$ 1, 60
8	Shaving "	\$, 32	4	" " " Brass	\$ 2, 80
2	Dof. Lye	\$ 1, 00	4	Salt Frict. Roller	\$ 2, 40
2	Dof. Lye Coffee	\$ 3, 00	10	Cow Bells	\$ 4, 00
38	Starch	\$ 3, 80	2	Dof. Whisk Adls	\$ 2, 00
20		30 \$ 6, 00	6	Guages	9 \$, 54
30	Tobacco	" \$ 9, 00	3	"	65 \$ 1, 95
25	"	40 \$ 10, 00	9	Planes Adls	\$, 70
60	"	7 \$ 4, 20	30	Brushes	\$ 10, 00
3	Planes	\$ 3, 00	31	Curry Combs	\$ 2, 80
200 lbs	Saleratus 3/2	\$ 7, 00			

List of Goods		Price	Quantity	Price	Quantity	Price
20	Cards	\$1, 90	100	Bonnets	\$40, 00	
17	Hatchets	\$12, 60	10 lbs	150 paper Pins	\$20, 00	
4	Hand axes	\$2, 60		Sundries	\$15, 00	
4	Hammers	\$5, 00	100 yds	Silk	\$38, 00	
3	Adrs	\$4, 80	100 "	Satin	\$10, 00	
533	3 yds York Mill Cotton	\$44, 46	78 yds	Mull	\$26, 50	45
191	"	\$13, 39	143	"	\$12, 00	
114	31 "	\$138, 84	148	"	\$13, 32	
287	DeLain	\$64, 71	3 1/2	Touelling	\$3, 85	
560	"	\$76, 83	3 1/2	Doz. Trills	\$6, 00	
3	Table Spreads	\$5, 25	1 3/4	"	\$1, 75	
9	"	\$4, 05	22 yds	Diaper	\$6, 20	
460	"	\$52, 74	63	"	\$7, 87	
6	Doz. Hd kfs	\$28, 00	22	Silk Hd kfs	\$8, 80	
50	lds. Linen	\$10, 00	3	doz. Cot	\$3, 50	
6	Cot. Thread	\$2, 00	53 yds	Black Capamere	\$58, 30	
23	Linen "	\$17, 25	25	"	\$37, 00	
	Buttons	\$2, 00	2	Ps Hankin	\$2, 00	
1	Set Combs	\$15, 00	17 yds		\$2, 55	
18	Gro. Buttons	\$4, 50	40	"	\$4, 00	
40	Box "	\$20, 00	40	"	\$11, 00	
	Agates	\$2, 10	15	"	\$6, 00	
1	Box Buckles	\$, 50	107	"	\$84, 80	
	Thread	\$1, 00	31	"	\$10, 00	
	Port Monies	\$10, 80	22	"	\$16, 50	
	Thimbles & Spectacles	\$12, 60	24 yds	Taped	\$12, 00	
1	Doz. Cravats	\$6, 00	21	"	\$14, 00	
6	Shirt	\$8, 00	15	"	\$15, 00	
1	Doz. Fans	\$1, 50	165	"	\$20, 00	
5	Boxes Hair Pins	\$2, 50	22	"	\$14, 62	
3	"	\$, 75	6	"	\$, 60	
15	Shirt	\$22, 80	25	"	\$2, 25	
1/4	Doz Hair brushes	\$2, 25	210	"	\$19, 00	
	Ribbons	\$40, 00	68	"	\$31, 00	
	Sewing Silk	\$6, 00	60	"	\$5, 40	
25	"	\$31, 25	56 1/2	doz. Sewing Hd kfs	\$25, 00	
5	"	\$5, 00	18	"	\$4, 50	
10	Set of pins, gloves, soap, combs & 100 T. Pins	\$60, 00		Set of Mould	\$1, 00	
100	paper rings, 100 h. pins, 1000 yds. h. pins, 50 h. pins	\$80, 00	70 yds	Wood Delain	\$28, 00	

10	1	Mennant. Velvet	\$ 5, 50	5 "	Fire Gaiters	\$ 7, 50
	59	" De Berge	\$ 6, 49	8 "	Hat ties	\$ 7, 20
	14	" Lace Blk.	\$ 3, 42	1	Fire Saver	\$ 100, 00
	12	" Blk Alpaca	\$ 4, 80	10	Prs Weighing Scale	\$ 300, 00
	11	" Lace Goods	\$ 3, 30			
	90	" " "	\$ 23, 00			
	30	" Flouncing	\$ 3, 00			
	7	" Bosoms	\$ 2, 10			
	15	" " "	\$ 2, 50			
	18	" Cravats	\$ 4, 00			
	60	yds linen	\$ 34, 00			
	58	Prs Elastic	\$ 5, 80			
		Laces, Buttons, Edging & Insert	\$ 30, 00			
	9	Collars	\$ 7, 00			
	7	Chemise & Undershirt	\$ 5, 00			
	5	yds Worked Flouncing	\$ 6, 00			
		Summer clothing	\$ 123, 00			
	3	Pr Mens calf	\$ 4, 80			
	2	" " gaiters	\$ 4, 20			
	1	" " " "	2, 00			
	9	calf shoes	\$ 11, 70			
	3	" Ties	\$ 3, 75			
	17	" youths	\$ 15, 30			
	36	" " "	\$ 34, 20			
	7	" Boys Boots	\$ 11, 90			
	2	Prs Custom Made-Boots	\$ 8, 00			
	6	" Mens Trip "	\$ 16, 00			
	1	" " calf "	\$ 3, 50			
	6	" " Trip	\$ 16, 50			
	11	" Brogue	\$ 19, 20			
	5	" Slips Fancy	\$ 4, 00			
	9	" Womens Heel calf	\$ 9, 00			
	16	" " low shoes	\$ 17, 00			
	69	" Misses "	\$ 45, 00			
	11	" Womens Kid	\$ 11, 00			
	11	" Light agate	\$ 5, 50			
	6	" Women "	\$ 4, 80			
	9	" Patent Leather	\$ 9, 90			

Of the said plaintiff of great value, to wit, of the value of ten thousand dollars, then & there found & being & converted the same to the use of the said defendants own use at Chillicothe aforesaid, against the peace, &c.

And also for further Count said Plaintiff says that heretofore to wit on the Eighth day of November AD, 1856 diverse goods & chattels of the like number, quantity, quality, description & value as the said goods & chattels, in the first Count of said declaration mentioned, were owned by Andrew S. Anderson & George W. Anderson who were doing business in Chillicothe in said County & State aforesaid under the partnership, Name & Style of A. S. Anderson & Bro. & as such owned said goods & chattels, & that afterwards to wit, on the day & year last aforesaid said A. S. Anderson & Bro under their said firm Name & Style executed & delivered to said plaintiff deeds (here insert the same, of assignment, conveying said goods & chattels to said plaintiff & thereupon then & there delivered said goods & chattels to said Plaintiff, and said plaintiff further avers that he has ever since been in the possession of said goods & chattels until said defendants did, (after the making of said assignment & delivery of said goods & chattels to said plaintiff & heretofore to wit, on the twelfth day of February AD 1857)

with force and arms, seize, take & carry away said goods & chattels the property of said plaintiff, as aforesaid, of great value, to wit, of the value of ten thousand dollars, then and there (in Chillicothe aforesaid) found & being and converted the same to the said defendants own use, against the peace, &c.

And for further Count said Plaintiff says that heretofore to wit, on the twelfth day of February AD 1857 said plaintiff was possessor of certain premises in the Town of Chillicothe in

Said County & State aforesaid to wit, a frame building situated on Lot in Block, being the premises formerly occupied by R. S. Anderson & Bro. (mentioned in the second Count of this said declaration) as a store for merchandising purposes & that afterward to wit on the day & year last aforesaid said defendants with force & arms & against the Peace broke into said premises & possessions of said plaintiff & took possession of the same & then & there forcibly deprived said plaintiff of said possession & have kept said plaintiff out of the possession of said premises ever since, and that said defendants then & there to wit on the day & year last aforesaid at Chillicothe aforesaid with force & arms seized, took & carried away from said premises above described, diverse goods & chattels of like number, quantity, quality, description, & value as the said goods & chattels in the said first Count of said declaration mentioned, the property of said plaintiff of great value, to wit of the value of ten thousand dollars then & there found & being and converted the same to said defendants own use.

And also for that the said defendants heretofore to wit on the twelfth day of February A.D. 1857 with force & arms & against the peace, broke & entered into a certain other tenement, & building of said plaintiff situated on Lot in Block in said Town of Chillicothe in Peoria County & State aforesaid, being the building used before the time when &c. as a store for merchandising by R. S. Anderson & Bro & at the time when &c. used by said plaintiff, and then & there ejected & expelled & removed & put out the said plaintiff from the possession, use, occupation & enjoyment of the said last mentioned building & kept & continued them so ejected, expelled, removed, & put out for

a long space of time, to wit from thence hitherto whereof the said plaintiff, for and during all that time lost & was deprived of the use & benefit of the said last mentioned building to wit at Chillicothe aforesaid, which said loss of said use & occupation of said last mentioned building was of great value to wit of the value of one thousand dollars

To the damage of said Plaintiff in the sum of ten thousand dollars & thereupon he brings suit.

Davidson, Fleunse, Grove M. Co.
Attys for Plff

To Clerk of Circuit Court

The clerk will please issue Summons directed to the Sheriff of Cook County for said defendants named in above declaration.

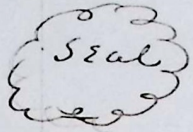
Davidson & Fleunse
Attys for Plff

And thereupon on the same day the Clerk of said Court issued out of said Court under the seal thereof a summons directed to the Sheriff of Cook County to serve which is in the words and figures following to wit:

Summons

The People of the State of Illinois, To the Sheriff of Cook County - Greeting: We Command you to Summon Iram Nye, Henry M. Matthews, William W. Hurlbut, Philip Van Volkenburgh, William B. Leonard, Isaac W. French if they may be found in your County, to appear before our Circuit Court on the first day of the term thereof, to be held at Peoria within and for the said County of Peoria, on the Second Monday of May next, then and there in our said Court to answer unto Henry Robinson of a plea, trespass, to his damage ten thousand dollars as he says, and make return of this writ with an endorsement of the time and manner of serving the same, on or before the first

14 day of the term of the said Court to be held. as
aforesaid.



Witness Enoch P. Sloan clerk of our said Court and
the seal thereof, at Peoria this 13th day
of April in the year of our Lord
One thousand eight hundred and fifty seven.
Enoch P. Sloan clerk

Which Summons was returned by the said Sheriff,
endorsed as follows to wit:

Return

Served by residing to the within named Iram
Nye & Henry, Mr. Matthews this 2^d day of May
1857 the other defendants not found in my
County.

John L. Wilson Sheriff
By George Anderson Deputy

And afterwards to wit ^{the 24th day of November A D 1857 the} on the defendants by their attorneys filed
in the Clerk's office of the said Circuit Court their pleas to the
declaration aforesaid which are in words and figures following to wit:

Answer Iram Nye et al vs Circuit Court Peoria
County Nov term 1857
Henry Robinson Trespass

And now come the said defendants and
defend &c and say that they are not guilty, in
manner and form as the said plaintiff hath
complained against them and of this they put
themselves upon the Country. Head & Williamson
Attys for Defts

And for a further plea in this behalf as to the first
second, third, and fourth counts in plaintiff's dec-
laration mentioned the defendants say actio
non because they say that William S. Hullbert
Philip Van Volkenburgh & William B. Leonard

partners trading and doing business under the name
and style of Hulbert, Van Volkenburgh & Co before
the time when we in the said first second, third &
fourth Counts in Plaintiff's declaration mentioned
to wit, on the 3rd day of January A.D. 1857
sued out of the Circuit Court of the United States
for the Northern district and State of Illinois
their certain writ of execution directed to the
Marshall of the Northern district of Illinois
commanding the said Marshall that of the goods
& chattels lands & tenements of Andrew S. Anderson
impleaded with George W. Anderson in the Northern
district and State of Illinois the said Marshall
cause to be made the sum of nine hundred and
fifty nine dollars and ninety five cents for which
said sum the said William W. Hulbert Philip
Van Volkenburgh & William B. Leonard had
before that time recovered judgment against
the said Andrew S. Anderson impleaded with
George W. Anderson as aforesaid in said Circuit
Court of the United States at the City of Chicago
in said Northern district of Illinois and the said
defendants aver that the said Fram Nye was long
before and after the issuing of the said writ of
fiara facias or execution as aforesaid and at
the time of the issuing of the same the Marshall of
the United States of the Northern district of the
State of Illinois and the defendants further
aver that all and singular the goods and chattels
and property in said declaration mentioned
were the Partnership goods chattels and property
of the said Andrew S. Anderson & George W.
Anderson partners under the name & style of A.
S. Anderson & Bro and the defendants aver that
the said Fram Nye as such Marshall aforesaid
by virtue of said writ of fiara facias or exe-
cution the said Fram Nye afterwards and
before the return day of said writ at the time
when we entered into the said Message and

premises in said declaration mentioned in order to seize and take the said goods and chattels of the said Andrew S. Anderson in the said Message and premises in the declaration mentioned then and there being for the purpose of levying the Moneys so directed to be levied by Virtue of said Writ, as aforesaid. And that the saidoram & Nye, did then and there to wit at the time when &c. levy upon said goods, chattels & property in said declaration mentioned the same being then and there the property goods & chattels of said Andrew S. Anderson and George W. Anderson as partners as aforesaid which are the same trespasses complained of in plaintiff's declaration. And defendant further avers that the other defendants entered said close and seized said goods under the direction & authority of said Nye as his servants for the purpose aforesaid and this they are ready to verify wherefore they pray Judgment &c. by Wead & Williamson, their Attorneys.

And for a further plea in this behalf the defendants say Actio Non because they say at the time when &c. the said goods, chattels & property in said declaration mentioned were the property goods and chattels of Andrew S. Anderson & George W. Anderson and not the property of the Plaintiff and this they are ready to verify wherefore they pray judgment &c.

Wead & Williamson
Attys for Defts

Wednesday December 23rd AD 1857
 Henry Robinson
 vs
 Trespass

iram Nye
 Henry M Mathews
 William W. Hurlbut
 Philip Van Volkenburgh
 William B. Leonard
 Isaac W. French

This day came the plaintiff by Davidson
 & Groove his attorneys and the defendants by Head
 & Cooper their attorneys and it is ordered by the
 Court that a jury be empannelled to try the issues
 in this cause. Whereupon came a jury of twelve
 good and lawful men to wit: Jacob Dawson
 & Matthew Taggart, G. W. Morris, James H. Ross
 John Waught, Chas. P. King, Eldridge Clarkson
 Harriman Couch, George C. Babcock, J. H. Fisher
 J. S. French, and John W. Armstrong who were
 duly chosen tried and sworn to well and truly
 try the issues joined in this cause and a true
 verdict give according to the evidence. And
 the said jury not having heard all the evidence
 in this cause were adjourned to meet the Court
 at nine o'clock tomorrow morning

And thereupon on the same day the defendants filed in the
Clerk's office of said Court their demurrer to the plaintiff's
Replication which is in the words and figures following to wit:

Henry Robinson
vs
Iram Nye et al

Circuit Court of Peoria
Co. Ills.

And now comes the said
defendants by their attorneys Wead & Williamson
& say that the first replication of the said Henry
Robinson to the second plea of plaintiff in
manner & form pleaded & the matter in the same
contained are not sufficient in law for the said
plaintiff to have or maintain his aforesaid action
thereof against the said defendants and that the
said defendants are not bound by law to answer
the same & this he is ready to verify. Wherefore
they pray judgment, if the said plaintiff
ought to have or maintain his aforesaid action
thereof against them &c

By Wead & Williamson
For Defs.

Proceedings in the Circuit Court at a term thereof
began & held in the Court House in the City & County
of Peoria, in and for said County and State of Illinois
on the third Monday of November in the year of our
Lord one thousand eight hundred and fifty seven,
it being the sixteenth day of said month. Present
the Honorable Elihu D. Powell, Judge of the 16th
Judicial Circuit, in the State of Illinois —

Francis W. Smith Sheriff, and Enock P. Marchant to
wit;

Saturday, December 12th A.D. 1857

Henry Robinson
vs
Iram Nye, Henry W. Mathews
William W. Hurlbut & als

This day came the plaintiff by his attorney & on motion
to the Court leave is given him to reply to defendants 2^d replication.

⊛ Thursday December 24th AD 1857
Henry Robinson
vs Trespass

Ira M. Nye, Henry M. Matthews
William W. Hurlbut, Philip Van Volkenburgh
William B. Leonard & Isaac W. French

This day again came the parties to this
suit by their attorneys and also came the jury em-
pannelled and sworn, on yesterday to well and truly
try the issues in this cause and a true verdict give
according to the evidence - And the said jury on
their oaths aforesaid, do say, We the jury find
the defendants not guilty. Therefore it is considered
by the Court, that the said Ira M. Nye, Henry M.
Matthews, William W. Hurlbut, Philip Van Volkenburgh,
William B. Leonard & Isaac W. French, go hence
without day and have and recover of the said
Henry Robinson, their costs and charges by them
about their defense in this behalf expended, and
that they have execution therefor.

And afterwards to wit on the 28th day of December AD 1857.
the plaintiffs filed in the office of the Clerk of the Circuit Court
a motion for a new trial in the words and figures following to wit:

Robinson

vs

Nye et als

[Handwritten flourish]

In Circuit Court

The plaintiff enters a

Motion for a new trial in this cause

for the following reasons

- 1 The Court erred in excluding proper evidence
offered by the plaintiff
- 2 The Court erred in excluding the Assignment
& additions thereto offered in evidence by the
Plaintiff
- 3 The Court erred in admitting improper evidence
offered by defendants

Proceedings in the Circuit Court at a term thereof
began and held in the Court House in the City and
County of Peoria, in and for said County and State
of Illinois on the third Monday of November
in the year of our Lord one thousand eight hundred
and fifty seven, it being the sixteenth day of said
month. Present the Honorable Elisha N. Powell
Judge of the 16th Judicial Circuit in the
State of Illinois - Francis W. Smith, Sheriff
And Enoch P. Sloan clerk, To wit,

Wednesday December 2^d AD 1857
Henry Robinson

vs
Trespass
Iram Nye
Henry M. Mathews
William W. Hurlbert & al

This day came the plaintiff by
Davidson his attorney, and on his Motion to
the Court leave is given him to reply double to
defendants plea, filed herein, and thereupon the
defendants by their attorney demurs to said repli-
cation to Defendants 2^d plea, and the Court being
satisfied in the premises overruled said
demurrer.

And afterward laid on the second day of December AD 1857 the ~~defendant~~
plaintiffs filed in the clerks office of said Court, their Replication to
defendant answer which is in words and figures following to wit:

Henry Robinson
vs
Iram Nye et al

In the Circuit Court of Peoria County
Illinois - Trespass
And now comes the said plaintiff
and for replication to the first plea of said
defendant by him pleaded in above entitled cause
& whereof he puts himself upon the Country,
said plaintiff doth the same.
By Davidson & Heinse.
Attys for Plff

And now comes said plaintiff & for replication to the second plea of said defendant by him pleaded in said Cause & says precludi' non, because he says that the allegations, & matters & things in said plea contained & alledged are severally, each, every & all of them utterly & wholly untrue & false. He allegations of said plea to the contrary notwithstanding & of this said plaintiff puts himself upon the Country. By Davidson & Feinse, and the defendants doth the like. Attys for Plff

Wheat & Williamson for Defts

And said plaintiff for further plea in this behalf to said second plea of said defendant by him pleaded, says precludi' non, because he says that the goods chattels and properties in the declaration of said plaintiff mentioned were when &c the goods chattels & properties of said plaintiff & not the partnership goods, chattels & properties of Andrew. S. Anderson and George W. Anderson partners under the name and style of A. S. Anderson & Bro, the allegations of said plea to the contrary notwithstanding & of this he puts himself upon the Country. By Davidson & Feinse, And the defendants doth the like. Attys for Plff

By Wheat & Williamson
Deft Attys

And said plaintiff now comes & for replication to the third plea of said defendant by him pleaded in said Cause, says precludi' non because he says that the goods, chattels & properties in the declaration mentioned, when &c were not the goods, chattels & properties of Andrew. S. Anderson & George W. Anderson, but the goods, chattels & properties of said plaintiff, when &c & of this he puts himself upon the Country.

{ Atty de defendants,
do likewise }

By Wheat & Williamson
for defts

By Davidson & Feinse
Attys for Plff

- 4 The Verdict is against the weight of evidence
- 5 The Verdict is against law
- 6 The Verdict should have been for the plaintiff

Grove & Davidson

Proceedings in the Circuit Court a term thereof began and held in the Court House in the City and County of Peoria in and for said County and State of Illinois on the third Monday of November in the Year of our Lord One thousand eight hundred and fifty seven, it being the sixteenth day of said Month Present, the Honorable Elisha N. Powell Judge of the 16th judicial Circuit, in the State of Illinois = Francis W. Smith, Sheriff and Enock P. Sloan clerk to wit:

Tuesday December 29th AD 1857

Henry Robinson
vs Trespass

Iram Nye

Henry M. Mathews

William H. Hurlbut, & als

This day came the plaintiff by Davidson his attorney and moves the Court for a new trial in this cause, and the Court having heard the argument of Counsel, and being satisfied in the premises over-ruled said motion

And thereupon on the second day of January AD 1858 there was filed in the Clerk's office of said Court a bill of Exceptions which is in the words and figures following to wit:

Henry Robinson vs In the Circuit Court of Peoria County
Iram Nye vs In Trespass
and others

Be it remembered that on the trial of this cause to the Jury the plaintiff called Andrew S. Anderson who testified that he knew George W. Anderson that George W. & witness were equal Partners in buying & selling goods at Chillicothe from April 1856 to Nov 8 1856. That

George left Sept 8 1856 with 1600 \$ in Money belonging to said firm, That the name of the firm was A. S. Anderson & Bro That George went via Virginia (to raise more Money) to New York in the State of New York that he went to New York to pay debts & buy goods for said firm That when George left he told witness to do what he thought best for the firm - That George never returned and witness never heard of him until the Spring of 1857 & knew nothing as to his whereabouts until the Spring of 1857 That when George left he expected to be absent about four weeks at most That George being absent & witness not being able to consult with George & not knowing where George was and having the Sole Management of the Firm affairs on the 8th day of November A.D 1856 executed the assignment & Schedules to Plff, & Plff took possession of the property assigned on the tenth day of Nov 1856) That at the time the assignment was executed the Firm were largely indebted & between 4 & 5000 \$ was due, & Creditors whose claims were due were pressing for Payment That one debt of between 2 & 300 \$ was sued & all wanted their pay. That at the term the assignment was made, Witness & the Firm had not Money enough to pay any one of their Creditors, The Plaintiff then offered the assignment & additions thereto in evidence. In words and figures following;

This indenture made this the Eighth day of November A.D 1856 between Partnership firm of A. S. Anderson & Bro of Chillicothe in the State of Illinois whose individual names are Andrew S. Anderson and George W. Anderson of the first part and Henry Robinson of the said Chillicothe appointed for the purpose herein after mentioned of the second part and the several persons creditors, indorsors guarantors & Sureties of the said parties of the said first part and particularly those of said creditors

guarantors endorser & Sureties who have or who shall hereafter execute or accede to these presents within Thirty days from the date Hereof of the Third part Whereas the said party of the first part is at present unable to pay the immediate demands upon him and deems it just & reasonable to secure pay & indemnify the several persons parties to these presents in the manner hereinafter mentioned

Now Therefore this indenture witnesseth that for & in consideration of the Considerations & purposes & Conditions herein mentioned & in consideration of the sum of one Dollar to him in hand paid by the said party of the second part the receipt whereof is hereby acknowledged The said party of the first part doth by these presents grant bargain sell convey assign & set over unto the said party of the second part and his assigns all the stock in trade goods wares & Merchandise debts choses in action property & effects of every description belonging to the said party of the first part or in which said H. S. Anderson & Bro have any right or interest whatsoever mentioned contained or referred to in the Schedule marked **A**

To have & to hold all & singular the premises herein assigned & otherwise assured or intended so to be to the said party of the second part his heirs & assigns to their use & behoof forever But upon trust that the said party of the second part shall with all reasonable speed sell & dispose of such parts of the said trust property & effects as are of a salesable nature and shall use his best endeavours to obtain recover & receive such parts of the same as consist of debts or other outstanding interests into his hands & possession and forth with after deducting and retaining all such costs charges damages expenses & disbursements as shall be sustained incurred or reasonably due in & for or in relation to the execution of the trusts hereby including the costs charges & expenses of preparing

& executing these presents then upon Trust That the said
 part of the second part shall do & divide distribute
 & pay over all the residue of the said trust property to
 & among all the persons Creditors of the said party of
 the first part ratably & proportionably due each of
 them respectively as hereinafter directed And the said
 party of the first part by these presents doth Name
 constitute and appoint the said party of the second
 part to be his attorney in fact irrevocably with full
 power of substitution in his Name or in the Name of
 the said party of the first part or otherwise Howsoever
 as the case may require but to be & for the trust
 herein declared to demand sue for recover & receive
 the outstanding debts interests trusts property & effects
 and to institute prosecute or defend all such suits
 & processes at Law or in equity and to execute perform
 and Transact all such deeds writings acquittances
 acts & matters & things as shall be necessary or
 expedient to carry into effect the trusts uses & intents
 & purposes herein declared or contained as fully
 & effectually as the said party of the first part could
 do personally if these presents had not been made
 And the said party of the first part doth hereby
 covenant to & with the said party of the second part
 That said party of the first part will at all times
 promote & forward the speedy receipt & recovery of
 the debts & property & effects aforesaid and confirm
 & ratify all such acts as shall be lawfully done therein
 by virtue of these presents & shall & will aid &
 assist the said trustee party of the second part
 in Managing the concerns of the said trusts estate
 & property in the execution of these presents where
 there to be requested upon being allowed a reasonable
 compensation for services rendered therein and
 will execute & perform all such further & others
 acts deeds matters & things for the further and better
 assigning & assuring the premises & property herein
 assigned or otherwise assured or intended so to be to

The said party of the second part & for the interest
& purposes herein declared as may be reasonably
advised or requested and it is hereby agreed by &
between the parties hereto That the said trustee may
at discretion compound any debts or debts due or
owing to the said party of the first part and enter
into sign & execute any bargain or deed of composition
compromise or assignment of or with any persons
indebted to the said party of the first part who shall
be or become insolvent or unable to make punctual
payments and also may make any such agreement
or arrangement as shall be deemed reasonable with
any persons possessing any security given by said
party of the first part upon any estate or other property
of or holden by him or by any creditor of his by way
of Mortgage or pledge for money or other property or
with any persons having a lien on such property by
virtue of any attachment levy bailment or otherwise
as the said trustee may think expedient and may
compromise all matters which may be in dispute or
submit the same to arbitration and may sell &
convert into money all contingent interests & securities
which can not be immediately enforced with a prospect
of advantage and all debts which shall be deemed
doubtful or which can not be collected in a reason-
able time and it is further agreed that the naming
of any debt or debts in any Schedule hereto annexed
shall not prevent the parties of the first or second
part from calling in question or controverting the
amount of the same or taking any course at law or in
equity to have the same disallowed or adjusted and that
if the demand of any creditor shall have been stated as
being greater or smaller than it really is such creditor
shall be entitled to the benefit upon & for & only upon & for
the amount which may be found to be justly due him
provided further that no person shall be entitled to
be admitted a creditor under these presents unless
notice shall have been given by him of his debt or demand
to the party of the second part before final dividend

shall have been made of said trust property under the
 trusts herein declared unless such debt is mentioned in
 Schedule hereto attached marked (B) nor shall any
 persons be admitted a creditor after any one or more
 dividend or dividends shall have been made under the
 trusts hereon declared but on condition of his not
 requiring any abatement of or otherwise disturbing the
 dividend or dividends made prior to his having given
 notice of his debt or demand and the said party of the
 second part doth hereby covenant with the said party of
 the first part and with the said party of the third part
 that the trust in him hereby reposed the said party of
 the second part shall & will execute & perform to the
 best of his judgment & discretion provided always
 and it is hereby agreed that the said trustee for the
 time being his substitute or executors or administrators
 shall not be liable for more money or effects than he
 shall receive nor for any loss or damage which may
 happen thereto except the same shall arise through
 his own wilful default, and the said respective creditors
 parties hereto do & each and every one of them for
 himself & herself severally & respectively and for their
 several & respective executors administrators partners
 & assigns doth hereby accept and take the estate & effect
 hereon assigned in full payment satisfaction & dis-
 charge of all their respective debts & demands afore-
 said and all loss & damage sustained or to be sustained
 by reason of any liability aforesaid and do & each &
 every of them doth absolutely remise release discharge
 & quit claim the said party of the first part & from
 all demands which they or any or either of them now
 have ever had or hereafter may have claim or demand
 against the said party of the first part
 And it is understood that any additions corrections
 & alterations may be made in the Schedules hereto
 annexed for the more full & accurate specification
 of the matters & things therein contained or intended to be
 contained it is understood & intended that all properties

debts, claims & demands due the said party of the first
part is scheduled and also that all liabilities & indebted-
ness due from the said party of the first part to said
creditors of said first part severally are also scheduled,
it is hereby understood & directed, that the said party
of the second part shall pay over the monies arising
from the sale & disposition of the said trust property
herein referred to & scheduled to creditors parties of the
third part in the following manner viz the demands of
Benjamin S. Hammett of Chillicothe Illinois of
Rushmore Cone & Co of C W & J S Garratt of Norton
Hewitt & Busby of Northrup Hoffman & Co of Vanderburgh
Bonnett & Co of S. B. Gregory & Co all names of business
firms in the City & State of New York of Durge & Forsyth
of the City of Rochester & State of New York of S & D
of Ottawa in the State of Illinois of Orson E. Wilbur of
Chillicothe Illinois of William McLean of James Pratt
of Richard Scholes of J. O. Tomlinson M D of John
C. Follen Holcomb & Co all of Chillicothe in the State of
Illinois shall be preferred to any and all other indebted-
ness & the persons above named shall be paid first
and preferred to all other creditors & shall be paid
pro rata or proportionably to the several demands by
the said party of the second part out of the first monies
received by him from the trust property herein mentioned
until their demands are fully satisfied upon the full
satisfaction & payment of the ^{demands of the} preferred creditors above
named, then the other creditors are to be paid all of
them proportionably to their several demands as soon as
may be after the payment of all the creditors of the said
party of the first part herein referred to fully & entirely
and all monies goods wares & merchandise claims
& demands whatsoever then remaining in the possession
of the said party of second part shall be delivered &
paid over to the said party of the first part after
deducting & retaining a reasonable amount for costs
charges & compensation as before mentioned. In witness
whereof the parties have hereunto set their hands & seals
the day & year first above written

Signed sealed & delivered *By* A. S. Anderson & Pro *Seal*
 in presence of Henry Robinson *Seal*
 Harvey Holman Assignee
 As to A. S. Anderson & Pro
 And Henry Robinson.

Signed sealed & delivered *By* Names of Creditors
 in presence of L. C. Folliott
 H. J. Matthews. as To L. C. Folliott
 S. C. Folliott & Proson E Wilber
 & Wm M & Sean
 S. V. Cutright as to Richard Scholes

This Indenture agreement declaration and release
 made this day at Chillicothe by and between A.
 S. Anderson & Pro of the first part Henry Robinson
 Trustee of the second part & the several Creditors
 of said A. S. Anderson & Pro of the third part
 witnesseth That in the assignment this day
 executed by the said A. S. Anderson & Pro to the said
 Henry Robinson for the benefit of said Creditors as in
 said assignment mentioned and set forth it was not
 the intention of the parties executing said assignment
 to require compel or to induce any Creditor of said
 Firm of A. S. Anderson & Pro to execute or release
 said Firm of A. S. Anderson & Pro from the claim
 of said Creditors or either of them as a condition upon
 which such Creditor could or should receive their
 share of the proceeds of the property assigned.

And the said A. S. Anderson
 & Pro hereby release and discharge all and every
 their said Creditors from and of all conditions if
 such should be found in said assignment and
 authorize and empower each of said Creditors to
 receive from said Henry Robinson Trustee & the
 share or part of such Creditor or Creditors of the
 property assigned or the proceeds thereof in the order
 in which they & each are preferred & mentioned
 in said assignment without executing any release

or instrument whatever as a condition upon which they shall be entitled to receive their dividend, And the said A.S. Anderson & Bro further stipulate declare and agree that said Trustee shall at once without delay proceed to convert the property assigned in to money and pay over the same to the Creditors of said Firm first paying the Creditors preferred the full amount of their respective claims & the remaining Creditors of said Firm pro rata and this instrument is made part and parcel of the assignment hereto attached & is to be considered a part & parcel thereof.

A. S. Anderson & Bro *Seal*
Henry Robinson *Seal*

We A. S. Anderson & Bro hereby sell assign transfer and deliver to Henry Robinson, (in consideration of the trusts herein ^{be fore} mentioned and of one dollar to us in hand paid) all the goods wares Merchandise, property & estate mentioned in & described in the Schedules hereto annexed for the purposes and upon the trusts in said instruments Schedules & hereto annexed mentioned and declared and which instruments and Schedules &c we adopt and make part of this instrument.

A. S. Anderson & Bro

Schedule (A.)

List & effects & property of A. S. Anderson & Co.
Schedule (A.) Leasehold interest for two years on Storehouse on Lot in Block Chillicothe. Goods, wares & Merchandise in said Storehouse as follows;

4 Long Handle Shovels	2 50	3 Grass Scythes	2 63
6 Garden Rakes	3 00	5 Brush	4 00
10 Pitch forks	5 00	1 1/2 doz Snaths Net	12 00
5 Garden Rakes	2 10	10 1/2 " " " " " "	6 33
12 Cradle Scythes	11 00	3 Willow Wagons	6 00
6 Short Hell Spades	3 00	5 Iron Tea Kettles	2 00
7 Hay Forks 3 tine	4 50	4 Lanterns \$5 3/4	2 00
5 Dung "	4 00	2 Seives	15 3 00
6 Hay	4 30	65 Selti cups & Sauces &c	8 13

QTY	DESCRIPTION	UNIT PRICE	TOTAL
22 1/2	" " " W.G.	9 00	202 50
15	CC 1/3 St. Bowls	0 45	6 75
4	" " "	13	52
40	" 1 " "	1 50	76 00
8	" 2 " "	1 25	10 00
51	CC Blue Edge Plates	1 53	78 03
18	" " "	63	1134
91	" " "	3 64	331 24
35	W.G. " "	1 50	52 50
29	" " "	2 17	62 93
60	" " "	3 50	210 00
52	" " "	3 66	190 32
48	" " "	4 32	207 36
29	" " "	2 16	62 24
39	B.G.	2 34	91 26
30	White CC	1 20	36 00
8	Blue Granite	64	512
1/2	Doz Cake plates	60	30
1/3	" W.G. Hapies	80	26 67
1/3	" " "	75	25 00
1/4	" " "	50	12 50
1/4	" " "	30	7 50
Amt over		1/3	33 33
Schedule (A) Contd		1/4	8 33
Amt Brought For		1/12	2 08
1/3	Doz Blue Edge Round Hapies	80	26 67
1/3	" " " " "	75	25 00
1/3	" " " " "	60	20 00
1/4	" " " " "	38	9 50
1/4	" Long " "	90	22 50
1/4	" " " " "	80	20 00
3	Wash Bowls	1 20	3 60
2	" " Pitchers	2 00	4 00
26	Crucis	1 30	33 80
2	5 Hole Castors	1 00	2 00
1	Doz Lamp Chimnies	2 40	2 40
7/12	" Fluted Glass jars	1 20	8 40
10/12	" Melaf Pitchers	1 60	16 00
Amt over		1/6	16 67
Amt Brought For		1/6	16 67
1/6	Blue & W.G. meat dishes	1 30	1 30
1/6	" " "	1 10	1 10
1/4	" " "	1 50	1 50
1/4	" " "	1 20	1 20
1/6	" " "	70	11 67
1/6	" " "	70	11 67
1/6	" " "	63	10 50

1/6		50	39	"	Blue Drill	11	4	29
1/6		40	40	"	Red Tick		4	40
5/12		55	160	"	Cotton	4 1/2	7	20
1/4	yellow Wal.	60	37	"		8	2	96
1/4		56	35			13	4	53
1/3		60	54					
1/3		40	53					
1/12		10	51	2				
1/3	Pie Plates	32	54			9	18	56
1/6		20	44	3				
4/12		2	40	35	3	13	10	46
1/4		1	80	38		11	4	18
2/12		50	43			13	5	59
7/12		6	30	40		15	6	00
1 5/12	W G Bowls large	3	00	21	3	15	2	25
3/12		45	42	1		"	6	34
1 5/12		1	88	42	3		6	41
1/2		60	43	1		13	5	72
8/12	Blue	1	50	41	2	13	5	40
1/4		45	35	3		13	4	65
1/6		30	46	2		15	6	97
1/6		50	54			9	4	86
2	Soup Tureens large	5	00	35	1			
1/3	Dot Blue G Pitcher	1	20	36	1			
1/6		1	00	32		5 1/2	5	69
1/4		60	280	11		4 1/2	12	60
1/6		1	00	36				
1		50	34	2				
1/4		1	80	37	1			
1/3	Dot Coffee Mills	1	20	35	3			
170	Cotton Yarn 17	28	90	35	2			
26	Wrapping Twine	4	42	36	1	5 1/2	11	85
34 1/2	Yds Red Tick 8	2	76	1	Box Variegated Soap	1	50	
	Am over			1	" Pip Sauce	1	00	
	Schedule (A) Cont'd			2	" Pipes 6 Gro Czf	1	50	
	Am't Port over			1	" Saleratus	5/8	3	30
39 1/2	Yds Hard Times	6	40	1	Castile Soap	2	20	
42	" Denomis	9	3	78	1 Keg Sup Carlo Mite Soda	5	00	
46	" "	8	3	68				

Schedule (A) Continued

Amt Port Ford

10/12	Doz Fur Hat	\$36	30	00
5	" Blacking large		2	00
6	" Small		1	80
3	Mat Cumamon		3	00
50	Hinges		4	00
40	Log Chain		2	80
6	P Grace chain		2	40
125	60 Warp		20	00
60	Yds Sheetin		4	50
50	"		2	75
60	CC Plates		3	00
22			66	
24	Blue Granite		72	
42			2	10
16			85	
2/3	Doz Salt Lbs Glass		68	
1	" " "		1	25
1/2	W G Scaps		1	00
1/6	" Long		60	
1/4	Covered		60	
1/2	Doz Pickle W B G		1	50
1	P Glass C Sticks		40	
2/12	Molasses Cans		80	
1/12			35	
1	W G Wash Bout & P		90	
21	CC		1	20
3	Small		1	50
2	Tin Trunks		90	
2	Scoop Shovels		1	80
1/4	Doz Steel bands Sarge		3	75
1/2	Small " "		40	
1 5/12	Doz axes		14	00
1/2	" Mortice Socks		2	64
1/2			4	80
1/4	Doz Rim Socks		3	45
1/2	" Chest Socks		1	68

5	" Brass Socks		65	
2	" Pad Socks		20	
5	Pad Socks		35	
5	" "		2	20
6	Pad "		1	50
Amb over				
Schedule (B) Continued				
Amt Port Ford				
10/12	Doz Red Keys		1	66
2 1/2	" Coat Hooks		62	
21	" Rein Snaps		2	52
3/4	Gro Tur Snaps		3	75
2	doz Male Bow Pins		1	25
2	" Yds Jack chain		1	44
6	" Paper Door button		1	68
1	Brass Lock		44	
1	Doz Till Socks		1	00
1	" Spike Gimblet		1	00
1/2	" Peg Cutters		2	28
1	Both Saw		1	00
2	"		1	50
5	Wood Saws & handle		3	00
2	Hands "		2	00
2	"		3	00
1	"		2	00
2	"		1	60
2	Set chisels		3	00
1	" Socket chisel		2	00
1			2	50
1/2	Doz Flash Handles		2	28
2 1/2	" Hasps & Staples		2	70
3	"		2	16
5	Gun Socks		4	25
3 1/2	" Thumb Satches		2	63
1/4	" Turn Screws		75	
1/3	" " "		1	76
1/4	" Butcher Steel		84	
1/4	" " "		1	50

8 Jack Hammers	30	2 Cov Sauce Dishes	40
1/2 " Spoke Shaves	1 80	1 Butter Dish	40
1/2 Sheep Shears	1 20	4 Nappies	1 20
4 Iron Bolts	20	4 "	1 00
1 Dog Barrel "	2 40	4 "	88
10/12 " Spectacle Cases	62	4 "	80
10/12 " Chaping Knives	1 80	1/6 Veg	30
1/2 " Shot Pincers	1 68	1/6 "	44
1/2 " Forceps	1 20	1/6 " "	40
4 Shoe Punches	1 80	1/12 "	19
10/12 " Metallic Powder flask	3 75	4 Bowls	68
1/3 Horn	2 50	3	45
Amt over		1	12

Schedule (A) Continued

5/12 Shot Pouches	3 40	8 Set Cups & Saucers	3 50
1/2 Dog Files	2 28	3 1/2 Gal Pitchers	1 20
5 "	1 75	3 3 Pt	1 80
10 "	4 00	1 Tea Set	90
9	2 70	1 Set China	7 50

Amt over

Schedule (A) Continued

6	2 64	1 Pr Flower Vases	1 50
10 Saw Files	63	1 " " "	1 25
6 Chisels	60 3 60	6 Dog Cup Plates W.G.	2 40
5 "	40 2 00	1 " Small Sauce	40
3 "	60 1 80	5 1/2 " "	4 31
6 "	4 3 00	2 1/2 " " Butter Plates	1 20
2 "	16 1 50	1 " Sarge	40
3	55 1 65	2 "	90
1 Set Augurs	7 50	1 "	80
1 Chisel	70	1 1/12 "	1 75
2 Set Augur Pts	1 50	2 Sets Cups & Saucers	90
2 Car Knives & Forks	1 00	3 Cov Veg	2 70
1/2 " " "	3 90	2 " "	1 50
9 Blue Granite W	75	2 " Sauce Dishes	80
2 Dog Soap	1 64	3 Gravy Boats	50
1/2 " Butter	2 25	4 Mugs	44
42 Sauce Plates	90	2 Bowls	32
3 Cov B. Gley Dishes	2 70	2 Nappies W. G.	80
4 Gray Boats	1 60	3 " "	1 05

6	"	"	3	90	2	"	"	2	20
6	"	"	3	50	5	"	"	70	3 50
10	"	"	1	25	4	"	"	60	2 40
3	"	"	1	12	Amt over Schedule (A) Contin'd Amt Brit Ford				
6	"	"		75					
4	"	"	3	20					
6	"	"	1	50	3	Whips		1	50
10	"	"	2	50	3	"			60
4	"	"	3	00	2	"			60
12	"	"	4	80	6	"			70
5	"	"	4	00	1	"			65
2	"	"	1	10	7	Doz chains		1	05
6	"	"	3	00	9	Halter "		2	25
6	"	"	1	00	8	Halter "		1	60
4	"	"	2	00	36 3/4	4 th Henry	18	6	61
6	"	"	1	50	44	" Jeans	"	7	92
7	"	"	2	80	43	" Drills	4 1/2	4	08
4	"	"	1	50	130	" Coat	9	11	70
12	"	"	12	00	38	"	38	14	63
36	"	"	1	80	46	"	15	7	01
1	Set of Marbles		1	00	35	"	18	6	34
3	Mason Trowels		1	50	14	"	"	2	52
2	Doz Rifles		2	00	22	"	20	4	40
1	" Red Cord		2	75	26	"	18	4	68
2	Umbrellas		1	40	25	"	20	5	00
6	"		5	40	12	"	15	1	80
6	"		6	60	10	"	20	2	60
5	Whips		2	25	15	" Sinen	20	3	0
3	"		1	20	10	"	7	2	50
1				65	35	" jeans	30	10	50
5	Sashes			10	153			12	24
3	"		1	50	44			4	40
9			9	81	9				81
15			1	00	11				88
6			1	20	43			5	59
3	Carpet Bags		2	70	30			1	35
2	"		1	50	50	Tick		5	00
1	"			65	34	"		3	13
2	"		95	1 90	27			3	37

12016-17

1/5	4 50	12	Hockey Shirts	3/	4 50
6 0	11 40	9	Calico		5 85
5	55	15	best	165	8 25
30 Bro Linen	6 60	11	"	14/	19 25
4 1/2 Doz Collars	7 25	4		6	3 00
1 Harasol	1 90	2		2 1/2	5 00
1 "	1 30	2		3	6 00
1	1 75	5		2 3/4	13 75
1	1 50	5		3 22	16 00
4	4 30	8		95	7 60
Schedule (ll) Continued		9		80	7 20
Ant Bro Ford		16		1 30	7 80
20 cloth Caps	10 55	2		1 25	2 50
20 3 yarn	14 00	1	Pr Pants		75
6 Pr B Gloves	6 50	6	Doz Knives & forks		4 50
10 Hats	10 70	5	" " "		3 75
64 Straw & Palm Leaf Hats	38 35	3	" " "		3 30
28 "	4 08	6	" " "		5 40
11 Pr Pants	41 25		Am. Ford		
4 " "	19 20				
1 " "	5 50		Schedule (IV) continued		
2 " "	5 50		Ant Bro Ford		
3 " "	10 50	10	Basting Spoons		88
1 " "	3 75	3	Bevill Squares		1 50
2 " "	4 50	3	Saw Knives		1 20
2 " "	4 40	6	Draw Shaves		3 90
6 " "	12 60	1	Set chisels		5 00
10 " "	10 00	4	Tea Bells		80
42	3/ 15 75	2	Horse Brushes		60
7	2 50 17 50	10	Pocket ink stands		87
16 Coats	4 24 00	1/4	Doz Scratch awls		1 20
9 "	22 25	2	Saw Sets		50
1	7 00	1	Doz Window Fastening		1 00
3	10 50	1/3	" Plane Bits		1 60
6	39 00	1	" Combs		3 00
6	8 48 00	2	Set Red Casters		40
3	12 00	1/2	" Brass Snuffer		1 50
3	7 21 00	1/2	" Iron "		75

	Lot Screws	6 00	60	gr Augurs	5 40
2	" Window Springs	75	50	" "	4 50
2 1/2	" Blind Roller	75		Ciffin Trimming	4 50
1 1/2	" Window Fast	5 40	21	Rafter Straps	6 60
4	Brass Keller Bolts	40	3	M Cap	40 1 20
1	Dog Chisel Handles	50	2	M " Waterproof	2 00
1	" " "	50	2	Dog Brushes	1 50
1/2	" Snuffer Trays	60	14	Shaving Boxes	87
	Drawer Knobs	1 25	2	" Blanking	80
	Tack	4 50	4	" " 30	1 20
	Brads	1 35	1/2	Iron flesh Forks	60
	Shoe Nails	2 00	1 1/2	Dog Memorandum Books	2 75
1	" Rat Peg Oil Halls	2 00	1	" " "	1 32
5	" Gimblet	1 50	10	" " "	2 50
5	" Iron Spoons	1 00	8		40
7	Sets Tea "	1 40	2	"	75
5	" " "	45	1		1 20
6	" " "	1 00	21		2 37
9	" " "	36	4	Blk Books	80
10	" Shears	17 1 70	6	" Nutting	6 00
8		40 3 20	4	"	1 60
6		15 90	5	Indigo	5 50
22		9 1 98		Shoe Thread	3 00
	Butts	7 50		Ext Logwood	3 00
1	Dog Walker Caps	3 00	5	Dog Tobacco	1 50
4	" Brass Hook	1 40	1	" Wro Windsor Soap	75
8	" Brass nails	30	1/4	Gro Lone Kalkhauzen	3 75
	Amt Ford		2/3	Dog Hard Hair Gloss	1 00
	Schedule A, Continue		1/2	" Bears oil	75
	Amt Prot Ford		1	" Slates	8 96
8	Dog Cupboard Catches	1 50	5	" Tobacco	1 25
1	" Cabin Door Hook	50	4	" Transparent Soap	3 50
8	" Screw Ring	1 00	4	" Mustard	2 50
1/2	Gro Ox Balls	1 02	2	" Yank Soap	1 40
3	D Gun tubes	31		Amt Over	
	Irish Harps	50		Schedule A, Continue	
	Cutls	1 00		Amt Prot Ford	
5	Pocket rules	1 00	1	Box Soap	1 50
1	Dog 4 fold Box rules	4 20	2	Dog Sad Toilet	2 00

38	6	"	C Pins		66	3	Rat	"		90
	4	"	Ground Ginger	1	20	160	Sheet Sand Paper	1		50
	6		Pepper	1	75	10	Wood Faucets			83
	1/4		Gro allspec	2	00		Ant Post Ford			
			Chocolate	1	40		Schedule (A), Continued			
	19		Bars Soap	14	2	66	Ant Post Ford			
	8		Shaving "		32	6	Mouse Traps			75
			Toilets	1	00	2	Spirit Levels	1		50
	2	"	Ext Coffee	3	00	1	"	"	1	00
	38	"	Starch	3	80	10	Pepp Sauce			83
	20	"		30	6	00	2	Look Glass	130	2 60
	30	"	Tobacco	30	9	00	3	"	120	3 60
	25	"	"	40	10	00	1	"		1 30
	60			7	4	20	2	"	4	1 00
	3		Planes		3	00	1	"		65
	200	"	Salicatus	3 1/2	7	00		Paper & Envelopes	15	00
	1		Reg Ginger		5	00	2	Chest Tea	40	00
	1		Reg Madder		2	00	100	# Ripe	15	15 00
	1 1/2		Tea		40	00	2	Bench Screws		60
	2		Boxes Raisins		2	00	5	Spiders	1	60
	90	"	Tobacco		18	00	4	P. Sho Tongs Iron	1	60
	100	"	"		22	00	4	" " " Traps	70	2 80
	70	"	"		19	60	4	Set Print Rollers	2	40
	107	"	"		22	47	10	Cow Bells		4 00
	1		Rox Soap		1	50	2	Dog Chisel Halls	2	00
	1/2		Knaps C Stick		2	04	6	Gages	9	54
	11		Pr 5 in		6	38	3		65	1 95
	2		"	40	80	5	Planes Halls			50
	2		"	30	60	4	" " " "			20
	9		Coffee Mill		2	70	1/2	Dog 3-5 Brushes	60	3 60
	6		Spice Mills		1	80	1/2	" 1-0 "		2 40
	1/2		Dog Dist Brushes		1	80	5/12	" 1 "	14	75
	5		W Wash "		1	50	1/2	" Vanish "	30	1 80
	6		"		2	40	5/12	" Mo 3	10	50
	4		"	65	2	60	7/12	"	9	18
	8		Scrub Bros		1	60	9/12	" Curry Combs	9/12	83
	22		Shoes	18	3	96	19/12	"		1 75
	2		Mous Traps		18		1/12	"	10/12	22

1	Cards	1	12	14	"	5 1/2	7
8 1/2	"		67	27	"	1	2 43
4	Hatchets	65	2 60	104	"	9 2	9 93
4	Hand Axes	"	2 60	23	"	13	3 45
13	Hatchets	"	8 45	61 2	"	13	8 00
4	Hammers		2 72	92	"	10	9 20
4	"		1 20	4	"	10	70
6	Shoe "		1 02	138	"	8	3 04
3	Acres	160	4 80	29	"	12	3 48
Schedule A, Continued				20	"	17	3 40
Ant Post Ford				26	"	27	7 02
555	3 Yds York Mill (Cies)	44	46	1	Dot HdKf	40	4 80
191	"	7	13 39	2	"	30	7 20
299	3	9 1/2	28 47	1	"	40	4 80
260	3	10	26 58	Schedule A, Continued			
Ant Post Ford							
137		92	13 01				
403		8	8 26	2	Dot HdKfs	35	8 40
630		10	63 02	50	Yds Linen	20	10 00
58	Dr Sain	14	50	6	Dot Thread	35	2 00
74	"	18	50	23	" Linen	75	17 25
92	"	20	8 45	8	Gro Buttons		2 00
30	"	20	6 00	1	Set Combs	15	00
33		22	7 26	18	Gro Buttons	25	4 50
15	Saur	8	1 20	40	Box		20 00
16	"	14	2 24		Agates		2 00
5	"	17	85	1	Box Buckles		50
54		28	15 42	1 1/2	lb linen Thread		1 00
34	"	22	7 48		Port Monies	10	80
19		19	3 61		Thumblers Spectacles	12	60
26		11	2 86	1	Dot Cravats	6	00
19		10	1 90	1	Shirt		1 00
44		17	7 48	5	"	140	7 00
253	2	18	16 28	1	Dot Fans		1 50
17		19	3 23	5	Boxes Hair Pins	2	50
30		40	12 00	3	"		75
12		19	2 28	3	Shirts	160	4 80
3	Table Spreads	14 1/2	5 25	12	"	1 50	18 00
9	Berge	45	4 05	1/4	Hair Brushes		2 25
12	Col	11	1 32	1	Ribbons		40 00

Sewing Silk	6 00	15 "	Blk Lusting	110	6 00
25 Doz Hose & 1/2 Hose 1 st	31 25	26 "	Cassimere	20	80
5 " Child "	5 00	24 "	"	19	40
Gloves Combs & Brushes	60 00	21 "	"	55	11 50
Goods in Case	86 00	24 ³	"	65	16 09
30 Bonnets	40 00	5 1/2	"	130	7 15
Pins Thread & Eyes	20 00	5 1/4	"		7 15
Sundries	15 00	26	Leans	30	7 80
100 yds Silk dress	58 00	5	"		1 50
5 1/2 " Satin	10 00	22	Cassimere	75	16 50
14 yds Mull	45 6 30	24	Tweed	44	12 60
30 " "	30 9 00	15	Satinet	170	10 85
12	25 3 00	6 ²	"	44	2 86
8	50 4 00	7	Cassimere	1 ¹⁰	7 40
14	30 4 20	8 1/4	"	1 ¹⁰	9 08
145 y Cambrie	7 15 00	49 ²	Linen	14	6 93
148 " Drill	19 13 32	32	"	10	3 20
3 1/2 y S Towelling	1 ¹⁰ 3 85	34	"		3 40
18 1/2 Doz Towels	1 68	50	"	13	6 50
2 " "	4 00	22 ² 1/4	Damask	14	62
1 3/4 Doz Napkins	1 75	6 "	Linen	10	60
Schedule (A), Continued	25 "	Wigan	9	2 25	
Ant Prot Ford	210 "	Blk Cambrie	9	18 90	
10 yds Diaper	20 2 00	21 ²	Diaper	25	5 37
12 " " "	35 4 20	46 "	"	55	25 30
63 " Pillow Case	47 7 87	60 "	Drilling		5 40
22 Silk Hdkf	40 8 80	2 Doz Linen Hdkf	3 ⁰⁰	6 00	
1 1/2 Doz bot "	87 1 50	5 1/2 "	"	48	2 40
1 1/2 " " "	125 1 87	3 1/2 "	"	20	7 60
53 yds Blk Cassimere	1 ¹⁰ 58 30	51 "	"		6 90
26 " " cloth	2 ¹⁰ 42 00		Ant Ford		
5 yds Blk "	15 00		Schedule (A), Continued		
2 yds Nankeen	87 2 00		Ant Prot Ford		
17 yds Burlap	15 2 55	18 Hdkf	27	4 50	
40 " Cash	10 4 00	1 1/2 lbs Lot of worsted		1 00	
15 " Flannel	30 4 50	70 yds Wool Delain	40	28 00	
14 " "	22 3 08	1 Remnant velvet		50	
11 " "	25 2 75	39 " Dr Beige	11	6 49	

14	" Lace Blk	17	3	42	17	" Youths	90	15	30
12	" Blk Alpaca	40	4	80	36	" "	95	34	20
11	Lace goods	30	3	30	7	" Boys Boots	170	11	90
13	Lace goods	15	1	95	2	" Astour Made	14	8	00
28	"	17	4	76	6	" Mens Kip Boots	2 1/4	15	90
3	"	15		45	1	" " Calf		3	50
14	"	33	4	62	6	" " Slip	2 1/4	16	50
1 1/2	"	21		31	11	" Brogans	1 3/4	19	20
10	"	55	5	50	3	" Slips Fancy		4	00
19	"	25	4	75	9	Womens Heel Calf	8/	9	00
30	" Flouncing	10	3	00	5	" Low Shoes	8/	5	00
7	" Bosoms	30	2	10	11	" " "	1/5	11	55
5	"	50	2	50	29	" Misses	75	21	75
8	Cravats	30	2	40	10	" " "	60	6	00
6	"			75	8	" " "	20	1	60
4	"			32	22	" " "	60	13	20
16	yd Linen	33	5	28	11	" Womens Kid	8/	11	00
18	"	40	7	20	11	" Light Gaiter	10	5	50
26	"	60	20	40	6	" Womens Examed	80	4	80
58	"r Elastics	10	5	80	9	"r Pat Sealh	10	9	90
200	Yds Laces Robbins Edging & Sewt	30	00		5	" Fox Gaiters	150	7	50
4	Collars	50	2	00	8	" Pat Ties	90	7	20
2	"	8/	2	00	Names of Debtors to A.S.				
2	"	175	1	50	Andrew & Bro. Jist H. Sched. A. Ants.				
1	"			90	J. H. McKee				
1	Chemise & Underwear	1	00		Sylvan				
2	"		1	34	Wm. M. Oakford				
3	"		1	50	Jane Neland				
1	"		1	00	Thos. Spinwall				
4	Yds Worked Flouncings	4	40		Thos. Homer				
1	"			88	Wm. Scott				
Summers clothing				125	Alfred Hakes				
Schedule A, Continued					Doct. Raney				
Ant. Prot Ford					Timothy M. Baughin				
3	"r Mens low Calf	160	4	80	Doct J. M. Tomlinson				
2	" " Gaiters	20	4	20	J. Blanchard				
1	" " Lasting	2	00		Patrick Cuskey				
9	Calf Shoes	80	11	70	J. H. Eastman				
3	" Ties	125	3	75	H. W. L. Cornell				

Rick Heaton	10	53	W ^m Clark	88
J. P. Root	10	81	Jacob Dawson	16 80
Geo M ^s Lean	1	61	T. V. Cutright	2 60
B. F. Warner	01	25	Bills Receivable. Schedule (A), Cont'd.	
Arnold Sebell	2	00	Note against R. F. Steeking dated Chichester N. H.	
A. W. Hammet	15	66	May 6 th 1856 for the amount of \$100	00
Peter Hoffman	14	46		
F. J. Kenner	14	75	Note against Jeremiah M. Furman dated Chichester N. H.	
J. J. McIntyre	6	11	Oct 21 st 1856 for the amt of	26 30
Geo Hoyt	6	74		
W ^m J. M. Laughlin	53	50	Note against J. B. M. Master dated Chichester N. H.	
Anson H. Rucker	13	12	Oct 31 st 1856 for the amt of	45 00
Richard Scholes	6	50		
O. G. Wood	7	85	Due bill on A. H. Parsons dated Chichester N. H.	
John Hixon	20	35	Oct 25 th 1856 for the amt of \$5	60
Charles Robinson	8	20		
Mrs Samuel Jordan	1	76	An order on A. S. Murray dated Chichester N. H.	
Andrew Weaver	3	60	Sept 17 th 1856 Accepted Amt	9 00
John C. Summers	27	26		
W ^m Dandson	18	83	Order of S. D. Clark on J. H. Batchelder dated Chichester N. H.	
Thos S. Keller	40		Sept 5, 1856 Amt accepted	14 15
S. A. Todd	8	60		
D. F. Grosh	13	73		
Joseph Poidey	21	57		
Silas Trumels	2	50		
Solomon Traray	17	88		
Samuel Rager	5	50		
R. B. Watkins	10	60		
Basil Holliday	17	92		
Schedule (A) Cont'd				
W ^m Bramlet	1	45		
Thos M. Kelly	4	97		
Mrs Hickey	3	63		
Joseph Siddons	31	52		
Perry Boyd	2	50		
Thos Hathaway	1	05		
S. S. King	1	06		
S. S. Cole	11	98		

Schedule (B)
List of the Indebtedness & liabilities
of A. S. Anderson & Co
N.Y.

Rushmore Bone & Co Merch 3/1858	\$1837	97	Int after 6 Mos
Wilcox Perry & Eacker " 6 "	214	90	" " "
Browning Stewart & Allen Nov 3 1858	684	17	" from date
C. W. J. J. Garret Mar 1. 1856	453	40	" after 6 Mos
Vanderburgh Bonnet & Co "	470	57	"
Svingsta Bros & Kirkhead " 10 "	290	75	" " 6 Mos
Norton Jewett & Bigby " 15	994	32	" 7 "
S. B. Gregory Dec " 3	449	30	" 6 "
Northrup Hoffman & Co " 11	528	58	" 6 "
Hurlbut Van Valkenburg & Co	922	67	"
Dwayre & Forsyth Rochester N.Y.	105	00	" 5 "
John M Farnham Chicago	22	00	
Wm M Sean	6	43	
J. C. Follicott	3	30	
Sully & Hoyt	6	40	
James Flat	7	50	
W A Willard	14	00	
O. E. Wilbur	105	00	
Richard Scholes	31	00	
J. C. Tomlinson	28	00	
J & D Green Ottawa Ill.	14		

44 No question was made to the Signature or execution of the assignments and additions, The Plaintiff admitted that the additions were executed on Thanksgiving day being November 25 AD 1856 & after the original assignment was executed.

The defendants objected to assignment & additions going in evidence (but not on the ground that the execution thereof was not proved)

And the Court sustained the objection & excluded the assignments additions & Schedules from the Jury To which decision of the Court sustaining said objection and excluding said assignments & Schedules The Plaintiff then & there at the time objected & excepted

The Plaintiff then proved to the Jury that the plaintiff took possession of the goods in Plffs declaration mentioned under said assignment & addenda and kept & retained full & sole possession of the same for the space of over a month and proceeded in good faith to execute the Trusts and convert the property into money and while the Plaintiff was in possession of the goods executing the Trusts the defendants entered in such possession and with force & arms took and carried away thirty five hundred dollars worth of said goods & converted the same to their own use. The Plaintiff here rested.

The defendant then moved the Court to exclude all the evidence offered by the plaintiff, to which the plaintiff objected then & there, but the Court overruled the objection and excluded from the Jury all the plaintiffs evidence To which decision of the Courts overruling & excluding plaintiffs evidence the plaintiff then & there at the time objected & excepted.

The defendants then offered in evidence & proved & proved by the Cross examination of said plaintiff's witness Andrew G. Anderson that he (witness) & his brother George commenced business in Chillicothe on the first day of April 1856 - that he had formerly been a clerk at

Ottawa & his brother had an interest in a store in Iowa. That his brother said he had some wild lands in Iowa viz two 80 acre tracts & a 40 acre tract all worth \$1000. The witness also had a town lot in Newton, Casper Co Iowa. He did not assign the town lot, nor his brother's lands nor the sixteen hundred dollars in his brother's hands.

They purchased their goods in New York in February or March 1856 chiefly on a credit - about \$6000 worth. When they started to New York they had \$1000 in money & paid \$500 on their goods & kept the balance to pay freight. His brother started East on the 8th day of September 1856 & had \$1600 of the money of the firm, which he was to pay out to their creditors & purchase more goods, he was to go first to Virginia & then to New York. Witness heard of his brother in Virginia & in New York, but he did not pay any of the creditors in New York. He afterwards in the Spring of 1857 heard of him in Kansas.

That just before the assignment he was called upon by Mead & Williamson with a claim in favor of Messrs Wilcox, Perry & Ecker of New York & he paid thereon about \$200 & they sued him for the balance. That Mr. Brendorf agent for Hurlbut, Van Colthenburgh & Co of New York called on him & wanted his pay & when he did not pay him, Brendorf started for Florida saying he would get out an attachment. That the claim of Browning, Stewart & Allen of New York was presented before the assignment was made, by J. R. Cooper Esq & pressed for payment & threatened to prosecute the claim. These three claims amounted to about \$2000, & when he made the assignment he postponed these persons because they had urged the payment of their dues, but that he did not postpone them for the purpose of defrauding them - had no other reasons for postponing them & was not authorized to do so by his brother.

On the 15th November or there about 1856 Batchelder took a portion of the goods on an attachment in favor of Mason B. Browning & Co about \$800 worth. They had sold during the summer about \$3000 worth of goods including a net profit of 30 pr ct. Defendants

46 took the goods about the last of January or first of February 1857 & seized all the goods left by Batchelder

The Defendant then offered in evidence the following papers

1st The transcript of the record of the case of Hurlbut
Van Valkenburgh & Co. vs A. S. Anderson & Bro.)
" United States of America)
Northern District of Illinois) S.S

Pleas in Circuit Court of United States of America, for
Northern District of Illinois, held at the City of Chicago
in said Northern District of Illinois before the Honorable
Thomas Drummond, Judge of the District Court of the United
States for said Northern District of Illinois and (in the
absence pro tempore of the Honorable John McLean on
of the Justices of the Supreme Court of the United States
of America) Sole Judge of said Circuit Court on Tues-
day the twenty third day of December in the year of
our Lord one thousand eight hundred and fifty six
and of our Independence the 81st year.

William W. Hurlbut
Philip Van Valkenburgh
& William B. Leonard

vs In Assumpsit

Andrew S. Anderson

Impleaded with
George W. Anderson

Be it remembered that here before, to wit, on the eighth
day of November in the year of our Lord one thousand
eight hundred and fifty six came the said William W.
Hurlbut, Philip Van Valkenburgh, and William B. Leo-
nard plaintiffs in this suit by H. M. Weed Esq. their
attorney into the Clerk's office of the Circuit Court of the
United States for said Northern District of Illinois
at Chicago and filed in said Clerk's office their
affidavit and precept for the issue of a writ of Capias
against the said Andrew S. Anderson and George W.
Anderson Defendants in this suit, in a plea of trespass
on the case on promises, damages, twelve hundred dollars

returnable as Speedily as The rules of Court will allow,
also at the same time filed their bond for costs in said
entitled Cause which said Affidavit, precipe and bond
are in the words and figures following to wit:

State of Illinois
Cook County ss Henry C. Orendorff Agent for Hurl-
but Van Valkenburgh & Co of the City & State of New York
Being duly sworn deposes and says that Andrew S. Anderson
& George W. Anderson of the County of Peoria in the State
of Illinois (said County is in the Northern District & Cir-
cuit for Illinois) doing business under the name firm &
style of "A. S. Anderson & brother" are indebted to William
W. Hurlbut Philip Van Valkenburgh & William B. Leon-
ard doing business under the name firm & style of Hurl-
but Van Valkenburgh & Co in the sum of Nine Hundred
& thirty three dollars & thirty three cents for goods, wares
& merchandise sold & delivered to said A. S. Anderson
& bro, by them in the City of New York and that the same
will be in danger of being lost unless the said Defendants
shall be held to Bail That said goods were obtained
by said A. S. Anderson & brother from said Hurlbut, Van
Valkenburgh, & Co by fraud & false representations in this
that when said goods were purchased the said A. S.
Anderson in order to induce the said firm of Hurlbut
& Co to give him a Credit for said Goods falsely represented
& stated that they the said A. S. Anderson & Brother
were worth Forty five Hundred Dollars that they intended
to put into said business in the fall of 1856 the sum of
thirty five Hundred dollars more, when in fact the said
A. S. Anderson & Brother were not worth Forty five
Hundred dollars and did not intend to put in & have not
put in thirty five Hundred dollars into the business of
the firm, nor any considerable part of that sum but one
of said firm viz George W. Anderson has gone off &
left the State & cannot be found by his Creditors or heard
from, and the said A. S. Anderson has not enough
property left to pay the debts of said firm, nor has the
said George W. Anderson any property or effects in this
State so far as this affiant can ascertain & believes

except his proportion of the Goods now in possession of said A. S. Anderson at Chillicothe & which are insufficient to pay the debts of said firm.

That the said Sturbut Van Valkenburgh & Co relying upon the Statements so much as aforesaid by the said A. S. Anderson sold him a large amount of goods viz of the value of \$923, 10 cents which with interest amounts to the sum of \$933, 33 in which sum the said A. S. Anderson & brother are now indebted to them.

Henry C. Brendorff

Sworn to & Subscribed
before me this 8th day
of November A.D. 1856

Wm. H. Bradley Clerk.

William H. Sturbut
Philip Van Valkenburgh &
William B. Leonard
doing business under the
name & firm of Sturbut
Van Valkenburgh & Co."

vs.

Andrew S. Anderson &
George W. Anderson
doing business under the
name & style of "A. S.
Anderson & Brother"

In the United States
Circuit Court for the Northern
Dist & Circuit of Illinois

Term

A.D. 1856

Trespass on the case on premises
Damages \$12,00. 00

The clerk will please issue a capias & summons return-
able as speedily as the rules of Court will allow.

H. M. Weed

Atty for Plffs.

I, H. M. Weed do hereby enter myself security for costs
in the above entitled cause and acknowledge myself bound
to pay or cause to be paid all costs which may accrue
to the opposite party or to any of the officers of said Court
in pursuance of the laws of the United States or the rules

of said court.

(Endorsed) Filed Nov 8th 1856.

W^m H. Bradley cl^k

Whereupon a writ of Capias was issued out of said clerk's office against the said Defendants as prayed for, directed to the Marshall of the Northern District of Illinois to execute and was returned by the Marshal on the 21st day of November A.D. 1856. executed upon one of the Defendants which said writ together with the return of the Marshal thereon is in the words and figures following, to wit:

Circuit Court of the United States
of America, Northern District
of Illinois, The United States
of America to the Marshal of the
Northern District of Illinois, Greeting,

We Command you, that you take Andrew S. Anderson & George W. Anderson doing business under the Name & Style of A. S. Anderson & Brother if they shall be found in your district and them safely keep so that you have their bodies before our Judges, of our Circuit Court of the United States for the Northern District of Illinois at the term thereof now being holden at Chicago in the District aforesaid on the 26th day of November Instant. to answer unto William W. Hurlbut, Philip Van Valkenburgh & William B. Leonard doing business under the Name & firm of Hurlbut Van Valkenburgh & Co in a plea of Trespass on the Case upon promises to their damage as they allege of the sum of Twelve hundred dollars and have you then and there this writ. Witness the Hon. Roger B. Taney, Chief Justice of the Supreme Court of the United States of America, at Chicago aforesaid this Eighth day of November in the Year of our Lord one thousand Eight Hundred and fifty six and of our independence the Eighty first year.

Seal

William H. Bradley
cl^k

(Endorsed)

Thereby authorize, appoint & Deputize Smith
Try to serve the within summons & make return thereon

38 for me & in my name. This 8th day of Nov. 1856.
I am Nye, U. S.
Marshal Nov D S. Ill.
Peoria County, Ill. I have this 19th day of November A.D.
1856 by virtue of the within writ of Capias taken the body
of the within named Andrew S. Anderson and said Andrew
S. Anderson has given security as required by law. The said
George W. Anderson not found in my District.
I am Nye By
Smith Frye Dpy
Filed Nov 21st 1856.

W^m H. Bradley, Clerk
The Bond given to the Marshal by the Defendant A. S.
Anderson upon the release of the said defendant from
custody and returned by the Marshal with the said writ
as in the words and figures following to wit:
Know all men by these presents that we Andrew S. Anderson
and Henry Robinson of the County of Peoria and State of
Illinois are held and firmly bound unto Iram Nye of the
County of Cook and State aforesaid in the penal sum two
thousand dollars for the payment of which well and truly
to be made we bind ourselves our heirs executors and
administrators jointly and severally firmly by these presents
Witness our hands and seals this 19th day of November
A.D. 1856. The Condition of the above obligation is
such that whereas Hurbut Van Valkenburgh & Co
have lately sued out of the Circuit Court of the United
States for the Northern District & Circuit of the State of
Illinois a certain writ of Capias ad Respondendum in
a certain plea of trespass on the case on premises against
Andrew S. Anderson and George W. Anderson partners trad-
ing and doing business under the name firm and style
of A. S. Anderson & Brother returnable to the next present
term of said Court on the 20th day of November A.D.
1856 and upon which said Capias ad Respondendum
said Andrew S. Anderson has been arrested and is now
in lawful custody. Now if the said Andrew S. Anderson
shall be and appear before said Court on the said 20th

day of November A.D. 1856. and in case the said Henry Robinson shall not be accepted as bail in said action shall put in good and sufficient bail which shall be received by the plaintiff or shall be adjudged sufficient by the Court or the said Henry Robinson being accepted as bail shall pay and satisfy the costs and Condemnation which may be rendered against the said Andrew S. Anderson in the plea aforesaid or surrender the body of the said Andrew S. Anderson in case the said Andrew S. Anderson shall not pay and satisfy the said costs and Condemnation money, or surrender himself in execution when by law such surrender is required. Then this obligation to be void, otherwise to remain in ^{fully} force and effect

A. S. Anderson *debt*
Henry Robinson *debt*

(Endorsed)

Filed Nov 21st 1856

H^m H. Bradley clk

And after the issuing of said writ, and on the day of the return thereof to wit on the twenty first day of November in the year last aforesaid came again the said plaintiffs by their attorneys into the Clerk's office aforesaid and filed their certain declaration against the said defendants in the plea aforesaid, which said declaration is in the words and figures following to wit:

State of Illinois } Circuit Court of the United States for the Seventh
Northern District } Circuit and Northern District of the State of Illinois
of the October term A.D. 1856.

William W. Hurlbust, Philip Van Volkenburg and William R. Leonard partners doing business under the name firm and style of Hurlbust Van Volkenburg & Co, citizens of the State of New York plaintiffs complain of Andrew S. Anderson and George W. Anderson trading and doing business as partners under the name firm and style of A. S. Anderson & Brothers defendants and who are citizens of the State of Illinois in a plea of last pass on the case on promises, for that whereas the said defendants to wit on the first day of November A.D. 1856 to wit at the County of Peoria in said district and circuit of aforesaid were indebted to the said plaintiffs in the sum of twelve hundred dollars lawful money of the United States for divers goods wares and merchandise by the said plaintiffs before that time bargained and sold by the said plaintiffs

52 to the said defendants and at their special instance and request and by the said defendants under and by virtue of that bargain and sale before that time accepted received and carried away and being so indebted they the said defendants in consideration thereof afterwards to wit on the day and year last aforesaid to wit at the County of Peoria and said district and Circuit aforesaid undertook and then and there faithfully promised the said plaintiffs to pay them the said sum of money when the said defendants should be thereunto afterwards requested. And whereas the said defendants afterwards to wit on the day and year last aforesaid at the said County of Peoria and northern district and Circuit of Illinois aforesaid accounted with said plaintiffs of and concerning divers other goods wares and merchandize from the said defendants to the said plaintiffs before that time due and owing and then in arrear and unpaid and upon such accounting the defendants were then and there found to be in arrear and indebted to the said plaintiffs in the further sum of twelve hundred dollars of like lawful money and being so found in arrear and indebted they the said defendants undertook and then and there faithfully promised to pay them the said last mentioned sum when they the said defendants should be thereunto afterwards requested. Yet the said defendants not regarding their said promises and undertakings but contriving and intending to deceive and defraud the said plaintiffs have not paid the said several sums of money nor either of them nor any part thereof to the said plaintiffs although often requested so to do to the plaintiffs damage twelve hundred dollars and therefore they bring suit, and the said plaintiffs aver that the matter in controversy in this suit is of greater value than five hundred dollars.

Wheat & Williamson, Attys for plaintiff

The following is a copy of the account on which this suit is brought, Andrew L. Anderson, George W. Anderson partners & trading and doing business the name firm and style of A. L. Anderson & Co.

To Cash for Van Valkenburg & Co Dr.
1856 March 11 To merchandize at 6 months \$905. 61

17. 29
Error in Wesley tick 20

1856 Nov. 1. Balance due on settlement 1200. 00

Endorsed Filed Nov. 21st 1856. Wm. H. Bradley Clerk.

And afterwards to wit on the ninth day of December A.D. 1856
the plaintiff filed in said clerk's office a copy of the account declared
on ^{which} is in the words and figures following to wit:

New York Nov 11 1856

A. J. Anderson & Bro.

Bought of Carlbus Van Volkenburgh & Co Importers and jobbers of
foreign and domestic Dry Goods No 15 Park Place and Nos 108 & 112
Nassau St. Terms Cash.

W. W. Carlbus. P. Van Volkenburgh

W. B. Leonard

160 266	1	Blk P. cloth	6 3 18
25626	1	" "	20 ³ / ₄ 2 40 15
9057	1	" Cassimere	26 75 19 50
26979	1	Widalesey Doekins	27 ¹ / ₄ 1 27 25
348 28	1	Blk Satin	3 150 4 50
2577	1	"	3 225 6 75
4444	1	"	18 45 8 10
26	1	cott Velvet	14 50 7
21	1	lattice	29 25 7 25
5259	1	Blk Satin	24 ² / ₃ 60 14 85
312	1	Twice	32 37 ² / ₃ 12
21	1	Blk. Grape	4 50
	1	Blue Barege	15 25 5 25
	1	Bro	15 25 5 25
2	1	Green	46 ¹ / ₂ 29 4 11
210	1	Alpaca	37 ³ / ₄ 25 9 44
250	1	moisir	37 ³ / ₄ 50 18 75
1022	2	DeLaine	59 ⁵ / ₈ 20 11 70
900			" " " "
967			" " " "
996	4	De Laine	115 ² / ₃ 17 21 50
	2	" mourning	71 ³ / ₄ 17 12 64
	2	challe	75 ⁵ / ₈ 25 17 65
927		"	
563	3	Print Lawn	158 ¹ / ₂ 10 ² / ₃ 15 71
84	1	Ming.	24 18 4 22
5852			
5852	2	old faconett	101 16 ¹ / ₂ 16 66
54	1	" "	50 16 ² / ₃ 8 25
90	2	" Brilliant	52 ³ / ₄ 19 10 03
90	1	" "	26 25 6 50
41	3	Scotch Gingham	105 ⁵ / ₈ 25 27 12
53			

5442	2	"	81.26	20.25
8	William	Print	291 8 ^c	24.71
5	Hamilton	Purple	192' 39	18.71
		Over		433.16
		amt up		433.16
	5	American Print	182 9 ^c	18
129	6	Madder "	258 ³ 4 ^c	11.64
79	4	Harrope pl	142 ³ 8 ^c	12.13
67	4	green	149 ^c 8 ^c	12.71
2215	2	Turkey red	57 ^c 18 ³	10.77
121	4	Purpure	148 9 ^c	14.06
66B	1	Dog wht coll fuse		1.25
36	1			1.50
45	1			1.88
66B	1	Plate		1.25
45	1	"		1.87
12	4	Grey		1
228	8	mixes wht.	125	10
75	1	Gents Br. 1/2		1.60
48	1			2.00
135	3/4		2	1.50
142	1	mix		1
10 ^c	1			1.50
1162	2	Drapery	24 15	3.60
4	1	Birds E. Diaper	15 18 ³	2.81
45P	1		15 22	4.80
234	1	J. Linen	28 55	15.40
	2	pillow cotton	75 ³ 11 ²	8.49
	2	Castings	68 ³ 5	3.44
	1	Superior	35 ¹ 7	2.47
	1	Dog	38 7	2.66
	3	H. W & Co	109 ³ 8	8.78
	3	Dover	114 ³ 9 ²	10.90
	2	Hamilton	72 11	7.92
	2	Shalerville	75 ³ 10 ⁰	7.95
	1	James	87 ² 12 ²	10.94
	3	Bredul	122 ⁰ 13 ^c	16.53
	2	Gold Bro	68 13	8.84

27	3 Oak Dale	8.3	9 ^c	8.15
	1 Pattern Drill	47	19	8 93
	2 western Pick	79'	10 ^c	8 12
	2 N York	96'	11 ^c	11 07
	2 Extra 1/4	80	18	14 40
	1 Blk Wagon	28 ^c	8	2 28
	1 Blue Drill	43 ^c	9	3. 93
	1 cold. Jean	73 ^c	9	6 04

over
Amt. forward

	1 apron check	52.	14	7 42
	1 Blue Drill	93.	10 ^c	4 09
	1 S Hall	32	10	3 20
	3 Oneco Denim	131 ^c	9 ^c	12 84
	2 Nankeen		1	2 00
	6 2 Scotch Diaper		1	2
150	2 cotton	1	22 ^c	2 25
295	2 Doz Gents Lin Hdkfs	4.75		9 50
428	2	3.50		7.
17	1 Ladies			63
67	4	127 ^c		5.50
87	1			1 75
107	3	225		6 75
417	1			3
117	1			3 50
25	3 chemisettes	30		1 50
24	2 "	62 ^c		1 25
68	2 "	137 ^c		2 57
46	2 sets	1		2
30	3 embroidered Covers	125		3 75
6	1 Pinger hdkf.			3.50
5	2 "	3.		6
3	3 "	2.50		7 50
63	2 coll "	1.25		2 50
107	2 "	112 ^c		2 25
1	8 Latin ribbon	16		1 28
1 ^c	9	20		1 90
2	5	24		1 20
3	5	30		1 50

56	4	10		142 ²	4	25
	6	3		65	1	95
	9	2		105	2	10
	1 ²	3	Taffata	17		51
	1 ²	5		24	1	20
	2	6		27	1	62
	3	8		33	2	64
	4	6		45	2	70
	6	5		68	3	40
	9	5		112 ²	5	63
	12	7		120	9	10
				over	863	17
				over	863	17
	6	1/2	velvet ribbon		1	88
	5 ^c	1			1	75
	3	1				55
	2 ^c	1				75
	1 ^c	3		50	1	50
	1	B Hick		17 ²	20	350
	1	Twine		12 ³	21	268
	3	Owida Bro		100 ²	7 ²	763
	312	f. f. Lrapp.			1.75	525
	6	Florence silk		30	22 ²	675
	1	Black		10	1	10
						\$ 905.01

The above & foregoing is a statement of the several items of account claimed & paid on in the United States Circuit Court for the northern district of Illinois in the case of Carlhut Van Volkenburg & Co. vs. A. A. P. Anderson & Brother. Nov. 7, 1856

H. M. Wead Atty for plff

(Exdoria) Filed Dec. 9th 1856 Wm H. Bradley cl.
And afterwards to wit, Tuesday the twenty third day of December in the year of our Lord one thousand eight hundred and fifty six in the December term of said Court A.D. 1856 the following judgment was entered upon the Record of the proceedings of said Court in said titled cause to wit
William W. Carlhut.

Philip Van Valkenburgh
and William B. Leonard

In Assumpsit

vs
Andrew S. Anderson
impleaded with
George W. Anderson

Now comes the defendant Andrew S. Anderson in his own proper person and confers a judgment in favor of the plaintiffs for the sum of nine hundred and twenty three dollars and ten cents. It is thereupon considered and adjudged by the Court that the plaintiffs have and recover of the defendant Andrew S. Anderson the said sum of nine hundred & twenty three dollars and ten cents their damages so as aforesaid confessed together with their costs by them about their suit in this behalf expended amounting to the sum of thirty six dollars and eighty five cents and that they have execution therefor.

On the third day of January in the year of our Lord one thousand eight hundred and fifty seven a writ of fieri facias was issued out of the said Clerk's office upon the foregoing judgment, against the said Andrew S. Anderson impleaded with George W. Anderson as aforesaid directed to the Marshall of the Northern District of Illinois to execute and was returned by the Marshall on the twenty ninth day of May in the year last aforesaid. Satisfice in full which said writ of Fieri Facias with the return of the Marshall thereon is in the words and figures following to wit:

United States of America
Northern district of Illinois } The United States of America
to the Marshall of the Northern District of Illinois Greeting: We
command you that of the goods and chattels lands and tenements
of Andrew S. Anderson impleaded with Geo. W. Anderson in your
District you cause to be made nine hundred and fifty nine
dollars and ninety five cents which William W. Curbbut, Philip
Van Valkenburgh & William B. Leonard lately in our Circuit Court
of the United States for the Northern District of Illinois before the
Judge thereof at Chicago in the District aforesaid recovered against
him for damages which they had sustained as well by occasion of the
non performance of certain promises and undertakings as for their
costs and charges ^{by them} about their suit in this behalf expended, whereof
said defendant is convicted as appears to us of record, And

have you that money at the Clerk's office of our said Court in
sixty days from the date hereof to render to the said plaintiffs for their
damages aforesaid and this writ. Witness the Hon. Roger B. Taney
Chief Justice of the Supreme Court of the United States of America
at Chicago aforesaid this third day of January in the year of
Dea our Lord one thousand eight hundred and fifty seven
and of our Independence the 81st year

Wm H. Bradley Clerk

This writ came to hand this 3^d day of January 1857 at 12 o'clock M.
S. Nye U. S. Marshall

By virtue of the annexed writ of F. Fa. to me directed I did on the
16th day of January 1857 levy upon the following personal property
as the property of Andrew S. ~~Anderson~~ Anderson in order to satisfy the
same to wit one stock of merchandise consisting of Dry Goods and
ware (Queensware) and sundries in the town of Chalkville County of
Pecoria and State of Illinois, and after having given due notice of the
same according to law I did on the 10th day of February 1857 pro-
ceed to sell so much of said stock as was required to satisfy the said
execution for the prices described in the following account of sales to wit:

(* follow)

Remnant. Print				10
7 yd	"	"	6 1/2	46
1	"	"		12
2 1/2	"	"	6	1 32
94 1/2	"	"	8 1/2	8 03
826 1/2	"	"	8	66.12
36	"	"	7	2 52
38	"	"	7 1/2	2 87
32	"	"	7	2 51
34	"	"	6 1/2	2 21
9 1/2	"	Jeans	23 1/2	2 24
32	"	Print	7	2 24
46 3/4	"	Jeans	16 1/2	7 47
28 1/2	"	"	22 1/2	8 66
32	"	"	14 2	4 64
1 1/2	"	Print	7	53
19	"	"	7 1/2	1 43
6 1/2	"	"	7 1/4	46
35	"	Cottons	15 1/2	5 47
not forward				119.26

Sent forward

119.28

21 yds	Cottonade	12	2.53
11 "	Hickory	8	.88
8 1/2 "	Blue Drill	7	.60
6 "	Brown Jean	25	1.50
6 "	" "	25	1.50
6 "	Sage "	25	1.50
3 "	" "	25	.75
13 "	Cottonade	12 1/2	1.63
17 1/2 "	Burstein lalico	7 1/2	12.55
16 "	Cottonade	8 3/4	1.40
12 "	Striped "	9 1/4	1.11
15 1/2 "	" "	9 1/2	1.48
12 "	" "	10	1.20
12 "	" "	7 1/2	.90
12 "	Hickory	8 1/2	1.02
27 "	Picking	8 1/2	2.34
17 "	"	9 1/4	1.57
27 "	"	9	2.45
121 "	"	8	9.68
1	Remnant Cottonade		10
1	" Picking		.40
8 yds	Suspenders	5	.40
30 1/4 yds	Delaines	9	2.75
28 "	"	10	2.50
24 3/4 "	Satinet	50	12.38
48 1/2 "	Linen Drill	13 1/2	6.55
3	elk handk	46	.92
1 doz	linen towels	16 2/3	2.00
1	Remnant linen drill		.60
6 yds	Tweed	21	1.26
6 "	"	21	1.26
1	Remnant Satinet		1.62
1	comb		.55
1	"		.25

Sent forward (199.45)

Amount forward

3	linen	Hacks	23	191	45
18	"	"	26		69
12	"	"	10	14	68
8	"	"	11	1	20
12	"	"	37		88
12	"	"	30	11	44
12	"	"	45	3	60
11	Yds	Di Laine	29	5	40
46	"	Br. Lawn	21 ²	4	95
22	"	"	19 ²	9	94
16	"	"	12	4	29
1	Remt.	"		1	92
19'	Yds	"	11		60
16'	"	Bot. table cloth	17	2	12
1	Pr.	Scissors		2	76
16	Yds	Black Larting	35		30
15 1/4	"	Lawn	12	5	60
16	"	"	10	1	83
10	"	Billiante	23	1	60
9	"	"	29	2	30
5	"	Lawn	10	2	61
20	"	"	8 ²		50
43	"	"	20 ²	2	70
6 ²	"	Br. Linen	15	5	82
22 3/4	"	"	11		98
30'	"	"	18 ²	2	51
1	axe			5	60
1	"				75
1	Blk vest				70
1	ilk	"		1	00
1	"	"		2	15
1	coffe mill			1	00
1	pr. pants				25
1	vest				60
					205

Amount forward 290 77

		Amt Paid Forward	290.	77
2	Vests	65	1	30
1	Coffee mill			35
2	Razor Straps	20		40
1	"			15
1	Doz Soaps			60
1	"			42
1	"	3		21
1	"			42
6	"	6		36
6	"	6		36
6	"	6		36
6	"	6		36
6	"	5		30
1	Bk "			62
4	Shaving Boxes	5		20
1	Vest		1	20
1	Spice mill			15
1	Collars			40
1	"			90
1	"		1	00
1	"			55
1	"			50
1	"			50
1	"			55
1	Vest		1	40
3 lbs	linen Thread	70	1	40
1	"	"		70
6	"	" 75	4	50
1	"	"		76
6	"	"		76
1	"	"		76
1	"	"		75
1	"	"		75
1	"	"		75
Amt Forward			315	46

Amt Forward

315, 46

1	lbs	linen Thread					80
1	"	"	"				75
1	"	"	"				65
1	"	Cot	"				40
1	"	"	"				47
22	lbs	Devege	14		3		08
9		Shirts	90		8		10
1	doz	Sho Brushes	30				30
1		Calf Walt,					75
1		"	"				75
1		"	"				85
6	PK	Mene	8 1/2				50
1		Trafor					35
1		"					35
3		"	35		1		05
1		"					35
1		Vest					35
1		"					30
1		"					31
2	lbs	Saleratus	8				16
1	"	"	7				07
1	"	Carpet Bg					35
1	"	"					39
1		Vest					30
9		Napkins	12 ²		1		10
12		"	12 ²		1		50
12	yd	Crash	10		1		20
9		Spr bits	12 ²				88
1		Penknives					55
1		"					56
1		"					56
1		"					56
1		"					56
1		"					57

Amt Ford

345, 23

430,	27
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Ant Forward

Aunt Forward

1130.27

11	Umbrellas	20	80
2	Hickory skt	25	50
11	gds skt	25	1 00
26 1/4	"	22	6 04
22 1/2	"	22	5 18
1	Carpet bag		80
2	"	40	80
6	" Barege	25	1 50
9	"	39	2 61
7	"	17	1 38
10 ^c	" Delaines	12	1 26
1	R Remt. cut		22
5	"	7	35
13	" Delain	11	1 43
29	" Barege	14	3 96
12	" Delaines	12 ^c	4 13
37	" Pillow case	13	4 81
5	linen Bedkf	10	50
9	"	10 ^c	95
6	"	16	90
1 doz	"		1 50
2	"	12 ^c	25
6	"	15	90
11	"	15 ^c	1 71
10	"	13	1 20
12	"	15	1 80
12	"	13	1 56
13	"	17	2 21
12	"	13 ^h	1 62
11	"	17	1 87
12	"	17	2 18
3	"	18	54
3	"	18	54
3	"	18	54

Aunt forward 481.91

Aunt forward

487 91

1	lbs	cotton thread		25
1	"	"		24
1	"	"		24
6	"	linen		65
33	"	Grd pepper	"	3 63
1	can	cloves		20
52	"	"	16	88
8	"	nutmeg	85	6 80
1	jar	Indigo		170
4 ¹	"	Cinnamon	36	1 62
20	"	tobacco	25	5 00
5	"	Saleratus	6	30
7 ¹	"	tobacco	33	2 39
16	prafus	tobacco	2	32
48	cans	mustard	4	1 92
64	pkts	Extr. coffee	6	3 84
1	bottle	pepper sauce		10
24	"	"	10	2 10
1	lb	chocolate		10
5	"	"	10	50
1	"	"		10
10	"	Tea	47	470
24	"	"	42	10 08
48	cakes	soap	3 ²	1 68
48	"	transpr.	6	2 88
1		Hot.		20
16	lb	Extra logwood	10	1 60
23	"	cream tartar	25	575
38	"	Starch	6 ²	2 41
2	Palm	hats	123	2 50
44	"	Grd Ginger	3 ²	1 54
2	little	Kiefer & forks	60	1 20
2	"	"	25	50
2	"	"	26	53

Aunt forward 586.01

6	be		Amt forward	586	61
6	be	Blacking	3		18
24	"	"	2		60
1		fat			50
1		"			62
1		"			65
1		"			42
1		"			70
1		"			40
1		"			61
1		"			42
1		"			40
1		"			30
3	brass	candlesticks	21		65
1	Blk	Vest			110
1	"	"			2 05
2	lb	chocolate	6		13
11	"	"	5		55
34	yd	shg	10	5	40
12	"	Drilling	7		91
43	"	"	7	3	01
22	"	gingham	13 ²	3	10
40	"	sheeting	7	2	80
37 ²	"	"	7	2	63
40	"	"	6 ³ / ₄	2	70
40	"	"	6 ³ / ₄	2	70
40	"	"	7	2	80
40	"	"	7	2	80
40	"	"	7	2	80
35 ²	"	"	7 ²	2	76
34 ²	"	"	7 ² / ₄	2	65
40	"	"	8	3	20
36	"	"	7 ³ / ₄	2	80
35	"	"	7 ³ / ₄	2	72
31 ²	"	"	10	3	18

Amt. forward 646 82.

Aunt Forward

142	yds	Sheeting	9 ¹	646	83
52	"	"	9	4	04
21 ¹ / ₄	"	"	10 ²	4	77
51 ²	"	"	8	2	29
54	"	"	8 ⁴	14	12
35	"	"	10 ²	4	34
42	"	"	10 ²	3	85
54	"	"	9	4	46
37 ²	"	"	7	4	86
1		Hand saw		2	63
1		"		1	00
9		amusing Knos	16		55
40	yds	Montucky jeans	15	1	62
1		Amst "		6	00
1		"			15
12		"	14		30
11	yds	Cambric	6	1	30
23	"	linen	70		66
38	"	bro. Holland	6 ⁴	16	10
47	"	lile sea	5	2	38
20	"	lamb	5 ²	2	40
16	"	Drill	6	1	65
37 ²	"	"	6 ⁴		96
27	"	"	5 ³ / ₄	2	35
26	"	"	6	2	12
30	"	"	6 ⁴	1	56
29	"	cambr.	6	1	88
1		Whip		1	74
1		"			20
1		Spice mill			25
7		Spring bells	5		10
1		dry cloque	5		25
7		hair oil	4 ²		60
10		Cologne	6 ⁴		60 21
					65
		Aunt forward		429	44

Aunt. Toward			729.44
10	bottles cologne	5 ³ / ₄	57
2	Watch chain	25	75
11	Watches	3	33
6	Engl. Lemon	16	96
6	"	17 ¹ / ₂	105
6	Hair brush	20	120
15	collars	12 ¹ / ₂	562
5	tobacco	5	25
16 ³ / ₄	doz thread	46	772
6	tobacco box	5	28
22 ¹ / ₂	yds. Mizing	342 ¹ / ₂	68
16	Purpinders	12 ¹ / ₂	75
12	"	10	120
12	"	12 ¹ / ₂	150
6	"	16 ¹ / ₂	99
18	"	4	72
30 ¹ / ₂	yds lining	6 ¹ / ₄	191
3	Flu linen	20	60
22	yds Crank	7 ¹ / ₄	163
9	butcher knives	10	90
39	yds De Laine	25	975
16	" mustard	7 ¹ / ₂	120
10 ¹ / ₂	"	6	63
6	" linen	61	366
13	"	38 ¹ / ₂	468
1	lb Hair pins		17 ¹ / ₂
1	doz Yankee soap		12
1	lot chicken white		450
1	lot " "		350
1	" " "		200
1	" " "		250
1	" " Blue		270
1	" " "		240
1	" " "		225
			804.73

70

Aunt. forward

801.72

1	lett	crochery	Blue			2	40
2	"	knives	& forks	65		1	30
2	"	"	"	65		1	30
1	"	"	"				60
2	"	"	"	29			58
2	"	"	"	40			80
2		glass dishes		41			82
18 ²	yds	linen	37 ²			6	94
2		lamps		35			70
12	yds	muslin		11		1	42
12	"	"		14 ²		1	89
12	"	silk		57		6	84
12	"	"		52		6	24
12	"	"		50		6	00
12	"	"		45		5	40
12	"	"		52 ²		6	20
1		Remnant					100
11	"	muslin		11		1	32
12	"	muslin		12		1	44
7 3/4	"	"		12 ²			97
4 3/4	"	"		11			51
13	"	"		15		1	95
16	"	"		12		2	18
1		Bowch					43
5	"	muslin		11 ²			57
1		linen					20
1		"					18
11	yds	Brilliantes		13 ²		1	47
40 ⁴	"	& Drill		7		2	82
40	"	lett		8		3	20
45	"	Picking		10		4	50
34 ²	"	"		10		3	45
39	"	Drill		8		3	12
42 ⁴	"	"		72		3	19

Aunt forward

883.81

44	Yds	Drill	ye	Amount forward	883	81
44	yds	Drill	ye		2	20
40	"	licking	10		4	00
24	"	coll	7		1	72
10	"	neck ties	7			70
15	"	muslin	7		1	15
4	"	"	7			30
6	"	Suspenders	6			36
12	"	blanket	6			78
12	"	"	7			81
7	"	"	7			47
12	"	col. half	5			66
12	"	soaps	7			84
7	"	files	47		3	25
1	"	vest				35
3	yds	silks	20			70
13	"	lace	5			65
12	"	Boze	15		1	80
6	"	combs	6			36
12	"	"	6			72
4	"	Brushes	32		1	28
4	"	bunches coral	10			40
22	yds	muslin	7		1	61
12	"	combs	2			30
1	"	Hat				26
1	"	"				45
1	"	"				56
1	"	"				65
1	"	Remnant				32
1	"	be shoe brush				27
8	"	be soap	10			80
1	"	Lot W. Bru	85			85
1	"	saw knife				40
3	"	bars soap	21			63
		vest				40
				amount forward	9	10 97

Amount Forward

5	Barre	Loops	18	916	97
1		vest			54
1		"			70
1		"			25
1		"			40
4	lts	Knives & fks	42		168
29	yds	glazed muslin	7 ^c		218
2		Rayon Drapes	16		32
1		Loose			175
12 ^c	lb	Tobacco	14		175
46	yds	cott	6 ^c		100
1		vest			25
1		"			65
1		"			155
2		"	81		160
1		"			50
1		"			40
1		"			55
1		"			165
1		"			100
1		"			56
2	yds	vesting	157		411
8 ^c	"	barge	22		187
16 ^c	"	"	27		446
1		Looking glass			80
1		"			85
1		"			85
2		"	80		160
1		"			76
1		"			50
1		"			40
1		"			51
1		"			51
1		spirit level			30
1		"			150
1		Toy Cannon			
				955	47

Amount forward

1	lot envelopes		955	47
1	Run paper		145	
1	"		1	25
1	"		1	00
1	"		81	
1	"		1	23
2	Port monies	30	60	
1	"		50	
1	"		20	
1	"		25	
1	"		11	
2	litts Knives & fks	115	2	20
1	"		1	13
3	brushes	10	30	
1	" clothes		15	
1	"		13	
1	"		14	
1	"		16	
1 st	thick thread	16	24	
1 st	"	16	24	
2	Hair brushes	28	76	
1	"		20	
1	Hat		1	50
1	"		1	55
1	"		1	50
1	"		1	10
1	"		1	47
1	"		1	55
1	"		1	40
1	"		1	55
1	"		1	05
1	"		1	00
1	" Pan		39	
1	whip		60	
1	"		45	

Amount Forward 982.75

Aunt Forward

				982	75
1		Whip			45
2		"	45		90
1		"			41
3		"	35	1	05
1		Lot pepper			50
26	yd.	Bro. Holland	12 ²	4	50
1		Bell			25
1		axe			85
1		"			70
1		"			85
1		"			65
15	galln	Oil	65	9	75
1		Watches			60
1		shovel & tongs			53
1		axe			85
1		chamber			80
1		atlas			80
1		Rasp			15
7		axes	80	5	60
1		waiver			75
1		"			80
3		Red cords	16 ²		33
1		Blk latchet			55
1		axe			85
1		umbrella			40
2		"	35		70
3		"	40	1	20
1		"			55
4		"	40	1	60
1		Dish			17
1		"			50
1		Butter dish			60
1		"			66
1		and axe			65

Aunt forward

1023 55

Am't Forward

1033, 55

1	Hand axe			66
1	"	"		60
1	"	"		55
1	"	"		55
1	Shovel & tongs			45
20	Candle sticks	20	4	00
3	"	25		75
3	"	25		75
6	Sheep Shears	18	1	08
5	Shoe punches	26	1 1/2	30
11	Powder flasks	28	3	08
5	Steels	31	1	55
1	Butter Dish			31
3	Dog Snaps	20		60
6	Chis	5		30
6	Hatchets	29	1	74
3	"	31		93
6	Sore Hammers	10		60
12	Door Handles	5		60
10	Coat Hooks	5		50
5	Gun Locks	31	1	55
5	Coffee Mills	18		90
13	Blind fastening	11	1	32
12	Bolts	7		84
5	Shoe Knives	110		50
5	Brushes	22	1	10
10	Nippers	9		90
6	Knives	20	1	20
8	Chisels	21	1	68
12	Brass Snuffers	9	1	08
3	Dog Knives	60	1	80
1	axe			80
10	Spoons	10	1	00
11	Shears	21	2	31
			1061,	43

Am't Forward

76		Amt Forward	1061, 43
3	Dm Shaves	40	1, 20
25	Selt Spoon	7	1, 75
43	" "	7	3, 81
40	Straw hats	12 ²	5, 00
31	" "	22	6, 82
1	" "		1, 70
4	Carving Knife	53	2, 12
1	Dof Shoe rasps		, 48
4	Powder flasks	31	1, 24
1	Dof Compass		1, 50
2	Hand saws	93	1, 86
2	" "	85	1, 70
3	" "	43	2, 19
6	Selts Knives & flks	17	1, 02
6	Rasps	30	1, 08
5	Peg floats	12 ²	, 63
1	Bx Edging		10, 00
3	Hammers	40	1, 20
3	" "	25	, 75
6	Brushes WW	36	2, 16
1	Lantern		, 45
11	prs Wht Kid Gloves	40	4, 40
1	Lantern		, 60
1	Dof Cott Leons Kath	107	1, 07
2	" " " "	1, 10	2, 20
20	" Tobacco	14	2, 80
5	Brushes WW	21	1, 05
1	W Dish		, 60
			1121, 00

Amounting in all to the Sum of Eleven Hundred & twenty one Dollars and the same being sufficient to satisfy said Judgment and all Costs - Said annexed execution is returned fully satisfied February 15th 1857 all of said money except Marshall's fees having been paid to pffs attys. as per receipt endorsed upon the said execution.

Iram Nye U. S. Marshall
By H. M. Matthews Deputy

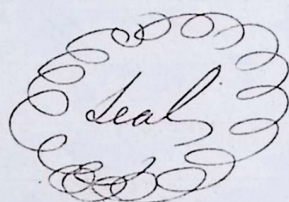
Received Nine Hundred and fifty \$500 dollars in full
of this execution.
Wm. H. Williamson,
Attorney for plffs

(Endorsed)

Filed May 29th 1857
Wm. H. Bradley, Clk

Northern District of Illinois ss

I William H. Bradley clerk of
of the Circuit Court of the United States for said Northern
District of Illinois, do hereby certify the foregoing trans-
cript to be a true & correct copy from the record of
all the proceedings which have been had in said Circuit
Court in said Cause of William W. Hurlbut et al
against Andrew S. Anderson unpleaded &c



In testimony whereof I have hereunto
set my hand and affixed the seal
of said Court at my office in
Chicago in said District this fifth
day of November AD 1857

Wm. H. Bradley, clerk

2nd The Commission of Frank Nye as Marshall
as follows to wit:

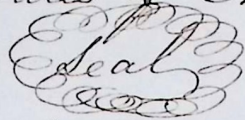
Franklin Pierce President of the United States of America
To all who shall see these presents Greeting:

Know Ye That. Reposing special trust & Confidence in
the Integrity, Ability & diligence of Frank Nye of Illinois

I have nominated and by and with the advice
and Consent of the Senate do appoint him Marshal of the
United States in & for the Northern District of said State
and do authorize & empower him to execute
& fulfil the duties of that office according to Law, And
to have and to hold the said Office with all the powers,
privileges & emoluments to the same of right appertaining
unto him the said Frank Nye

for the term of four years from the date hereof
unless the president of the United States
for the same being should be pleased sooner to revoke
and determine this Commission. In testimony whereof
I have caused these letters to be made patent, and the seal

of the United States to be hereunto affixed.
 Given under my Hand, at the City of Washington the Seventh
 day of July in the Year of our Lord One Thousand eight
 Hundred & fifty six & of the Independence of the United
 States of America the 81st.



By the President Franklin Pierce
 W. L. Marcy Secretary of State

3^d The Oath of Said Nye as follows to wit:
 United States of America
 Northern District of Illinois

I do Solemnly Swear that I
 will faithfully execute all lawful precepts directed to
 the Marshall of the Northern District of Illinois under
 the authority of the United States, and true return
 make & in all things well and truly and without
 malice or partiality perform the duties of Marshal of
 the said District during my continuance in office &
 take only my lawful fees

Sworn to and Subscribed
 Before me this 16th day of
 July AD 1856

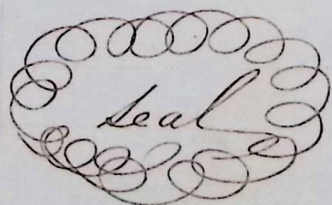
Sam Nye

Thomas Drummond

U.S. Judge

Northern District of Illinois, Ill.

I William H. Bradley Clerk of the
 District Court of the United States for said Northern
 District of Illinois do hereby Certify the above and fore-
 going transcript to be a true and correct Copy of the
 original Oath of office of Sam Nye late Marshal
 for said Northern District as the same appears on the
 official Bond of said Marshal on file in my office
 & also of record therein



In testimony whereof I have hereunto
 set my hand and affixed the Seal of
 said Court at my office in Chicago in
 said Northern District this third day of
 December AD 1857.

Wm H. Bradley clerk

4th The appointment of Mathews & French two of
defendants as deputy Marshalls and also 5th The oath
of said Mathews & French as follows to wit:
Know all Men by these presents, that I, Iram. Nye
United States Marshal for the Northern District of
Illinois, have appointed and do by these presents appoint
Henry M. Matthews of said District my true and
lawful Deputy hereby giving and granting to my said
Deputy full power and authority to execute all writs
to me directed and generally to transact all business
appertaining to my office as fully and completely as I
could or would do if personally present or otherwise
hereby ratifying & confirming all that my said Deputy
may lawfully do in the premises

Given under my hand & seal this twenty
sixth day of July A.D. 1856
at Chicago Illinois
Iram Nye, U. S. Marshal
Nor. Dist. Ill.

Northern District of Illinois, ss.

I, Henry M. Matthews, do solemnly swear that I will
faithfully execute all lawful precepts directed to the Mar-
shal of the Northern District of Illinois under the authority
of the United States & true returns make & in all
things well & truly & without malice or partiality perform
the duties of the Office of Marshalls Deputy of the Northern
District of Illinois, during my continuance in office
and take only my lawful fees.
So help me God.

Henry M. Matthews

Sworn to before me
this 28th of July
A.D. 1856

Thomas Drummond

(Endorsed), Filed July 28th 1856

Wm. H. Bradley Clerk

Northern District of Illinois, ss.

I, William H. Bradley, Clerk
of the District Court of the United States for said Northern

80 District of Illinois, do hereby Certify, the foregoing trans-
cript to be a true and correct Copy from the record and
files of said Court of the appointment of Henry M
Matthews and of his oath of office as Deputy Marshal
for said Northern District as the same now appear
of record in my office. In testimony whereof I
have hereunto set my hand and
affixed the Seal of said Court at my
Office in Chicago in said Northern
District this eighth day of December AD 1855
Wm H. Bradley Clerk



Know all Men by these presents that I Frank Nye
United States Marshal for the Northern District of
Illinois have appointed and do by these presents appoint
J. Washington French of said District, my true and
lawful Deputy, hereby giving and granting to my said
Deputy, full power and authority to execute all writs
to me directed and generally to transact all business
appertaining to my office as fully and completely as I
could or would do if personally present or otherwise here-
by ratifying & confirming all that my said Deputy
may lawfully do in the Premises

Given under my hand and seal
this first day of August AD 1856
at Chicago Illinois

Frank Nye, U. S. Marshal Nor'Dt. Ill.,
Northern District of Illinois, ff.

I J. Washington French, do solemnly swear that I will
faithfully execute all lawful precepts directed to the
Marshal of the Northern District of Illinois under the
authority of the United States and true returns make
and in all things well and truly and without malice or
partiality perform the duties of the Office of Marshals
Deputy of the Northern District of Illinois during my
continuance in office and take, only my lawful fees
So help me God.

I Washington French
Sworn to before me this 1st day of August
AD, 1856,
Thomas Drummond

(Endorsed) Filed August 1st 1856

Wm H. Bradley Clerk
Northern District of Illinois, ss.

I, William H. Bradley Clerk of
the District Court of the United States for said Northern
District of Illinois, do hereby certify the foregoing transcripts
to be a true and correct copy from the Record & file of
said Court of the original appointment and oath of
office of J. Washington French as Deputy Marshal
within and for the Northern District of Illinois as
the same now appears of Record in my office



In testimony whereof I have hereunto
set my hand and affixed the seal
of said Court at my office in Chicago
in said Northern District this eighth
day of December AD 1857

William H. Bradley Clerk

To the admission in evidence to the Jury the plaintiff
objected at the times they were severally offered in evidence
but the Court overruled the said objections of said
plaintiff & admitted said records & transcripts & papers
in evidence to the Jury, to which decisions of the Court
admitting said records, transcript & papers in evidence
the said plaintiff then & there objected & excepted.

It was admitted by plaintiff that Matthews
& French were acting as the deputies of Nye the
Marshall when they seized the goods. The Jury found
for the defendants.

The plaintiff entered a motion
for a new trial for the following reasons

- 1 The Court erred in excluding proper evidence offered
by the plaintiff.
 - 2 The Court erred in excluding the assignment &
additions thereto offered in evidence by the Plaintiff
 - 3 The Court erred in admitting improper evidence offered
by defendants.
 - 4 The verdict is against the weight of evidence;
 - 5 The verdict is against law;
 - 6 The verdict should have been for the Plaintiff.
- But the Court overruled said motion & refused to

grant a new trial to which decision of the Court overruling
 the said Motion to grant a new trial the plaintiff then &
 there at the time objected & excepted & prayed that his
 bill of exceptions might be signed & sealed & made part
 of the records in this cause which is done

E. N. Powell 

State of Illinois }
 Georgia County } ss I Enoch P. Sloan, Clerk of the Circuit
 Court in and for said County and State do certify that the foregoing
 is a full and complete transcript of papers filed and of proceedings
 of our said Court in the cause wherein Henry Robinson is plaintiff
 and Sam Nye, Henry M. Matthews, William H. Hurlbut, Philip
 Van Valkenburgh, William B. Leonard & Isaac W. French are defend
 ants as the same appears on file and of record in my office

Given under my hand and the
 seal of said Court at my office
 in Georgia this eleventh day of
 March in the year 1858

Enoch P. Sloan, Clerk

Henry F. Cohen
250 250

Hammer
and other

Record & Receipts
of mms

~~Filed April 22 1858~~

~~S. Leland~~
CLP

Filed April 22 1858

W. S. Leland
CLP

Henry Robinson }
vs } In the Supreme Court
Gunn & Co vs } April Term 1839

Argument for Defendants in Error
by
H. M. Weed

This is an action of trespass for taking & carrying away a store of goods from Chitticothe in Peoria County and was tried in the Peoria Circuit Court, where a verdict & judgment was had for the defendants.

The plaintiff below now brings his writ of Error here to reverse the judgment.

The defendants, plead the general issue, and two or three special pleas, alledging that the goods, were the property of Andrew S. Anderson & George W. Anderson — that who were partners in trade, that Shurlburt Van Valkenburgh has obtained a judgment against the Andersons for about \$1000. in the United States Circuit Court for the northern Dist of Illinois, and out an Execution thereon levied ^{it} upon the goods in controversy and sold them at auction in due course of law & made their money.

Issue was joined upon all the pleas
The plaintiffs below claimed the goods by
virtue of an assignment for the benefit
of creditors made by Andrew S. Anderson
without the knowledge or consent of his
brother, under the partnership name of
"A S Anderson & Bro" made on the 8th
day of Nov 1855.

The plaintiff (Abstract Page 2) called
A S Anderson as a witness, who testified that
he made the assignment without the knowledge
or consent of his brother, who was his partner
The assignment was made 8 Nov 1836 (the
1855 in the abstract is a mistake) That in
September 1836, his brother left Chellicothe to
go to New York & purchase goods, since which
time he has never returned, That just before
the assignment some demands were presented
to him for payment by Mead & Williamson
(Page 6) in favor of Hurlburt Van Valkenburgh
also, & one in favor of Wilcox Perry & Becker
also one by Mr Cooper in favor of Browning
Stewart & Allen ——— all of whom were
left out of the assignment — That when
his brother left for New York (Page 2) he
took with him \$1600 in money. This money
as also two tracts of land in Iowa owned
by George W. Anderson the brother of witness

and a Town Lot in Jasper County Iowa, owned by the witness himself, were not assigned by the deed of assignment. The assignment was made after the agent of Hurlburt Van Valkenburgh & Co, had threatened to get out an attachment & levy on the goods (P. 6.) That all the persons who pressed him for their dues were excluded, from the benefit of the assignment because they pressed him for payment. After the assignment was made, to wit on the 25th Nov 1836 (Page 5) an addition or further agreement was made by Anderson & the Plaintiff Robinson which is endorsed on the assignment by which it is stated "it is not the intention of the parties making the agreement to require any creditor to release his claim against A. S. Anderson & Co, as a condition upon which he should receive his dividend. This second agreement, as also a third one, endorsed thereon, was not signed or assented to by any of the creditors but was the voluntary act of A. S. Anderson & Henry Robinson, who kept the assignment & altered it, to meet emergencies.

On the 15th Nov 1836, after the assignment was ^{made}, & before the Postscript was added, a portion of the goods (P. 6.) were levied upon by Bulchelder an officer by virtue of

an execution or attachment.

The suit in favor of Hurlburt Van Valkenburgh & Co was commenced on the 8th day of Nov 1836, the same day the assignment was made, and service was had on Anderson on the 19th of November and judgment was obtained on the 23^d day of Nov 1836, two days before the making of the Postscript or addenda to the assignment.

The plaintiffs then offered in evidence, the deed of assignment to which defendants objected, on the ground that it was fraudulent & void and pointed out the following objections thereto

1.st The circumstances show it fraudulent

2^d One partner cannot assign the ~~partner~~ a part of the partnership assets to a Trustee for the benefit of creditors without the assent of his co-partner

3. The assignment authorized the trustee to compound any debt due the firm Page 3.

— To sell all debts which cannot be collected in a reasonable time

~~all creditors~~ No person shall be admitted
a creditor unless notice of his debt is given
before final dividend. That after a
dividend is declared, no creditor not
giving notice, shall receive anything
unless he relinquished all right to a prior
dividend

4. That the trustee shall not be liable
for any loss or damage which may happen
except the same shall arise through his
own wilful default Page 4

5. The creditors can only receive a divi-
dend or any benefit, unless they release
and discharge their whole debt. This
applies to all persons who receive a dividend
under the assignment

6. The Deed does not provide for refunding
any surplus, that may be left, after the
~~deb~~ the preferred debts are paid — and thus
all those creditors who do not file their

claims with the trustee are forever prevented from collecting them, even although there should be thousands left in the hands of the trustee after paying the debts

The bare statement of these objections are sufficient to prove that the deed was void for fraud in law, apparent upon its face, and very nearly every point has been so decided

2^d Point. That one partner cannot assign the partnership effects for the benefit of creditors, without the knowledge or consent of the others. He ^{may} pay any particular creditors in money or goods, or he may pay them all, but I deny that he can make an assignment like the one under consideration — prefer certain creditors, annex conditions to others, and impose obligations, not in the regular course of business, without the consent of the other partner, and these views are sanctioned by the authorities in Bunell on assignment. Pages 36. 37. 38, & cases there cited

The absent partner might not prefer the same creditors, he might not desire the creditors to release their debts before they should receive a dividend, he might not insist that all creditors who did not present their claims to the trustee before a final dividend should forfeit the benefits of it, or that the trustee after ~~receiving the~~ ^{for} paying the debts which might be presented, should retain any surplus that might remain; He might prefer to make the apportionment broader & include the \$1100, which he had in his pocket & the lands owned in Iowa, all these acts are inconsistent with the usual course of business, with the natural obligations existing between partners, and with their reciprocal duties. Suppose one should choose one person trustee, and apportion one half the property, and the other should select another trustee & apportion one fourth, and each act independent of the other. They cannot do it. If one can do an act ~~much~~ of this description without the other's consent, the other can do the same thing. But I will push this no further.

3. The trustee was authorized to compound debts — to sell debts that could not be collected in a reasonable time. — No person to share in the dividends unless notice of his debt is given to trustee before a final dividend is declared — and no creditor to receive a dividend unless he relinquishes all claim to a prior dividend.

- 1 As to Compounding, see Burrell on assignments Page 205, where the point is settled.
2. Power to sell debts not paid in a reasonable time. This is foolish, unwise & fraudulent. What a door for fraud! to sell a good debt of \$500, for \$20, merely because the debtor delays to pay.

3. No person to share in dividends unless he gives notice of his debt, nor then unless he relinquishes all claim to prior dividends.

These conditions are unreasonable and cannot be imposed by a debtor in failing circumstances.

4. The trustee shall not be liable except for wilful default. This question has been fully settled in New York & in this state

McIntire vs Benson 20 Ill 500
Litchfield vs White 3 Selden 445

5. The creditors must release their debts before they can receive any dividend
Perron vs Crosby 23 Maine 261

Toze vs Halecomb 31. do 401

Hyslop vs Clarke 14 Johnson 458

Makeman vs Grover 20 do 450

Burnell on assignments Page 154, 5, 6, 7

6. The deed does not provide for returning any surplus of property that may be left after paying all debts, & it excludes all debts from the assignment which are not presented before a final dividend.

The deed thus withdraws all such surplus from the reach of creditors, and thus effectually delays & hinders them. It

It places such surplus beyond the reach of the creditors, and operates as to them as a sale without consideration, and is therefore fraudulent and void

For these brief reasons I insist that the Court below decided right in excluding the Reed

Attest
for Dept in Error

85-82
Henry Robinson vs
Sam Aye vs

Argument for defen-
dant in Error

by
Wm. Wendell

Filed April 29, 1859

L. Leland
Clerk

HENRY ROBINSON, Plaintiff in Error,)
 vs.) IN SUPREME COURT.
 IRAM NYE *et al.*, Defendants in Error.)

PLAINTIFF'S POINTS AND BRIEF.

This case turns upon the validity of a deed or deeds of assignment set out in the records of this case. The plaintiff below offered in evidence said deed of assignment and the amendments and additions thereto, and the defendants objected to said deed and amendments and additions going in evidence before the jury, for the following reasons:

- 1st. Because said deed of assignment was executed by one partner alone.
- 2d. Because said deed does not in express words direct the trustee to convert the assigned property into money.
- 3d. Because it coerces creditors to release their indebtedness against A. S. Anderson & Bro.
- 4th. Because the assignee is made liable only for wilful defaults.
- 5th. Against the additions or amendments, because they were not properly executed, and because they do not cure the defects in the original deed of assignment.

As to the first objection, the power of one partner to make a deed of assignment, the weight of authorities seem to be in favor the power of one partner in the absence from the State of the other partners; so they cannot be consulted, and other circumstances are such as would justify an assignment, in such case, (which the bill of exceptions shows to have been true in the present instance,) one partner may make an assignment of the partnership property to a trustee for the benefit of the partnership creditors, with preferences.

See Robinson vs. Crowder, 4 McOrd's Law 519, overruling Dickinson vs. Legare.

Harrison vs. Sterry, 5 Canch 289, held the power of one partner to assign.

Mills vs. Barber, 4 Day, 428.

Anderson vs. Tompkins, 1 Brookenrough, 456.

Egbert vs. Woods 3 Paige, 517.

McCullough vs. Summerville, 8 Leigh, 415.

Deckard vs. Case, 5 Watts, 22.

Hennessey vs. The Western Bank, 6 and Watts & Serg. 300 Rogers, J. Id. 310.

The cases reported to the contrary generally show that the assignment was made by one partner against the known wishes of the co-partners, or when the co-partners could have been consulted. If assignments are to be at all tolerated, there seems to be no good reason why it may not be proper for one partner to assign the partnership property in the absence of the other partners, if it be necessary for the general benefit of the partnership creditors: otherwise a single rapacious creditor might sacrifice the entire property of the partnership to satisfy a trifling indebtedness. If the principle be adopted that one partner cannot assign the partnership effects, it follows as a logical consequence that no number of partners less than the whole can make such an assignment, and hence if a partnership consisted of 100 members and one were absent, the 99 might be compelled to stand by at the sacrifice of their property, powerless to protect the interests of their creditors generally.

As to the 2d objection, no argument will be made, the reading of the assignment by the court will suffice.

The 3rd objection, if true, is conclusive against the assignment.

The original deed of assignment does provide that those who become parties thereto by executing said instrument as creditors, do release, but it does not make it necessary for any creditor to execute the same in order to receive the benefit of the assignment. The parties of the third part do release—they become parties of the third part by executing the assignment as creditors, as provided in said assignment, and in no other way. The preferred creditors are to receive the benefit of the assignment pro rata, without any condition as to whether they have executed the deed of assignment, or made any release whatever—The unpreferred creditors are to be paid pro rata after the preferred, and this whether they have executed the instrument or not. In the first statement of the trusts of said deed, the principal trust is to pay all the persons creditors of the said parties of the first part.—If creditors do not execute the deed of assignment they do not release, because there is no way of releasing provided, except by executing the deed of assignment, and yet they will receive the benefits of the assignment pro rata with the class they are in, either of preferred or of unpreferred creditors. If creditors do not execute the deed of assignment, they have all the advantages of those who do execute the deed and besides do not release, hence those who execute the assignment do so voluntarily and cannot complain, nor has any person a right to complain in their behalf—the release is not coercive, but voluntary. But if there was a coercive release in the original deed of assignment, this objection was obviated long before any of the defendants were in a position to attack the assignment, by means of additions, or amendments to the original deed of assignment, which will be more particularly considered hereafter.

The fourth objection has lately been held by this court, in the case of
 vs. 20 Ills. pp. to be a valid objection to the instrument containing
 the same.

The objectionable clause must make the deed of assignment either absolutely void, or only voidable. If it renders the deed of assignment *absolutely void*, it leaves the right of the property in the assignor, who may reduce the same into his possession and make another assignment, or he may re-assign or make a new assignment of the property without having first obtained possession of the same. And this right to re-assign or make a new deed of assignment is absolute, provided the original deed of assignment is *absolutely void*, because no title could vest in the assignee under or by virtue of said deed.

Hone vs. Woolsey, 2 Ewd. Ch. R. 289.

The additions made to the original deed really make a new assignment of the property previously attempted to be assigned, and was done before any of the defendants could in any manner reach the property assigned. The law holds valid a new assignment in such case, where the original instrument is void.

Ingraham vs. Wheeler, 6 Com. 277.

If the objectionable clause makes the deed of assignment only voidable, then there will be no question as to the right to amend the original deed of assignment and purge it of the objectionable features, prior to the time of any creditor obtaining a lien upon the assigned property. And this calls up the validity of the amendments as additions to said assignment. The objections are that the amendments are not executed in due form, and also that they do not cure the defects in the original assignment.

The original deed of assignment was tripartite, A. S. Anderson & Bro., assignors, parties of the first part, Henry Robinson, plaintiff herein, assignee, party of the second part, and several creditors, parties of the third part. The additions or amendments are two in number, and both made at the same time: the first executed by A. S. Anderson & Bro. and by Henry Robinson, and the second addition by A. S. Anderson & Bro. alone, making a new assignment upon the trusts and purposes of the original assignment, and of the first amendment thereto.

If the amendments had been executed by the several creditors who executed the assignment, there could be no question as to the admission of the amendments in evidence, so far as the execution or the parties executing is concerned, but they were not so executed, and the question arises, should the amendments in this case have been admitted in evidence as duly executed by the proper parties. The defendants rely upon the cases of

Conkling vs. Carson, 11 Ill. 503, and

Ramsdell et. al., vs. Sigerson et. al., 2 Gil. 78, as excluding said amendments.

In the case of Conkling vs. Carson there were two amendments: the first executed by the assignor and the assignee only, and the latter by all the parties to

the original deed of assignment. The court decide that the original deed was purged by the amendments, in which all the parties joined; the legal effect of the first amendment, apart from the second amendment, being unnecessary to consider, the court passed it by in silence, and thus left undecided the question arising in the present case.

The case of Ramsdell et al. vs. Sigerson et al., seems to approximate more nearly to the case in hand. In that case, the first deed of assignment was defective, and to cure the defect an amendment was added, executed by two of the three parties to the first deed of assignment. The court say, substantially, that had the amendment been executed in the best manner possible, it did not remove the fatal defect in the first deed. The court seem to have regarded the amendment in itself as defective as the original deed, and upon this point their decision evidently turned. It is, however, incidentally remarked, that they deem the execution of the amendment by all the parties as essential to its validity. No stress, however, seems to have been laid upon it, and no reasoning or authorities are cited to support it. It seems evident the case was not decided upon this point, and hence the question, *whether it is necessary, under all circumstances, that all the parties executing the first deed of assignment must join in executing the amendment in order to make it valid?* is an open question, never fairly presented or decided by this court.

It may be well to remark that although it is a well established principle that a deed cannot be altered in a material part by a party interested, without making the deed void, it applies more particularly to erasures and interlineations. In fact, most of the cases usually cited are of that nature, and inapplicable to a case like the present. In case of erasures and interlineations, the policy of the law to prevent great frauds being committed in a clandestine manner has affixed the penalty of forfeiture to such alteration. But in cases of the kind in hand, this policy of the law does not apply, and there seems to be no good reason why the penalty should exist where the policy is inapplicable.

It may be further remarked that where the trusts are changed, or any of the creditors signing a deed of assignment are to be injured by the amendment, there is no doubt that the creditors are parties who must execute the amendment in order to give it validity. But where the trusts are not to be changed, nor any of the parties injured, the law relaxes its rigor.

The variety of ways and means by which defective assignments are allowed to be amended, and the assigned property confirmed in the assignee, clearly shows that the law favors the amending of instruments of assignment when they are only constructively fraudulent. The following cases are cited as exhibiting the policy of the law favorable to amendments, and also the right and power in various ways of curing the defects of a faulty assignment.

Ingraham vs. Wheeler, 6 Conn., 277.

Vernon vs. Morton, 8 Dana 247.

Mills vs. Argall, 6 Paige 577.

Hone vs. Woolsey, 2 Edw. Ch. Rep., 289.

Murray vs. Riggs, 15 Johns. 571 (585 to 588.)

Englebert vs. Blanjot, 2 Wharton, 240, (overruling Thompson vs. Dougherty, 12 Serg. and Rawle, 448.)

The law so far favors assignments, that if two constructions can be given the instrument of conveyance, the one making the instrument legal and valid, and the other illegal and void, or voidable, the law prefers the former construction.

Sutherland J. in Grover vs. Wakeman, 11 Wend. 187, 192.

Darling vs. Rogers, 22 Wend. 483.

Hence it may properly be inferred that where an amendment would make a voidable deed good and valid, such amendment shall be adopted, unless the strictness of the law absolutely force it out.

The cases cited show that it has been held that a new assignment may be made by the assignor alone.

Ingraham vs. Wheeler, 6 Conn. 277.

Murray vs. Riggs, 15 Johns, 585 to 588.

And even that the assignee may avoid a previous fraudulent deed.

Englebert vs. Blanjot, 2 Wharton, 240.

Or by the assignor and assignee together, as well as by them and the creditors.

I have been unable to find a single case where an amendment has been thrown out simply because not executed by the creditors to the original assignment.

The amendment in this case taken as an amendment simply, or as a new assignment, operates more particularly as a release to all the creditors of certain obnoxious matters contained in the original deed of assignment.—It is intended to confer and does confer a benefit upon all the creditors, both preferred and unpreferred. It makes the assignor liable to them for the balance of their indebtedness which may not be satisfied through the assignment. On the part of the assignee it makes him more liable for care and diligence in the performance of his trusts, both to the creditors and to the assignors. The amendments do not alter the original deed in the least, nor does it alter its beneficial trusts in behalf of the creditors. It neither increases nor diminishes the aggregate number of preferred creditors. All remain the same as in the original deed of assignment.

But again, the original deed of assignment itself provided for the making of

further and additional assignments on the part of the assignor, (see page 3 of the printed case,) in furtherance of the trusts of said original assignment, as may be deemed reasonable. Such being the case, it would seem that the present emergency has been provided for in advance, and that the amendments and additions only meet the provisions of the original deed of assignment.

The amendments advance the interests of all the creditors, and injure none in any respect. In such case will not the law itself presume the assent of all the creditors at the time necessary to carry the amendments into effect?

Taking it granted that the amendments are duly executed, do they cure the original assignment of its inherent defects? The defects most particularly insisted upon by the defendants, are the 3rd & 4th in the order given at the beginning of this argument, viz: coercing a release from the creditors, and making the trustee liable only for his wilful defaults. The former of the two is expressly remedied. The latter is not remedied expressly, but *necessarily*, by the making of a new assignment, which is the second addition, signed by A. S. Anderson & Bro. and for the purposes and trusts of the previous instruments. This addition is simply an assignment in its simplest form, leaving out all covenants, and other matters. If this be a new assignment without the covenants and stipulations of the old or first deed of assignment, it should be construed without them, and this would dispose of all the obnoxious features of the old assignment. Should the court have doubt as to the correct interpretation and effect of the new assignment, they will lean upon the policy of the law, and adopt that construction which will give force and validity to the instruments.

If the original deed of assignment was absolutely void, then there is a new assignment upon the trusts in the old deed.

If the original deed of assignment is only voidable, it has been amended and cured of its defects by the new assignment upon the trusts of the original assignment. In either point of view, the assignment was valid long before any of the defendants were in a position to attack the assignment.

GROVE & DAVIDSON,
for Plaintiff in Error.

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Robinson
or
Nye

Piff's Brief

Filed April 22, 1859
L. Leland
clerk

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12816

HENRY ROBINSON,
vs.
 IRAM NYE, HENRY M. MATTHEWS, WILLIAM
 W. HULBUT, PHILIP VAN VOLKENBURGH,
 WILLIAM B. LEONARD & ISAAC W. FRENCH.

IN THE SUPREME COURT,

TO THE

APRIL TERM, A. D. 1858.

This was an action of trespass de bonis asportavit. The declaration was in the usual form in such cases, and was filed the day of A. D. 1857.

The declaration contains four counts. The first count is in the usual form for trespass de bonis, &c. The second count alleged the existence of a partnership between Andrew S. and George W. Anderson in Chillicothe, under the name and style of "A. S. Anderson & Bro." That said firm, on, to-wit, the 8th day of November, 1856, made an assignment of their goods and effects to the plaintiff, and that the goods in this count mentioned were conveyed and delivered to plaintiff by said firm, under and by virtue of said assignment, on the said 8th November, 1856, and that defendants seized, took and carried away, &c., (following the usual form.) The third count alleges the possession of a certain building, or store-house, in Chillicothe, and that defendants broke into said store-house when, &c., and seized, took, &c. The fourth count alleges that the plaintiff was, when, &c., in possession of a certain lot and store-house situated thereon, in Chillicothe; that defendants, when, &c., broke in with force and arms and took possession of the same, and ejected and expelled plaintiff therefrom, and kept said plaintiff expelled and out of the use and occupation of the same for a long time; from thence hitherto and during all that time said plaintiff lost the use and occupation of the same, which use and occupation was worth, &c.

To the declaration the defendant filed three several pleas. 1st, the general issue; 2d, a special plea to the 1st, 2d, 3d and 4th counts of plaintiff's declaration, stating that Wm. W. Hulbut, Philip Van Volkenburgh, and Wm. B. Leonard, partners trading under the name and style of Hulbut, Van Volkenburgh & Co., before the time when, &c., sued out a writ of execution from the United States Circuit Court for the Northern District of Illinois, on the 3d day of January, A. D. 1857, directed to the Marshal of said district, commanding, &c., of the goods and chattels of Andrew S. Anderson, impleaded with Geo. W. Anderson, he make the sum of \$959 95, on a judgment in said U. S. Court before that time recovered by Hulbut, Volkenburgh & Co., against said Andrew S. Anderson, impleaded with Geo. W. Anderson; that the goods and chattels in plaintiff's declaration mentioned were the goods and chattels of said Andrew S. and Geo. W. Anderson, partners under the name and style of A. S. Anderson & Bro.; that said Nye was the U. S. Marshal before and at the time of issuing said writ of execution, and took and seized said goods, &c., as said Marshal, by virtue of said writ; that the other defendants entered, took and seized &c., as the servants of said Nye, for purpose aforesaid, &c.

The 3d plea alleges that Andrew S. and George W. Anderson owned the goods and chattels mentioned in plaintiff's declaration, and not by the plaintiff.

Issue was filed to defendants' first plea.

Leave was obtained of Court to reply double to defendants' first plea, and filed, 1st, a replication denying the several facts in said second plea, and defendants joined issue thereon. The 2d replication to 2d plea of defendants denied that the goods and chattels in plaintiff's declaration mentioned were the goods and chattels of Andrew S. and George W. Anderson, partners, &c., but the goods and chattels of plaintiff, and defendants joined issue upon the same.

The replication to defendants' 3d plea denied that Andrew S. and George W. Anderson

owned the goods, &c., but that plaintiff owned the same, and defendants joined issue upon the same

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 " " 21
 " " 21
 A jury being impaneled, plaintiff called ANDREW S. ANDERSON, who testified that he knew George W. Anderson; that George W. and witness were equal partners in buying and selling goods at Chillicothe from April 1, 1856, to November 8, 1856; that George left September 8, 1856, with \$1600 in money belonging to said firm; that the name of the firm was A. S. Anderson & Bro.; that George went via Virginia (to raise more money) to New York, in the State of New York; that he went to New York to pay debts and buy goods for said firm; that when George left he told witness to do what he thought best for the firm; that George never returned, and witness never heard of him until the spring of 1857, and knew nothing as to his whereabouts until the spring of 1857; that when George left he expected to be absent about four weeks at most; that George being absent and witness not being able to consult with George, and not knowing where George was, and having the sole management of the firm affairs, on the 8th day of November, A. D. 1856, executed the assignment and schedules to plaintiff, and plaintiff took possession of the property assigned on the 10th day of November, 1856; that at the time the assignment was executed the firm were largely indebted, and between \$4000 and \$5000 was due, and creditors whose claims were due were pressing for payment; that one debt of between \$200 and \$300 was sued, and all wanted their pay; that at the time the assignment was made witness and the firm had not money enough to pay any one of their creditors. The plaintiff then offered the assignment and additions thereto in evidence, in words and figures following:

22 This indenture, made this the eighth day of November, A. D. 1855, between partnership firm of A. S. Anderson & Bro. of Chillicothe, in the State of Illinois, whose individual names are Andrew S. Anderson and George W. Anderson, of the first part, and Henry Robinson of the said Chillicothe, appointed for the purpose hereinafter mentioned, of the second part, and the several persons creditors, endorers, guarantors and sureties of the said parties of the said first part, and particularly those of said creditors, endorers and sureties who have or who shall hereafter execute or accede to these presents within thirty days from the date hereof, of the third part. Whereas, the said party of the first part is at present unable to pay the immediate demands upon him, and deems it just and reasonable to secure, pay and indemnify the several persons parties to these presents in the manner hereinafter mentioned: Now, therefore, this indenture witnesseth, that for and in consideration of the considerations and purposes and conditions herein mentioned, and in consideration of the sum of one dollar, to him in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, the said party of the first part doth by these presents grant, bargain, sell, convey, assign and set over unto the said party of the second part, and his assigns, all the stock in trade, goods, wares and merchandise, debts, *choses in action*, property and effects of every description belonging to the said party of the first part or in which said A. S. Anderson & Bro. have any right or interest whatsoever, mentioned, contained or referred to in the schedule marked "A." To have and to hold, all and singular, the premises herein assigned and otherwise assured, or intended so to be, to the said party of the second part, his heirs and assigns, to their use and behoof forever, but upon trust that the said party of the second part shall with all reasonable speed sell and dispose of such parts of the said trust property and effects as are of a saleable nature, and shall use his best endeavors to obtain, recover and receive such parts of the same as consist of debts or other outstanding interests into his hands and possession, and forthwith after deducting and retaining all such costs, charges, damages, expenses and disbursements as shall be sustained, incurred or reasonably due in and for or in relation to the execution of the trusts hereof, including the costs, charges and expenses of preparing and executing these presents; then upon trust that the said party of the second part shall do and divide, distribute and pay over all the residue of the said trust property to and among all the persons creditors of the said party of the first part ratably and proportionably due each of them respectively as hereinafter directed; and the said party of the first part by these presents doth name, constitute and appoint the said party of the second part to be his attorney in fact, irrevocably with full power of substitution

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in his name or in the name of the said party of the first part or otherwise, howsoever as the case may require, but to be and for the trust herein declared to demand, sue for, recover and receive the outstanding debts, interests, trusts, property and effects, and to institute, prosecute or defend all such suits and processes at law or in equity, and to execute, perform and transact all such deeds, writings and acquittances, acts and matters and things as shall be necessary or expedient to carry into effect the trusts, uses and interests and purposes herein declared or contained, as fully and effectually as the said party of the first part could do personally if these presents had not been made. And the said party of the first part doth hereby covenant to and with the said party of the second part that said party of the first part will at all times promote and forward the speedy receipt and recovery of the debts and property and effects aforesaid, and confirm and ratify all such acts as shall be lawfully done therein by virtue of these presents, and shall and will aid and assist the said trustee party of the second part in managing the concerns of the said trusts, estate and property in the execution of these presents when thereto requested, upon being allowed a reasonable compensation for services rendered therein, and will execute and perform all such further and other acts, deeds, matters and things for the further and better assigning and assuring the premises and property herein assigned or otherwise assured or intended so to be to the said party of the second part, and for the interests and purposes herein declared as may be reasonably advised or requested; and it is hereby agreed by and between the parties hereto that the said trustee may at discretion compound any debt or debts due or owing to the said party of the first part, and enter into, sign and execute any bargain or deed of composition, compromise or assignment of or with any persons indebted to the said party of the first part who shall be or become insolvent or unable to make punctual payment, and also may make any such agreement or arrangement as shall be deemed reasonable with any persons possessing any security given by said party of the first part upon any estate or other property of or holden by him or by any creditor of his by way of mortgage or pledge for money or other property, or with any persons having a lien on such property by virtue of any attachment, levy, bailment or otherwise, as the said trustee may think expedient, and may compromise all matters which may be in dispute, or submit the same to arbitration, and may sell and convert into money all contingent interests and securities which cannot be immediately enforced with a prospect of advantage, and all debts which shall be deemed doubtful, or which cannot be collected in a reasonable time; and it is further agreed that the naming of any debt or debts in any schedule hereto annexed shall not prevent the parties of the first or second part from calling in question or controverting the amount of the same, or taking any course at law or in equity to have the same disallowed or adjusted, and that if the demand of any creditor shall have been stated as being greater or smaller than it really is, such creditor shall be entitled to the benefit upon and for and only upon and for the amount which may be found to be justly due him; provided, further, that no person shall be entitled to be admitted a creditor under these presents unless notice shall have been given by him of his debts or demand to the party of the second part before final dividend shall have been made of said trust property under the trusts herein declared, unless such debt is mentioned in schedule hereto attached marked "B." Nor shall any person be admitted a creditor after any one or more dividend or dividends shall have been made under the trusts herein declared, but on condition of his not requiring any abatement of or otherwise disturbing the dividend or dividends made prior to his having given notice of his debt or demand, and the said party of the second part doth hereby covenant with the said party of the first part and the said party of the third part that the trust in him reposed he, said party of the second part, shall and will execute and

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perform to the best of his judgment and discretion, provided always, and it is hereby agreed, that the said trustee for the time being, his substitute or executors or administrators shall not be liable for more money or effects than he shall receive, nor for any loss or damage which may happen thereto except the same shall arise through his own wilful default, and the said respective creditors parties hereto do and each and every one of them for himself and herself severally and respectively, and for their several and respective executors, administrators, partners and assigns, doth hereby accept and take the estate and effects hereon assigned in full payment, satisfaction and discharge of all their respective debts and demands aforesaid, and all loss and damage sustained or to be sustained by reason of any liability aforesaid, and do and each and every one of them doth absolutely remise, release, discharge and quit claim the said party of the first part of and from all demands which they or any or either of them now have, ever had or hereafter may have, claim or demand against the said party of the first part. And it is understood that any additions, corrections and alterations may be made in the schedules hereto annexed for the more full and accurate specification of the matters and things therein contained or intended to be contained; it is understood and intended that all properties, debts, claims and demands due the said party of the first part are scheduled, and also that all liabilities and indebtedness due from the said party of the first part to said creditors of said first part severally are also scheduled; it is hereby understood and directed that the said party of the second part shall pay over the moneys arising from the sale and disposition of the said trust property herein referred to and scheduled, to creditors parties of the third part in the following manner, viz: the demands of Benjamin S. Hammett of Chillicothe, Illinois, of Rushmore, Cone & Co., of C. W. and J. J. Garrett, of Norton, Hewitt & Busby, of Northrop, Hoffman & Co., of Vanderburgh, Bonnett & Co., of S. B. Gregory & Co., all names of business firms in the city and state of New York, of Duryee & Forsyth of the city of Rochester and state of New York, of J. & D. Green of Ottawa, in the state of Illinois, of Orson E. Wilbur of Chillicothe, Illinois, of William McLean, of James Pratt, of Richard Scholes, of J. O. Tomlinson, M. D., of John C. Follett, of Seely & Co., all of Chillicothe, in the state of Illinois, shall be preferred to any and all other indebtedness, and the persons above named shall be paid first and preferred to all other creditors, and shall be paid pro rata or proportionably to the several demands, by the said party of the second part out of the first moneys received by him from the trust property herein mentioned, until their demands are fully satisfied. Upon the full satisfaction and payment of the demands of the preferred creditors above named, then the other creditors are to be paid, all of them proportionably to their several demands. As soon as may be after the payment of all the creditors of the said party of the first part herein referred to fully and entirely, any and all moneys, goods, wares and merchandise, claims and demands whatsoever then remaining in the possession of the said party of the second part shall be delivered and paid over to the said party of the first part, after deducting and retaining a reasonable amount for costs, charges and compensation as before mentioned. In witness whereof the parties have hereunto set their hands and seals the day and year first above written.

Signed, sealed and delivered in presence of
HARVEY HOLMAN as to A. S. ANDERSON &
BRO. and HENRY ROBINSON.

A. S. ANDERSON & BRO. [SEAL.]
HENRY ROBINSON, [SEAL.]
Assignee.

Signed, sealed and delivered in presence of
V. T. MATTHEWS as to J. C. FOLLIOTT and
ARSON E. WILBUR and WM. McLEAN, S.
V. CUTRIGHT as to RICHARD SCHOLES.

Names of Creditors.
J. C. FOLLIOTT,
O. E. WILBUR,
WM. McLEAN,
RICHARD SCHOLES.

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This indenture, agreement, declaration and release, made this day at Chillicothe, by and between A. S. Anderson & Bro. of the first part, Henry Robinson, trustee, of the second part, and the several creditors of said A. S. Anderson & Bro. of the third part, witnesseth, That in the assignment this day executed by the said A. S. Anderson & Bro. to the said Henry Robinson for the benefit of said creditors, as in said assignment mentioned and set forth, it was not the intention of the parties executing said assignment to require, compel or to induce any creditor of said firm of A. S. Anderson & Bro. to execute or release said firm of A. S. Anderson & Bro. from the claim of said creditors, or either of them, as a condition upon which such creditor could or should receive their share of the proceeds of the property assigned. And the said A. S. Anderson & Bro. hereby release and discharge all and every of their said creditors from and of all conditions, if such should be found in said assignment, and authorize and empower each of said creditors to receive from said Henry Robinson, trustee, &c., the share or part of such creditor or creditors of the property assigned, or the proceeds thereof, in the order in which they and each are preferred and mentioned in said assignment, without executing any release or instrument whatever as a condition upon which they shall be entitled to receive their dividend. And the said A. S. Anderson & Bro. further stipulate, declare and agree that said trustee shall at once, without delay, proceed to convert the property assigned into money, and pay over the same to the creditors of said firm, first paying the creditors preferred the full amount of their respective claims, and the remaining creditors of said firm pro rata; and this instrument is made part and parcel of the assignment hereto attached, and is to be considered a part and parcel thereof.

A. S. ANDERSON & BRO. [SEAL.]

HENRY ROBINSON. [SEAL.]

29

We, A. S. Anderson & Bro., hereby sell, assign, transfer and deliver to Henry Robinson (in consideration of the trusts herein before mentioned, and of one dollar to us in hand paid,) all the goods, wares, merchandise, property and estate mentioned in and described in the schedules hereto annexed, for the purposes and upon the trusts in said instruments, schedules, &c., hereto annexed, mentioned and declared, and which instruments and schedules, &c., we adopt and make part of this instrument.

A. S. ANDERSON & BRO.

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No question was made to the Signature or execution of the assignments and additions. The Plaintiff admitted that the additions were executed on Thanksgiving Day, being November 25, A. D. 1856, and after the original assignment was executed.

The Defendants objected to assignment and additions going in evidence, (but not on the ground that the execution thereof was not proved)

And the Court sustained the objection, and excluded the assignments, additions, and schedules from the Jury; to which decision of the Court sustaining said objection, and excluding said assignments and schedules, the Plaintiff then and there, at the time, objected and excepted.

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The Plaintiff then proved to the Jury that the Plaintiff took possession of the goods in Plaintiff's declaration mentioned, under said assignment and addenda, and kept and retained full and sole possession of the same, for the space of over a month, and proceeded in good faith to execute the Trusts and convert the property into money, and while the Plaintiff was in possession of the goods, executing the Trusts, the Defendants entered in such possession,

and with force and arms, took and carried away thirty-five hundred dollars worth of said goods, and converted the same to their own use.

The Plaintiff here rested.

The Defendant then moved the Court to exclude all the evidence offered by the Plaintiff, to which the Plaintiff objected then and there, but the Court overruled the objection, and excluded from the Jury all the Plaintiff's evidence; to which decision of the Court overruling and excluding Plaintiff's evidence, the Plaintiff then and there, at the time, objected and excepted.

The Defendants then offered in evidence, and proved by the cross-examination of said Plaintiff's Witness, Andrew S. Anderson, that he, (witness,) and his brother George, commenced business in Chillicothe, on the first day of April, 1856. That he had formerly been a clerk at Ottawa, and his brother had an interest in a store in Iowa. That his brother said he had some wild lands in Iowa, viz: two 80 acre tracts, and a 40 acre tract, all worth \$1000. The witness also had a town lot in Newton, Jasper Co. Iowa. He did not assign the town lot, nor his brother's lands, nor the sixteen hundred dollars in his brother's hands.

Record Page 75 They purchased their goods in New York, in February or March 1856, chiefly on a credit, about \$6000 worth. When they started to New York, they had \$1000 in money, and paid \$500 on their goods, and kept the balance to pay freight. His brother started East on the 8th day of September 1856, and had \$1600 of the money of the firm, which he was to pay out to their creditors, and purchase more goods. He was to go first to Virginia, and then to New York. Witness heard of his brother in Virginia, and New York; but he did not pay any of the creditors in New York. He afterwards, in the spring of 1857, heard of him in Kansas.

That just before the assignment, he was called upon by Wead and Williamson, with a claim in favor of Messrs. Wilcox, Perry & Ecker, of New York, and he paid thereon about \$200, and they sued him for the balance. That Mr. Orendorf, agent for Hurlbut, Van Volkenburgh & Co., of New York, called on him, and wanted his pay; and when he did not pay him, Orendorf started for Peoria, saying, he would get out an attachment. That the claim of Browning, Stewart & Allen of New York, was presented before the assignment was made, by J. K. Cooper, Esq., and pressed for payment, and threatened to prosecute the claim. These three claims amounted to about \$2000; and when he made the assignment, he postponed these persons because they had urged the payment of their dues; but that he did not postpone them for the purpose of defrauding them. Had no other reasons for postponing them, and was not authorized to do so by his brother.

On the 15th November, or thereabouts, 1856, Batchelder took a portion of the goods, on an attachment in favor of Mason B. Browning & Co., about \$800 worth. They had sold during the summer about \$300 worth of goods, including a nett profit of 30 per cent. Defendants took the goods about the last of January, or first of February, 1857, and seized all the goods left by Batchelder.

46 The Defendant then offered in evidence the following papers.

1st. The transcript of the record of the case of Hurlbut, Van Volkenburgh & Co., vs. A. S. Anderson & Bro.

UNITED STATES OF AMERICA, }
 NORTHERN DISTRICT OF ILLINOIS. } ss.

Pleas in Circuit Court of United States of America, for Northern District of Illinois, held at the City of Chicago, in said Northern district of Illinois, before the Honorable Thomas Drummond, Judge of the District Court of the United States, for said Northern District of Illinois, and (in the absence *pro tempore* of the Honorable John McLean, one of the Justices of the Supreme Court of the United States of America,) Sole Judge of said Circuit Court, on Tuesday the twenty-third day of December, in the year of our Lord one thousand eight hundred and fifty-six, and of our Independence, the 81st year.

WILLIAM W. HURLBUT,
 PHILIP VAN VOLKENBURGH,
 & WILLIAM B. LEONARD,
 vs.
 ANDREW S. ANDERSON,
 IMPEADED WITH
 GEORGE W. ANDERSON. } *In Assumpsit.*

Be it remembered, that heretofore, to wit, on the eighth day of November, in the year of our Lord one thousand eight hundred and fifty-six, came the said William W. Hurlbut, Philip Van Volkenburgh, and William B. Leonard, Plaintiffs in this suit, by H. M. Wead Esq., their Attorney, into the Clerk's Office of the Circuit Court of the United States, for said Northern District of Illinois, at Chicago, and filed in said Clerk's Office their affidavit and preceipe for the issue of a writ of Capias against the said Andrew S. Anderson and George W. Anderson, Defendants in this suit, in a plea of trespass on the case on promises, damages, twelve hundred dollars, returnable as speedily as the rules of Court will allow; also, at the same time, filed their bond for costs in said entitled cause, which said affidavit, preceipe and bond are in the words and figures following, to wit:

STATE OF ILLINOIS, }
 COOK COUNTY. } ss.

HENRY C. ORENDORF, agent for Hurlbut, Van Volkenburgh & Co., of the City and State of New York, being duly sworn, deposes and says that, Andrew S. Anderson, and George W. Anderson, of the County of Peoria, in the State of Illinois, (said County is in the Northern District and Circuit for Illinois,) doing business under the name, firm, and style of A. S. Anderson & Bro.; are indebted to William W. Hurlbut, Philip Van Volkenburgh and William B. Leonard, doing business under the name, firm and style of Hurlbut, Van Volkenburgh & Co., in the sum of nine hundred and thirty-three dollars and thirty-three cents, for goods, wares and merchandise sold and delivered to said A. S. Anderson & Bro., by them in the City of New York; and that the same will be in danger of being lost, unless the said Defendants shall be held to bail. That said goods were obtained by said A. S. Anderson and brother, from said Hurlbut, Van Volkenburgh & Co., by fraud and false representations, in this, that when said goods were purchased, the said A. S. Anderson, in order to induce the said firm of Hurlbut & Co. to give him a credit for said Goods, falsely represented and stated that they, the said A. S. Anderson & Bro., were worth Forty-five Hundred Dollars, that they intended to put into said business, in the fall of 1856, the sum of thirty-five hundred dollars more, when in fact, the said A. S. Anderson & Bro. were not worth forty-five hundred dollars, and did not intend to put in, and have not put in thirty-five

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 hundred dollars into the business of the firm, nor any considerable part of that sum; but one of said firm, viz: George W. Anderson, has gone off, and left the State, and cannot be found by his creditors, or heard from, and the said A. S. Anderson has not enough property left to pay the debts of said firm, nor has the said George W. Anderson any property or effects in this State, so far as this affiant can ascertain and believes, except his proportion of the goods now in possession of said A. S. Anderson, at Chillicothe, and which are insufficient to pay the debts of said firm.

That the said Hurlbut, Van Volkenburgh & Co., relying upon the statements so much as aforesaid, by the said A. S. Anderson, sold him a large amount of goods, viz: of the value of \$923 10, which with interest amounts to the sum of \$933 33; in which sum, the said A. S. Anderson & Brother are now indebted to them.

HENRY C. ORENDORF.

Sworn to and subscribed before me this

8th day of November, A. D. 1856.

Wm. H. BRADLEY, *Clerk.*

WILLIAM W. HURLBUT,
 PHILIP VAN VOLKENBURGH,
 & WILLIAM B. LEONARD,
 Doing business under the name and firm of
 HURLBUT, VAN VOLKENBURGH & Co.,

vs.
 ANDREW S. ANDERSON,
 & GEORGE W. ANDERSON,
 Doing business under the name and style of
 A. S. ANDERSON & BRO.

IN THE UNITED STATES
 CIRCUIT COURT,
 FOR THE NORTHERN DISTRICT
 & CIRCUIT OF ILLINOIS.

TERM, A. D. 1856.

Trespass on the case on promises. Damages \$12,00 00.

The Clerk will please issue a Capias and Summons, returnable as speedily as the rules of Court will allow.

H. M. WEAD, *Attorney for Plaintiffs.*

44 49 I, H. M. WEAD, do hereby enter myself security for costs in the above entitled cause, and acknowledge myself bound to pay or cause to be paid all costs which may accrue to the opposite party, or to any of the officers of said Court, in pursuance of the laws of the United States, or the rules of said Court.

H. M. WEAD.

[Endorsed.]

Filed November 8th., 1858.

[SEAL.]

WM. H. BRADLEY, *Clerk.*

Whereupon a writ of capias was issued out of said Clerk's office against the said defendants, as prayed for, directed to the Marshal of the Northern District of Illinois to execute, and was returned by the Marshal on the 21st day of November, A. D. 1856, executed upon one of the defendants, which said writ, together with the return of the Marshal thereon, is in the words and figures following, to wit:

CIRCUIT COURT OF THE UNITED STATES OF AMERICA, }
 NORTHERN DISTRICT OF ILLINOIS. }

The United States of America,

To the Marshal of the Northern District of Illinois, Greeting:

We command you, that you take Andrew S. Anderson and George W. Anderson, doing

business under the name and style of A. S. Anderson & Brother, if they shall be found in your district, and them safely keep so that you have their bodies before our Judges of our Circuit Court of the United States for the Northern District of Illinois, at the term thereof now being holden at Chicago, in the District aforesaid, on the 20th day of November, inst., to answer unto William W. Hurlbut, Philip Van Volkenburgh and William B. Leonard, doing business under the name and firm of Hurlbut, Van Volkenburgh & Co., in a plea of trespass on the case upon promises to their damage as they allege of the sum of 1200 dollars, and have you then and there this writ. Witness, the Hon. Roger B. Taney, Chief Justice of the Supreme Court of the United States of America, at Chicago, aforesaid, this eighth day of November, in the year of our Lord one thousand eight hundred and fifty-six, and of our Independence the eighty-first year.

[SEAL.]

WILLIAM H. BRADLEY, Clerk.

(Endorsed.)

I hereby authorize, appoint and deputize Smith Fry to serve the within summons and make return thereon for me and in my name, this 8th day of November, 1856.

IRAM NYE, U. S. Marshal Nor. Dist. Ill.

PEORIA COUNTY, ss.—

I have, this 19th day of November, A. D. 1856, by virtue of the within writ of capias, taken the body of the within named Andrew S. Anderson, and said Andrew S. Anderson has given security as required by law. The said George W. Anderson not found in my District.

IRAM NYE,

Filed Nov. 21st 1856.

By SMITH FRYE, Dep'y.

WM. H. BRADLEY, Clerk.

The bond given to the Marshal by the Defendant A. S. Anderson upon the release of the said defendant from custody, and returned by the Marshal with the said writ, is in the words and figures following, to-wit:

Know all men, by these presents, that we, Andrew S. Anderson and Henry Robinson, of the county of Peoria and State of Illinois, are held and firmly bound unto Iram Nye, of the county of Cook and State aforesaid, in the penal sum of two thousand dollars, for the payment of which, well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents. Witness our hands and seals this 19th day of November, A. D. 1856. The condition of the above obligation is such that whereas Hurlbut, Van Volkenburgh & Co. have lately sued out of the Circuit Court of the United States for the Northern Dist. & Cir. of the state of Ill. a certain writ of capias ad respondendum in a certain plea of trespass on the case on promises against Andrew S. Anderson and George W. Anderson, partners trading and doing business under the name, firm and style of A. S. Anderson & Brother, returnable to the now present term of said Court on the 20th day of November, A. D. 1856, and upon which said capias ad respondendum said Andrew S. Anderson has been arrested and is now in lawful custody. Now if the said Andrew S. Anderson shall be and appear before said Court on the said 20th day of November, A. D. 1856, and in case the said Henry Robinson shall not be accepted as bail in said action, shall put in good and sufficient bail which shall be received by the plaintiff, or shall be adjudged sufficient by the Court, or the said Henry Robinson being accepted as bail shall pay and satisfy the costs and condemnation which may be rendered against the said Andrew S. Anderson.

son in the plea aforesaid, or surrender the body of the said Andrew S. Anderson in case the said Andrew S. Anderson shall not pay and satisfy the said costs and condemnation money, or surrender himself in execution when by law such surrender is required, then this obligation to be void, otherwise to remain in full force and effect.

A. S. ANDERSON. [SEAL.]

(Endorsed.)

HENRY ROBINSON. [SEAL.]

Filed Nov. 21st, 1856.

WM. H. BRADLEY, Clerk.

And after the issuing of said writ, and on the day of the return thereof, to-wit: on the 21st day of November, in the year last aforesaid, came again the said plaintiffs by their attorneys into the Clerk's office aforesaid, and filed their certain declaration against the said defendants in the plea aforesaid, which said declaration is in the words and figures following, to-wit:

STATE OF ILLINOIS,
NORTHERN DISTRICT.

CIRCUIT COURT OF THE UNITED STATES,
FOR THE SEVENTH CIRCUIT AND NORTHERN DISTRICT OF
THE STATE OF ILLINOIS.
OF THE OCTOBER TERM, A. D. 1856.

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William W. Hurlbut, Philip Van Volkenburgh and William B. Leonard, partners doing business under the name, firm and style of Hurlbut, Van Volkenburgh & Co., citizens of the State of New York, plaintiffs, complain of Andrew S. Anderson and George W. Anderson, trading and doing business as partners under the name, firm and style of Andrew S. Anderson & Brother, defendants, and who are citizens of the State of Illinois, in a plea of trespass on the case on promises, for that whereas the said defendants, to-wit, on the first day of November, A. D. 1856, to-wit, at the county of Peoria, in said district and circuit aforesaid, were indebted to the said plaintiffs in the sum of twelve hundred dollars, lawful money of the United States, for divers goods, wares and merchandise, by the said plaintiffs before that time bargained and sold by the said plaintiffs to the said defendants, and at their special instance and request, and by the said defendants, under and by virtue of that bargain and sale, before that time accepted, received and carried away, and being so indebted, they, the said defendants, in consideration thereof afterwards, to-wit, on the day and year last aforesaid, to-wit, at the county of Peoria and said district and circuit aforesaid, undertook and then and there faithfully promised the said plaintiffs to pay them the said sum of money when the said defendants should be thereunto afterwards requested. And whereas the said defendants afterwards, to-wit, on the day and year last aforesaid, at the said county of Peoria and northern district and circuit of Illinois aforesaid, accounted with said plaintiffs of and concerning divers other goods, wares and merchandise, from the said defendants to the said plaintiffs before that time due, and owing and then in arrear and unpaid, and upon such accounting the defendants were then and there found to be in arrear and indebted to the said plaintiffs in the further sum of twelve hundred dollars of like lawful money, and being so found in arrear and indebted, they the said defendants undertook and then and there promised to pay them the said last mentioned sum when they the said defendants should be thereunto afterwards requested. Yet the said defendants, not regarding their said promises and undertakings, but contriving and intending to deceive and defraud the said plaintiffs, have not paid the said several sums of money, nor either of them, nor any part thereof, to the said plaintiffs, although often requested so to do, to the plaintiffs' damage twelve hundred

dollars; and therefore they bring suit, and the said plaintiffs aver that the matter in controversy in this suit is of greater value than five hundred dollars.

WEAD & WILLIAMSON,
Attorneys for Plaintiff.

The following is a copy of the account on which this suit is brought:

(See Record.)

53 And afterwards, to-wit, on the 9th day of December, A. D. 1856, the plaintiffs filed in said Clerk's office a copy of the account declared on, which is in the words and figures following, to-wit:

(See Record.)

And afterwards, to-wit: Tuesday, the twenty-third day of December, in the year of our Lord one thousand, eight hundred and fifty-six, in the December term of said Court A. D. 1856, the following judgment was entered upon the record of the proceedings of said Court, in said entitled cause, to wit:

57 WILLIAM W. HURLBUT,
PHILIP VAN VOLKENBURGH,
& WILLIAM B. LEONARD,
vs.
ANDREW S. ANDERSON,
IMPLEADED WITH
GEORGE W. ANDERSON. } *In Assumpsit.*

11 Now comes the Defendant, Andrew S. Anderson, in his own proper person, and confesses a judgment in favor of the Plaintiffs, for the sum of nine hundred and twenty-three dollars and ten cents. It is thereupon considered and adjudged by the Court, that the Plaintiffs have and recover of the Defendant, Andrew S. Anderson, the said sum of nine hundred and twenty-three dollars and ten cents, their damages, so as aforesaid confessed, together with their costs by them about their suit in this behalf expended, amounting to the sum of thirty-six dollars and eighty-five cents, and that they have execution therefor.

4 On the third day of January, in the year of our Lord one thousand eight hundred and fifty-seven, a writ of *fieri facias* was issued out of the said Clerk's office, upon the foregoing judgment, against the said Andrew S. Anderson, impleaded with George W. Anderson, as aforesaid, directed to the Marshal of the Northern District of Illinois, to execute, and was returned by the Marshal on the twenty-ninth day of May, in the year last aforesaid, satisfied in full; which said writ of Fieri Facias, with the return of the Marshal thereon, is in the words and figures following, to wit:

UNITED STATES OF AMERICA, }
NORTHERN DISTRICT OF ILLINOIS, } ss.

The United States of America, to the Marshal of the Northern District of Illinois, Greeting: We command you, that of the goods and chattels, lands and tenements of Andrew S. Anderson, impleaded with George W. Anderson, in your District, you cause to be made nine hundred and fifty-nine dollars and ninety-five cents, which William W. Hurlbut, Philip Van Volkenburgh and William B. Leonard, lately in our Circuit Court of the United States for the Northern District of Illinois, before the Judges thereof at Chicago, in the District

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aforesaid, recovered against him for damages which they had sustained, as well by occasion of the non-performance of certain promises and undertakings as for their costs and charges by them, about their suit in this behalf expended, whereof said Defendant is convicted, as appears to us of record; and have you that money at the Clerk's office of our said Court, in ninety days from the date hereof, to render to the said Plaintiffs, for their damage aforesaid, and this writ.

Witness the Honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States of America, at Chicago, aforesaid, this third day of January, in the year of our Lord one thousand eight hundred and fifty-seven, and of our Independence the 81st year.

WM. H. BRADLEY, Clerk.

58 This writ came to hand this 3rd day of January 1857, at 12 o'clock M.

I. NYE, U. S. Marshal.

By virtue of the annexed writ of Fi. Fa. to me directed, I did on the 16th day of January 1857, levy upon the following personal property as the property of Andrew S. Anderson, in order to satisfy the same, to wit: one stock of merchandise consisting of Dry Goods, Hardware, Queensware and sundries, in the town of Chillicothe, County of Peoria, and State of Illinois, and after having given due notice of the same according to law, I did on the 10th day of February 1857, proceed to sell so much of said stock as was required to satisfy the said execution, for the prices described in the following account of sales, to wit:

648 77
(See Record.)

NORTHERN DISTRICT OF ILLINOIS, ss.

4 67 77 I, WILLIAM H. BRADLEY, Clerk of the Circuit Court of the United States, for said Northern District of Illinois, do hereby certify the foregoing transcript to be a true and correct copy from the record of all the proceedings which have been had in said Circuit Court, in said cause of William W. Hurlbut, et al, against Andrew S. Anderson, impleaded etc.

In testimony whereof, I have hereunto set my hand, and affixed the seal of said Court, at my office in Chicago, in said District, this 5th day of November, A. D. 1857.

[Seal.]

WM. H. BRADLEY, Clerk.

2nd. The Commission of Iram Nye, as Marshall as follows, to wit:

Franklin Pierce, President of the United States of America, to all who shall see these presents, greeting:

Know ye that reposing special trust and confidence in the integrity, ability and diligence of Iram Nye, of Illinois—I have nominated and by and with the advice and consent of the Senate do appoint him Marshal of the United States in and for the Northern District of said State; and do authorize and empower him to execute and fulfil the duties of that office, according to Law; and to have and to hold the said office, with all the power, privileges and emoluments to the same, of right appertaining unto him, the said Iram Nye, for the term of four years from the date hereof; unless the President of the United States, for the time being, should be pleased sooner to revoke and determine this commission.

In testimony whereof, I have caused these letters to be made patent, and the seal of the United States to be hereunto affixed.

Record Page 78 Given under my hand at the City of Washington, the seventh day of July, in the year of our Lord one thousand eight hundred and fifty-six, and of the Independence of the United States of America, the 81st year.

By the President, FRANKLIN PIERCE.
W. L. MARCY, Secretary of State.

[SEAL.]

3rd. The Oath of said Nye, as follows, to wit :

UNITED STATES OF AMERICA, }
NORTHERN DISTRICT OF ILLINOIS. } ss.

I do solemnly swear that I will faithfully execute all lawful precepts directed to the Marshal of the Northern District of Illinois, under the authority of the United States; and true return make, and in all things well and truly and without malice or partiality perform the duties of Marshal of the said District, during my continuance in office, and take only my lawful fees.

IRAM NYE.

Sworn to and subscribed before me, this 16th day of July, A. D. 1856.

THOMAS DRUMMOND, U. S. Judge.

NORTHERN DISTRICT OF ILLINOIS, ss.

I, WILLIAM H. BRADLEY, Clerk of the District Court of the United States, for said Northern District of Illinois, do hereby certify the above and foregoing transcript to be a true and correct copy of the original oath of office of Iram Nye, late Marshal for said Northern District, as the same appears on the official Bond of said Marshal, on file in my office, and also of record therein.

In testimony whereof, I have hereunto set my hand, and affixed the seal of said Court, at my office in Chicago, in said Northern District, this third day of December, A. D. 1857.

[Seal.]

WM. H. BRADLEY, Clerk.

4th. The appointment of Mathews & French, two of Defendants, as Deputy Marshals, and also, 5th. the oaths of said Mathews & French, as follows, to wit :

Know all men by these presents, that I, Iram Nye, United States Marshal for the Northern District of Illinois, have appointed, and do by these presents appoint Henry M. Mathews, of said District, my true and lawful deputy, hereby giving and granting to my said deputy, full power and authority to execute all writs to me directed, and generally to transact all business appertaining to my office, as fully and completely as I could or would do if personally present or otherwise, hereby ratifying and confirming all that my said Deputy may lawfully do in the premises.

Given under my hand and seal this twenty-sixth day of July, A. D. 1856, at Chicago, Illinois.

IRAM NYE, U. S. Marshal,

[SEAL.]

Nor. Dist. Ill.

NORTHERN DISTRICT OF ILLINOIS, ss.

I, HENRY M. MATTHEWS, do solemnly swear, that I will faithfully execute all lawful precepts directed to the Marshal of the Northern District of Illinois, under the authority of the United States, and true returns make, and in all things well and truly and without malice or partiality perform the duties of the office of Marshal's Deputy, of the Northern Dis-

trict of Illinois, during my continuance in office, and take only my lawful fees.

So help me God.

HENRY M. MATTHEWS.

Sworn to before me this 28th day of July, A. D. 1856.

THOMAS DRUMMOND.

[Endorsed.]

Filed July 28th, 1856.

WM. H. BRADLEY, Clerk.

NORTHERN DISTRICT OF ILLINOIS, ss.

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I, WILLIAM H. BRADLEY, Clerk of the District Court of the United States, for said Northern District of Illinois, do hereby certify the foregoing transcript to be a true and correct copy from the record and files of said Court, of the appointment of Henry M. Matthews, and of his oath of office as Deputy Marshal for said Northern District, as the same now appears of record in my office.

In testimony whereof, I have hereunto set my hand and affixed the seal of said Court, at my office in Chicago, in said Northern District, this 8th day of December, A. D. 1857.

[Seal.]

WM. H. BRADLEY, Clerk.

Know all men by these presents, that I, Iram Nye, United States Marshal for the Northern District of Illinois, have appointed, and do by these presents appoint I. Washington French, of said District, my true and lawful deputy, hereby giving and granting to my said deputy, full power and authority to execute all writs to me directed, and generally to transact all business appertaining to my office, as fully and completely as I could or would do if personally present or otherwise, hereby ratifying and confirming all that my said deputy may lawfully do in the premises.

Given under my hand and seal this first day of August, A. D. 1856, at Chicago, Illinois.

[Seal.]

IRAM NYE, U. S. Marshal, Nor. Disct. Ill.

NORTHERN DISTRICT OF ILLINOIS, ss.

I, I. WASHINGTON FRENCH, do solemnly swear that I will faithfully execute all lawful precepts directed to the Marshal of the Northern District of Illinois, under the authority of the United States, and true returns make, and in all things well and truly and without malice or partiality perform the duties of the office of Marshal's Deputy, of the Northern District of Illinois, during my continuance in office, and take only my lawful fees. So help me God.

I. WASHINGTON FRENCH.

Sworn to before me this 1st day of August, A. D. 1856.

THOMAS DRUMMOND

81
[Endorsed.]

Filed August 1st, 1856.

WM. H. BRADLEY, Clerk.

NORTHERN DISTRICT OF ILLINOIS, ss.

I, WILLIAM H. BRADLEY, Clerk of the District Court of the United States, for said Northern District of Illinois, do hereby certify the foregoing transcript to be a true and correct copy from the record and files of said Court, of the original appointment and oath of office of I. Washington French, as Deputy Marshal, within and for the Northern District of Illinois, as the same now appears of record in my office.

In testimony whereof, I have hereunto set my hand, and affixed the seal of said Court, at my office in Chicago, in said Northern District, this eighth day of December, A. D. 1857.

[Seal.]

WILLIAM H. BRADLEY, Clerk.

To the admission in evidence to the Jury the Plaintiff objected at the times they were severally offered in evidence, but the Court overruled the said objections of said Plaintiff, and admitted said records, transcripts and papers in evidence to the Jury; to which decisions of the Court admitting said records, transcripts and papers in evidence, the said Plaintiff then and there objected and excepted.

It was admitted by Plaintiff that Matthews and French were acting as the deputies of Nye, the Marshal, when they seized the goods.

The Jury found for the Defendants.

The Plaintiff entered a motion for a new trial, for the following reasons:

1. The Court erred in excluding proper evidence offered by the Plaintiff.
2. The Court erred in excluding the assignment and additions thereto, offered in evidence by the Plaintiff.
3. The Court erred in admitting improper evidence offered by Defendants.
4. The verdict is against the weight of evidence.
5. The verdict is against law.
6. The verdict should have been for the Plaintiff. But the Court overruled said motion, and refused to grant a new trial; to which decision of the Court overruling the said motion to grant a new trial, the Plaintiff then and there, at the time, objected and excepted, and prayed that his Bill of Exceptions might be signed and sealed, and made part of the records in this case, which is done.

E. N. POWELL, [SEAL.]

STATE OF ILLINOIS, }
PEORIA COUNTY. } ss.

I, ENOCH P. SLOAN, Clerk of the Circuit Court in and for said County and State, do certify that the foregoing is a full and complete transcript of papers filed, and of proceedings of our said Court, in the cause wherein Henry Robinson is Plaintiff, and Iram Nye, Henry M. Matthews, William H. Hurlbut, Philip Van Volkenburgh, William B. Leonard and Isaac W. French, are Defendants, as the same appears on file and of record in my office.

(Given under my hand and the seal of said Court, at my office in Peoria, this eleventh day of March, in the year 1858.

ENOCH P. SLOAN, Clerk.

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Robinson

or

Nye et al.

Abstract

HENRY ROBINSON, Plaintiff in Error; }
vs. } IN SUPREME COURT.
IRAM NYE *et. als.*, Defendants in Error. }

PLAINTIFF'S POINTS AND BRIEF.

This case turns upon the validity of a deed or deeds of assignment set out in the records of this case. The plaintiff below offered in evidence said deed of assignment and the amendments and additions thereto, and the defendants objected to said deed and amendments and additions going in evidence before the jury, for the following reasons:

- 1st. Because said deed of assignment was executed by one partner alone.
- 2d. Because said deed does not in express words direct the trustee to convert the assigned property into money.
- 3d. Because it coerces creditors to release their indebtedness against A. S. Anderson & Bro.
- 4th. Because the assignee is made liable only for wilful defaults.
- 5th. Against the additions or amendments, because they were not properly executed, and because they do not cure the defects in the original deed of assignment.

As to the first objection, the power of one partner to make a deed of assignment, the weight of authorities seem to be in favor the power of one partner in the absence from the State of the other partners, so they cannot be consulted, and other circumstances are such as would justify an assignment, in such case, (which the bill of exceptions shows to have been true in the present instance,) one partner may make an assignment of the partnership property to a trustee for the benefit of the partnership creditors with preferences.

See Robinson vs. Crowder, 4 McCord's Law 519, overruling Dickinson vs. Legare.

Harrison vs. Sterry, 5 Canch 289, held the power of one partner to assign.

Mills vs. Barber, 4 Day, 428.

Anderson vs. Tompkins, 1 Brookenrough, 456.

Egbert vs. Woods 3 Paige, 517.

McCullough vs. Summerville, 8 Leigh, 415.

Deckard vs. Case, 5 Watts, 22.

Hennessey vs. The Western Bank, 6 and Watts & Serg. 300 Rogers, J. Id. 310.

The cases reported to the contrary generally show that the assignment was made by one partner against the known wishes of the co-partners, or when the co-partners could have been consulted. If assignments are to be at all tolerated, there seems to be no good reason why it may not be proper for one partner to assign the partnership property in the absence of the other partners, if it be necessary for the general benefit of the partnership creditors: otherwise a single rapacious creditor might sacrifice the entire property of the partnership to satisfy a trifling indebtedness. If the principle be adopted that one partner cannot assign the partnership effects, it follows as a logical consequence that no number of partners less than the whole can make such an assignment, and hence if a partnership consisted of 100 members and one were absent, the 99 might be compelled to stand by at the sacrifice of their property, powerless to protect the interests of their creditors generally.

As to the 2d objection, no argument will be made, the reading of the assignment by the court will suffice.

The 3rd objection, if true, is conclusive against the assignment.

The original deed of assignment does provide that those who become parties thereto by executing said instrument as creditors, do release, but it does not make it necessary for any creditor to execute the same in order to receive the benefit of the assignment. The parties of the third part do release—they become parties of the third part by executing the assignment as creditors, as provided in said assignment, and in no other way. The preferred creditors are to receive the benefit of the assignment pro rata, without any condition as to whether they have executed the deed of assignment, or made any release whatever—The unpreferred creditors are to be paid pro rata after the preferred, and this whether they have executed the instrument or not. In the first statement of the trusts of said deed, the principal trust is to pay all the persons creditors of the said parties of the first part.—If creditors do not execute the deed of assignment they do not release, because there is no way of releasing provided, except by executing the deed of assignment, and yet they will receive the benefits of the assignment pro rata with the class they are in, either of preferred or of unpreferred creditors. If creditors do not execute the deed of assignment, they have all the advantages of those who do execute the deed and besides do not release, hence those who execute the assignment do so voluntarily and cannot complain, nor has any person a right to complain in their behalf—the release is not coercive, but voluntary. But if there was a coercive release in the original deed of assignment, this objection was obviated long before any of the defendants were in a position to attack the assignment, by means of additions, or amendments to the original deed of assignment, which will be more particularly considered hereafter.

The fourth objection has lately been held by this court, in the case of
 vs. 20 Ills. pp. to be a valid objection to the instrument containing
 the same.

The objectionable clause must make the deed of assignment either absolutely void, or only voidable. If it renders the deed of assignment *absolutely void*, it leaves the right of the property in the assignor, who may reduce the same into his possession and make another assignment, or he may re-assign or make a new assignment of the property without having first obtained possession of the same. And this right to re-assign or make a new deed of assignment is absolute, provided the original deed of assignment is *absolutely void*, because no title could vest in the assignee under or by virtue of said deed.

Hone vs. Woolsey, 2 Ewd. Ch. R. 289.

The additions made to the original deed really make a new assignment of the property previously attempted to be assigned, and was done before any of the defendants could in any manner reach the property assigned. The law holds valid a new assignment in such case, where the original instrument is void.

Ingraham vs. Wheeler, 6 Com. 277.

If the objectionable clause makes the deed of assignment only voidable, then there will be no question as to the right to amend the original deed of assignment and purge it of the objectionable features, prior to the time of any creditor obtaining a lien upon the assigned property. And this calls up the validity of the amendments as additions to said assignment. The objections are that the amendments are not executed in due form, and also that they do not cure the defects in the original assignment.

The original deed of assignment was tripartite, A. S. Anderson & Bro., assignors, parties of the first part, Henry Robinson, plaintiff herein, assignee, party of the second part, and several creditors, parties of the third part. The additions or amendments are two in number, and both made at the same time: the first executed by A. S. Anderson & Bro. and by Henry Robinson, and the second addition by A. S. Anderson & Bro. alone, making a new assignment upon the trusts and purposes of the original assignment, and of the first amendment thereto.

If the amendments had been executed by the several creditors who executed the assignment, there could be no question as to the admission of the amendments in evidence, so far as the execution or the parties executing is concerned, but they were not so executed, and the question arises, should the amendments in this case have been admitted in evidence as duly executed by the proper parties. The defendants rely upon the cases of

Conkling vs. Carson, 11 Ill. 503, and

Ramsdell et. al., vs. Sigerson et. al., 2 Gil. 78, as excluding said amendments.

In the case of Conkling vs. Carson there were two amendments: the first executed by the assignor and the assignee only, and the latter by all the parties to

the original deed of assignment. The court decide that the original deed was purged by the amendments, in which all the parties joined ; the legal effect of the first amendment, apart from the second amendment, being unnecessary to consider, the court passed it by in silence, and thus left undecided the question arising in the present case.

The case of Ramsdell et al. vs. Sigerson et al., seems to approximate more nearly to the case in hand. In that case, the first deed of assignment was defective, and to cure the defect an amendment was added, executed by two of the three parties to the first deed of assignment. The court say, substantially, that had the amendment been executed in the best manner possible, it did not remove the fatal defect in the first deed. The court seem to have regarded the amendment in itself as defective as the original deed, and upon this point their decision evidently turned. It is, however, incidentally remarked, that they deem the execution of the amendment by all the parties as essential to its validity. No stress, however, seems to have been laid upon it, and no reasoning or authorities are cited to support it. It seems evident the case was not decided upon this point, and hence the question, *whether it is necessary, under all circumstances, that all the parties executing the first deed of assignment must join in executing the amendment in order to make it valid?* is an open question, never fairly presented or decided by this court.

It may be well to remark that although it is a well established principle that a deed cannot be altered in a material part by a party interested, without making the deed void, it applies more particularly to erasures and interlineations. In fact, most of the cases usually cited are of that nature, and inapplicable to a case like the present. In case of erasures and interlineations, the policy of the law to prevent great frauds being committed in a clandestine manner has affixed the penalty of forfeiture to such alteration. But in cases of the kind in hand, this policy of the law does not apply, and there seems to be no good reason why the penalty should exist where the policy is inapplicable.

It may be further remarked that where the trusts are changed, or any of the creditors signing a deed of assignment are to be injured by the amendment, there is no doubt that the creditors are parties who must execute the amendment in order to give it validity. But where the trusts are not to be changed, nor any of the parties injured, the law relaxes its rigor.

The variety of ways and means by which defective assignments are allowed to be amended, and the assigned property confirmed in the assignee, clearly shows that the law favors the amending of instruments of assignment when they are only constructively fraudulent. The following cases are cited as exhibiting the policy of the law favorable to amendments, and also the right and power in various ways of curing the defects of a faulty assignment.

Ingraham vs. Wheeler, 6 Conn., 277.

Vernon vs. Morton, 8 Dana 247.

Mills vs. Argall, 6 Paige 577.

Hone vs. Woolsey, 2 Edw. Ch. Rep., 289.

Murray vs. Riggs, 15 Johns. 571 (585 to 588.)

Englebert vs. Blanjot, 2 Wharton, 240, (overruling Thompson vs. Dougherty, 12 Serg. and Rawle, 448.)

The law so far favors assignments, that if two constructions can be given the instrument of conveyance, the one making the instrument legal and valid, and the other illegal and void, or voidable, the law prefers the former construction.

Sutherland J. in Grover vs. Wakeman, 11 Wend. 187, 192.

Darling vs. Rogers, 22 Wend. 483.

Hence it may properly be inferred that where an amendment would make a voidable deed good and valid, such amendment shall be adopted, unless the strictness of the law absolutely force it out.

The cases cited show that it has been held that a new assignment may be made by the assignor alone.

Ingraham vs. Wheeler, 6 Conn. 277.

Murray vs. Riggs, 15 Johns, 585 to 588.

And even that the assignee may avoid a previous fraudulent deed.

Englebert vs. Blanjot, 2 Wharton, 240.

Or by the assignor and assignee together, as well as by them and the creditors.

I have been unable to find a single case where an amendment has been thrown out simply because not executed by the creditors to the original assignment.

The amendment in this case taken as an amendment simply, or as a new assignment, operates more particularly as a release to all the creditors of certain obnoxious matters contained in the original deed of assignment.—It is intended to confer and does confer a benefit upon all the creditors, both preferred and unpreferred. It makes the assignor liable to them for the balance of their indebtedness which may not be satisfied through the assignment. On the part of the assignee it makes him more liable for care and diligence in the performance of his trusts, both to the creditors and to the assignors. The amendments do not alter the original deed in the least, nor does it alter its beneficial trusts in behalf of the creditors. It neither increases nor diminishes the aggregate number of preferred creditors. All remain the same as in the original deed of assignment.

But again, the original deed of assignment itself provided for the making of

further and additional assignments on the part of the assignor, (see page 3 of the printed case,) in furtherance of the trusts of said original assignment, as may be deemed reasonable. Such being the case, it would seem that the present emergency has been provided for in advance, and that the amendments and additions only meet the provisions of the original deed of assignment.

The amendments advance the interests of all the creditors, and injure none in any respect. In such case will not the law itself presume the assent of all the creditors at the time necessary to carry the amendments into effect?

Taking it granted that the amendments are duly executed, do they cure the original assignment of its inherent defects? The defects most particularly insisted upon by the defendants, are the 3rd & 4th in the order given at the beginning of this argument, viz: coercing a release from the creditors, and making the trustee liable only for his wilful defaults. The former of the two is expressly remedied. The latter is not remedied expressly, but *necessarily*, by the making of a new assignment, which is the second addition, signed by A. S. Anderson & Bro. and for the purposes and trusts of the previous instruments. This addition is simply an assignment in its simplest form, leaving out all covenants, and other matters. If this be a new assignment without the covenants and stipulations of the old or first deed of assignment, it should be construed without them, and this would dispose of all the obnoxious features of the old assignment. Should the court have doubt as to the correct interpretation and effect of the new assignment, they will lean upon the policy of the law, and adopt that construction which will give force and validity to the instruments.

If the original deed of assignment was absolutely void, then there is a new assignment upon the trusts in the old deed.

If the original deed of assignment is only voidable, it has been amended and cured of its defects by the new assignment upon the trusts of the original assignment. In either point of view, the assignment was valid long before any of the defendants were in a position to attack the assignment.

GROVE & DAVIDSON,

for Plaintiff in Error.

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Robinson

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Nye

Plb's Brief