

STATE OF ILLINOIS, } THIRD GRAND DIVISION.
SUPREME COURT. } APRIL TERM, A. D. 1860.

SAMUEL B. BUCKLEY.

vs.

EDWIN D. LAMPETT

} *Error to Tazewell.*

Abstract of the Record.

This was an action of trespass, brought by Lampett against Buckley, a constable of Tazewell county, for taking one grey horse, one two-horse wagon, and set double harness, which he had levied upon by virtue of an execution in favor of Hamilton & Dugger against William Fields. The case was tried at the February term, 1860, of Tazewell circuit court, before Harriott. judge, a jury being waived by parties.

Page of
Record.

- 1 Precipe for summons.
- 2 Summons, dated twenty-third of January, 1860, and sheriff's return thereon.
- 3 Declaration, charging defendant with taking one grey horse, one two-horse wagon, and one double harness, the property of plaintiff.
- 4 Proceedings at February term, A. D. 1860.
- 5 1st. Plea of not guilty.
2d. Plea avowing the taking of the said grey horse, one two-horse wagon, and said double harness, as constable of Tazewell county, by virtue of an execution in favor of Hamilton & Dugger, for \$73 67 debt, and \$10 03 costs, and against William Fields; which execution came to the hands of defendant on the 24th of December, 1859; and that the said horse, wagon, and harness were the property of said William Fields, and not the property of said plaintiff.
- 7 The plaintiff's replication, that the said grey horse and one double harness in the declaration mentioned are the property of plaintiff, and not the property of said William Fields.
- 8 Issue joined.
- 8 Affidavit for security for costs.
- 9 Security bond.
- 10 Trial. Jury waived. Judgment for plaintiff for \$300.
- 11 Motion for new trial. Overruled. Prayer of appeal. Bond to be filed in thirty days, T. N. Gill as security.
- 12 Bill of exceptions setting out all the evidence.

Plaintiff offered a chattel mortgage, dated April 28, 1859, from William Fields to Thomas C. Reeves, for one dark bay horse, seven years old; one grey horse, eight years old; one two-horse wagon and one set double harness, conditioned that, if said Fields should pay said Reeves for the redemption of said property, \$300, on or before first of January, 1860, according to tenor and effect of a note, then the mortgage was to be void. Said Fields was to retain the possession.

15 Plaintiff called Alexander Orr, who testified that he knew the horse in controversy. The horse, wagon, and harness were levied upon and taken by the defendant on the twenty-first of January, 1860. The horse was taken to Gill's office. The horse and harness were in the stable of plaintiff at the time the levy was made. The stable was not on Fields' lot or premises. The plaintiff lives with William Fields. Fields is plaintiff's step-father. Plaintiff has been driving and using the team since midsummer. The horses had been kept in stable where they were taken by defendant, ever since in October, 1859. Plaintiff had possession of it when the levy was made.

16 Plaintiff then called William Fields, who testified that he knew the property in controversy. The property belonged to plaintiff on the twenty-first of January, 1860, and had since some time in the early part of the summer of 1859. Witness never owned the horse; he had owned the wagon the whole time, and sold to plaintiff in the summer of 1859. Plaintiff was to pay witness \$75, and pay off mortgage for team. I traded another wagon for the one in question, and Thomas C. Reeves paid \$50 difference for me. The plaintiff's mother bought the horse of Thomas C. Reeves last spring. I am the husband of the mother of plaintiff. I gave the mortgage, which has been read, to Thomas C. Reeves. The debt for which it was given was never paid. The mortgage was closed by Reeves. The horses, wagon, and harness were away when the mortgage became due. Plaintiff took them off that day and did not return with them until after night. As soon as the horses came back the mortgage was closed. The property was sold by Flory under the mortgage.

On cross-examination, witness stated, that he never owned the horse. Plaintiff's mother bought the horse for him. I gave my note for \$350, and the mortgage to secure the same. The price of the horse was included in the \$350 note; the horse was \$175, and the balance of the \$350 I owed Reeves. The horse was in possession of plaintiff while the mortgage was on the same. Plaintiff is my step-son. He lived with me. Plaintiff rented the stable in which the horse was kept of Joseph Bequith; it was not in my possession or on my premises.

I traded the wagon to the plaintiff about one year ago this spring. On the second of January, the team was over the Mackinaw, distant about seven miles. It was taken away by plaintiff on the morning of January 2d, and was returned same evening after night. Plaintiff did not want the property taken under the mortgage, but said it would have to go, but Reeves must come after it. The team was only gone one day—on the second of January, 1860—from morning till night. The horse was worth \$175, wagon \$95, harness \$30. Lampett, the plaintiff, was born in June, 1838, and will be twenty-two years old next June.

17 Plaintiff called Thomas C. Reeves, who is the mortgagee in the mortgage read. I sold the horse to Mrs. William Fields for her boy. The boy took the horse away at that time. The note was not paid at maturity. I took the property on the third of January, 1860. When I went after the property on that day, and found that William A. Tinney had levied two small executions against William Fields on the same, I paid off the same, and took the property, and had it sold under the mortgage; and I bid the property in myself, and then sold it to plaintiff. I went to Fields' on the second of January. The plaintiff was then away, and had driven off the team, and Mrs. Fields could not tell where he had gone, or when he would return with it, and Fields was not at home. On the third of January, early in the day, I told plaintiff that I must have the property. He said, if I must have it,

I should come and get it. After I bought the property I kept it at my house. I sold it to plaintiff on the sixth day of January, 1860. He then took it away. The horse, wagon, and harness were worth \$300. Mrs. Fields made the bargain nearly a year ago for the horse. I never owned the wagon. William Fields gave me the mortgage on the property. I went for the property January 2d, 1860. Mrs. Fields told me that the plaintiff had gone to the country. I do not know that I should have taken the property that day.

- 19 Ralph Flory called by plaintiff, who testified that the property was sold at auction by him, at Reeves' request, under the mortgage, on the fourth or fifth of January, 1860. Reeves bought the property for \$215.
- 19 William A. Tinney called by defendant, who testified that he knew the property. Witness took possession of the property under two executions in his hands as constable, sent from Logan county, against William Fields, for \$47 72. Gill told witness, when he gave him the executions, to hold on, and see if Reeves took the property under his mortgage; and Reeves did not seize the property under the mortgage. On the third of January, 1860, Reeves came to me much excited, and paid off the executions in my hands and took possession of the property. I took the property from the stable of Fields in the forenoon of January 3d, 1860. The stable was pointed out to me by Tharp. I have repeatedly seen the property in William Fields' possession last spring, but don't recollect seeing him use them since midsummer.
- 20 Cross-examined by plaintiff. The property was not on the place where Fields lived, and don't know that Fields owned or had possession of the stable; and took the horse when no one was present. The execution read in evidence was sent to witness by defendant. Soon after he had surrendered the property to Reeves, witness declined taking it, and returned the execution to defendant.
- 20 Plaintiff admitted that there was a judgment obtained before James Galbraith, a justice of the peace of Tazewell county, in favor of Hamilton & Dugger, for \$73 67 debt, and \$10 03 costs, against William Fields, upon which execution issued on the twelfth of December, 1859.
- 20 Execution, dated 12th December, 1859, in favor of Hamilton & Dugger against William Fields for \$73 67 debt, and \$10 03 costs, issued by James Galbraith, a justice of the peace in Tazewell county.
- 21 Indorsement of constable: Execution came to his hand December 24, 1859, and levied on one grey horse, one wagon and double harness, January 21, 1860, and sold February 1, 1860.
- 22 Robert Parker called by defendant, who testified that the defendant was, at time of levy and sale of property, a constable of said county of Tazewell, state of Illinois. Thomas C. Reeves, the plaintiff, and William Fields live in the city of Pekin.
- 22 John Gridley called by defendant, who testified that he is clerk of the county court of Tazewell county, and that defendant was elected constable of said county on the 6th of April, 1858, and is still a constable of said county.
- 22 Rawley S. Doolittle was called by plaintiff, who stated that he employed the plaintiff to break some land for him in the fall and summer of 1859, with his team, and that he settled with plaintiff for the same.

The court gave judgment for plaintiff for \$300 and costs of suit.

22 The defendant then moved for a new trial on the following grounds :

1st. The judgment is contrary to evidence.

2d. The judgment is contrary to law.

23 The court overruled the motion for a new trial, to which defendant then and there excepted.

23 Appeal bond.

24 Certificate, seal and signature of clerk to record.

Errors assigned :—

1st. The court erred in not granting a new trial.

2d. The judgment should have been for defendant.

3d. The judgment is manifestly unjust, and contrary to law and the evidence.

JAMES ROBERTS and S. D. PUTERBAUGH,
For Plaintiff in Error.

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Samuel B. Buckley
Edwin J. Lampett
Abstract of Record

Filed Apr 19, 1860
S. Edmund
Clerk

1
Pleas to a Term of the Circuit Court
within and for the County of Tazewell
and State of Illinois begun and held
at the Court House in the City of Pekin
on the First Monday of the month of
February in the year of our Lord One
Thousand Eight Hundred and Sixty
Present the Honourable James Harriott
Judge of the Twenty First Judicial Cir-
cuit Composed of Tazewell, Mason &c.

Be it Remembered that on the 23^d day of Jan-
uary A.D. 1860 a Process was filed in the words
and figures following to wit -

State of Illinois } Of the February Term of the
Tazewell County } Tazewell Circuit Court A.D. 1860

Edwin D. Lampett. }
vs. } Trespas.
Samuel B. Buckley } Damages \$500.

The Clerk of the Circuit Court
will please issue a summons in the above en-
titled cause for the above named defendant to
the Sheriff of Tazewell County, returnable to
the next term of the Circuit Court
Wm B. Parker & Son
Peffer attys

And now afterwards to wit on the day and year last aforesaid a Summons issued in the words and figures following to wit ~

State of Illinois } The People of the State of Illinois
 Tazewell County } to the Sheriff of said County
 Greeting ~

We Command you that you summon Samuel B. Buckley if he shall be found in your County personally to be and appear before the Circuit Court of Tazewell County on the first day of the next term thereof, to be held at the Court House, in Pekin, in said County on the First Monday of February next, then and there to answer unto Edwin J. Lampett in plea of Trespass to the damage of said plaintiff as he says in the sum of Five Hundred dollars (\$500.) And have you then and there this writ with an endorsement thereon, in what manner you shall have executed the same ~ Witness M. C. Young Clerk of the said Court and the Seal thereof at Pekin aforesaid this 23^d day of January 1860.

L. S.

Murill C. Young
 Clerk Circuit Court
 By L. W. Stoner Deputy.

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Which said Summons was afterwards returned on the 26th day of January A.D. 1860 with the following endorsement thereon to wit -

State of Illinois }
Jagwell County } *for*

I have duly served the within by reading the same to the within named defendant S. B. Buckley this 26th day of January A.D. 1860.

J. C. Reeves -
Sheriff J. C.

And now afterwards to wit - on the 25th day of January A.D. 1860 a Declaration was filed in the words and figures following to wit -
State of Illinois } To the February Term of the Jag
Jagwell County } well Circuit Court. A.D. 1860.

Edwin S. Lampitt Complainant
of Samuel B. Buckley in a plea of Trespass for that the said Samuel B. Buckley on the Twenty First day of January in the Year of Our Lord One Thousand Eight Hundred and Sixty - to wit - at Pekin at the County and State aforesaid with force and Arms took and carried away the Goods and Chattels - to wit - One Grey Horse to the value of two Hundred and fifty dollars, one Two

Horse Wagon of the value of Two Hundred Dollars - One double Harness to the value of Fifty Dollars the property of the plaintiff then and there found, being of Great Value to wit. of the value of Five Hundred Dollars. And Converted the same to the use of the said Samuel. B. Buckley against the peace &c., and to the damage of the said Edwin J. Lampitt Five Hundred Dollars. And thereupon he sued &c. -

Wm B. Parker & Son

Plaintiffs Attorneys -

And now afterwards to wit - at a Term of the Circuit Court begun and held at the Court House in the City of Pekin within and for the County of Tazewell and State of Illinois on the First Monday of the Month of February in the year of our Lord One Thousand Eight Hundred and Sixty - Present the Honorable James Harriott Judge. Hugh Fullerton Esq. Prosecuting Attorney - Thomas C. Reeves Sheriff and Merrill. C. Young Clerk the following Pleas were filed on the 21st day of February A.D. 1860 in words and figures following - to wit -

State of Illinois } In Circuit Court
Tazewell County } February Term 1860.

3-

Samuel B. Buckley }
 Ats }
 Edwin F. Lampett }

And the said defendant
 by Pittebaugh and Roberts his attorneys
 comes and defends the wrong and injury where
 and says that he is not guilty of the said
 supposed trespasses above laid to his charge
 or any part thereof or any part thereof
 in manner and form as the plaintiff hath
 above thereof complained against him
 And of this he the said defendant puts
 himself upon the Country &c.

And for a further plea in this behalf as
 to the seizing and taking of the said per-
 sonal property in said plaintiffs declaration
 mentioned, and taking and carrying the
 same away the said defendant by leave
 &c. says that the said plaintiff ought
 not to have or maintain his aforesaid
 action thereof against him, Because he
 says that long before and when &c. the
 said defendant was a Constable of Tazewell
 County Illinois, And being such Constable,
 by virtue of an execution issued by one
 James Galbraith a Justice of the Peace
 of Tazewell County, in the name of the

People of the State of Illinois, directed to any
 Constable of said Tazewell County, Com-
 manding that of the Goods and Chattels
 of William Fields in said County to make
 the sum of Seventy Three dollars and
 67 cents debt, and ten dollars and 3 cents
 Costs, with interest at the rate of Six
 per cent per Annum from the Twenty
 First day of November 1859. when judg-
 ment was rendered which Hamilton and
 Duggan recovered before the said James
 Galbraith against the said William
 Fields. And the said defendant avers that
 the said execution was placed in the hands
 of said defendant as such Constable of
 Tazewell County on the 24th day of Decem-
 ber 1859. to be by him executed and retu-
 ned as by law required. And defendant
 further avers that the said William Fields
 was at the time the said execution came
 to the hands of said defendant as aforesaid
 the owner of said Grey Horse, said two
 horse wagon and said double harness-
 the goods and Chattels in said declara-
 tion mentioned- without this that they
 were the goods and Chattels of said plain-
 tiff, as by said declaration is above exp-

7 posed & wherupon the said defendant just before the said first time when^d to sit on the day in said declaration mentioned, as such Constable as afore said, and by virtue of said execution And in pursuance of the Commands of the said execution, seized, took, and carried away the said Horse and Wagon and said harness in said declaration mentioned to sell the same to pay and satisfy said execution as it was lawful for the said defendant to do for the cause aforesaid, which are the same supposed trespasses in the introductory part of this plea mentioned, And whereof the said plaintiff hath above thereof complained against him without that this that he the said defendant is guilty of seizing taking, Keeping and converting the said property in said declaration mentioned at &c aforesaid or elsewhere. And this the said defendant is ready to verify - wherefore he prays judgment &c

Putbaugh & Roberts.
For Def.

And the said plaintiff Comes and de-

sends & And says precludi now. Because
he says that the said One Grey Horse,
and One ~~Grey~~ ^{Dark Bay} Horse in the said
plaintiffs declaration mentioned, are
the goods and Chattels of the said plain-
tiff and not the property of the said
William Fields as the plea by the said
defendant above pleaded. of this he
puts himself upon the Country &c.

Atty for plff -

And afterwards to wit - on the 7th day of February A.D. 1860 an affidavit was filed in the words and figures following to wit -

State of Illinois } Circuit Court
Tazewell County } February Term 1860.

Edwin S. Sampitt

vs
Samuel. B. Buckley }

Samuel B. Buckley

the defendant in the above entitled cause
being duly sworn according to law, deposes
and says, that the plaintiff in the above
entitled cause is so insolvent that he is

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unable to pay the costs of this suit, and that he is so unsettled in his affairs as to endanger the Officers of the Court with respect to their legal demands. Affiant therefore prays for a rule on said plaintiff to give security for the payment of costs of this suit - Affiant further says not.

Subscribed and sworn to } S. B. Buckley
before me this 7th day }
of February 1860 }

Merill C. Young, Clerk } Whereupon a Rule
is entered upon Plaintiff to file security for costs by Thursday next
And afterwards to wit on the 9th day
of February A.D. 1860 - a Bond was filed in
the words and figures following - to wit -

Edwin S. Lampitt } February Term of the
vs. } Tazewell Circuit
Samuel B. Buckley } Court 1860.

I do hereby enter myself
Security for costs in this cause, and ac-
knowledge myself bound to pay, or cause
to be paid all costs which may accrue in
this action either to the opposite party or
to any of the Officers of this Court, in pursu-
ance of the laws of this State
Dated this 9th day February 1860 } B. S. Pettyman

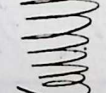
Afterwards to wit

At a Term of the Circuit Court begun and held at the Court House within and for the County of Tazewell & State of Illinois, at Pekin, on the first Monday in the Month of February in the Year of our Lord one thousand eight hundred and sixty it being the 6th day of said Month of February, Present The Honorable James Harriott, Judge of the 2nd Judicial Circuit of the State of Illinois.

Hugh Fullerton, Prosecuting Attorney
Thomas C. Reeves, Sheriff &
Merrill C. Young, Clerk,

To Wit

Friday February 24th A.D. 1860

Edwin D. Sampett  Trespass
v
Samuel P. Buckley 

And now on this day come as well the Plaintiff, by his attorneys, Parker & Son as the Defendant by his attorney S. D. Puterbaugh and by agreement of Parties herein, a jury is waived, & this Cause is tried by the Court. And the Court having heard the

Allegations & proofs of the parties and argument of Counsel thereon, and being fully advised in the premises, is of opinion, and does therefore order and adjudge that the Plaintiff recovers of said Defendant the sum of Three hundred dollars (\$300.) Damages, and likewise the Costs and Charges by him about his suit expended, and that Execution issue therefor.

Whereupon the Defendant entered his motion for a new trial in this Cause, which said motion is by the Court overruled -

Thereupon the Defendant Prays an appeal, which is allowed by the Court, with Bond to be filed in thirty days, with Thomas N. Gill as security in sum of Five hundred Dollars.

Afterwards to wit, on the 25th day of February A D 1860 The Defendant filed a Bill of Exceptions in the words & figures following to wit!

12 State of Illinois } Circuit Court
Tazewell County } February Term 1860.

Edwin S. Lampitt

^{vs}
Samuel B. Buckley } Bill of Exceptions

Be it Remembered that at
the trial of this Cause the plaintiff offered
in evidence the Record of a Chattel Mortgage
from William Fields to Thomas C. Reeves
which is in the words and figures following
to wit -

William Fields

To
Thomas C. Reeves

Know all men by these
presents that I William Fields of Pekin
of the County of Tazewell in the State of
Illinois of the first part, for and in con-
sideration of \$300. to me in hand paid by
Thomas C. Reeves of the same place of the
second part, the receipt whereof is hereby
acknowledged, do hereby Grant Bargain
and Sell unto the said party of the second
part, his heirs and assigns the follow-
ing Goods and Chattels to wit - One

Dark Bay Horse 7 years old - One Grey Horse 8 years old - One two horse wagon. & set of Double Harness. To Have and to hold all and singular the said Goods and Chattels unto the said party of the Second part his heirs and assigns forever.

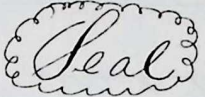
And the said party of the first part for himself, his heirs, his Executors and administrators doth hereby Covenant, ^{to} And with the said party of the Second part and his assigns that he is lawfully possessed of the said Goods and Chattels as his own property - that the same are free from all incumbrance and that he will warrant and defend the same to him the said party of the Second part and his assigns against the lawful claims and demands of all persons.

Provided - Nevertheless - that if the said party of the first part, his heirs, Executors and Administrators, shall well and truly pay to the said party of the second part his heirs, Executors, Administrators or assigns for the redemption of the above bargained Goods and Chattels the just and full sum of Three Hundred and fifty dollars on or before the first day of January next, with interest

according to the tenor and effect of a
certain Promissory Note given by the said
party of the first part to the said party
of the second part bearing even date here
with, then this Mortgage to be void -
otherwise to remain in full force and vir-
tue, And Provided further that until de-
fault be made by the said party of the
first part in the performance of the
condition aforesaid - it shall and may
be lawful for him to retain the posses-
sion of the said Goods and Chattels, and
to use and enjoy the same. But if the
same or any part thereof shall be taken
in Execution, Attached or Claimed by any
other person or persons at any time before
payment - or if the said party of the first
part shall attempt to sell the same
without the Authority and permission
of the said party of the second part in
writing expressed - then it shall and may
be lawful for the said party of the second
part or his assigns to take immediate
and full possession of the whole of the
said Goods and Chattels to his and their
own use

In Witness Whereof the said

party of the first part has hereunto set
his hand and seal this 28th day of
April 1859.

William Fields 

State of Illinois }
Tazewell County } ss.

This Mortgage was ac-
knowledge before me by William
Fields this 3rd day of May 1859.

Samuel P. Bailey
Justice of the Peace Tazewell County.

And then called Alexander Orr who tes-
tified that he knew the horse in controversy.
The Horse and wagon and harness were le-
vied upon and taken by the defendant on
the 21st of January 1860. the horse was ta-
ken to Giles office. the Horse and harness
were in the stable of plaintiff at the time the
levy was made - the stable was not Fields lot
or premises - the plaintiff lives with William
Fields - Fields is plaintiffs step father.

Lampitt has been driving and using the team
since midsummer. the horse has been kept
in stable where they were taken by defendant
ever since in October 1859. Plaintiff had
possession of it when the levy was made

William Fields was then called and testified that he knew the property in controversy - the property belonged to plaintiff on the 21st of January 1880, and had since some time in the early part of the summer of 1889. Witness never owned the horse - he had owned the wagon the whole time, and sold to plaintiff some time in the summer of 1889. Plaintiff was to pay witness \$75. - and pay off mortgage for the team. I traded another wagon for the wagon in question, and Thomas C. Reeves paid \$50. - difference for me. The plaintiff's mother bought the horse of Thomas C. Reeves last Spring. I am the husband of the mother of plaintiff. I gave the mortgage which has been read, to Thomas C. Reeves. The debt for which it was given was never paid. The mortgage was closed by Reeves; the horse and wagon and harness were away when the mortgage became due; Plaintiff took them off that day and did not return with them until after night, as soon as the horse came back the mortgage was closed. The property was sold by Flory under the mortgage.

Cross examined by defendant - I never owned the horse. Plaintiff's mother bought the horse for him. I gave my note for \$350. and

And the Mortgage to secure the same. The price of the horse was included in the \$330 note, the horse was \$175, and the balance of the \$330 I owed Reeves. The horse was in possession of plaintiff while the Mortgage was on the same. Plaintiff is my step-son. he lives with me. Plaintiff rented the stable in which the horse was kept of Joseph Bequith. it was not in my possession or on my premises. I traded the wagon to the plaintiff about one year ago this Spring. On the ~~2nd~~ 2^d of January the team was over the Mackinaw distant about 7 miles. it was taken away by plaintiff on the morning of January 2^d, and was returned same evening after night. Plaintiff did not want the property taken under the Mortgage but said it would have to go, but Reeves must come after it. The team was only gone one day, on the 2^d of January 1860. from morning till night. The horse was worth \$175. Wagon \$95. Harness \$30. Lampett was born in June 1838, and will be 22 years old next June.

Thomas C. Reeves. Called by plaintiff and testified. I am the Mortgage in the Mortgage read. I sold the horse to Mrs. William Fields for her boy. The boy took the horse away at that time. The note was

not paid at maturity. I took the property
 on the 3^d of January 1860. When I went
 after the property on that day and found
 that William A. Tinney had levied two
 small executions against William Fields
 on the same, I paid off the same and took
 the property, and had it sold under the
 mortgage, and I bid the property in my-
 self, and then sold it to plaintiff. I went
 to Fields on the 2^d of January - the plain-
 tiff was then away, and had driven off
 the team, and Mrs Fields could not tell
 where he had gone, or when he would re-
 turn with it, and Fields was not at
 home; on the 3^d of January early in the
 day I told plaintiff that I must have
 the property - he said if I must have it, I
 should come and get it, and said go and
 get it sometime early in the day of the 3^d.
 After I bought the property I kept it at
 my house when I sold it to plaintiff on
 the 6th day of January 1860. - he then took
 it away. The Horse, wagon and Harness were
 worth \$300. Mrs Fields made the bar-
 gain near a year ago for the horse. I never
 owned the wagon. W^m Fields gave me the
 mortgage on the property. I went for the
 property Jan 2^d 1860. Mrs Fields told

me that the plaintiff had gone to the Country - I do not know that I should have taken the property that day.

Ralph Filoy, called by plaintiff, who testified that the property was sold at Auction by him, at Reeves's request, under the mortgage, on the 4th or 5th of January 1860. Reeves bought the property for \$215~

The Plaintiff here rested his case.

The Defendant then called William A. Tinney, who testified that he knew the property - witness took the possession of the property under two executions in his hands as Constable, sent from Logan County, against William Fields for \$7.72, Gill told witness when he gave execution, and Reeves did not seize property under the execution; on the 3^d of January 1860 Reeves came to me much excited, and paid off the executions in my hands and took possession of the property. I took the property from the Stable of Fields in the forenoon of January 3^d 1860. The Stable was pointed out to me by Sharp. I have repeatedly seen the property in W^m Fields possession last Spring, but don't recollect seeing Fields use them since

Midsummer.

20

Cross Examined. The property was not on the place where Fields lived, and don't know that Fields owned, or had possession of the stable, and took the horses when no one was present. The Execution read in evidence was sent to witness by Defendant soon after he had surrendered the property to Reeves, witness declined taking it and returned the execution to defendant.

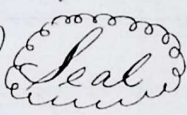
The Plaintiff admitted that there was a judgement obtained before James Galbraith a Justice of the Peace of Izewell County Illinois in favor of Hamilton & Suggs for \$73.67, and \$10.05 costs against William Fields upon which execution issued on the 12 of Dec 59. The defendant then offered the execution issued upon the judgement and the return made on the same in the words and figures following - to wit -

State of Illinois }
Izewell County } of Illinois - to any Consta
be of said County -

Greeting -

We command you, that of the goods and chattels of William Fields in your County, you make the sum of

Seventy Three Dollars and 67 Cents debt, and Ten Dollars and 3 cents cost, (with interest at the rate of Six per cent. per annum, from the twenty first day of November 1859, when judgement was rendered,) which Hamilton & Dugger lately recovered before me in a certain plea against the said William Fields and thereof make return to me within Seventy days from this date. Given under my hand and seal, this 12th day of December 1859

James Galbraith J. P. 

Come to hand this 24th day of December 1859 at 3 o'clock P.M. S. B. Buckley Constable J. C. Levied on one Grey Horse, one ~~double~~ wagon and double harness this 21st day of January 1860. Sold the same this first day of Feb. 1860 between the hours of ten A.M. and four P.M. to John Ayedlott, he being the best bidder

wagon	\$30.00
Harness	5.50
Horse	62.00

97.50.

94.70

\$2.80. paid to Defendant.

S. B. Buckley Constable

Robert Parker was called by the Defendant and testified, that the defendant was at time of levy and sale of property a Constable of said County of Tazewell, State of Illinois Thomas C. Reeves, William Fields, and Plaintiff live in the City of Pekin John Gridley called by Defendant and testified that he is Clerk of the County Court of Tazewell County, and that defendant was elected Constable of said County on the 6th of April 1858, and is still a Constable of said County.

The Plaintiff called R. S. Toolittle who testified that he employed the plaintiff to break some land for him in the fall and summer of 1859 with his team, and that he settled with plaintiff for the same.

This was all the Evidence offered in the case.

The Court thereupon gave judgement for the plaintiff against defendant for \$300.00/100 and Costs of Suit.

The Defendant then moved for a new trial on the following grounds

1st The judgement is contrary to the evidence

2^d The judgement was contrary to law

The Court overruled the Motion for a new trial - to which the defendant then and there excepted - And prays that this Bill of Exceptions may be signed and sealed by the Court - which is accordingly done

James Harriott Seal

on the 5th day of March AD 1860

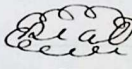
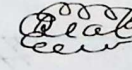
And now afterwards to wit, came the appellants and filed their appeal Bond which is in the words and figures following to wit

Know all men by these presents that we Samuel B. Buckley and Thomas N. Gill of the County of Logansport and State of Illinois are held and firmly bound unto Edwin D. Lampett in the penal sum of five hundred dollars lawfull money of the United States for the payment of which we and truly to be made, we bind ourselves our heirs executors and administrators jointly, severally and firmly, by these presents. Witness our hands and seals this 25th day of February AD. 1860

The condition of the above obligation is such that whereas the said Edwin D. Lampett died on the 24th day of February 1860 in the Circu-

24

- it court of Tazewell County State of Illinois
 record a judgment against the above named
 Samuel B Buckley for the sum of Three hun-
 dred Dollars and costs of suit from which
 judgment the said Samuel B Buckley has
 taken an appeal to the supreme court
 of the state of Illinois. Now if the said
 Samuel B Buckley shall pay the said
 judgment costs interest and damages in
 case the judgment shall be affirmed and
 shall prosecute his appeal with effect, then
 the above obligation to be void, otherwise to
 remain in full force and effect.

S. B. Buckley 
 Thomas N. Gill 

State of Illinois
 Tazewell County

I, Merrill Le Young Clerk of the
 Circuit Court within and for said
 County do hereby certify the foregoing
 Twenty three and one third pages
 to be a true correct and exemplified
 copy of all the papers on file and
 all the proceedings had in the cause
 therein named as fully as the same
 remain of Record in my office
 Witness Merrill Le Young
 Clerk and the seal of said
 Court hereto affixed at Pekin
 the 5th day of March A.D. 1860
 Merrill Le Young Clerk

Whereupon comes the said Edwin
D. Sampson and says that there is no
error either in the record and pro-
ceedings aforesaid or the rendition
of the judgment aforesaid, and
prays that the said Supreme
Court here, may proceed to ex-
amine, as well the record and
proceedings aforesaid, as the
matters above assigned for error,
and that said judgment in
manner and form aforesaid may
be in all things affirmed.

D. S. Prettyman +
H. Wood. I. Head
For Appellees

230 7/85

Edwin D. Sampett

N

Samuel B. Buckley
Appellant

Transcript

Filed Apr. 18. 1860
L. Ireland
Clk.

\$5. W. Ch.

James Roberts &
S. D. Puterbaugh
for ~~App~~ Appellant