

requested the said Benson Kingsbury & Snowdridge
 & Moss for the account with said Goodman & Mason
 & Gates and to settle the same

And your orator further re-
 presents unto your Honor that said bill
 has never been answered and still re-
 mains in said Court pending & undispensed

158 of Your orator further represents unto
 your Honor that he is the holder of the
 Note of Two thousand Dollars mentioned in
 said Bill as dated August 12th 1857 and payable
 sixty days after the date hereof at the office
 of Swift & Pearson & Co 31 Pine Street and
 Endorsed by the said Francis A. Benson by
 the name & style of F. A. Benson & a copy
 of which Note and the Endorsements thereon
 is as follows. \$2000 Chicago Aug 12 1857
 Sixty days after date we promise to pay to
 the order of F. A. Benson & Co Two thousand
 Dollars at the office of Swift & Pearson & Co
 31 Pine Street New York Value Received

Signed, Goodman & Mason

Endorsed F. A. Benson & Co

Your orator further represents unto your
 Honor that to secure said note and others
 said Goodman & Mason on the 14th day of
 January A D 1857 made a Chattel Mortgage

Executed in due form of law and filed for
 record January 20th 1857 a copy of which is
 attached to the Bill filed by the said Goodman
 and others to said Orson and marked Exhibit
 A and which is made part of this bill
 of Complaint that he refers to said Mortgage
 for the description of the property covered by the
 same and the same is made part of this bill
 as fully as if herein repeated. That although
 said Mortgage was given to secure a note
 of ten thousand dollars payable in one year
 from date - it in fact made to hold to
 secure the note so held by your orator
 and any other indebtedness which said
 Orson held. That under said Mortgage
 said Orson proceeded to take possession of
 the property covered by said Mortgage and
 held possession thereof a fault having been
 made in the performance by said Goodman
 Orson of the conditions thereof: that said
 Orson was enjoined by the writ of injunction
 issuing out of under said Courts Seal
 from proceeding in said above mentioned
 suit: Your orator further Represents that
 Francis H Orson has become insolvent and
 his endorsement is of no value on account
 of his insolvency and there is no way of
 collecting said note out of him - that Goodman

And Mason are insolvent and have been for
 a long time past. That said Mortgage is
 admitted by said Goodman & Mason to be held
 as security for the payment of said note, and
 that said Branson so admits the same,
 that in transferring said note said Branson
 in equity transferred the security held by
 him to whoever held the same and from
 that time forward the holder of the note, be-
 came the holder of said security in trust
 for your orator so far as your orator was
 interested in the security. and that in be-
 coming the holder of said note so endorsed
 became entitled in equity to the full benefit
 of said security. That he is informed
 and believes & so charges the fact to be
 that all the other indebtedness secured by
 said Mortgage has been paid at least of
 there is any other due it is very small
 amount. That said Francis H. Branson
 made a long time since an assignment
 for the benefit of Creditors to John A. Brinkley
 & William O. Wills who pretend to claim some
 interest in the mortgaged property by virtue
 of said Mortgage and deed of assignment
 but what the same may be he is unable
 to say, but whatever that interest is, it is
 as he alleges subsequent to your orators

That your orators note being the one first
due is as he is informed and believes & so
charges to be first paid out of said Mortgage pro
perty. Your Orator further represents
unto your Honor that said property was
sold subject to said Mortgage to Augustus
Gates who unites in filing said Bill,
who now holds the same —

101 And your Orator well hoped that the
said Benson Beveridge Mose Goodman,
Mason & Gates would apply said Mortgage
property to the payment of the debt of
your Orator, but although often requested
so to do they hitherto have failed and re-
fused to do so, and are combining and
confederating together to delay the sale
of said property and to prevent the collection
of your orators said claim. Which actings
and doings are contrary to Equity and good
Conscience and tend to the manifest wrong
injury of your Orator in the premises.

In Consideration whereof and forasmuch
as your Orator can only have adequate
relief in the premises in a Court of Equity
where matters of this kind are relivable
and Cognizable. To the end therefore that
the said Calvin H Goodman Jerome W Mason
Augustus Gates Francis H Benson John H

162
 Blawie and William Moss Jr may be made
 parties defendants to this his bill of Complaint
 and that they and Each of them may full true
 perfect Answer make to all Singular or the
 above bill as if here again repeated (Answers
 under oath being hereby waived) and that the
 Amount Secured by said Mortgage may be
 ascertained and that your orators said
 Claim may be decreed to be secured by
 said Mortgage and the Amount due to your
 orator may be ascertained. and the same
 may be decreed to be a lien upon said
 property and that the makers of said note
 may be decreed to pay the same within a
 day to be therein fixed and that in default
 thereof said property may be decreed to
 be sold and the proceeds applied to the
 payment of the Sums Secured by said
 Mortgage and that he may be allowed
 to intercept in said note for his Claim
 herein mentioned. and that your orator
 may have such other and further relief
 as may be equitable in the premises.
 And that it may please your Honor to
 grant unto your orator the peoples most
 gracious writ of Summons Commanding the
 above named Defendants upon a day to be
 and under certain penalties to be therein fixed

to be and appear in this Honorable Court to
true and perfect answer make to all & singular
the above bill: and to stand by & perform such
order and decree as may seem to your Honor
meet. And your Oration will ever pray &c.

By Shumway Maite & Towne
Complainants Solicitors

Answer to Cross Bill of B. D. Haddock.

State of Illinois }
Cook County ss } In Circuit Court of Cook
County Nov Term 1859.

Francis H Pearson et al }
vs }
Benjamin F Haddock }

163

The joint & several
Answer of Francis H Pearson John Brevidge
who is sued by the name of John H Brevidge and
William Phelps Jr three of the defendants named
in the Bill of Complaint of the said B F Haddock
Complainant: to the said Bill of Complaint.

And these Defendants preserving to
themselves all right of Exception &c to
said bill of Complaint. For answer therunto
Say: They admit that on or about the
20th of January 1858. Albert H Goodman had
filed in this Court a Bill in Chancery against
these Defendants and that the same remains
unanswered & still pending in said Court

undisposed of, and they presume that the
 Same and Substance of said Bill is set forth
 in said Complainant's Bill of Complaint:

And further answering they presume the
 said Complainant is the holder of a Certain
 Note in said Bill mentioned, and that the Same
 together with the Endorsements thereon is correctly
 therein set forth. And they admit that said Note
 is one of the notes mentioned in the said Bill of
 Complaint of Calvin A Goodman Et al, and they admit
 that on the 14th of January A.D. 1857, the said Calvin
 A Goodman & Jerome W Mason executed and deliv-
 ered to the said Benson their Chattel Mortgage to
 164 Secure the payment of their said note of Ten thousand
 dollars as in said Bill is alleged, and that on
 the 8th day of October 1857, the said Benson made
 a voluntary assignment to the said Beveridge &
 Mays for the benefit of his Creditors, and that by
 the virtue of said assignment the said Chattel
 Mortgage & Note of \$10,000 came to the hands
 of said Beveridge & Mays, and that on or about
 the 14th day of January A.D. 1858 they proceeded
 under said Mortgage to take possession of the
 property therein Specified and did take and hold
 possession thereof until enjoined by a writ of
 Injunction as in said Bill mentioned.

And further answering the said Benson
 upon his own Knowledge and the said Beveridge

And Mose upon their information and belief, say that
the said Chattel Mortgage and note Secured thereby
were executed and delivered to said Benson to secure
any indebtedness of said Goodman & Mason then exist-
ing or that might hereafter accrue to said Benson
or Benson & Co. and that in pursuance of said
arrangement, the said Benson accounted therefor
and sundry notes of the said Goodman & Mason
and placed the proceeds thereof to the account of
said Goodman & Mason on his Books, and con-
tinued to draw their Checks, which were paid
by said Benson, and that on the 1st day of Jan
1857, said Benson entered into a Copartnership
with one Charles Kingsbury and that on or
about that time by the knowledge and consent of
said Goodman & Mason their account was transferred
from the books of said Benson to the books of said
Benson & Kingsbury, and that afterwards in further
pursuance of said agreement or arrangement said
Goodman & Mason executed and delivered to said
Benson & Kingsbury four certain other notes, particu-
larly mentioned in the said bill of Colvin & Goodman
& al. and the same were accounted or disposed
of by said Benson & Kingsbury, and the proceeds
thereof placed on their books to the Credit of said
Goodman & Mason on their account aforesaid and
also a certain other note of \$1500 for the purpose

99c
in said bill of Colvin & Goodman Et al. mentioned
which said note was afterwards, to wit. on or
about the 6th day of October A.D. 1857 at the request
and by the consent and approbation of said Goodman
& Mason and in pursuance of the agreement &
arrangement afterwards sold and disposed of by
said Oluson & Kingsbury and the proceeds of which
to the amount of \$1431.00 were placed to the
Credit of said Goodman & Mason on their books
and that on the 8th day of October 1857 at the
date of the assignment aforesaid, there was a
balance due the said Goodman & Mason by said
Oluson & Kingsbury upon said account of the sum
of two thousand one hundred & seventy four ⁵⁸/₁₀₀
dollars as per the books of said Oluson & Kingsbury
and that the note in said Bill of Complaint
mentioned is one of the notes accounted or
disposed of by said Oluson & Kingsbury as last
aforesaid and intended to be secured by said
Chattel Mortgage and note of \$10000 as afore-
said and particularly mentioned in the Bill
of Complaint of said Colvin & Goodman Et al.

166
And further answering these Defendants say
that upon one of the notes particularly mentioned
as aforesaid and secured by said Mortgage & note
of \$10000 to wit the note dated Sept 8. 1857. and
due in 30 days after date of the sum of fifteen
Hundred Dollars on the 14th day of November 1857

a judgment was returned in the Cook County Court
of Common Pleas in the County of Cook & State of
Illinois in favor of Jonathan Barr and against the
said Goodman & Mason in the sum of \$1536.00 Damages
and Six dollars Costs of suit and that afterwards
to wit on the first day of March 1858. the said
judgment was duly assigned and transferred
by said Jonathan Barr to the said Beveridge & Moss
Assignees as aforesaid and that they still hold
the same and that the same remains in force
and not set aside or vacated nor in any part
paid satisfied or discharged - and there is now
due said Beveridge & Moss assignees as aforesaid
by virtue of such assignment or transfer on
said judgment including interest to date the
sum of \$1721.50 - And they further say
that the said ~~assign~~ Beveridge & Moss Assignees
as aforesaid have in their hands and under their
Control the note particularly mentioned in said
Bill of Complaint of Colvin Goodman & Co as
being date Aug 15 1857 Executed by said Goodman
and Mason & payable to their order 90 days after
date thereof in the sum of \$1500. and that the
Amount received therefor to wit \$1431.00 and placed
to the Credit of said Goodman & Mason on the
books of said Benson & Kingsbury with interest
therein at 10 per Cent after due as per the terms
and conditions thereof now amounts to the sum

of \$1457.85. — And they further say
 that they were put to great trouble & expenses
 & cost in taking possession of the property
 in said Mortgage mentioned under said
 Mortgage and holding the same to wit
 the sum of \$100.00 and that they are put
 to further trouble cost and charges in defend-
 ing this suit to wit the sum of \$100.00 all of
 which are properly chargeable to said Goodman
 & Mason, and these Defendants should be
 secured therefor by and under the said Chatham
 Mortgage. And these Defendants further say
 that they are ready and willing to set off their
 Claims against Goodman & Mason or so much
 thereof as may be necessary to satisfy amount
 Cancel & discharge the balance of account
 due said Goodman & Mason by said Blason
 Kingsbury on the 8th of October 1857 as aforesaid
 together with interest thereon from that date at
 the rate of ten per Cent per Annum and that after
 so doing there still Equitably and justly remains
 due the said Beveridge & Moss assignees as afore
 said. the sum of \$1016.07 —

And further Answering these Defendants
 say that they do not know of their own know-
 ledge whether the other indebtedness secured
 by said Mortgage has been paid or not, but
 they presume such to be the fact, and they

are advised that one Augustus L. Gates, one of
the Complainants named in the said Bill of
Complaint of Calvin H. Goodman & al purchased
the said Mortgage property subject to the said
incumbrance and that he is in the still pos-
session of the same. — And further ad-
versing the said Beveridge & Moss say that
they hold the said Mortgage Note of \$10,000
as assignees aforesaid for the purpose aforesaid
and these defendants denying all Combination
and Confederation on their part say that ever since
said Mortgage Matured they have been ready &
willing to sell & dispose of said Mortgage property
under and by virtue of said Mortgage, to pay
whatever indebtedness might have been secured
thereby, and they are now ready & willing
so to do to make the amount due in said
note mentioned in said Bill of Complaints and
the amount equitably and justly due them as
aforesaid and the Costs & Expenses of such sale
and would now so do were they not prevented
by the Court. — All which these defendants
are ready & willing to maintain aver & prove
and they therefore humbly pray this Honorable
Court to be hence dismissed with their
reasonable Costs & Charges by them in this
behalf sustained) — Francis H. Benson

169
J. S. Beveridge & al. p. depts. J. S. Beveridge
By Beveridge & al.
Wm. P. Moss

Replication
to answer } State of Illinois }
County of Cook } In the Circuit Court of Cook
County Nov Term A D 1859.

Benjamin S. Haddock

vs.

Francis H. Benson et al

The Replication of Benjamin S. Haddock Complainant to the Joint and several answers of Francis H. Benson John L. Abernidge & William C. Moss to the Bill of Complaint of the above Complainant This Repliant, saving and reserving to himself all and all manner of Exceptions to the answers insufficiencies of the said answer for Replication hereunto says: That he will aver & prove his said bill to be true, Certain and sufficient in the law to be answered unto: and that the said answer of the said Defendants is uncertain, untrue and insufficient to be replied unto by this Repliant without this, that any other matter of thing whatsoever in the said answer contained. Material or effectual in the law to be replied unto Confessed and avoided, traversed or denied is true. all which matters and things this Repliant is and will be ready to aver and prove as this honorable Court shall direct and humbly prays as in

And by his said bill he has already prayed.
Shumway White & Towne
County Solicitors

\$10,000 Chicago January 14th 1857.

Note of Goodman
& Mason to Benson

One Year after date for Value received We
promise to pay to Francis H Benson or
Order Ten Thousand Dollars at the Banking
office of J H Benson & Co in Chicago with
Interest at Ten per cent per Annum it being
for money loaned

Goodman & Mason
due Jan 14/58. Endorsed J H Benson

171

Mortgage to
see above note

This Indenture made this fourteenth day of
January in the Year of our Lord one thousand eight
hundred & fifty seven Between Calvin H Goodman
and Jerome H Mason of Chicago in the County
of Cook and State of Illinois party of the first
part and Francis H Benson of the same
place party of the second part Witnesses
That the said part of the first part for the Con-
sideration of the sum of Ten Thousand Dollars
in hand paid the receipt whereof is hereby acknow-
ledged do hereby grant sell convey and confirm
unto the said part of the second part heirs
and assigns all and singular the following
described Goods and Chattels to wit:

List of Furniture in the Met. Hotel.

886 P. Silver Mirror 1000. 00

Cutlery 400. 00

150. 40 lbs best Hair Mattresses 3000. 00

20 40 " Sq " "

20 25 " " " "

20 No 2 Bolsters

300 No 1 Pillows

75 No 1 " "

205 sp. Blankets

182 Counterpanes

300 sp. Cotton Sheets

172 100 " Linen " 4000. 00

134 Bedsteads 1000. 00

125 Wash Stands 400. 00

20 Bureaus 200. 00

36 doz Chairs 400. 00

3 " Upholstered Chairs 300. 00

1 Safe 110. 00

Cupboard 1000. 00

Kitchen furniture 300. 00

Stoves &c 400. 00

Shoes from four to Six thousand at all times

2000 Yds Carpeting 2000. 00

Piano & Parlor Furniture 600. 00

Curtains &c 600. 00

Chamber Lockery

Together with all and singular the appointments

thereunto belonging or in anywise appertaining; To have and to hold the same unto the said Francis H Benson his heirs executors administrators and assigns to him and their sole use forever. And the said Goodman & Mason for themselves heirs executors and administrators do covenant and agree with the said Francis H Benson their heirs, executors administrators and assigns that they are lawfully possessed of the ^{said} goods and Chattels as of their own property that the same are free from all incumbrances and that they well and their heirs executors and administrators shall warrant and defend the same unto the said party of the second part his heirs executors administrators and assigns against the lawful claims and demands of all persons. Provided nevertheless that if the said Goodman & Mason their heirs executors administrators or assigns shall well and truly pay or cause to be paid unto the said Francis H Benson his heirs executors administrators or assigns one promissory note bearing even date herewith for Ten Thousand dollars payable one year after ~~the~~ date with interest at ~~the~~ rate ten per cent per annum to said Benson or order at the banking House of J H Benson & Co in said Chicago and signed by said Goodman & Mason then and from thenceforth these presents and everything herein contained

174

shall Cease and be null and void. And provided also, that it shall be lawful for the said Goodman & Mason their heirs Executors & administrators to retain possession of the said granted property and at their own expense to keep and to use and enjoy the same until the said Goodman & Mason or their heirs Executors administrators or assigns shall make default in the payment of said sum of money above specified either in principal or interest at the time or times and in the manner hereinbefore contained or unless the said Francis M. Benson shall fear diminution removal or waste for want of proper care or if the said party of the first ^{part} shall sell or assign or attempt to sell or assign said goods and Chattels or any part thereof or if any writ issued from any Court shall be levied on any part of the above described goods and Chattels - that then and in any of the afore said Cases all of said money both principal and interest shall become due and payable and the said party of the second part his heirs Executors administrators and assigns agents or attorneys or any of them may elect thereupon to take possession of the said property and for that purpose may force the same or any part thereof wherever it may be found and also may enter any of the premises of the said party of the first part, with or without

175
force or process of law wherever the said goods and
Chattels may be or be supposed to be and search
for the same and if found to take possession of said
Remove and sell and dispose of said property or any
part thereof at public Auction to the highest bidder
after giving ten days notice of the time place and
terms of Sale together with a description of the property
to be sold either by publication in some Newspaper
in the City of Chicago or by similar notices posted
up in three public places in the vicinity of such
Sale or at private Sale with or without notice for
Cash or on Credit as the said Francis H. Mason
his heirs Executors administrators or assigns agents
or attorneys or any of them may elect and out of
the money arising from such Sale to retain first
all costs and charges for pursuing searching taking
Removing Keeping Storing advertising and selling
of such property goods Chattels and Effects and all
prior liens together with the amount due and unpaid
upon said note or any of them either in principal
or interest rendering the overplus of the money
arising from such Sale (if any there shall be)
unto Goodman & Mason or their legal representa-
tives - Witness our hands and seals the day
and Year first above written
Signed Sealed and delivered *Salvin H. Goodman* Seal
in presence of *Jerome W. Mason* Seal

State of Illinois }
Cook County } ss.

I B D Wolf Justice of the
peace in and for said County do hereby Certify
that this Mortgage was duly acknowledged before
me by the above named Calvin H Goodman and
Jerome W Mason this 14th day of January
AD 1857.
Calvin D Wolf J.P. (Seal)

Chicago March 7th 1860.

176

This Mortgage is transferred with the under-
standing that the balance due thereon is
the amount of the note of Goodman & Mason
bearing date Aug 12th 1857 for the sum of two
thousand dollars payable at 60 days from
date bearing interest at seven per cent together
with the sum of Three Hundred dollars due
by said Goodman & Mason to said Francis
H Blason upon final Settlement

Goodman & Mason
H. Gates
By J. F. Haddock B

Stipulation,
In Circuit Court of Cook County - In Chancery -
Calvin H Goodman & others }
vs }
Francis H Blason & others }

Benjamin F. Haddock

vs.

Francis H. Mason & others } Supplemental Bill

177 It is hereby stipulated by the parties to the above entitled suits, that the promissory note of Goodman and Mason aforesaid for the sum of Two thousand Dollars bearing date the 12th day of August 1857 payable in sixty days thereafter together with the interest thereon (to be computed from the maturity thereof at seven p. Ct. per annum) now held by said Benjamin F. Haddock and the sum of three hundred dollars due from said Goodman & Mason to said Mason upon their final settlement - constitute & compose the balance due upon the note and Chattel Mortgage made to secure the same by said Goodman & Mason bearing date the 14th day of January 1857. assigned by said Mason to said Haddock and referred to in said bills, and that upon the satisfaction of said note and the interest thereon and the payment of the said sum of Three Hundred Dollars with interest on said sum from date hereof at the rate of ten p. Ct. per annum, said note and Mortgage shall be delivered up & cancelled.

It is further stipulated that the defendants Augustus L. Gates Calvin H. Goodman and Francis H. Mason shall without unnecessary delay

file their respective answers to said Supplemental bill in accordance with the terms and intent of this Stipulation and that said Madison shall save them harmless from the payment of Costs in the said last entitled Suit

M D Hennessy Solr for
Augustus L Yates
Colvin H Goodman
Jerome H Mason

In Circuit Court of Cook Co Ills.
Stipulation Colvin H Goodman et al }
vs }
Francis H Olmstead et al }
Chancery
Bill

178. Benjamin F Madduck }
vs } Supplemental Bill
Colvin H Goodman et al }

It is hereby stipulated by & between the parties to the above entitled suits, that a decree may be entered in the matter of said Supplemental Bill in favor of J L Beveridge and Mrs O Wops & assigns of J H Benson in the sum of three hundred dollars with interest at ten per cent from date Chicago Mar 7 1860

M D Hennessy Solr
for Mason Goodman Yates
J L Beveridge Solr
for Beveridge Wops & Benson

Deceit.

Calvin H Goodman Jerome W
Mason and Augustus L Gates
vs.

Pile for Injunction &c

Francis H Benson Charles A
Kingsbury John L Bloubridge
and William P Moss Jr.

and

Benjamin E Haddock

vs.

Francis H Benson Charles A
Kingsbury John L Bloubridge
and William P Moss Jr.

Pile for Interpleader
and Cross Pile under
the first Suit

These two Causes
came on for hearing together, upon Pile answers
& exhibits and replications to the answers, and
stipulation of parties and the Court being fully
advised in the premises. doth find that in the
Suit of Calvin H Goodman Et al vs. Francis H
Benson Et al, all the defendants named in said
Pile have been duly served with process in
said case, that they have not answered the Pile
of Complaint but they have answered the Pile in
Chancery filed under the same by Benjamin
E Haddock, and it is adjudged that the same
stand as an answer in both Cases, and they
further find that all the defendants in the Pile
of Complaint of Benjamin E Haddock named
have been duly served with process, and that

the said Francis H Benson John A Beveridge and
 William O Mott Jr have filed their answer to said
 Bill and a replication thereto and the Court being
 fully advised in the premises do find that the
 said Calvin H Goodman and Jerome H Mason made
 and executed the Chattel Mortgage in said Bill of
 Complaint of Calvin H Goodman & others vs Francis
 H Benson et al and the Bill of Benjamin F
 Maddock vs Francis H Benson et al denoting
 namely a Chattel Mortgage dated January 14
 1857 and which Chattel Mortgage is recorded
 in the records in the Records office of Cook
 County and State of Illinois in Book Six of
 Chattel Mortgages page 317 and which Mortgage
 was duly executed by the said Calvin H Good-
 man and Jerome H Mason to said Francis
 H Benson, and which Chattel Mortgage covers
 the following described property namely 88 lbs
 Silver ware Cutlery, 150.40 lb best Hair Mattresses
 20.4 " Pig 20-25 20 20. No 2 Bolsters
 300. No 1 Pillows, 75 No 1 20 305 lb Blankets, 182
 Counterpanes 300 lbs Cotton Sheets, 100 20 Linen
 Sheets 154 Bedsteads, 125 Wash Stands 20 Bureaus
 36 doz Chairs 3 20 Upholstered Chairs 1 Safe Kitchen
 Kitchen furniture Stoves &c Stoves from four to
 six thousand at all times 2000 Yards Carpeting
 Piano & Parlor furniture Curtains &c Chamber
 Crockery and by Stipulation of parties herewith

filed it is agreed that there is only now due on
said indebtedness secured by said Chattel Mort-
gage the sum of Two thousand six hundred &
Forty two Dollars and twenty two Cents and of
which indebtedness the sum of three hundred Dollars
belongs to and is due and owing to John L. Bre-
widge and William O. Moss assignees of Francis W. Benson
and that the Balance of said indebtedness to wit
Two thousand three Hundred and forty two Dollars
and 22 Cents belongs to Benjamin F. Haddock
and the allegations all and singular in the Peti-
tion of said Benjamin F. Haddock contained are
true, and that he is entitled to that much of
the proceeds, and they do further find that im-
mediately upon said Mortgage becoming due
the said Benson took possession of the property
therein described under the same and so held
the same until enjoined by this Court. And
it is accordingly ordered adjudged & decreed
that the said Francis W. Benson John L. -
Brewidge and William O. Moss Jr. and Benjamin
F. Haddock be perpetually enjoined from Collec-
ting upon said Mortgage more than said sum
of twenty six hundred & forty two dollars & twenty
two Cents. and that upon the payment of the
Same by the said Calvin W. Goodman Jerome
W. Mason and Augustus L. Gates the said Benson
Brewidge Moss Jr. and Haddock be perpetually

enjoined from proceeding under said Mortgage
 above described: but if they fail to pay said sum
 of money to the said Haddock Beveridge and
 Moss in the proportions they are above en-
 titled then the Receiver herein after named shall
 proceed to sell the above described property and
 bring the property in said Chattel Mortgage de-
 scribed for Cash at Public Vendue after receiving
 giving ten days notice of the time and place
 of Sale and out of the funds realized from
 Such Sale first to pay the expenses of the Sale
 Secondly the Amount due aforesaid to said Be-
 veridge and Moss and said Benjamin F. Haddock
 and if the same be insufficient then pay the
 Said Moss and Beveridge and the said Haddock
 pro rata on their said Claims, and the balance
 of the proceeds be brought into Court to await
 the further order of the Court, and ^{2d} which Sale
 the said Moss and Beveridge and Benjamin F.
 Haddock or either of them be permitted to bid
 And it is further ordered and adjudged and
 decreed that Granville Kimball be appointed
 Receiver with the usual powers of Receivers in
 such cases and that they at once take possession
 of said property in said Chattel Mortgage described
 and that at the expiration of five days herein
 named they proceed as above directed to advertise
 and sell said property as aforesaid.

It is further adjudged that said Complainants Calvin H Goodman and others pay the Costs of this Suit against Francis H Benson et al. And that the said Benjamin F Haddock pay the Costs in the other Suit but this is not to include the Costs of Selling the property or Carrying into Effect this decree —

Receivers Report.

State of Illinois
County of Cook, Ill.
Calvin H Goodman
Irene A Mason and
Augustus L Gates

vs.

Francis H Benson
Charles A Kingsbury
John L Beveridge and
William F Moss Jr

Benjamin F Haddock

vs.

Francis H Benson
Charles A Kingsbury
John L Beveridge and
William F Moss Jr

Bill in Chancery.

Bill of Interpleader
and Cross Bill

In pursuance of a decretal Order of this Court heretofore made in which it was necessary among other things ordered adjudged and decreed that all and singular the property

mentioned in the bill of Complaint in this Cause or so made thereof as might be sufficient to raise the amount found due to the respective parties as therein mentioned for principal and interest and the Costs in this Cause & which was to be sold at Public Auction and that public notice be given of the time & place of such sale, and that the proceeds or such part thereof should be paid as provided in said decree.

184 The subscriber recovers as aforesaid do hereby fully Certify and report that I advertised said property to be sold by me at the Metropolitan Hotel in the City of Chicago, Cook County Illinois and that on the 18th day of July 1860 I sold as receiver of the property mentioned in said decree the sum of three dollars & fifty cents of said property, and that previous to said sale I caused a notice of such sale to be published in the Chicago Daily Times a daily journal at that time published in the City of Chicago, and which was as follows

In Circuit Court of Cook County
In Chancery

Robin R Goodman versus W Masson and Augustus L Gates vs. Francis R Benson Charles A Kingsbury John L Alvord and William Moss. Bill of Benjamin F Haddock vs. Francis R Benson Charles A Kingsbury John L Alvord and William Moss. - Bill of Interpleader and Cross Bill

Receiver's Sale. Notice is hereby given that under and by virtue of a decree of the Circuit Court of Cook County entered in the above entitled cause on the 20th day of March 1860, I the undersigned Granville Kimball Receiver appointed in and by the said decree shall on Wednesday the 8th day of July 1860 at 10 o'clock in the forenoon at the Metropolitan Hotel in the City of Chicago sell at Public Vendue the following property, to wit: 886 pieces Silver ware a quantity of Cotton 150. 40ths best hair Mattresses. 20 40ths best pig hair Mattresses, 20 25 best pig hair Mattresses, 20 No 2 bolsters 300 No 1 Pillows 75 No 1 Pillows 205 pair Blankets 182 Counterpanes 300 pairs Cotton Sheets 100 pair linen Sheets 154 bedsteads 125 washstands 20 bureaus 30 dozen Chairs, 3 dozen upholstered Chairs 1 Safe Crockery Kitchen furniture Chamber Crockery Curtains &c. being the property mentioned & described in a Chattel Mortgage executed by Calvin Goodman and George W. Mason to Francis H. Pearson dated January 14. 1857. and recorded in the Recorder's office of Cook County book 6 of Chattel Mortgages page 317 and which is referred to in said decree.

Terms of Sale, Cash - G. Kimball Receiver
Dated Chicago July 7 1860
The above sale is postponed to Monday July

109.c

30. 1860 at the same hour and place.

J. Kimball Receiver.

This Certifies that the appended notice had been published in the "Daily Chicago Times," a newspaper printed and published in the City of Chicago, County of Cook and State of Illinois from July 7th to July 30th consecutively commencing with the 7 July 1860 and that we have received Ten Dollars for publishing the same

Shaban & Price Publishers

186.

And that said Sale was afterwards from time to time continued and on the twenty sixth day of October A. D. 1860 and that previous to said Sale I caused a notice thereof to be publicly advertised in the Chicago Daily Times and Herald a daily journal at that time published in the City of Chicago, which notice was as follows.

In Circuit Court of Cook County
In Chancery.

Abner Woodman, Jesse W. Mason and Augustus L. Gates vs. Francis W. Benson, Charles Kingsbury, John L. Burridge and William P. Moss Jr. Bill. vs. J. W. Haddock vs. Francis W. Benson, Charles Kingsbury, John L. Burridge and William P. Moss Jr. Bill of Interpleader, and Cr. Bill.
Receiver's Sale. Notice is hereby given that

under and by virtue of a decree of the Circuit Court
of Cook County entered in the above entitled suits
on the 20th day of March 1860 I the undersigned
Granville Kimball Receiver appointed in and
by the said decree shall on Friday the 26th day
of October 1860 at 10 o'clock in the forenoon at
the Metropolitan Hotel in the City of Chicago
sell at public vendue the following property
to-wit: 280 pieces silver ware, a quantity of
Cutlery. 150 40ths best hair Mattresses 20 40ths
best pig Hair Mattresses 20 25ths best pig Hair
Mattresses 20 No 2 bolsters 30 No 1 Pillows
75 No 1 Pillows 205 pair Blankets 182 Counterpane
300 pair Cotton Sheets 100 pair linen Sheets 154
bedsteads 125 Washstands 20 Bureaus 300
Chairs 300 pair upholstered Chairs 1 Safe Cooking
Kitchen furniture Stoves etc 2000 yard Carpet
ing parlor & parlor furniture Chamber Croch
Curtains etc. being the property mentioned
and described in a Chattel Mortgage created
by Calvin W Goodman and Jerome W Mason
to Francis W Benson dated 4 January 1857
and recorded in the Recorder's office of Cook
County book 6 of Chattel Mortgages page 57
and which is referred to in said decree

of Kimball. Receiver
Terms of Sale - Cash.
Dated Chicago October 15 1860.

The above Sale is continued until Thursday
Nov. 8. 1860, same hour and place.

By Kimball Brewer
Dated Chicago Oct. 27 1860

Chicago Nov. 12. 1860.
This Certifies that a Notice of Receivers Sale
of which the appended is a true and correct
Copy has been published in the Chicago Times
& Herald a newspaper of general circulation
published at Chicago Cook County Illinois
from Oct. 15th to November 8th consecutively
and that I have received Eight Dollars for
publishing the same.

O. Cameron Jr. Publisher

188

And I do further report that on said twenty
sixth day of October in the Year One thousand
Eight Hundred and Sixty that being the day
on which said property was advertised for sale
as aforesaid. I attended at the time and place
fixed for said Sale & commenced the Sale of
said property at public Auction to the highest
bidder and at said Sale the property men-
tioned and set forth as follows was sold
and the same was sold at the prices set op-
posite the respective articles; that being the
highest price bid for each and every article
at said Sale. to wit:

Receivers Sale of Furniture at Michopolis and

Hotel made October 26th 1860 by order of
G. Kimball Receiver
J. A. Marshall Auctioneer

Account Sales Furniture in Metropolitan
Hotel Chicago made October 26th 1860
by order of G. Kimball Receiver

(For Schedule of property sold, prices at which same was
sold and names of purchasers at said sale, see "Exhibit B." attached
to Complainant's Bill of Complaint, commencing on page 22.)

189 And I do further report that after making sale
of the above named articles which amounted in
the aggregate to the sum of thirteen hundred and
forty eight dollars & sixty cents I as said Receiver
adjourned said sale until the 8th day of November
A.D. 1860 at the same time and place and gave notice of
the same as follows in the same paper and which was as
herein ^{before} set forth.

That on ~~this~~ said eight day of November 1860 I attended said sale and
exposed the said balance property for sale in separate articles at public
auction to the highest bidder & the said residue of said property was sold
& struck off as follows.

(For Schedule of property sold at said last mentioned sale,
prices at which same were sold, and names of purchasers, see
"Exhibit B." attached to Complainant's Bill commencing on page 31.)

And I do further Report that I have made and executed and delivered to the purchasers at said Sales a Bill of Sale of the property purchased by them respectively and have paid over and disposed of the proceeds of said Sale as follows:

Amount paid Paige & Haddock as payee of J. H. Benson with interest from March 7/1869.	\$ 220. 00
Amount paid R. J. Haddock's decies	2342. 26
Subron the same to Nov. 8 1869 6 p	89. 71
Paid Costs of Court Goodman W. Benson	16. 50
Paid Times Herald & Times & Publications	45. 00
Paid for Printing Handbills Costing Sundry Times	14. 71
190 Paid Wair & Towne for defending two expunctions Costs and arguing the same three different times	125. 00
Paid for drafting notice of sales	10. 00
J. A. Marshall for fees making Sale as Auctioneer 5 p cent	164. 01
To pay fees as Receiver in attending Sale & taking care property	
I have defending suits &c me	164. 01

\$ 3291. 20

J. Kimball

The Defendant then offered in evidence the following affidavits. Viz:

State of Illinois }
Cook County } In the Circuit Court of Cook
City of Chicago } County.

Benjamin H Skinner }
vs }
Thomas Speer assignee } In Chancery.
of Isaac Speer }

Joseph Smith.

— Joseph Smith of said County

being duly sworn says he is well acquainted with Benjamin H Skinner the Complainant in the above entitled Cause and with the furniture and property in the Metropolitan Hotel in Chicago — referred to in said Complainant's Bill of Complaint.

191

This affiant further States that during the month of April A.D. 1858. when Augustus L. Gates was about to replevy the said furniture and property out of the possession of the Sheriff of Cook County this affiant together with Levi Frost and Abner A. Weald joined with the said Gates in the replevin bond given in the replevin suit then instituted by said Gates to the Coroner of Cook County. at the particular solicitation and request of Messrs Goodman & Mason and of the said Gates. the said Goodman & Mason & Gates then being in possession of the said Metropolitan Hotel.

This affiant further States that afterwards on or

192

about the 10th day of May A.D. 1857. the said Augustus L. Gates made and executed a certain Chattel Mortgage of the said furniture & property to this affiant and the said Levi North and Horatio W. Mead to indemnify them against loss by reason of their executing the said Replevin bond. providing in said Mortgage that the possession of the said furniture and property might remain with the said Mortgagee until default in the Condition of said Mortgage which said Mortgage was duly acknowledged & filed for record in the Records office of Cook County about the time of the date thereof. a Copy whereof is annexed to the Answer of Thomas Speer filed in this Cause, to which reference is had for greater Certainty. This affiant further states that at the time of the Execution of said Chattel Mortgage the said Benjamin H. Skinner was in possession of the said furniture and property as the tenant of said Gates and that the said Skinner has remained in possession thereof from that date to the present time.

This affiant further states that some time subsequent to the Execution of the said Mortgage the said Skinner stated in conversation with this affiant, that he had made a conditional purchase of the said furniture and property from Benjamin H. Hadduck that is to say. he had purchased the same provided the said Hadduck could make him a good title

thereto. That this affiant has since repeatedly conversed with said Skinner in reference to the said property and the said Skinner has never claimed in any such conversation that he had made an absolute purchase thereof, but has always stated that the said purchase was conditional on said Haddock's making a good title thereto.

193 This affiant further states that on the 19th day of the present month he had a conversation with the said Skinner in which the said Skinner stated to this affiant that he had paid to said Haddock about the sum of six hundred dollars and no more, on said conditional purchase & that said sum was only a part of the purchase money. — This affiant further states that the said Benjamin F. Haddock has frequently promised this affiant that if this affiant would keep still and take no steps in the matter he said Haddock would see that this affiant should suffer no loss in this matter.

Subscribed & sworn to before

me this 21st day of November

A. C. 1861.

Joseph Thomas

Notary Public.

State of Illinois
Cook County
City of Chicago

In the Circuit Court of
Cook County.

Benjamin Skinner

Thomas Spear Assignee In Chancery.
of Isaac Spear

John A Nelson,

John A Nelson of said County
being duly sworn says he is and has been for eleven
months last past deputy Sheriff of Cook County. that
in discharge of his duties as such deputy he did
by virtue of a certain Execution directed to the
Sheriff of Cook County issued out of the Superior
Court of Chicago in favor of John Gates Chancellor
Martin James W Smith John J Emmert. Warren
Clark & John McNeale and against the above
named Complainant, about the 15th day of May
1861. demand of the said Complainant payment
of the said Execution or that he turn out to this af-
fiant as such deputy Sheriff property to be levied
upon and sold in satisfaction of said Execution.
and that the said Complainant Skinner then stated
to this affiant that he Complainant had neither
money or property to surrender. That said demand
and refusal occurred on or about the 15th day
of May A.D. 1861. —

Subscribed & Sworn to John A Nelson.
before me this 22nd day
of November A.D. 1861.

Jesse B Thomas
Notary Public.

State of Illinois }
Cook County } In the Circuit Court of Cook County.
City of Chicago }

Benjamin H Skinner }
vs }
Thomas Speer Assignee } In Chancery.
of Isaac Speer. Isaac Speer
and John A Nelson }

James A Marshall.

195

James A Marshall of
said County being duly sworn says that about the
9th of November AD 1860. he went at the request
of B F Haddock Esq. to the Metropolitan Hotel
in Chicago. to make sale of certain furniture
in said Hotel. at Auction - That said affiant
did make sale of such furniture in said Hotel
as was represented to him by said Haddock
to be the property of Augustus L. Gates, or the interest
of said Gates therein. That said sale took place
in the dining room of said Metropolitan Hotel
under the advice and by direction of said B F
Haddock - and the said B H Skinner being the
only bidder the property was struck off to him
and application being made to said Skinner
for the payment for the same. he the said Skinner
referred this affiant to the said Haddock for
payment of the said purchase money. That this
affiant then applied to said Haddock in regard
to said purchase money who replied it was -

196

"all right" that he would settle for it. This affiant further states that the purchase money for said property so sold, was never paid to this affiant nor to any one so far as he knows. This affiant further states that the said Sale was made from a Certain Schedule or list of said property furnished him by said Haddock. That no other persons were present at said Sale except this affiant, the said Skinner and said Benjamin S. Haddock, - Except Isaac Speer who came in during the progress of the Sale, and objected to the continuance of the Sale as being illegal - That said Sale was made under a Certain Mortgage from said Ab. Gates to said Haddock, but this affiant knows of no public notice having been in any way given of said Sale, nor was any advertisement or written notice of such Sale produced at said Sale or seen by this affiant to the best of his recollection - This affiant further states that the regular Commissions for Auction Sales were at the rate of five per Cent upon the Amount of Sales, but that, for the above Sale, he was by agreement with said Haddock to receive only ten Dollars; said Haddock stating that the whole Sale would take less than an hour and be but little work - James A. Marshall.

Subscribed & sworn to before me this 28th day of November A.D. 1861

James B. Thomas, Notary Public.

To the reading of which in Evidence, the Plaintiff-
-ant objected, which objections the Court sustained,
and excluded the said affidavits, to which ruling
of the Court, the defendant then and there except-
-ed. — The Defendant then read in
Evidence the following depositions, viz:

Deposition of } James A. Marshall a Witness produced
J. A. Marshall } and sworn and examined on the part of the defen-
dant deposes and says —

1st. State whether any of the property claimed
by Mr. Haddock as being sold under his Mortgage
or that of the Bruson Mortgage was afterwards
turned out to the Sheriff as being part of the
property replevied in the Suits against Thomas
Speer Assignee of Isaac Speer, and who turned
it out to the Sheriff and was the same sold
by the Sheriff in full Satisfaction of the debts
due Thomas Speer assignee of Isaac Speer.
State what you know on that Subject.

Answer. I do not know any thing on that Subject.

2nd. Was all the property covered by the Replevin
Suits sold by you under the decree of the fore-
closure of the Bruson Mortgage and under the
Mortgage by Gates to Haddock or not?

Answer. I do not know whether it was or not.

3rd. Was all the personal goods and Chattels
in the Metropolitan Hotel in this City sold by
you at any time, and on whose Account and for

What purpose. Called and known as the property of that Hotel?

Ans. I made two sales there - I suppose that in the two sales I sold all the property, upon whose account and for what purpose I don't know. There was on Gates's Mortgage to Haddock I think. Mr. Kimball, Granville Kimball Employed me on the first Sale. and Mr. Haddock on the last Sale.

11. Who paid you the fees for the first Sale?

Ans. Mr. Haddock.

12. How much did he pay you for that Sale?

Ans. He paid me five per Cent on the whole amount of Sale - it amounted to about one hundred and sixty dollars. -

13. How much did he pay you on the second Sale?

Ans. Not a Cent.

14. Why was you not paid for making the second Sale?

Ans. I don't know.

15. What was the agreement for making both these Sales, as to your Compensation and with whom was it made?

Ans. The Agreement for the first Sale was first made with Mr. Haddock for twenty dollars, and it was not to take me over from half an hour to an hour. But afterwards some different arrangements were made which I knew not of from

Mr Haddock that they were sold in separate parcels and on my settlement with Mr Haddock I charged him my usual rates five per cent which he paid - the arrangement for the Second Sale was for Ten Dollars by Mr Haddock also.

Q. When you began to sell the property did you or not put up and offer for sale the whole contents of a room including beds, bedding and all the furniture therein - and sell the property in one or more rooms in that way?

Ans. Yes - at my own suggestion. Mr Haddock wanted me to sell to the best advantage, and I suggested that as the best plan. And Mr. Speer came in and stated that that was not the best and wished to have it sold in separate parcels.

199

(Cross Examination)

1st Cross Int. How long have you been engaged in the Auction business and what has been your experience in selling furniture?

Answer. Twenty three years in the Auction business myself - I have sold furniture every year more or less -

2^d State whether or not in your opinion the Sale you have referred to was conducted in a way to bring the most money?

Answer. I think it was.

3. What is the usual way of selling Chamber furniture that is connected together, by sets or by

the single piece, and how was this Sale was Conducted?
Answer. In Lots. - The Chamber furniture in the -
Metropolitan Hotel was sold in Lots in the fore
part of the day. After Mr. Speer objected it was
sold by the piece. -

Subscribed and sworn to J A Marshall
before me this 24th day
of March A.D. 1862

Jno Scott. Master in Chancery of
the Superior Court of Chicago.

The Defendant then introduced as a Witness Oct
Planning who testified as follows. Viz:

200 "I am acquainted with Complainant B. H. Skinner,
Last Spring about the 30th of May. Mr. Speer came
to me and wanted me to go to the Metropolitan
Hotel to take an account of Stock with Mr. Nelson.
We commenced talking it in the Parlor and
Saloon below. - Mr. P. F. Haddock then came in
and some words passed between him and Speer. -
Mr. Nelson said he had a distress Warrants, or
writs, or something of that kind. - Mr. Haddock
said he was willing to apply the property in the
Saloon and the office on the writs. - I saw the
writs Nelson had. The following papers were
here shown witnesses. Viz:

State of Illinois

County of Cook } S.D.

The people of the State of

Memoirs to the Sheriff of said County, Specting.

Whereas Thomas Speer assignee of Isaac Speer
Defendant was summoned to appear before our
Circuit Court of said County to answer Augustus
L. Gates Plaintiff of a plea wherefore the said
Defendant on the sixth day of April A.D. 1858
at the County and Circuit aforesaid took the
goods and Chattels of him the said Plaintiff.
to wit: (for a schedule of the property embraced in this writ, ^{omitted here} ~~see~~ by direc-
tion of Defendants Solicitor, ^{see} Exhibits "A" & "B." attached to Complainants
bill of Complaint & set out at length on pages 9 to 39 inclusive ^{being same property})

and unjustly detained the same against gages
and pledges, until etc as it was said; where
upon such proceedings were had thereon. in our
said Circuit Court as that the right of the said
property was adjudged to be in the said
Defendant. and a return thereof awarded
to him; together with the sum of forty six
dollars and Ninety five Cents for his costs
and charges. about his defence in that behalf
expended as appears to us of record. We therefore
Command you. that you without delay cause
the goods and Chattels aforesaid to be returned
to the said Defendant. to hold to him irre-
solvible in form aforesaid.

We also Command you. That if the goods &
Chattels lands and tenements of the said Augustus
L. Gates Plaintiff aforesaid in your County you

Amount to be made the sum of forty five Dollars and Ninety five Cents for the Damages and Costs aforesaid; and that you have that Money in ninety days from the date hereof to render unto the said Defendant for his Damages Costs and Charges aforesaid and make due return of this writ with an endorsement thereon in what manner you shall have executed the same, within ninety days from the date hereof.

Witness William L Church Clerk of our said Court and the Seal thereof at Chicago in said County this twenty seventh day of May A D 1861

Trab. B.

Wm L Church Clerk

202

The within writ is returned not executed having been served by writ of Injunction issued out of the Circuit Court of Cook County in favor of O M Skinner and against John A Nelson & Thomas Spear on the 31st May 1861 and all proceedings under this writ were stayed and I return this writ no part satisfied
25 August 1861.

Anthony C Messing Sheriff
By John A Nelson, Deputy

State of Illinois
County of Cook } ss.

The People of the State of Illinois to the Sheriff of said County, Greeting:

Whereas, Thomas Speer David McLean and
 Cyrus Keeler defendants was summoned to
 appear before our Circuit Court of said County
 to answer Augustus L. Gates plaintiff of a
 plea. Wherefore the said Defendants on the
 first day of July A.D. 1858, at the County and
 Circuit aforesaid, took the goods and Chattels
 of him the said Plaintiff, to wit:

Room 2.

1 Sofa & Chair 2 Marble Top Tables
 1 Boston Piano 1 Carpet & Chairs
 2 Sofas 2 Marble top Bureaus 2 Chests of Drawers
 2 Gilt France Mirrors

Saloon

203

Marble on Floor 2 Mirrors back of Bar
 all Gas Fixtures in Saloon
 Office Marble on Floor 14 Chandeliers
 Saloon 2 Counters

Store Room

1 Pipe of Gin	Valued at	\$100
1 Cask of Brandy	not full	50
2 Bbls Br Rum		100
1 Cask St. Wine		50
2 tubs Scotch Ale		50
1 Bbl Porter Ale		25
1 Bbl Cedar Brandy		50
		<u>\$425</u>

and unjustly detained the same against Gates

and pledges until etc) as it was said; where-
-upon such proceedings were had whereon in our
said Circuit Court as that the right of the said
property was adjudged to be in the said Defendant,
and a return thereof awarded to him; together
with the sum of

We therefore Command You, That You without
delay Cause the goods and Chattels aforesaid
to be returned to the said Defendant to hold
to him inpleviable in form aforesaid, and
make due return of this writ with an en-
dorsement thereon, in what manner You shall
have directed the same, within ninety days
from the date hereof

204

Witness William L Church, Clerk of our said
Court and the Seal thereof at Chicago in
said County this twenty ninth day of
May A.D. 1861.
Seal Wm L Church, Clerk

Chicago May 31st 1861
Received of Al Hessing Sheriff the following
described goods and Chattels, to wit, 1 Sofa
2 Chairs 2 Marble top tables 1 Boston Chair
1 Carpet 6 Chairs 2 Sofas 2 Marble Slabs
2 Brackets 2 Gilt frame Mirrors Marble
on floor in Saloon 2 Mirrors back of bar
all bar fixtures in Saloon Marble on office

Floor 4 Chandeliers 1 Saloon Counter

Thos Speer Assignee

By Virtue of the within writ I made demand
of A. J. Haddock Esq. for the property within des-
cribed and he surrendered to me the following
property to wit one Sofa a Chair two Marble
top Tables one Boston Piano one Carpet-
sweeper two Sofas two Slabs & brackets
two Gilt frame Mirrors Marble on floor in
Saloon Two Mirrors back of bar all Gas
fixtures in Saloon Marble on office floor
Four Chandeliers one Saloon Counter and I
205 have delivered the same to Thomas Speer
Esq. as by his receipt hereto indorsed. this
31st day of May 1861. The Balance of
property namely one Counter one pipe of
one Cask of Brandy not full Two Casks of
Rum one Cask of Wine Two Tubs Scotch Ale
one Gall Porter ale one Gall finer Brandy
not found in my County and no return there-
of awarded

Anthony L. Hering Sheriff
By John A. Nelson. Deputy.

Witness said. These are the writs and the property described in them is the same property we were inventorying - One of them describes the whole property and the other the bar room property - Mr Skinner was present - We took account of the bar room stock and then went to the office and from there to the saloon. Mr Haddock then came in and ordered us to stop - Mr Nelson was not disposed to do so - Mr Haddock went and brought Mr Kensing the Sheriff who told us to hold on - This was on the second day - Before this as we were talking Haddock said he was willing to turn out the property described on one of the writs cannot swear on which writ - We had been taking account of stock up stairs, something said about the amount being for \$400 or \$500 - Mr Skinner said the property belonged to him - he had bought it of Mr Haddock - He said if the property was Mr Haddock's he wanted it - The property turned out was in the saloon & office. Skinner claimed to have bought all the property. Skinner was dissatisfied. Mr Haddock said he would turn out that portion and make it right with Mr Skinner. I don't know that it was sold by Nelson, he kept it there - I was present at the sale by Marshal Skinner was buying, also other men buying, I don't know that Haddock bought any. Heard no remark then by Skinner. At the time Nelson was taking account of stock

Haddock said to Skinner as far as that writ was
concerned on the Saloon furniture for \$400 or \$300 —
Skinner said he did not want it disturbed. Haddock
replied that he would make that all right, that
as to that writ he would apply it. At the sale
by Marshall, Haddock claimed that the property was
his. Skinner said he had bought it conditionally.
The property was going low, and some conversation
ensued between Haddock, Speer & Skinner — I Speer
said the property was not bringing what it ought.
Haddock said it had been in wear a good while,
that some things were gone and some replaced by
Skinner — On Cross Examination the ^{second} witness
testified. — "The second conversation was
when Nelson had the writ, on May 30th 1861. —
We went further than they were willing to turn
out property — Haddock said as to the property
in the Saloon that he was willing to turn it
out, this is the property on the back of the writ,
that the balance we had no right with, Mr.
Skinner claimed that the property turned out was
his and Haddock said he would make it all right
with him. We then went into other rooms and
they stopped us. Haddock told us not to go further,
and brought Messing the Sheriff to stop us. —
The first sale was Receivers Sale by Marshall.
I saw a hand bill there. Link had one (Handbill
shown witness) thinks he has seen them. Link

up. Can't say if this is one of the Pills. Skinner said he had bought the property conditionally - that if it was so and so he would take it. I was a partner of Thomas Speer at the time of Receiver's Sale, in Commission business.

Mr. McDonald
witness for
Def.

The Defendants then introduced as a witness Walter McDonald, who testified as follows. viz, I think it was in March 1861, that I returned from Wisconsin - and had a conversation with Skinner. I had previously understood him to say, he had been formerly renting the furniture of the Metropolitan Hotel - I asked him why he did not buy it - He told me he intended to buy it if a suit or certain suits then pending were decided in favor of Mr. Haddock. -

208

(On cross examination the witness said.)

"I am not positive that this was in March 1861. The conversation lasted only a few minutes, we were in the office - Mr. Skinner has kept the Metropolitan Hotel since May 1859."

John A. Nelson
witness for
Def.

The Defendants further introduced as a witness John A. Nelson, who testified as follows. viz. I went with these writs (the writs having the two writs of Return habendo before mentioned) to get the property - The return shows the goods delivered. They were turned out by Mr. Haddock. I sold them by Speer's direction, took Speer's receipt, and Skinner bought two mirrors - Speer bought the

balance). Skinner said it would disturb his business
he did not want the property removed. I had an
Execution against Skinner issued in April 1861
for \$480⁰⁰. I went to Skinner and demanded money
or property and he answered he had neither money
or property to surrender. The demand was made
some time in April 1861.

(On Cross Examination the witness said)
I afterwards levied on 2 horses, which Skinner brought
after the demand. The levy was made on August
13. 1861 on an alias Execution.

The Defendant then further offered to read in
evidence the following Depositions. viz:

The defendant Isaac Speer being Sworn and Examined
on the part of the defendants, deposes and says.

(Complainants Solicitor objects to the defendant
Isaac Speer being Sworn and Examined as a witness
in behalf of the defendants in this Cause.)

1st Q^y. State what if anything has been said by
the Complainant Skinner to you on the subject of
his pretended purchase of the goods and Chattels in
the pleadings mentioned in their Cause, of the alleged
Sale under Gates Mortgage to Haddock and the
time when: and also that of the Pearson Mortgage
and decree.

(Objected to)

Ans. At the time of the sale or just before the
Sale made by Kimball the Receiver under the

Dep. of
Isaac Speer.
289

Person Mortgage Mr. Skinner (and I think Mr. Hadduck was present) said that he would buy the whole of the furniture. at eight thousand five hundred Dollars. if we could settle our difficulty. and he got a good title to it. the payments to be made in notes. first payment in six months of five hundred Dollars. and the like sum I think Every six months thereafter. Mr. Hadduck offered to give us twenty five hundred dollars. at that time of that indebtedness for our interest. I then asked Mr. Skinner if he could not pay cash. he said he could not pay any cash he had none - but might raise five hundred dollars in three months. I asked him Skinner if he was going to bid it off at that sale - the Receivers Sale - he said not. that he was not going to buy it unless he could get a good title to it. After the Receivers Sale was over. which I believe was on the Eighth of November. Mr. Gates came to me and told me that they were going to sell under his Mortgage the next day. After that Sale I had another conversation with Mr. Skinner. I mean after the Sale under the Gates's Mortgage. I told Mr. Skinner that I feared he had bid off the property sold under the Gates's Mortgage. he said he had - He told me that he had merely bid it off and would buy the whole of the furniture from Mr. Hadduck if he could give a good title to it. He said that Mr. Hadduck and us. referring to Mr. Hadduck. my brother

and I. had better settle, so that he could buy the furniture. I told him if he had Cash to pay, that I thought a settlement could be effected, he said, that he couldn't do, that he had no Cash to pay down that's about all the conversation I had with him on that subject.

2^d Did Mr. Skinner in the Conversations detailed by you above, use the word "us" or is the word "us" substituted by you for some other expression by Mr. Skinner as stated by you?

(Objected to)

Answer. He said "you folks" meaning my Brother and myself and Mr. Morris.

211 3^d Will you state whether you have any interest in the property mentioned in this Suit either directly or indirectly? and if so, state what it is

(Objected to)

Answer. No, I don't know that I have. My interest has been transferred, first to Thomas Speer as my assignee; then from him to P. S. Morris Esq. under and in pursuance of a decree in the United States Court.

4th State what if anything Skinner said as to purchasing any of the goods and Chattels mentioned in his Bill, under the States Mortgage Sale, and whether he paid for the same or not.

(Objected to)

Answer. He said he had not purchased them finally.

And would not unless he got a good title, he did not say any anything about having paid for them -

5. Was there any articles sold under the Landlors warrant or order of Court under it Soon after, by the Sheriff. Shortly before the filing of the Complainants Bill, or about that time and were they purchased and paid for by the Complainant or how?

(objected to)

212 Answer. There was some goods sold by Nelson dep^y Sheriff. they were purchased by my brother Thomas Speer. Except some articles purchased by Skinner. Skinner paid for the articles that he bid off at that time - and then assumed the whole purchase of my brother - by stipulation. Somewhere to pay in one - two and three months, or thereabouts, amounting to about five hundred and sixty dollars - that I understand has not all been paid yet,

6. Did you hear any conversation with Virgil W. Mason, Calvin H. Goodman and Augustus L. Gates, or either of them, touching the subject of the recovery foreclosure of the Benson Mortgage, mentioned in the pleadings, and if so state what they severally said on that subject, and the time when.

(Objected to)

7 Answer. I did have conversations with all of them. At the time when Calvin H. Goodman was a going to Benson's office to get a couple of notes discounted

one for two thousand dollars and one for twenty five hundred I believe. he said Benson was a going to try to sell those notes for him to parties outside of his establishment for his Goodman's benefit. and he would pay me some money out of it. for Rent. I saw him afterwards sometime. and he said that Benson had sold the notes. but instead of giving him the money. had used a large portion of it to settle up his bank account with Henry Benson Kingsbury. and that he couldn't give me any money. - Sometime in January 1857 Goodman said to me that the assignees of Benson & Co or some other parties were about to foreclose the Mortgage. the Benson Mortgage upon the furniture - which was a pascally transaction, and he would have to sue an injunction upon them. that he would have to give some security. that there was nothing due on the Mortgage. and asked me to go and see my Brother and send him up there. to see if he wouldn't go security on the bond. I did so. my Brother did go up. and I believe did sign the bond. he said that those notes had no reference to the Benson Mortgage and were not to have. Goodman never said anything to me about the decree. Mr. Mason I had a conversation with him about the decree. Mason told me that he knew nothing about the decree. had never given his consent and didn't know anything about the decree - and had never been consulted about

214

it. — Mr. Gates told me that Mr. Haddock and Mr. Hennessy had wanted him to allow such a decree to be entered under the Crops Bill to be filed by Mr. Haddock — that he Gates — and I think — Benson and some others had had a conversation and a partial settlement how it should be done in which he Gates was to receive something, three or four hundred dollars from Mr. Haddock. — that the bargain was not finally concluded and the papers were to be left in Hennessy's safe — not to be used until he Gates returned from the South — that when he returned, the Bill had been filed and decree entered which was against his directions. he said he thought Mr. Haddock had employed Mr. Hennessy for that purpose. he did not know why it should be done without. Then I had a talk with Mr. Mason about it — he said he didn't care a damn about it. he had lost all he had and didn't care what became of the balance — Mr. Gates also told me that it was done to cut off my Brother's claim against him. he said he would would rip it up. if Mr. Haddock didn't pay him — This last conversation with Gates. was about the time of the sale of the furniture under the decree — Shortly after the sale I believe

Subscribed & sworn to before me Isaac Spear

This 31st day of January A.D. 1862

Isaac Spear, Master in Chancery of the
Superior Court of Chicago

1862 March 24th

The defendant Isaac Speer being recalled by the defendant's deposes and says.

215 7th State whether any of the property claimed by Mr. Haddock as being sold under his Mortgage or that of the Benson Mortgage, was afterwards turned out to the Sheriff as being part of the property replevied in the suits against your Assignee Thomas Speer and who turned it out to the Sheriff and was the same sold by the Sheriff in part satisfaction of the Rents due Thomas Speer Assignee of Isaac Speer. State what you knew on that subject. Answer I was present when Mr. Haddock turned out considerable furniture to the Sheriff which was part of the furniture that was sold to Skinner under the Gates Mortgage to Haddock. The same property had been sold to Skinner by Haddock under his Mortgage. It was pretty near a Year after the Sale under the Mortgage when Haddock turned out the property to the Sheriff. and it was then sold by the Sheriff to pay a portion of the Rent. It was bid off by Thomas Speer and sold to Skinner by an ^{agree} ~~arrangement~~ment. The agreement was to pay the Money over to C. S. Morris Receiver Skinner did not object to buying of it a Second time, —

(all of the above deposition objected to by Com-
plainant's Solicitor).

8. What Amount of that property was sold by the Sheriff?

Ans. It brought six hundred dollars. Minner bought some himself
Subscribed and sworn to Isaac Speer

Before me this 24th day of March

AD 1862.

Geo Scott, Master in Chancery
of the Superior Court of Chicago

1862 March 24th. -

Joseph Smith a witness produced. Sworn and examined on the part of the Defendants deposes and says.

1st. State your name - age - Residence and occupation. and do you know the parties

216

Ans. Joseph Smith - aged forty - Reside in Chicago. I keep a Livery Stable. I know the Complainant and Isaac and Thomas Speer.

2^d. Look at the paper here shown you purporting to be your affidavit made in this Cause filed - November 30th 1861. and State whether that is your affidavit or not.

Objected to by Complainants Solicitor

Ans. It is -

3. State whether the matters therein stated by you is a correct statement of the matters therein given as far as they go. (Objected to)
Ans. Yes Sir -

4th at the time you signed a Replevin bond mentioned in your affidavit aforesaid. State who applied to you and what inducements were held out to you to sign the Replevin Bond as surety for said Gates?

(Objected to)

Answer. Mr. Gates proposed to give the property in our hands to give us a mortgage on the property, also to get the property insured and give us the Policy.

5. Did he give you the Mortgage as agreed?

Answer. Yes. But it was not given until some time afterwards.

6. State what if any thing you know of O. S. Haddock taking a second mortgage on the same property or not, and whether he knew at the time that your mortgage existed upon said property at the time he took his.

217
Answer. I know that the property was advertised for sale upon a mortgage of O. S. Haddock. Gates told me that Haddock knew of the mortgage.

(Objected to) Haddock has often told me to keep still and take no steps in the matter and he would see that the Bondsmen should never be troubled in the matter.

(Objected to)

7. State when these conversations were had as near as you can recollect.

Answer. I should think one of them was very soon after Speer had beat Gates in a suit about the

Some property in which I signed this bond.

8. State whether or not you have been sued on that Bond for Gates's failure to return the property in accordance with its Condition and whether that Suit is pending.

(Objected to)

Ans. I have been sued on that Bond. That suit is now pending -

9. What did Mr. Haddock say in regard to the Suit - if anything - against you for the non return of the property - in any of the Conversations you have had with him.

(Objected to)

218 Ans. I could not say. I don't know that I have talked with Haddock about it since I was said

10. Were you prevented from proceeding with your Mortgage by anything that Mr. Haddock said to you to hold on and keep quiet as above stated

(Objected to)

Ans. I think I should have taken some steps about it if Mr. Haddock had not held out the inducement that the matter would be settled and the matter men would have no trouble in the matter. I remember now that since the suit - Haddock told me that Speers interest in the furniture and in the property was a going to be sold by a decree in the United States Court and that he intended to get it, and that would end the whole matter. I think he

Laid in the United States Court.

11. Was there any and if so what arrangements talked of or agreed upon between you and Mrs. Haddock, as to who should bid this property off under Mr. Haddock's foreclosure of his mortgage? ^{Ans.} There never was any with Mr. Haddock. I have talked with Gates. Gates told me that Haddock had agreed to let the Bondsmen bid off the property and hold it until these suits were decided. these Replevin suits of Gates against Speers. (Answer objected to)

12. State whether he spoke of it as a matter of arrangement between him and Haddock or not and who they agreed should bid it off. (Objected to)

219 ^{Ans.} Gates told me that Haddock agreed that the Bondsmen might bid the property off.

13. Did they give you any notice of this Sale that was made and was it before or after the Sale.

^{Ans.} Gates did before the Sale and requested me to be there.

14. Did you go?

^{Ans.} I was there two or three times, when it was adjourned. I was not there when it was sold.

15. At the time of these adjournments was Mr. Haddock

And Mr. Haddock present or either of them?

Answer I think they were both present -
16. Was there anything said by either of them at the time of the adjournment as to who should buy the property and whether you and the other Surtees were to be taken care of.

Answer There was with Gates I think. I can't say whether it was in Haddock's presence or hearing.

17. State what it was Gates said at those times
Answer He told me about the sale and wanted I should be there and bid up the property to protect the Bondsmen - He said Haddock was agreed to it.

221 18 Did you inform Mr. Haddock of what Mr. Gates had said to you about it?

Answer I don't know that I ever did. I think I never did -

(Adjourned to 25 Instant at 9 A.M.)
(This deposition is objected to by Complainant's Solicitor on ground of interest of the Witness).
1862 March 25.

Cross Examination

1st What Bond did you sign. for whom, and in what Suit

Answer I signed the Replevin Bond for Augustus L. Gates. in the Suit between A. L. Gates and Thomas Speed.

2. Who signed the Bond with you?
Answer. H. M. Wood, and Levi North.

3. What property was replevied in that said
Answer. The Furniture of the Metropolitan Hotel

4. Have you been sued on that Bond, if so,
what Attorney appears for you in defending it.
Answer. I have been sued. Jesse B. Thomas
is my Attorney and has been for five years
Complainant's Solicitor against objects to the Writs
on the ground of interest.)

(Direct Examination resumed.)

19. Where is Augustus L. Gates the party above
mentioned by you now residing?

Answer. In Gatesburg in this State

20. Do you know whether he has been in this
City lately and if so when?

Answer. He was here about the time of the State
fair last fall.

21. Who had possession of the Mortgage property from
the time of the execution of the Replevin Bond
mentioned down to and at the time of the Sale
on foreclosure of the Mortgages mentioned in your
deposition?

Answer. Augustus L. Gates had possession at the time
of the Replevin - at the time of the Sale B. W. Skinner
had possession.

22. State whether Skinner moved into the house
when Gates moved out and continued that possession

of the house and property down to the time of
the Sale mentioned or not
(objected to)

Ans. Skinner moved into the house - Mr Bates
boarded with him a long time after Skinner
moved in
Subscribed & sworn to Joseph Smith
before me this 25th day of
March A.D. 1842

John Cook Master in Chancery

of the Superior Court of Illinois

In the reading of which in evidence the Complain-
ant objected on the ground of interest and
which objection was made before the hearing
rrr It being admitted that the Defendants claim
the property as belonging to Isaac Speer
he having made an assignment for the
benefit of Creditors and it being admitted
that Smith is holder for the return of the
property by virtue of having signed the
replevin bond. And the Court sustained
the said objections and excluded the said
depositions to which rulings of the Court
the defendants then and there excepted.

The Defendants further ~~then~~ read in
evidence the following papers Records by
State of Illinois
Cook County } ss.

To the Sheriff, his Deputies, or any Constable
of said County, or any private individual
You are hereby requested and author-
ized for me and in my name and for my
use and benefit to detain the Goods and
Chattels of Edwin W. Goodman and Jerome W.
Mason partners in the Proprietorships of the
Metropolitan Hotel in the City of Chicago
in said County and State which are subject
to distress wherever the said Goods & Chattels
may be found in said County for the Sum
of Seven thousand eight hundred and Ninety three
dollars and eighty four Cents being the Rent now
due and owing to me from the said Goodman
and Mason for the use and Occupation of the
building and premises situate in the said City
known as the said Metropolitan Hotel and
located upon the South West Corner of Randolph
and Wells Street in said City fronting sixty feet
on said Randolph Street and running back
on said Wells Street one hundred feet and
including a strip of land ten feet in width
fronting on said Wells Street South of and
adjoining the North ninety feet of the lot on
which said Hotel stands and running back
from said Wells Street to the west line of said
lot eighty feet which the said Goodman and
Mason hold of me as the proprietor and landlord.

under and by Virtue of Four several Leases Ex-
 -ecuted by and between the said Goodman and
 Masson and Isaac Speer bearing date respec-
 tively July 1. 1856. June 1. 1857. July 12. 1856.
 and July 1. 1856. : And which said property &
 the Rents issues and profits thereof now belong
 to me under and by Virtue of an assignment
 made to me by the said Isaac Speer on the 13th
 day of October A.D. 1857. for the benefit of the
 Creditors of the said Isaac Speer. Upon making
 said distress you will please take an inventory
 of all and singular the goods and Chattels you
 may seize under and by Virtue of this warrant
 and return a copy of this warrant and the said
 inventory to the Clerk of the Circuit Court
 within and for the said County of Cook in manner
 and form as the Statute in such Case, made
 and provided directs Given under my
 hand and Seal at Chicago Illinois this
 20th day of March A.D. 1858,

Thomas Speer (Seal)

By Virtue of a distress warrant
 of which the foregoing is a Copy. I did on
 March 20th 1858 seize and take into my
 Custody and possession the goods & Chattels
 in the inventory aforesaid (hereto attached).
 Mentioned for the purpose of satisfying the
 Rents in said warrant mentioned This April

* For inventory of property attached to the foregoing return
warrant, and returned here by direction of Defendant (Editor)
See Exhibits to A's & B's attached to the Compliments bill of
Complaint set out at length on pages 7 to 29 in closing

5. 1858

John L. Wilson Sheriff

of Cook County, Illinois
By George Anderson his Deputy

Caused.

filed April 6 1858. *

State of Illinois }
County of Cook } ss.

The people of the State of
Illinois to the Sheriff of said County. Greeting
We Command you that you summon John
Hoodman & Isaac W. Mason if they shall be
found in your County personally to be and
appear before the Circuit Court of Cook County
on the first day of the next term thereof, to
be holden at the Court House in Chicago in
said County on the Second Monday of April
next to answer unto Thomas Speer assignee
of Isaac Speer in his warrant for distress for
Rent. And have you then and there
this writ with an endorsement thereon in what
manner you shall have executed the same.

Witness William L. Church Clerk of our
said Court and the Seal thereof at Chicago
Aforesaid this 4th day of April AD 1858
Wm L Church Clerk

Seal
Proved by reading to the within named Defendant

130.

The 7th day of April 1858 Fees & Service 1.00
 John L. Wilson Sheriff 2 Miles . 10
 By George Anderson 1 Return 10
 Deputy \$1.20

Thomas Speer Assignee
 of Isaac Speer
 vs.
 Calvin W. Goodman
 and James W. Mason

Debtor for Rent.

226

This day came again as
 well the said plaintiff by A. S. Blackwell his Attor-
 ney, as the said Defendants by J. K. W. Hennessey
 their Attorneys. And this Cause having been at
 a former day of the present term heretofore sub-
 mitted to the Court for trial, and the Court -
 having heard the evidence as well on the part
 of the said plaintiff as of the said Defendants, and
 the arguments of Counsel, and being fully advised
 in the premises now finds the issues herein for
 the plaintiff. And that the said Defendants owe
 and are indebted to the said plaintiff as Assignee
 aforesaid for Rent of the premises described in the
 distress warrant filed in this Cause to the sum of
 Six thousand Six Hundred and Nine Dollars & Eighty
 four Cents.

Therefore it is ordered and considered that
 the finding of the said plaintiff's Bailiff, who made
 and returned the levy and distress in this Cause,

and that he proceed thereupon forthwith, to make the said sum of Six thousand Six hundred and Nine dollars Eighty four Cents together with the Costs of this proceeding out of the property distrained according to the Statute in such case made and provided, and make due Return thereof according to law.

State of Illinois }
Cook County } S.C.

The people of the State of Illinois to the Coroner of said County, Greeting;

Whereas Augustus L. Gates of said County plaintiff complains that Thomas Speer assignee of Isaac Speer defendant has wrongfully taken and does detain the following described Goods and Chattels to wit: (For Schedule of property embraced in ~~this~~ writ (and omitted here by direction of Defendants Solicitor.) See Exhibits.

227
"A" and "B" attached to Bill of Complaint set out at length on pages 9 to 39 inclusive) of the value of Seven thousand Six hundred dollars. — Therefore, we Command you, that if the said plaintiff shall give you bond with good and sufficient security in double the value of the ^{said} goods and Chattels as required by law to prosecute his suit in this behalf to effect and without delay and to make return of the said goods and Chattels if return thereof shall be awarded, and to save and keep you harmless in replevying said goods and Chattels

You cause the said goods and Chattels to be re-
plevied and delivered to the said plaintiff with-
out delay: and also that you Summon the
said defendant to be and appear before the
Circuit Court of Cook County on the first day
of the next term thereof to be holden at the
Court House in the City of Chicago in said
County on the second Monday of April next
to answer said plaintiff in the premises.

And have you then and there this writ
with an endorsement thereon in what manner
you shall have executed the same together
with the bond which you shall have taken from
the said plaintiff as before Commanded before
Executing this writ.

228

Witness William L. Church Clerk of our said Court
and the Seal thereof at Chicago in said County
the 9th day of April 1858.

Seal.

Wm L Church, Clerk

Received of Geo. P. Hanson Attorney of Cook
County the within described property this 10th
day of April 1858.

Augustus L. Gates

The Plaintiff having given bond as
hereto annexed I have taken the within
described property and delivered the same
to the within named plaintiff as per his

Receipt hereon endorsed and served this writ
on the within named Defendants this 10th day
of April 1858. Fees 1 day . 50

2 ser. 1.00

Geo. P. Kausla 1 Bond . 50

Crowe 1 Act . 10

3 miles 15 } 2.25

Augustus Bates

May 13th 1861.

vs.
Thomas Spearman & Plena
of Isaac Spear

229.4/5 This day comes the said
plaintiff by Fuller & Kennessy his Attorneys, and the
said defendant by Harvey & Simmes his Attorneys
and the Plaintiff by his counsel now moves the Court to support the depositions
also comes E. Super on file in said Cause and
the Court having carefully considered the premises
and being now fully advised therein doth order that
said motion be and the same hereby is overruled
and issue being joined herein between the said
parties it is thereupon ordered that a jury come
whereupon come the jurors of jury of good and law-
ful men, to wit: Samuel Miles H. Martin J.
Barrett John McMahon Thomas Lange H. Warner
Charles Williams David Plow H. Woodville
Max Schueller E. Thompson and John Wilson who
being duly elected tried & sworn well and truly
to try the issue joined aforesaid and a true return

Know all men by these presents that we Augustus L. Gato, Levi J. North, Joseph Smith and Horatio H. Heald are held and firmly bound unto George P. Hansen Governor of the County of Cook in the State of Illinois and to his Successors in office executors administrators and assigns in the penal sum of fifteen thousand eight hundred dollars lawful money of the United States for the payment of which sum we do hereby jointly and severally bind ourselves our heirs executors and administrators,

This condition of this obligation is such that whereas on the ninth day of April in the year of our Lord one thousand eight hundred and fifty eight the said Augustus Gato sued out of the Circuit Court of Cook County a writ of Replevin against Thomas Speer assignee of Isaac Speer defendant for the recovery of the following described goods and chattel property in the subjoined inventory enumerated being the furniture goods and chattels now contained in and belonging or appertaining to the Metropolitan Hotel of Chicago Cook County aforesaid now if the said Augustus L. Gato plaintiff shall prosecute his said suit to effect and without delay and make return of the said property if return thereof shall be awarded and save and keep harmless the said

Crown in replying the said property. then
this obligation to be void or otherwise to
remain in full force and effect.

Witness our hands and seals this day
of April AD 1858

Witness

R. F. Wells

A. S. Gato Seal

Levi J. North Seal

Joseph Smith Seal

Noratio N. Heald Seal

Declaration

State of Illinois

Leasok County of Circuit Court of Cook County

April Term 1858

Thomas Speer assignee of Isaac Speer was summoned to answer Augustus S. Gates of a plea wherefore he took the goods and chattels of the said Augustus S. Gates and unjustly detained the same against sureties and pledges, until &c. And thereupon the said Augustus S. Gates by Beck & Hennessy his attorneys complains,

For that the said

defendant on the 6th day of April A.D. 1858 in the City of Chicago County and State aforesaid and within the jurisdiction of this Court in a certain Hotel there, called the Metropolitan Hotel took the goods and chattels, to-wit: the goods and chattels enumerated in the subjoined schedule marked "A" and made a part of this declaration, of the said plaintiff, of great value, to-wit: of the value of seven thousand nine hundred dollars, and unjustly detained the same against sureties and pledges until &c. Wherefore the said plaintiff saith that he is injured, and hath sustained damages to the amount of seven thousand nine hundred dollars and therefore he brings his suit &c. Beck & Hennessy

Attorneys for Plaintiff

(For description of property in schedule "A" attached to declaration see Exhibits "A" & "B" attached to the Complainant's Bill of Complaint in this case)

229.1/4.

Pleas.

1. And the said defendants come and defend &c. and say actis non because he says that at the time when the taking of the said goods and chattels in the declaration aforesaid is supposed to be, the property of the said goods and chattels in the said declaration mentioned, was in them the said defendants and not in him the said plaintiff as in the said declaration is above supposed, and thus the said defendants are ready to verify wherefore they pray judgment if the said plaintiff ought to have or maintain his action aforesaid thereof against him the said defendant &c.

229 1/2
5:59 1/2

2. And for a further plea in this behalf by leave &c. the said defendants say actis non because they say that at the time when &c. the property of the said goods and chattels in said declaration mentioned, was in the said Thomas Speer and not in him the said plaintiff as in the said declaration as above supposed, and thus the defendants are ready to verify wherefore they pray judgment and a return of the said goods and chattels &c.

3. And for further plea in this behalf by leave &c. the said defendants say actis non because they say that at the time when &c. the property of the said goods

and chattels in said declaration mentioned, was in Isaac Spear and not in him the said plaintiff as in the said declaration as above supposed, and this the defendants are ready to verify wherefore they pray Judgment and a return of the goods and chattels &c.
4. And for a further plea in this behalf by leave &c the said defendants say actio non. because they say that at the time when &c. the property of the said goods and chattels was in Calvin H. Goodman and Jerome H. Mason and not in him the said plaintiff as he by his said declaration above supposes and this the defendants are ready to verify wherefore they pray Judgment if the said plaintiff ought to have or maintain his action aforesaid thereof against him &c.

R. S. Blackwell p.d.

229 $\frac{3}{4}$

1. And the Plaintiff for Replication to the said defendants first plea says precludi non. because that the said goods and chattels at the time when &c. were the property of the said plaintiff and not the property of the said defendants and of this he puts himself upon the country &c.

Saml H Fuller &

M. D. Hennessy attor for Plff

2. And for further Replication to the defendants second plea the said plaintiff says precludi non &c. because he says that the said goods & chattels at the time when &c. were the property of the

said plaintiff and not the property of the
said Thomas Spear. and of this he puts
himself upon the Country &c. -

And for Replication to the defendants third
plea. the said plaintiff says precludi non
because he says that the said goods and chattels
at the time when &c. were the property of the
said plaintiff and not the property of the
said Isaac Spear. and of this he puts himself
upon the Country &c. -

And for Replication to the defendants fourth plea
the said plaintiff says precludi non because he
says that at the time when &c. the said goods and
chattels were the property of the said plaintiff
and not the property of said Calvin H Goodman
and Jerome W Maron. and of this he puts him-
self upon the Country &c. -

Saml W Bullard
M D Hennessy attys for plffs

Render according to law and the evidence and after
hearing a part of the evidence the hour of adjourn-
ment having arrived by consent of said parties, said
jury is allowed to separate to meet the Court on
the coming in thereof tomorrow morning at nine
o'clock —

Augustus L. Gates

May 16th 1861.

vs.
Thomas Speer Assignee } Replevin
of Isaac Speer

239 This day again come the
said parties by their Attorneys and the jurors of
the jury aforesaid also come and having heard
further testimony in said Cause the same not
being closed and the hour of adjournment having
arrived by consent of said parties, said jury is again
allowed to separate to meet the Court on the coming
in thereof tomorrow morning at nine o'clock

Augustus L. Gates

May 17th 1861.

vs.
Thomas Speer Assignee } Replevin
of Isaac Speer

This day again come the said
parties by their Attorneys and the jurors of the jury
aforesaid also come and having heard further
testimony in said Cause the same not being
closed and the hour of adjournment having
arrived by consent of said parties, said jury is

again allowed to separate to meet the Court
on the coming in thereof tomorrow Morning
at Nine O'clock.

Augustus L. Gates

vs.

Thomas Speer Assignee
of Isaac Speer

May 18th 1861.

Replevin

231 This day again come the said
parties by their Attorneys and the Jurors of the
Jury aforesaid also come and having now heard
all the evidence offered in said Cause. the
arguments of Counsel as well on the part of
the plaintiff as of the defendant. and instructions
from the Court retire to consider of their Verdict
with the further instruction given by the Consent
of said parties to sign and Seal up their Verdict
when they shall have agreed upon the Same &
deliver it to the Clerk of this Court and that they
be thereafter discharged and not required to meet
the Court at the coming in thereof on Monday
Morning next for the purpose of returning their
said Verdict into Court. —

Augustus L. Gates

vs.

Thomas Speer Assignee
of Isaac Speer

May 20th 1861.

Replevin

This day again come the
said parties by their Attorneys, and the Jury aforesaid.

said having agreed upon and sealed their verdict
in said Cause which is in the words and
figures following, to wit: "We the Jury
find the issues for the Defendant, and that
the right of property, and the right of possession
in the goods and Chattels mentioned in the
declaration is in the Defendant"

Whereupon the plaintiff by his Counsel moves
the Court for a new trial of said Cause, and
Counsel having been heard as well in support
of said motion, as in opposition thereto and
being now fully advised in the premises, do
order that said motion be and the same here-
by is overruled, to which ruling of the Court
in overruling said motion for a new trial, the
plaintiff by his Counsel now here excepts.
Whereupon the said Defendant by his Counsel
moves the Court for an assessment of damages
against the plaintiff for the detention of said
property. *

State of Illinois }
Cook County } Sd.

To the Sheriff his deputies or
any Constable of said County or any private in-
dividual,

You are hereby requested and authorized
me and in my name and for my use and
efft to detain the goods and Chattels of

Against the Defendant for the sum of \$1000

*

Superior Court of Cook County
Wednesday May 22, 1868

Augustus S. Gathes }
(164 13,383) (D) } Replevin
Thomas Speer assignee
of Thomas Speer }

This day again come the said parties by their Attorneys for an assessment of Damages against the plaintiff for the detention of the property replevied in said cause, and the Court having carefully considered the premises and being now fully advised therein, doth order that said motion be and the same hereby is overruled to which ruling of the Court the Defendant by his counsel now here excepts.

Therefore it is Ordered and considered by the Court that the said Defendants do have a return of the goods and chattels replevied in said Cause to be held by him irrepleviable and that a writ of Return Habeas is issued therefor, And that he have and recover of the said plaintiff as assignee aforesaid his costs and charges by him about his defence in this behalf expended, and have Execution therefor—

Distress
Warrant }

233

Calvin H. Goodman and Jerome H. Mason joint
lessors in the Proprietorship of the Metropolitan Hotel
in the City of Chicago in said County and State
which are subject to distress wherever the said
Goods and Chattels may be found in said County
for the sum of One Thousand and four hundred
and fifty six dollars and Ninety five Cents. being
the Rent now due and owing to me from the
Said Goodman & Mason for the use and occupation
of the building and premises situate in the said City
known as the said Metropolitan Hotel and located
upon the South West Corner of Randolph and Wells
Streets in said City fronting Sixty feet on said
Randolph Street and running back on said
Wells Street one hundred feet and including a
strip of land ten feet in width fronting on said
Wells Street South of and adjoining the West Nine-
ty feet of the lot on which said Hotel stands
and running back from said Wells Street to the
West line of said lot Sixty feet which the said
Goodman and Mason holds of me as the prop-
rietors and landlords under and by virtue of a
lease executed by and between the said Goodman
& Mason and Isaac Speer bearing date July 1st
1856 and which said property and the rents
issues and profits thereof so due belong to me
under and by virtue of an assignment made
to me by the said Isaac Speer on the 18th

day of October A D 1857 for the benefit of the Creditors
of the said Isaac Speer. Upon making said As-
sessment You will please take an inventory of all
and singular the goods and Chattels you may
seize under and by Virtue of this Warrant and
return a copy of this Warrant and the said in-
ventories to the Clerk of the Cook County Court of
Common Pleas within and for the said County of
Cook in manner and form as the Statute in such
Cases made and provided directs -

Given under my hand and Seal at Chicago,
Illinois this Twenty eight day of July A D 1858.
Thomas Speer Seal

Parlor No. 1,

234

1 Boston Piano 4 Letter's Cushion
12 Cushion Chairs Mahogany back
2 Marble top tables with Mahogany frames
Carpet on Floor
2 large Mirrors gilt frames
2 Marble Top barriers
Curtains & Pictures
2 Marble Top tables
4 Stools All Valued at \$600.00

Parlor No. 2,

2 Sofa Lounges
2 Marble Top Tables
6 Sofa Chairs
1 Rocker Sofa Chair

1 Carpet on floor
 1 Looking Glass with frame
 Stove Pipe and Chimney
 3 Curtains & Trimmings
 1 Chandelier -- All valued at \$400. 00
 Office Furniture
 Marble Floor Valued at \$100. 00
 3 Settees & Chairs & all the office
 furniture Valued at { 300. 00
 1 Safe Valued at 50. 00
 \$450. 00

Bar Room
 2 Mirrors back of Bar -- 15. 00
 \$465. 00

235

Executed by distraining upon the within named
 or described property this 30 day of July
 1858

Endorsed. C. Keeler, Constable
 Filed July 31, 1858
 W. Kimball C.R.

State of Illinois }
 County of Cook } ss.

The people of the State of
 Illinois. To the Sheriff of said County, Greeting.
 We Command you that you summon
 Edwin H. Goodman & Jerome H. Mason if
 they shall be found in your County personally
 to be and appear before the Cook County

Court of Common Pleas of said County on the first day of the next term thereof to be holden at the Court House in the City of Chicago in said County on the Second Monday of September next to answer unto Thomas Speer in a plea of Detinue for Rent due on premises situate in the said City known as the Metropolitan Hotel on the So. West Corner of Randolph and Wells to the damage of said Plaintiff as he says in the sum of One thousand four hundred fifty ⁴⁹/₁₀₀ Dollars. And have you then and there this writ with an endorsement thereon in what manner you shall have executed the same.

236

Walter Kimball Clerk of our said Court and the Seal thereof at the City of Chicago in said County this 31 day of July A.D. 1858



Walter Kimball Clerk

Served by reading to the within named Defendants July 31st 1858.

2 Mails 1.00
3 Miles . 10

John L. Wilson

1 Return 10
\$ 1.20

By Seth Taylor, Deputy

State of Illinois }
Cook County }

S.S. To the Sheriff, his

deputies or any Constable of said County or
any private individual.

237
You are hereby requested and authorized
for me and in my name and for my use
and benefit to distrain upon the Goods and
Chattels of Calvin H. Goodman and Jerome
W. Mason partners in the Proprietorship
of the Metropolitan Hotel in the City of
Chicago in said County and State which
are subject to distress wherever the said
goods and Chattels may be found in said County
for the sum of One Hundred and five dollars
and Ninety six Cents being the Rent now
due and owing to me from the said Goodman
& Mason for the use and occupation of the
premises Situate in the County and State
aforesaid and known and described as follows
to wit. The room in the lower story of the
Metropolitan Hotel fronting on Wells Street
and next north of Hotel May (being the
same room now occupied for a Store room)
which the said Goodman & Mason hold of
me as the proprietors and landlords under
and by virtue of a lease executed by and
between the said Goodman and Mason and
Isaac Speer bearing date the first day of
July A D 1856 and which said property and
the Rents issues and profits thereof now

Belong to me under and by virtue of an assign-
-ment made to me by the said Isaac Speer on
the 13th day of October A.D. 1857. for the benefit
of the Creditors of the said Isaac Speer Upon
making said distress you will please take an
inventory of all and singular the goods & chattels
(you may seize under and by virtue of this warrant
and return a copy of this warrant and the said
inventory to the Clerk of the Cook County Court
of Common Pleas within and for the said County
of Cook in manner and form as the Statute
in such Case made and provided directs
Given under my hand and Seal at Chicago
Illinois this Twenty eighth day of July A.D. 1858
Thomas Speer Seal

238

Bar Room.
Marble on the Floor \$ 100.00
All the Gas Fixtures Valued at 25.00
2 Counters Valued at 15.00
All other Bar Fixtures Valued at 100.00
\$ 240.00

Executed by Distraint upon the within named
property this 30 day of July 1858.

J. Keeler Esq. 300
Constable

Endorsed.

Filed July 31. 1858. W. Kimball / J. M.

State of Illinois }
County of Cook } S.S.

The People of the State of Illinois
To the Sheriff of said County - Greeting:

239 We Command You that you Summon (Saladin
H Goodman & Jerome W Mason if they shall be
found in Your County, personally to be and appear
before the Cook County Court of Common Pleas
of said County, on the first day of the next term
thereof to be holden at the Court House in the
City of Chicago, in said County on the Second Monday
of September next to answer unto Thomas Speen
in a plea of debt due on premises known
as the Room in the lower story of the Metropolitan
Hotel, fronting on Wells Street and next north of
Hotel May, to the damages of said plaintiff as
he says in the sum of One Hundred & Forty 9/100
Dollars. And have You then and there this
writ, with an endorsement thereon, in what manner
you shall have presented the same. -

Witness My hand Clerk of our said Court
and the Seal thereof at the City of Chicago, in said
County this 31 day of July A.D. 1858.

Seal

Walter Kimball Clerk

Proved by reading to the within named defendant
July 31st 1858 -

2 Services	1.00
2 Miles	10
1 Return	10
	<u>\$1.20</u>

134

John L. Wilson Sheriff
By Seth Taylor, Deputy.

District State of Illinois
Warrant Cook County } W.

ret'd

To the Sheriff his deputies or any
Constable of said County or any private individual.
You are hereby requested and authorized for
me and in my name and for my use and
benefit, to distrain the goods and Chattels of
Calvin H. Goodman & Jerome W. Mason partners
in the proprietorship of the Metropolitan Hotel
in the City of Chicago in said County and State
which are subject to distress wherever the said
goods and Chattels may be found in said County
for the sum of one hundred and five dollars &
ninety six Cents, being the rent now due and
owing to me from the said Goodman & Mason
for the use and occupation of the premises situate
in the County and State aforesaid and known and
described as follows, to-wit: The room in the
lower story of the Metropolitan Hotel immedi-
ately South of the Saloon attached to said hotel
and fronting on Wells Street and was as a
barbers Shop which the said Goodman & Mason
holds of me as the proprietors Landlords under
and by virtue of a lease executed by and between
the said Goodman & Mason and Isaac Speer
bearing date the 12th day of July A.D. 1854.

241

And which said property and the rents issues and profits thereof now belong to me under and by virtue of an assignment made to me by the said Isaac Speer on the 13th day of October AD 1857. for the benefit of the Creditors of the said Isaac Speer. Upon making said distress you will please take an inventory of all and singular the goods and Chattels you may seize under and by virtue of this warrant and return a copy of this warrant and the said inventory to the Clerk of the Cook County Court of Common Pleas within and for the said County of Cook in manner and form as the Statute in such case made and provided directs.

Given under my hand and Seal at Chicago, Illinois this Twenty Eight day of July AD 1858
Thomas Speer. (Seal.)

Store House.

1 Pipe of Gin Sals	\$100.00
1 Cask Brandy not full,	50.00
2 Barrels Sauterney Rhine	100.00
1 Cask of Port Wine	50.00
2 " Porter (Scotch Ale)	50.00
1 Ash Porter Ale	25.00
1 " Elder Brandy	50.00
	425.00

Executed by distress upon the within named property this 30 day of July. 1858. per 30

Endorsed. *L. Reeler Constable*

Filed July 31. 1858

W. Kimball. Clerk

State of Illinois }
County of Cook } S.C.

The People of the State of Illinois
To the Sheriff of said County - Greeting:

242 We command you that you summon John
W. Goodman & George W. Mason if they shall be
found in your County, personally to be and appear
before the Cook County Court of Common Pleas
of said County, on the first day of the next term
thereof to be holden at the Court House in the
City of Chicago, in said County, on the second
Monday of September next to answer unto
Thomas Speer in a plea of detinue for
rent due on premises known as the room in
the lower story of the Metropolitan Hotel
immediately South of the Saloon attached
to said Hotel and fronting on Wells Street
to the damage of said plaintiff as he says
in the sum of One Hundred five & 90/100 Dollars.
And have you then and there this writ, with
an endorsement thereon, in what manner
you shall have executed the same.

Witness Walter Kimball, Clerk of our said Court

and the Seal thereof at the City of Chicago.
in said County this 31 day of July A.D. 1858

Seal

Walter Kimball Clerk.

Served by reading to the within
named defendants.

2 Services	1.00
2 Miles	10
1 Return	10
	\$ 1.20

Wm L Wilson, Sheriff.

By Seth Taylor, Deputy.

Distress Warrant.

State of Illinois }
Cook County } ss.

To the Sheriff his deputies or
any Constable of said County, or any private
individual.

243

You are hereby requested and authorized for
me and in my name and for my use and
benefit to distrain upon the goods and Chattels
of Calvin Goodman and Jerome W. Mason partners
in the proprietorship of the Metropolitan Hotel
in the City of Chicago in said County and State
which are subject to distress wheresoever the
said goods and Chattels may be found in
said County for the sum of Three Hundred and
Thirty one dollars and thirteen Cents being the
Rent now due and owing to me from the said
Goodman & Mason for the use and occupation
of the premises situate in the County and
State aforesaid and known and described as

follows. to wit The Room in the lower story of
 the Metropolitan Hotel on the corner of Randolph
 and Wells Sts being the same Room now
 occupied for a Saloon which the said Good-
 man and Mason hold of me as the proprietors
 and landlords under and by virtue of a lease
 executed by and between the said Goodman & Mason
 & Isaac Speer bearing date the first day of June
 A D 1857. and which said property and the
 rents issues and profits thereof now belong
 to me under and by virtue of an assign-
 ment made to me by the said Isaac Speer
 on the 13th day of October A D 1857. for the
 benefit of the Creditors of the said Isaac Speer
 Upon making said distress you will please
 take an inventory of all and singular the
 goods and Chattels you may seize under
 and by virtue of this warrant and return a
 copy of this warrant and the said inventory
 to the Clerk of the Cook County Court of Common
 Pleas within and for the said County of Cook in
 manner and form as the Statute in such case
 made and provided directs.

Given under my hand and Seal at Chicago
 Illinois this Twenty eighth day of July A D 1858
 Thomas Speer Seal.

Reception Room.

1 Carpet on Floor
 6 Chairs
 1 Sofa lounge
 1 Centre table Marble top
 1 Looking Glass Gilt frame
 1 Marble Top dresser
 2 Curtains & Pictures
 3 Chandeliers. Valued at \$400.00

Executed by distraining upon the following within
 named Property this 30 day of July 1858
 J. Reeler Esq 3 00
 Constable

245

State of Illinois }
 County of Cook } ss.

The people of the State of Illinois.
 To the Sheriff of said County - Greeting:
 We Command you that you summon John
 W. Goodman & Jerome W. Mason if they shall be
 found in your County, personally to be and appear
 before the Cook County Court of Common Pleas
 of said County on the first day of the next
 term thereof to be holden at the Court House
 in the City of Chicago in said County on the
 Second Monday of September next, to answer
 unto Thomas Speer in a plea of Distress for
 rent due on premises known as the room
 in the lower story of the Metropolitan Hotel

and occupied as a Saloon, on the Corner Randolph
 & Wells Streets to the damage of said plaintiff as
 he says in the Sum of Three hundred Thirty one
 & 13/100 Dollars. - And have you then and there -
 this writ, with an endorsement thereon, in what
 manner you shall have executed the same.

Witness Myself, Clerk of our said Court
 and the Seal thereof, at the City of Chicago, in
 said County this 31st day of July A D 1858.

Seal. Walter Kimball, Clerk.

Served by reading to the within
 named defendants July 31st 1858. 2 Services 1.00
 John L. Wilson, Sheriff 2 Writs . 10
 By Seth Taylor, Deputy 1 Return . 10
 \$ 1.20

246

Cook County Court of Common Pleas
 Decr. 24th 1858.

Thomas Speer
 vs.

Calvin W. Goodman } Distrop for Rent
 & Isaac W. Goodman }

This day comes the said
 Plaintiff by P. S. Blackwell his Attorney, and due
 personal service of process issued herein having
 been had on said defendants, and they having
 been three times severally solemnly called in open
 Court, come not, nor does any person for them
 but herein they make default, which is ordered
 to be taken and entered of record. Wherefore

Plaintiff ought to have and recover of the said
defendants the amount due him for rent of the
premises described in the distress warrant filed
in this Cause, and the Court after hearing the
allegations and proofs submitted by said plaintiff
in support of his said action, and the premises
being well understood, finds said defendants
to owe and be indebted to said plaintiff for rent
of the premises described in said warrant in the
Sum of Four hundred and fifty Six dollars, and
Ninety five Cents -

247

Therefore it is considered that the finding
of the Court as aforesaid be Certified under the
Seal of the Court to the said
Plaintiffs bailiff who made and returned the
Levy and distress warrant in this Cause, and
that he proceed thereupon forthwith to make the
said Sum of Four Hundred and Fifty Six dollars
and Ninety five Cents together with the costs of
this proceeding out of the property distrained accord-
ing to the Statute in such Case made provided
and make due return thereof according to law.

Thomas Speer }
V. }
Calvin H Goodman }
& Isaac H Goodman }
Cook County Court of Common Pleas.
Dec. 24th. 1858.
Debtors for Rent.

This day Comes the said plaintiff by R. S. Blackwell his Attorney and due personal Service of process issued herein being had on said defendants and they having been three times severally solemnly called in open Court, Come not, nor does any person for them but herein they make default which is ordered to be taken and entered of record. Wherefore
 x Said plaintiff ought to have and recover of said defendant the Amount due him from the said defendants for Rent of the premises described in the distress Warrant in this Cause And the Court after hearing the allegations and proofs submitted by the said plaintiff in support of his said action and the premises being well understood finds the said defendants to owe and be indebted unto the said plaintiff for Rent of the premises described in said warrant the sum of One Hundred and five dollars and Ninety six Cents.

748

Therefore it is ordered and Considered by the Court that the proceedings of the Court aforesaid be Certified to the said plaintiff's bailiff who made and returned the levy and distress warrant in this Cause. and that he proceed forthwith to make the said sum of One Hundred and five dollars and Ninety six Cents. So found due as aforesaid together with the Costs of this pro

ceding out of the property distrained according
to the Statute in such Case made and provided
and make due return thereof according to law.

Thomas Spear

vs.

Calvin W. Goodman
Jerome W. Goodman

Rock County Court of Common Pleas
Decr 24th 1858.

Plaintiffs for Rent.

249 This day comes the ^{said} plaintiff by
R. S. Blackwell his Attorney, and due personal service
of process issued herein having been had on said
defendants and they having been three times sever-
ally solemnly called in open Court, come not, nor
does any person for them, but herein they make de-
fault, which is ordered to be taken and entered
of record. Wherefore said plaintiff ought to have
and recover the amount due him from the said
defendants for Rent of the premises described in
the distress warrant filed in this Cause and the
Court after hearing the evidence, allegations and
proofs submitted by said plaintiff in support of
his said action and the premises being well under-
stood finds there is due and owing from the said
defendants to the said plaintiff for Rent of the
premises described in said warrant the sum of
One Hundred and five dollars and Ninety six Cents
Wherefore it is ordered and considered that the

proceedings of the Court as aforesaid be certified to
the said plaintiffs, bailiff herein
who made and returned the levy and distress warrant
in this Cause. and that he proceed forthwith to make
the said sum of One Hundred and five dollars and
Ninety Six Cents so found due as aforesaid
together with the Costs of this proceeding out
of the property distrained as aforesaid accord-
ing to the Statute in such made & provided
and make due return thereof according to
law -

Thomas Spear

Rock County Court of Common Pleas
Decr. 24th 1858.

Calvin M. Goodman
Thomas M. Goodman

District for Rent

This day comes the said
plaintiff by R. S. Blackwell his Attorney
and due personal Service of process issued
herein having been had on said defendants
and they having been three times severally
solemnly called in open Court, come not, nor
does any person for them but herein they make
default which is ordered to be taken and
entered of record. Wherefore said plaintiff
to have and recover of said defendants the
Amount due him from said defendants for Rent
of the premises described in the distress warrant

257

issued in this Cause. And the Court after-
hearing the allegations and proofs submitted
by said plaintiff, and being fully advised in
the premises, finds the said defendants to
owe and be indebted unto the said plaintiff
for rent of the premises as aforesaid, in the
Sum of Three Hundred and thirty one dollars
and fifteen Cents -

257 Therefore it is ordered that the proceedings
and finding of the Court aforesaid be certified
under the Seal of the Court to
the said plaintiff's bailiff who made and return-
ed the foregoing distress warrant in this
Cause and that he proceed thereupon forth-
with to make the said Sum of Three Hundred
and thirty one dollars and fifteen Cents so
found due and owing as aforesaid out of the
property distrained as aforesaid together with
the Costs of this proceeding according to the
Statute in such Case made and provided
and make due return thereof according to
Law.

Replevin writ:

State of Illinois }
Cook County } ss.

The People of the State of Illinois
to the Sheriff of said County, Greeting:
Whereas Augustus L. Gates Plaintiff complains

That Thomas Speer David McLean and Cyrus
 Reeler defendants unlawfully have taken and
 do detain the following described goods and
 Chattle, to wit: One pipe of Gum, One Case of Brand
 (not full) Two Panels of Santa Cruz Rum, One Case
 of Port Wine Two Cases Porter (Scotch Ale) One Panel
 of Porter Ale. One Panel of Elder Brand, One Carpet
 on floor Six Chairs, One Sofa Lounge, One Marble
 Table Marble Top One Looking Glass gilt frame One
 Marble top barriers two Curtains and pictures three
 Chandeliers Marble on Floor all the Gas Fixtures
 two Counters all other Bar Fixtures, One Practice
 piano four Settees Cushioned, two two Cushioned Chair
 Mahogany back Two Marble top tables Mahogany frame
 Carpet on floor two large Mirrors gilt frames two
 Marble top barriers Curtains & pictures two Marble
 top tables four Spittoons two Sofa lounges two Mar-
 ble top Tables Six Sofa Chairs One Rocking Sofa
 Chair One looking Glass gilt frame One Carpet on
 floor Iron pipe & sink three Curtains & mirrors
 One Chandelier Marble floor three Settees & Chairs
 and all the office furniture One Safe & two Mirrors
 back of the Bar of the value of two thousand Dollars
 Therefore we command you, that if the said plaintiff
 shall give you bond with good and sufficient security
 in double the value of the goods and Chattle ac-
 cquired by law to prosecute his suit in this behalf
 to effect and without delay, and to make return

the said goods and chattels if pictures thereof shall
be awarded, and to save and keep you harmless
in repleying said goods and chattels. You cause
the said goods and chattels to be replevied and
delivered to the said plaintiff without delay: and
also that you summon the said defendants to
be and appear before the Circuit Court of Cook
County on the first day of the next term thereof,
to be holden at the Court House in the City of Chicago,
in said County on the second Monday of October
next to answer said plaintiff in the premises.
And have you then and there this writ with an
endorsement thereon in what manner you shall
have executed the same, together with the bond
which you shall have taken from the said plaintiff
as before Commanded, before executing this writ.
Witness My hand & Seal of our said Court
and the seal thereof at Chicago in said County the
fifth day of August 1858.

253
Seal

Wm. L. Church, Clerk

Received from John L. Wilson Sheriff of Cook County all
of the within described property Aug. 5th 1858
J. L. Gates.

Plaintiff having given bond as heretofore an-
nounced I have taken all of the within described
property and delivered the same to him in full
receipt hereon endorsed and proved by reading

Know all men by these presents, that we Augustus L. Gates and B. B. Haddock are held and firmly bound unto John T. Wilson Sheriff of the County of Cook in the State of Illinois; and to his successors in office Executors administrators and assigns in the penal sum of Four Thousand Dollars lawful money of the United States for the payment of which sum we do hereby jointly and severally bind ourselves our heirs Executors and administrators. The Condition of this obligation is such, that whereas on the Fifth day of August in the year four Lord one thousand eight hundred and fifty eight the said Augustus L. Gates sued out of the Circuit Court of Cook County a writ of Replevin against Thomas Speer assignee of Isaac Speer and David S. McLean and Cyrus Keeler defendants for the recovery of the following described goods and Chattels property, to wit: Those enumerated in Schedule "A" hereunto annexed & valued at Four Thousand Dollars, Now if the said Augustus L. Gates Plaintiff shall prosecute this his suit to effect and without delay and make return of the said property if return thereof shall be awarded, and save and keep harmless the said Sheriff in expending the

Said property then this obligation to be void
otherwise to remain in full force and effect.
Witness our hands and Seals this 3^d
day of August A.D. 1858.

Witness
J. H. Peck

Augustus L. Gates Seal
Bry. J. Wadsworth Seal

to the within named defendants August 5th
1858.

1 Levy 50
1 Bond 50
3 Sumis 1.50
3 Profis 15
1 Retain. 10
\$ 2.75

John L Wilson Sheriff
By Seth Taylor, Deputy

Augustus L Gates

May 27 1861 -

vs.

Thomas Spear David
McLean and Cyrus Keeler } Replevin

This day came the said plaintiff
by J W Fuller his attorney and the said Defendants in
their own proper persons and by R S Blackwell their
attorney also come and it is stipulated and agreed
by and between the said parties now here by their writ-
ten stipulation filed in said cause that the Plaintiff
shall have judgment without further pleading
for all the articles of property in this writ issued
Cause demanded and taken which were replevied
by him and taken on a former writ in his favor against
Thomas Spear Assignee &c. and held by him under said
Replevy at the time they were distrained a second
time by the Defendants in this action and the writ
then pending and which articles of property are
described as follows, to wit: (In Reception Room)
One Carpet on floor. Six Chairs one Sofa Lounge
One Center Table (Marble Top) One Looking Glass.
(Gilt Frame) One Marble Top Bureau and two paintings
pictures (In Par Room) all Par fixtures. (In office)

Three Settees. Chairs and all the office Furniture, and
one Safe. (In Parlor No 1) Four Settees Cushioned, two
Cushioned Mahogany Black Chairs two Marble Top
Tables (Mahogany Frames) One Carpet on Floor, two
Marble Top Tables and four Spottoons. (In Parlor No 2)
One Looking Glass Gilt Frame One Stove pipe and zinc
and three Curtains and Pictures. And it is further
Stipulated and agreed that the Defendants in
this action shall have judgment for all the articles
of property replevied in said Cause from them by the
Plaintiff which were not taken on the former writ
of Replevin in favor of said plaintiff against the
Said Thomas Speer Assignee &c. and which said
articles of property are described as follows. To-wit:
255 (In Room No 2) One Sofa Rocking Chair Two Marble
Top Tables. One Boston Piano. One Carpet, six Chairs
two Sofas, two Marble top Bureaus Two Curtains Pictures
and two Gilt frame Mirrors. (In Saloon) Marble on
Floor, two Mirrors back of Bar and all Gas Fixtures
in Saloon. (In Office) Marble on Floor four Chandeliers
(In Saloon) two Counters. (In Store Room) One pipe of
One Cask of Brandy (not full) Two Barrels of Rum One
Cask Port Wine Two Kegs of Scotch Ale One Cask
of Porter Ale and one Barrel of Old Brandy and it
is further stipulated and agreed by and between the
said parties that upon the payment by the plaintiff
of the amount of the judgment interest and costs pend-
ed upon a distress warrant in favor of Thomas

Speer Assignee against Goodman & Mason in the
 Cook County Court of Common Pleas on the 21st day
 of December A.D. 1838. and which amounts to the
 sum of One Hundred and fourteen Dollars and Sixteen Cents
 (interest to be added) and upon which warrants a part
 of the goods and Chattels last above described were taken
 by Defendants as the property of said Goodman & Mason
 that such payment shall be taken and deemed a full
 satisfaction of Defendants Claim therein and shall be a
 full satisfaction of Defendants right to a return of
 said articles, which said articles are described as
 follows, To Wit: One pipe of Gin, One Cask of Brandy
 (not full two Barrels of Lt & Rum One Cask of Port
 Wine two Casks of Porter Scotch Ale, One Barrel of Porter
 Ale and one Barrel of Rhenish Brandy: And shall be
 to that it be a full satisfaction of all Defendants
 right of action upon the Replevin Bond in this case
 for not returning the articles last above described
 and which are a part of those articles second above
 named. And it is further agreed that this Court may
 assess such damages for the detention of such goods
 other than those first and last above described as
 to the Court shall seem right and proper And it
 is further agreed that the several judgments in
 favor of Thomas Speer and against Goodman and
 Mason for Rent upon the warrants issued upon the
 property replevied in this case bear six per cent
 interest from their date. And that each party ^{pay} and

Satisfy their own costs accrued in said cause, all of which matters and things above set forth the Court doth now here order accordingly. And the Court having carefully considered the premises and being now fully advised therein doth assess said Defendants damages for the detention of said property to the Sum of one cent. —

Therefore it is considered by the Court that said Defendants do have and recover of the said Plaintiff their damages of one cent, and that execution issue therefor. And it is further considered that each Plaintiff and Defendants pay and satisfy the costs accrued on their respective parts and that Executions issue against them therefor. — *

Lease from Isaac Speer to Goodman & Mason

This Indenture made this First day of July in the year of our Lord One thousand Eight Hundred and fifty six Between Isaac Speer of the City of Chicago in the County of Cook and State of Illinois party of the first part and Edwin Goodman and Jerome W. Mason of the same place party of the second part Witnesseth that the said party of the first part for and in consideration of the covenants and agreements hereinafter contained to be kept and performed by the party of the second part their executors administrators and assigns hath demised and leased to the said party of the second part all those premises

257
* and leases from Thomas Speer
to Goodman & Mason on file. orig.

Situate and being in the City of Chicago aforesaid
on the South West Corner of Randolph and Wells
Streets and known as the Metropolitan Hotel pro-
perty fronting sixty feet on Randolph Street and
running back on Wells Street one Hundred feet
including a strip ten feet in width fronting on
said Wells Street South of and adjoining the West
Sixty feet of the lot on which said Hotel stands
running back from said Wells Street to the West
line of said lot eighty feet - preserving the area
hereinafter mentioned - do have and to hold
the said above mentioned and described premises
and the appurtenances thereto belonging unto
the said party of the second part their executors
administrators and assigns from the first day
of July in the Year Eighteen hundred and fifty six
to and during and until the first day of July
Eighteen Hundred and Sixty Six for and being for
the full term of ten Years - And the said party
of the second part in consideration of the leasing
of the premises aforesaid by the said party of the
first part to the said party of the second part
do Covenant and agree to and with the said
party of the first part his executors administrators
and assigns to pay to the said party of the first
part or Rent for said demised premises the sum
of Eleven Thousand (\$11000) Dollars yearly during
said term payable quarter yearly on the first day

258

of October January April and July next after the
Commencement of said term in each year in equal
instalments and the said party of the second part
further covenants & agrees to and with the said
party of the first part that at the expiration of the term
in this lease mentioned or other earlier termination
hereof (if any) they will yield up the said dem-
ised premises to the said party of the first part
in as good condition as the same were put in
upon by the said party of the second part, loss by
fire or inevitable accident and ordinary wear
& excepted, and that neither they nor their legal re-
presentatives will underlet said premises, or any
part thereof, or assign this lease without the writ-
ten assent of the said party of the first part, first
had and obtained thereto, subject to the stipulations
hereinafter contained and that during the term of
this demise they will well and truly pay or cause
to be paid all water rates or assessments for water
payable to the Board of Water Commissioners of the
City of Chicago when and as the same become due
& payable, and in case the said first party his legal
representatives or assigns shall pay the same the
amount so paid with interest thereon from time
of payment at the rate of ten per centum per
annum shall become an additional amount
of Rent payable at the time the next subsequent
instalment of Rent becomes due hereon.

It is expressly understood and agreed by and between the parties hereto that the two Stores in the building on said premises fronting on Wells Street and the Store on the Corner of said Wells and Randolph Streets fronting on said Randolph Street are reserved from this demise to be under the Control of said first party anything herein contained to the contrary notwithstanding. That the said party of the first part is to make all needful repairs to the roof of said building so far as the same are rendered necessary by ordinary wear and that the said party of the second part shall keep the inside of said building in a proper State of repair so that said party of the first part his legal representatives or assigns shall not be required to make the same. And the said party of the first part on his part further covenants & agrees that he will not rent nor suffer to be rented or used the said above mentioned Store in said building on the Corner of Wells and Randolph Streets for the purpose of retailing Liquors or wines of any kind (as Saloons are generally used) or for any description of Eating House (commonly so called) without Consent of second party. And the said party of the first part on his part further covenants and agrees to & with said second party their ^{representatives and assigns for himself his heirs} legal executors administrators or assigns that

The assent of said first party to the assignment of this Lease shall not be unreasonably or capriciously withheld by said first party his legal representatives or assigns when the said party of the second part propose a responsible and reputable lessee or assignee & for a business which would not tend to increase the hazard or injure the character of the said demised property: such assent to be limited to the proposed under tenant or assignee and to the business for which said property was contemplated to be used.

261

And the said party of the second part further on their part & for their legal representatives & assigns covenants and agrees to & with said party of the first part his heirs executors administrators & assigns that good and proper care shall be taken of the Steam Boiler & Cooking Range & Washing apparatus & appurtenances & Gas burner & fixtures in the Dining Room, Ladies & Gentlemen's Parlors & Ladies Reception Room and in the office which have been put in by said first party so that said party his legal representatives or assigns at the expiration of this demise or earlier termination of this lease shall & may receive the same in as good condition as they now are ordinary wear excepted. — And it is expressly understood and agreed by & between said parties that if of the Rent above reserved

262

or any part thereof shall be behind or unpaid on the day of the payment thereof whenon the same ought to be paid as aforesaid, or if default shall be made by said party of the Second part their Executors administrators or assigns in the keeping or performing any of the covenants herein contain. to be kept by the said party of the Second part their Executors administrators or assigns, it shall and may be lawful for the said party of the first part his Executors heirs administrators agent Attorney or assigns at his or their election to declare said term ended and into the said demised premises or any part thereof either with or without process of Law to re-enter, and the said party of the Second part, or any other person or persons in and upon the same, to Expel remove and put out, using such force as may be necessary in so doing and the said premises again to repossess & Enjoy as in his first and former Estate. And to distrain for any Rent that may be due thereon upon any property belonging to said party of the Second part whether the same be exempt from Execution and distress by law or not. and the said party of the Second part in that case hereby agree to waive all legal rights which they may have to

hold or retain any such property under any
Exemption laws now in force in this State, or
in any other way; meaning and intending
hereby to give to the said party of the first
part his heirs Executors administrators or assigns
a valid and first lien upon any and all the
goods Chattels or other property belonging
to the said party of the second part as security
for the payment of said rent, anything herein-
before contained to the contrary notwithstanding.
And if at any time said term shall be ended
at such election of said party of the first part
his heirs Executors administrators or assigns as
aforesaid or in any other way the said party
of the second part their Executors administrators
& assigns do hereby Covenant and agree
to surrender and deliver up said above des-
cribed premises and property peaceably to
said party of the first part his heirs Executors
administrators or assigns immediately upon
the termination of this Lease in any of the
ways above named they shall be deemed
guilty of a forcible detainer of said premises
under the Statute and shall be subject to
all the Conditions and provisions above
named and to eviction and removal -
forcibly or otherwise with or without process
of law as above stated - In witness

XXXXX

263

Whereof the parties hereto have hereunto set
their hands and seals the day and Year
first above written.

In presence of Isaac Speer (Seal)
Alfred Welles Calvin Goodman (Seal)
Wm W Thompson Jerome W Mason (Seal)

Seal.

Lease from Isaac Speer to Goodman & Mason

This Indenture made this First
day of June in the year of our Lord One Thousand
Eight Hundred and fifty Seven Between Isaac
Speer of the City of Chicago Cook Co State of Illinois
of the first part and Calvin Goodman and Jerome
W Mason of the same place parties of the second
part Witnesses That the said party of the first
part for and in consideration of the covenants and
agreements hereinafter mentioned to be kept and
performed by the said party of the second part
their Executors administrators and assigns have
demised and leased to the said party of the second
part all those premises situate lying and being
in Chicago in the County of Cook and State of
Illinois and known and described as follows
to wit: The Room in the lower story of the
Metropolitan Hotel on the corner of Randolph
and Wells St. Being the same room now occu-
pied for a Saloon To have and to hold the said
above described premises with the appurtenances unto
the said party of the second part Executors,

administrators and assigns from the first day of June in the year of our Lord one thousand eight hundred and fifty seven for and during and until the first day of June A D 1866 being for the full term of Nine Years and the said party of the second part in consideration of the leasing of the premises aforesaid by the said party of the first part to the said party of the second part doth Covenant and agree with the said party of the first part his heirs & executors administrators and assigns to pay the said party of the first part, as Rent for said demised premises, the sum of Twenty five Hundred Dollars yearly during said term, payable quarterly yearly on the first day of September, December, March, and June next after the Commencement of said term in each year in Equal Installments. And the said party of the second part further Covenants with the said party of the first part that at the Expiration of the time in this lease mentioned, or at any earlier termination of this lease, if any, he will build up the said demised premises to the said party of the first part in as good Condition as when the same were last let upon by the said party of the second part, loss by fire or inevitable accident and ordinary wear Excepted. — It is further agreed by the said party of the second part that neither they nor their legal representatives will underlet said premises or any part thereof or assign this lease without

the written assent of the said party of the first part
 first had and obtained thereto. And the said party
 of the second part further agrees they will pay all
 water taxes and assessments for water used in and
 about that part of said premises due and payable
 to the board of Water Commissioners when and as
 the same becomes due and payable. It is
 expressly understood and agreed by and between the
 parties aforesaid that if the rent above reserved or
 any part thereof shall be behind or unpaid on the
 day of payment whereon the same ought to be paid
 as aforesaid, or if default shall be made by
 said party of the second part their Executors
 administrators or assigns in the keeping or per-
 forming any of the covenants herein contained
 to be kept by the said party of the second part.
 Their Executors administrators or assigns it
 shall and may be lawful for the said party of the
 first part his heirs Executors administrators agents
 attorney or assignee at his or their election to
 declare said premises and into the said demised
 premises or any part thereof either with or without
 process of law to re-enter and the said party of
 the second part or any other persons or persons
 occupying in and upon the same to yield up
 and put out using such force as may be nec-
 essary in so doing and the said premises again
 to re-possess and enjoy as in first and former

Estate, and to distrain for any Rent that may be
 due thereon upon any property belonging to the
 said party of the second part whether the same
 be exempt from Execution and distress by law
 or not; And the said party of the second part
 in that Case hereby agree to waive all legal
 Rights which they may have to hold or, obtain
 any such property under any Exemption Laws
 now in force in this State or in any other way;
 Meaning and intending hereby to give to the said
 party of the first part his heirs Executors admin-
 istrators or assigns, a valid and first lien upon
 any and all the goods Chattels and other property
 belonging to the said party of the second part, as
 Security for the payment of said Rent in manner
 aforesaid anything hereinbefore contained to the
 Contrary notwithstanding. And if at any time
 said term shall be ended at such election of
 said party of the first part his heirs Executors
 administrators and assigns as aforesaid, or in
 any other way, the said party of the second
 part their heirs Executors administrators and
 assigns does hereby Covenant and agree to
 Surrender and deliver up said above distric-
 t premises and property ^{peaceably} to said party of the first
 part his heirs Executors administrators and
 assigns immediately upon the determination
 of said term as aforesaid and if they remain in

possession of the same one day after notice of such default, or after the termination of this lease in any of the ways above named they shall be deemed guilty of a forcible detainer of said premises under the Statute and shall be subject to all the conditions and provisions above named and to eviction and removal forcibly or otherwise, with or without process of law, as above stated. In testimony whereof the said parties have hereunto set their hands and seals the day and year first above written.

In presence of
 Al Eggleston } Lt Goodman Seal
 } James M. Mason Seal
 Isaac Speer Seal

268

Lease from Isaac Speer to Goodman & Mason
 This Indenture made this Twelfth day of July in the year of our Lord one thousand eight hundred and fifty six Between Isaac Speer of the City of Chicago Cook County Illinois of the first part and Calvin M. Goodman and James M. Mason of the same place party of the second part Witnesses that the said party of the first part for and in consideration of the covenants and agreements hereinafter mentioned to be kept and performed by the said party of the second part their executors administrators and assigns have demised and

leased to the said party of the second part all
 those premises situate lying and being in
 the City of Chicago, the County of Cook and State
 of Illinois and known and described as follows
 to wit: The room in lower story of the
 Metropolitan Hotel fronting on Wells Street
 and west South of the Auction Store (being
 the same room now occupied for a Barbers
 Shop) to be used for a Barbers Shop. To
 have and to hold the said above described
 premises, with the appurtenances unto the said
 party of the second part. Executors administer
 and assigns from the first day of May in the
 Year of our Lord one thousand eight hundred
 and fifty seven for and during and until the
 first of May A D 1862. being for the full term
 of five years. And the party of the second part
 in consideration of the leasing of the premises
 aforesaid by the said party of the first part to
 the said party of the second part doth covenant
 and agree with the said party of the first part his
 heirs Executors administrators and assigns to
 pay the said party of the first part as rent for
 said leased premises the sum of Eight hundred
 Dollars yearly during said Term payable in
 Monthly installments (in equal amounts) on
 the first day of each and every month during
 said Term, and the said party of the second

part further covenants with the said party of the
 first part, that at the expiration of the time in
 this lease mentioned or at any earlier termination
 of this lease, if any, he will build up the said
 demised premises to the said party of the first
 part in as good condition as when the same
 were entered upon by the said party of the
 second part less by fire or inevitable accident
 and ordinary wear excepted. It is further
 agreed by the said party of the second part
 that neither they nor their legal representatives
 will underlet said premises or any part thereof
 or assign this lease without the written
 assent of the said party of the first part first
 had and obtained thereto. And the said
 party of the second part further agrees, that
 they will pay all water taxes and assessments
 for water used in and about that part of said
 premises due and payable to the Board of
 Water Commissioners when and as the same
 becomes due and payable. It is expressly
 understood and agreed by and between the
 parties aforesaid that if the Rent above provided
 or any part thereof shall be behind or unpaid
 on the day of payment whereon the same ought
 to be paid as aforesaid, or if default shall
 be made by said party of the second part
 their Executors administrators or assigns in

the keeping or performing any of the Covenants
 herein contained to be kept by the said party
 of the second part their Executors administrators
 or assigns it shall ~~be~~ and may be lawful
 for the said party of the first part his heirs
 Executors administrators agent attorney
 or assigns at his or their election to deliver
 said term ended and into the said Alameda
 premises or any part thereof either with or
 without process of law to enter and the
 said party of the second part or any other
 person or persons occupying in and upon the
 same, to expel, remove, and put out, using
 such force as may be necessary in so
 doing and the said premises again to re-
 possess and enjoy as in first former
 Estate, and to detain for any Rent that may
 be due thereon upon any property belonging
 to the said party of the second part whether
 the same be exempt from execution and distress
 by law or not: and the said party of the
 second part in that case hereby agree to
 waive all legal rights which they may
 have to hold or retain any such property
 under any Prescription Laws now in force in
 this State or in any other way: meaning
 and intending hereby to give to the said party
 of the first part his heirs Executors admini-

shall or assigns a valid and first lien
 upon any and all goods Chattels or other
 property belonging to the said party of
 the second part as security for the payment
 of said Rent in manner aforesaid anything
 hereinbefore contained to the contrary notwithstanding.
 And if at any time, said term, shall
 be ended at such election of said party of the
 first part his heirs Executors administrators
 and assigns as aforesaid or in any other
 way the said party of the second part their
 heirs Executors administrators and assigns
 does hereby covenant and agree to surrender
 and deliver up said above described premises
 and property peaceably to said party of the
 first part his heirs Executors administrators
 and assigns immediately upon the determination
 of said term as aforesaid and if they remain
 in possession of the same one day after
 notice of such default or after the termination
 of this lease in any of the ways above named
 they shall be deemed guilty of a forcible
 detainer of said premises under the Statute
 and shall be subject to all the Conditions
 and provisions above named, and to entry
 and removal forcibly or otherwise with or
 without process of law, as above stated.
 In testimony whereof the said parties have

hereto set their hands and seal the day & Year first above written

In presence of Isaac Speer Seal
Wm Thompson C. H. Goodman Seal
J. W. Mason Seal

Lease.

Lease from Isaac Speer to Goodman & Mason

This Indenture made this Third day of July in the Year of our Lord one thousand Eight Hundred and fifty two Between Isaac Speer of the City of Chicago Cook County Illinois of the first part and Calvin H Goodman & Jerome W Mason of the same place party of the second part Witnesseth that the said party of the first part for and in consideration of the covenants and agreements hereinafter mentioned to be kept and performed by the said party of the second part their Executors administrators and assigns have demised and leased to the said party of the second part all those premises situate lying and being in the City of Chicago the County of Cook and State of Illinois and shown and described as follows to wit: The room in the lower story of the Metropolitan Hotel facing on Wells Street and west North of Hotel May being the same room now occupied for a Store Room. To have and to hold the said above described premises with the appurtenances

into the said party of the second part
 Executors administrators and assigns from the first
 day of July in the Year of our Lord one Thousand
 Eight Hundred and fifty five for and during and
 until the first day of July A D 1861 being for
 the full term of five Years. And the said party
 of the second part in Consideration of the leasing
 of the premises aforesaid by the said party of the
 first part to the said party of the second part
 doth Covenant and agree with the said party of
 the first part his heirs Executors administrators and
 assigns to pay the said party of the first part as
 Rent for said demised premises the Sum of Eight
 Hundred Dollars Yearly during said term Payable
 quarterly Yearly on the first day of October January
 April and July next after the Commencement
 of said term in each Year in equal installments
 And the said party of the second part further Cove
 nants with the said party of the first part that
 at the Expiration of the time in this lease men
 tioned or at any earlier termination of this lease if
 any, he will give up the said demised premises
 to the said party of the first part in as good Condition
 as when the same were entered upon by the said
 party of the second part less by fire or inevitable
 accident and ordinary wear Excepted, This
 further agreed by the said party of the second part
 that neither they nor their legal representatives will

under the said premises or any part thereof or assign
this lease without the written assent of the said
party of the first part first had and obtained there-
to. And the said party of the second part further
agrees that they will pay all water taxes and
assessments for water used in and about the part
of said premises due and payable to the Board
of Water Commissioners when and as the same
becomes due and payable. It is expressly Under-
stood and Agreed by and between the parties
aforesaid that if the Rent above reserved or any part
thereof shall be behind or unpaid on the day of payment
whereas the same ought to be paid as aforesaid or if
default shall be made by said party of the second part
their Executors administrators or assigns in the keeping
or performing any of the covenants herein contained
the said party of the second part their Executors administrators or assigns of the first part ^{agent, attorney} ~~shall~~ be lawful for
the said party of the first part ^{agent, attorney} ~~shall~~ be lawful for
administrators, or assigns in the keeping or performing
any of the covenants herein contained ~~to be~~ ^{to be} ~~lawful~~
at his or their Election to declare said tenement
and into the said demises premises or any part
thereof either with or without process of law to
Re-enter and the said party of the second part or
any other person or persons occupying in and
upon the same to Expel remove and put out
using such force as may be necessary in
so doing and the said premises again to be
possessed and Enjoyed as in first and form

Estate, and to distress for any Rent that may
 be due thereon upon any property belonging to
 ✓ the Said party of the Second part whether the
 same be exempt from Execution and distress by
 Law or not; and the Said party of the Second
 part in that case hereby agree to waive all
 legal rights which they may have to hold
 or retain any such property under any Exemption
 Laws now in force in this State or in any other
 way: meaning and intending hereby to give to
 the Said party of the first part his heirs Executors
 administrators or assigns a valid and first lien
 upon any and all goods Chattels or other property
 belonging to the Said party of the Second part as
 security for the payment of said Rent in manner
 aforesaid anything heretofore contained to the
 contrary notwithstanding. And if at any time said
 term shall be ended at such Election of said party
 of the first part his heirs Executors administrators
 and assigns as aforesaid or in any other way the
 Said party of the Second part their heirs Executors
 administrators and assigns does hereby covenant
 and agree to surrender and deliver up said above
 described premises and property peacefully to the
 party of the first part his heirs Executors admini-
 strators and assigns immediately upon the deter-
 mination of said term as aforesaid and if they
 remain in possession of the same one day

after notice of such default or after the termination of this lease in any of the ways above named they shall be deemed guilty of a forcible detainer of said premises under the Statute and shall be subject to all the conditions and provisions above named and to Eviction and removal forcibly or otherwise with or without process of law as above stated.

In Witness Whereof the said parties have hereunto set their hands and seals the day and year first above written.

In presence of

Wm M Thompson

Isaac Speer Seal

C H Goodman Seal

J M Mason Seal

277

Also Chattel Mortgage from Augustus S Gates to Joseph Smith et al (This Mortgage is set out at length, commencing on page 59, and omitted here by direction of Dept. Supt.)

All of which were objected to by Complainants and the objection overruled and they were read in evidence.

The Complainant further offered in evidence the following documents records, viz. Cross Bill of Benjamin D. Haddock & Decree thereon in Chancery Case of Goodman & Mason vs Benson et al. also Note & Mortgage of Goodman & Mason to Benson, heretofore set forth on pages 163, 171 and 183.

The above and foregoing by Request of parties I do hereby Certify to be correct.

George Manning Seal
Judge of 1st Judicial

I, WILLIAM L. CHURCH, Clerk of the Circuit Court of Cook County, in the State aforesaid, do hereby certify the above and foregoing, to be a true, perfect and complete copy of Original writs, pleadings, Orders & decrees of Court and also ^{except as herein before stated where omissions are made to avoid repetition} of the certificate of evidence, in a certain cause late pending in said Court, on the Chancery side thereof, wherein Benjamin H. Skinner is Complainant, and Thomas Speer (assignee of Isaac Speer) et al are Defendants.

In Witness Whereof, I have hereunto set my hand, and affixed the Seal of said Court, at Chicago, this Seventh day of April A. D. 1863.

W. L. Church Clerk.

Rec. 169, ⁷⁵

State of Illinois, Supreme Court.

Third Grand Division,

April Term 1883

Thomas Speer assignee &c.
and John A. Nelson

vs.

Benjamin H. Skinner

Error to Cook Circuit Court.

Thomas Speer assignee &c. and John A. Nelson

assign for error to their prejudice in the foregoing and annexed Record as follows to wit.

First. The Circuit Court erred in sustaining the motion of said Skinner to suppress and exclude the several depositions of Isaac Speer and Joseph Smith taken in this cause and for severally excluding the same as evidence in this cause.

Secondly. Said Court erred in sustaining the objection to Joseph Smith's deposition and in excluding the same from being read in evidence on the hearing of this cause, also erred in excluding the affidavits of John A. Nelson & Lewis A. Marshall.

Thirdly. Said Court erred in excluding Isaac Speer's deposition from being read as evidence on the hearing of this case in the Court below.

Fourthly. That the decree in this cause is wholly erroneous in substance and form - and in every branch and part thereof - that the injunction should have been dissolved and the bill of said Skinner dismissed.

Wherefore said Speer and Nelson pray that said decree may be reversed and the bill be dismissed with their costs &c.

P.S. Morris for Plaintiffs in Error.

And the Defendant in Error comes
Hays that there is no man in said
ward & proceedings and asks that said
prisoner may be affirmed or

-By Wm. D. Rame
his Atty.

SUPREME COURT OF ILLINOIS,

THIRD GRAND DIVISION, }
APRIL TERM, A. D. 1863. }

THOMAS SPEER Assignee of ISAAC SPEER,
JOHN A. NELSON,

vs.

BENJAMIN H. SKINNER,

ERROR TO COOK CIRCUIT COURT.

ABSTRACT OF RECORD.

1 This is a bill in Chancery, by defendant in error, stating he is in pos-
session of the "Metropolitan Hotel," in Chicago, under a lease, since
2 May 1, 1860, from B. F. Hadduck to him, for the entertainment of
boarders, travelers and guests, who are lodged and fed therein by him;
and that the furniture, goods, etc., therein, are in daily use, which he, on
9th November, 1859, at a public sale, under a chattel mortgage given by
— Gates, to said Hadduck, dated 31st May, 1859, purchased, de-
scribed in "Exhibit A," and paid therefore \$2,675 75, took possession of
same, which, at the time *were*, and still *are*, in his possession, in said
hotel; and he is now the absolute owner of the same goods, etc.

3 That on 8th November, 1860, he became possessor of all the goods

set forth in "Exhibit B," then in said hotel, by agreement with said Hadduck, who then purchased the same at a Receiver's sale thereof, under a decree of this Circuit Court, in part payment of a debt due Hadduck, secured by a chattel mortgage on same, from Goodman & Mason to Benson, for a reasonable rent to be agreed by them, under which he took possession of said goods, and still holds the same in said hotel. All which are in daily use in said hotel, and without which he could not carry on said business; and their removal would injure and destroy his credit and business. That Thomas Speer, assignee of Isaac Speer, pretends to have some claim on said property, goods, etc., *by virtue* of some process against the goods of *said Gates*, but which process and *claim is in all respects subject and subsequent* to his, Skinner's and Hadduck's purchases aforesaid, as Speer knows; but said Speer & Nelson have entered into said hotel, taking inventory of the goods, and threaten to remove, sell and dispose of same to their own use, without regarding his rights; that they are *insolvent*; that Speer claims the property as assignee, but he has been removed by U. S. Circuit Court, and B. S. Morris appointed Receiver of the effects in his place. Skinner therefore prays that Speer & Nelson be restrained by injunction. That they answer *without oath*, and the injunction be made perpetual. Bill sworn to.

8 to 21 is "Exhibit A." From 21 to 40 is "Exhibit B," referred in his bill.

Summons issued, May 31, 1861; and served.

THOS. SPEER'S ANSWER:

He Denies Skinner purchased the goods and paid therefor \$2674 75; but, if he did, he did so with notice of Speer's claim thereon for back rents due, and for the purpose and intent to hinder, delay, and to defraud Speer out of his claim for his rents (see Record, folio 277). That Gates replevied the goods from Speer, and officers distrained for rents due him. That replevin suit was then pending; denies the possession of the goods was changed by the alleged sale; denies Gates was general owner of the goods so alleged; avers they were and still are the property of Goodman and Mason, tenants of Speer, as Hadduck knew when he took his mortgage of Gates. That Hadduck, Gates, Goodman and Mason, in making

44 said mortgage, confederated together with *intent* to hinder, delay and de-
 fraud Speer out of his claim on the goods, for rent due him as assignee of
 Isaac Speer, from Goodman and Mason. That T. Speer, as such
 assignee, on 20th March, 1858, by his bailiff, duly authorized, took
 45 and distrained said goods, as Goodman and Mason's property, to
 pay their rents due him; and such proceedings were had therein that
 46 this Court found \$6,609 84 due him, and certified the same according to
 law. That Gates replevied said goods, April 9, 1858, in this Court, which
 231 suit was tried in May, 1861; the jury found the issues for Speer, and that
 the right of property in said goods was in Goodman and Mason, and
 not the property of Gates; and the right of possession thereof was in
 232. Speer, ^{not} and the goods were liable to said distress, for said rent; and judg-
 247. ment was rendered against Gates for the return of said goods; and Speer
 250 insists that said verdict and judgment are final and conclusive against
 Gates and those claiming under and through him.

47 Other warrants by Speer were issued in July, 1858, for subsequent
 49 rents—were levied on said goods, with other goods, which were replevied
 by Gates, and like proceedings and results as aforesaid. That G. and M.,
 with intent to defraud Speer out of his rents, made a pretended sale of
 said goods and chattels to said Gates, and to sell and assign to him their
 leases of said hotel; of all which Gates, Hadduck and Skinner had
 50 notice at the time they became interested in said goods; which sale to
 Gates was held to be fraudulent and void, by the verdict and judgment
 aforesaid, which is conclusive against Gates and those claiming under
 him. That Skinner and Hadduck were present at said trial, and severally
 51 assisted Gates in his defence. A further evidence of the fraudulent pur-
 poses and intent of Gates and Hadduck is in procuring Levi North, Jos.
 Smith and H. N. Heald to sign Gates' replevin bond for said goods, un-
 der the promise to secure them against loss, by mortgage on said goods,
 and then Gates executes two mortgages on said goods; one to Hadduck
 to secure him in the payment of \$1,744, and the other to said sureties.
 52 That the mortgage by Gates to Hadduck was made with *intent* to defraud
 Speer and other creditors of Goodman and Mason, of which Skinner had
 notice at and before his alleged purchase.

See 57

114 is. 11.380
 Ohio Gen. 720
 721.
 or
 4 Nov. 77.
 Steele v. 110
 Lowin -

That Goodman and Mason, on 14th January, 1857, made a pretended

mortgage of said goods and chattels, to F. H. Benson, purporting to secure the payment of their note to him for \$10,000, in one year, with interest at ten per cent. That on 20th January, 1858, Goodman and Mason and Gates, filed their bill in this Court, and *injoined* Benson's assignees, Beverage and Moss, defendants, from *foreclosing* said mortgage, on the ground it was paid and overpaid by \$2,500, which bill was *sworn* to by Goodman; which bill was never answered. But on 22d September, 1859, the parties procured B. F. Haddock to file what they afterwards sometimes called a cross bill (sometimes a supplemental and other times a bill of interpleader); reciting Goodman and Mason's bill, making them and Benson, and his assignees, parties, claiming he held G. and M.'s note of \$2,000, dated 12th August, 1857, to Benson, indorsed to him, then due, and avering it is secured by said mortgage to Benson, praying a foreclosure and sale of the goods to pay the same; Benson, Beverage and a Wm. P. Moss answered it, admitting its allegations to be true, and *stipulated* Haddock should have *such decree and sale*, and also to *include* \$300 note, with ten per cent. interest, to pay Beverage and Moss; and such decree was accordingly made in March, 1860, under which decree the property described in "Exhibit B," was sold to Haddock, as claimed in Skinner's bill, by Receiver Kimball, for \$3,291 20, as appears by the record and proceedings; *all which Speer charges* to have been "*had, made, contrived, concocted of malice, fraud, cover, collusion or guile, to the intent or purpose to delay, hinder or defraud* said Speer and other creditors of said Goodman and Mason of *their just and lawful actions, suits, debts, rents and demands*. That the decree was not obtained in *good faith and bona fide*, but was *fraudulent* and effected in truth to *protect* the said goods, and to *defeat* the *levies* of the distress warrants aforesaid, and to keep the goods in the hotel for their use and benefit. That the indorsement on note of \$2,000 was *without a good or valuable consideration, and with notice* of G. and M.'s defence stated in their bill. That said \$2,000 note *formed no part* of the note mentioned in said mortgage to Benson.* That the title to the goods described in "Exhibit A" being in Goodman and Mason, and not in Gates or Haddock, of which Skinner had notice,* at or before the sale by Haddock to him, and the sale was fraudulent and void. Speer admits he claims the right of him and Nelson to sell the same property, to pay the rents, interest and costs of suit certified by the court, according to law.

115.100. * This note was indorsed "*without recourse*," after due (see 115.100.)

207 - * See *McDonald's Evidence* at page 207

58 Speer *denies* his said claims are, in *all* or *any* respect, *subject* and *subsequent* to said Skinner and Hadduck, as alleged in his bill. That said goods were, and still are, the property of said Goodman and Mason, and never the property of Gates, under whom Skinner claims title thereto. And that the verdict and judgment on that question are *final and conclusive* against Gates and those claiming under him. Speer admits he and Nelson, deputy sheriff, were acting under, by virtue, the orders and process of said Circuit Court, duly issued on judgments, in said Court, in said replevin suits. That Skinner has not, by his bill and proceeding, intitled him to any relief in a court of equity, as against Speer and Nelson, and on that point he prays the judgment of this Court, etc., etc.

Demur. to bill

59 CHATTEL MORTGAGE by Gates to North, Smith and Heald, to indemnify them as his sureties. Made part of Speer's answer.

66 REPLICATION to Speer's answer. Cause heard.

68 DECREE perpetuated the injunction, that the mortgage by Gates to Hadduck was *valid*; and the sale by Hadduck to Skinner was valid, and gave good title to the goods free from the claims of Speer. That the decree in the suit of *Gates* and others vs. *Benson* and others, and in the suit by *Hadduck* vs. *Goodman et al.*, are *valid* and legal; and the sale by Receiver, Kimball, is *valid* and legal; and the title in Hadduck is good and free from the claims of Speer, who has no lien on the goods; and that the defendants pay the costs.

COMPLAINANTS' EVIDENCE.

72 CERTIFICATE of evidence. Towne corrected Hadduck's notice of sale under his mortgage.

76 J. A. MARSAALL's deposition (for Skinner): testifies he, on 9th November, 1860, sold at the hotel, the goods, in the Exhibit 1, *described*. He sold for the Receiver, Nov. 9, 1860. Mr. Hadduck settled with the

78 purchasers. Did not know what goods were taken at the sale, under the
decree. Haddock bought all.

79 Isaac Speer forbid the sale in Skinner's presence. No one present but
80 Skinner and Haddock at the sale till all were sold, in dining room; then
81 others came in, but none bid but Haddock or Skinner. *He saw no notice
of the sale.*

82. W. H. WARR testified (for Skinner): that he was cashier of the "West-
ern M. and F. Ins. Co.," and on 15th November, 1860, he paid Haddock
83 \$2,674 94, on Skinner's check, which was returned to Skinner. Could
not tell when the money was deposited there.

84 M. D. HENNESSY testified (for Skinner): he was attorney for Goodman
and Mason and Gates, in 1858, vs. Beverage and Moss, in a Chancery suit,
85 in which Haddock filed a supplemental bill. A stipulation was made to
86 settle it; made in good faith; no fraud used to his knowledge. The bill
of G. and M. was *drawn by him*; he supposed the allegations to be true,
as they were supported by the papers in the hands of the defendants'
117 solicitors. *(The bill was sworn to by Goodman. Benson's answer admits*
118 *its truth - see bill at page 117 to 143.*

87 Exhibit No. 4, is Beverage's Memorandum (see p. 113.)

He did not *know the terms* of foreclosure on which Haddock's bill was
made. Exhibit No. 4 (Haddock's \$2,000 note) *corresponds with one* men-
88 tioned in said *bill drawn by him.* (Not true.) If G. and M. had taken up
their notes, there would have been a balance due them from Benson and
Co. *One of the notes was given to Benson and Co., as collateral security*
89 *for another note. He was also attorney for Gates, in the replevin suits.*
90 Does not know what the \$300, mentioned in the decree, was for. *[All he assisted in settling
the matter to defendant's profit]*

91 JOHN CAROTHERS (for Skinner) testified: Haddock issued landlord's
92 warrant in 1859, against Gates. He served it. It was settled, *as he un-*
derstood, by a chattel mortgage.

Benson's Deposition 93.

F. H. BENSON also testified (for Skinner): Benson ^(Benson's) compromised this

suits for him. He received Haddock's note for \$300. *Forgotten how it was settled. Settled in good faith.* There was a balance due Goodman and Mason from Benson and Kingsbury, October 8, 1857, of \$2,174 58, with interest to 7th March, 1860, made \$2,600 08. Goodman and Mason's mortgage was to secure him for any obligation. At this time their note for \$300, and two others of \$1,500 each, were outstanding. He procured one of them and handed it to Gates. These two notes were settled by paying him \$400 cash and Haddock's note of \$300, leaving the Haddock's note of \$2,000 and his note of \$300 to be paid out of the mortgaged property. The mortgage was then assigned to Haddock. Neither he or his assignees answered Goodman *et al.*'s bill *vs.* them. *Can't tell why.* He says "Exhibit No. 3" contains a statement of that settlement. It is in Beverage's handwriting. The \$2,000 note became connected with the mortgage by *his putting it into circulation by sale to Swift and Co.* Don't recollect advancing to G. and M. any money on this \$2,000. His indorsement on that note is "*without recourse.*" He supposed it done at the settlement. The note for \$2,000 (see Exhibit No. 4), he saw Haddock take from his pocket, at this examination.

103 A. F. WELLS' deposition (amounts to nothing.)

107 Exhibit No. 1 is Gates' mortgage to Haddock of \$1,744 66, dated May 31, 1859, referred to by Benson.

112 Exhibit No. 2 is Haddock's account with the hotel, from May, 1858, to June, 1859.

B 113 to 115 Exhibit No. 3 (in Benson's deposition) is Beverage's memorandum how the settlement was made. (*on which the decree is founded*) to defend *Spencer*

B 115 Exhibit No. 4 is the \$2,000 note. A copy is here given; also copy of indorsement. "without recourse"

117 to 143 Copy of Goodman and Mason and Gates' bill, *vs.* Benson and his assignees. Sworn to. (*Shows Benson & Co. owed them \$2,500. on 8 Oct. 57*)
83 *Hennepfer proves this was true as appears from Benson & Co. papers*

143 Exhibit A is a copy of G. and M.'s mortgage to Benson, referred to
144 in this said bill. (*Showing Benson owed them \$2,500 and*

83 *Mr. Hennepfer proves this was true as shown by Benson's papers*
(*In the usual form, to secure payment of their note of \$10,000 in one year: and not for future advances or other liabilities. But there was*
149. *a Receipt given by Benson that the note & mortg. was collateral*
150. *for future advances & liabilities within the year.*

145 Value of goods mortgaged is over \$15,000.

146 The mortgage to be void on payment of the \$10,000 note (no other
149 indebtedness is named therein.) Exhibit B is Benson's receipt to Good-
150 man and Mason, referred to in their bill. Here Hadduck's cross bill (as
he calls it), after *reciting* G. and M.'s bill, he says they and Benson and
157 Co., are insolvent. That he holds G. and M.'s note of \$2,000, payable to
158 Benson and Co., and indorsed by him, and is *secured* by said mortgage
162 to Benson. (Not true.) He calls for answer without oath from Benson,
Kingsbury, Goodman and Mason, Beverage and Moss.

163 *The* JOINT ANSWER of Benson, Beverage and a Wm. P. Moss, Jr., (no such
164 person as Wm. P. Moss.) Benson and Beverage admit they *attempted* to
take the mortgaged goods and sell them, to pay the \$10,000 note secured
165 thereby; but was *injoined* from so doing. (Pretty admission!) They ad-
mit that the allegations of G. and M.'s bill to be true. They admit that
166 on the 8th October, 1857, there was a balance due to G. and M. of
167 \$2,174 58; and the day before they negotiated G. and M.'s note of
\$1,500, dated September 8, 1857; that Beverage and Moss have the
other \$1,500 note. They were put to *great trouble*, to wit: \$100 worth,
168 in trying to get and sell the goods therein; also for defending this suit
another \$100, *chargeable under the mortgage*; ready to set off claims.
There is a balance due Beverage and Moss's assignees of \$1,016 07.

This (Answer not sworn to.)

170 to 171 REPLICATION. Copy of \$10,000 note. Copy of mortgage to secure
176 its payment. *Transfer* of the mortgage, with *stipulation*, is only \$2,000
note. Then *another* is, that the \$2,000 note, and its interest, and Had-
duck's own \$300 note and interest, is the balance due on the \$10,000
177 note and mortgage; and that Gates, Goodman and Mason shall file an-
swers to Hadduck's bill. (This is signed by "Hennessey, solicitor for
Gates and G. and M.")

178 THIRD STIPULATION is, ^{for} a "*decree* may be entered" in the supplemental
bill, for \$2000 note and interest, and the \$300 note for Beverage and
Moss, given by Hadduck, with ten per cent., signed by "Hennessey,
solicitor for Gates, Goodman and Mason."

179 DECREE: that the answer to Hadduck's bill shall stand as answer to both bills. That he is entitled to \$2,642 22, amount of both notes and interest. That the mortgaged goods be sold, etc.

183 to 190 RECEIVER'S REPORT of sales, and payment of \$3,291 20, including attorney's fee, \$135, and \$164 01 to auctioneer, and \$164 01 to Receiver (five per cent. each; (and neither of the Speers were made parties to any of these proceedings till Skinner's bill is filed, to quit the titles of their ill-gotten gains.)

(Here follows evidence offered by Speers.)

191 JOS. SMITH's deposition, ^{or aff.} (He was one of Gates' sureties in the replevin bond). Skinner told him he purchased conditionally, if he could get a
192 good title, and not absolutely; that he had paid *only* \$600 for the pro-
193 perty. Hadduck promised him, if he would keep still, and take no steps in the matter, he should not suffer.

194 J. A. NELSON, deputy sheriff, testified—he had an Execution vs. Skinner, 15 May, 1861, demanded payment or property. Skinner said he had neither.

JAS. A. MARSHALL testified. He, as auctioneer, sold property on Hadduck's mortgage from Gates.

195 Nov. 9, 1860. Skinner the *only* bidder at the sale; he bid in the pro-
196 perty, and when applied to for payment, he referred witness to Hadduck, who said it was all right, he would settle it. It was never paid for, to his knowledge. Isaac Speer objected to the sale; said it was illegal; he saw no notice of the sale; don't know any was given. He made the sale for ten dollars. (These were excluded by the court, and excepted to by Speer).

Testimony given at the hearing in court.

197 JAS. A. MARSHALL testified. He sold *all* the property in the hotel.

200 DUNNING testified, that Wilson was allowed to sell a part of the saloon

property to satisfy, in part the order of the court. Hadduck refused to let any more be sold.

201 Copy of the writ for the return of the goods is here given.

202 Sheriff's return ; sale stopped by injunction. He said these were the writs.

203 Another writ for *return and sale*. Skinner said he bought of Hadduck, and if it was Hadduck's property he wanted it. Sale amounted to
205 \$400 or \$500. Hadduck claimed as his.
206

207 McDONALD, (a boarder), testified. In March, 1861, he returned to Chicago ; conversed with Skinner, who previously said he was renting the furniture of the hotel. Mc. asked why he did not buy it. Skinner
208 said he *intended to do so if* a suit or *suits then pending* were *decided* in Hadduck's favor. S. has kept the house since May, 1859.

McNELSON, (deputy sheriff,) testified. He went with the writs (returno habendo) to get the property. Hadduck turned out some things and he sold them. Skinner bought some. Witness had *fi fa.* vs. Skinner of \$480.42, in April, 1861 ; he demanded of him money or property to satisfy the writ. Skinner said he had neither money or property.

209 ISAAC SPEER's deposition offered in evidence, in which he testifies—
Skinner said, before the sales began, in the presence of Hadduck, that he would give \$8,500 for the furniture, if the *difficulties* were settled and he get a *good title*, but he would not bid at the sale ; said he had
210 no cash to pay down. Hadduck said he would give \$2,500 for Speer's
211 interest in the property. Witness assigned all his interest to Thomas Speer. Goodman told witness there was nothing due on their mortgage to Benson ; that the notes he left with Benson and Kingsbury had no
212 reference to the mortgage, and were not to have. Mason said he knew nothing of the decree and he had not assented to it. Gates said the bill
213 of Hadduck was filed, decree entered without his knowledge or *assent*,
214 and it was done to cut off Thomas Speers' claim, and he would rip it up if Hadduck did not pay him.

216, 222 Jos. SMITH's deposition offered, objected to, excluded, and excepted to.

221 CROSS-EXAMINED.

223 Is distress warrant vs. G. and M. for \$7,893.84, signed by Thomas
224 Speer, assignee.

224 For inventory of goods distrained, see Exhibits A and B, at p. 9 and 39.

225 Summon vs. Goodman & Mason, returned served.

226 Court found \$6,609.84 due on lease, and certified to it under seal.

227 / Writ of replevin to coroner by Gates vs. Speer.

228 Property replevied by Gates.

229 Copy of replevin bond of Gates, North, Smith and Heald.

229½ Copy of the declaration of Gates in replevin.

229½ Are Speer's pleas of property in himself, and property in G. and M.

229 4-5 Issues joined and jury empanelled and sworn to try same.

Verdict
231 Jury, after consideration, returned a verdict of, "We, the jury, find
the issues for the defendants, and that the right of property and the right
of possession in the goods and chattels mentioned in the declaration, is
Judge 232 in the defendant." Judgment on the verdict for a *return* of the goods,
&c., and for costs.

2 233 Another warrant of distress of Spear vs. G. & M.

235 SUMMONS of Speer vs. Goodman & Mason.

3 236 Another Distress Warrant of T. Speer vs. G. & M., goods, for \$105.96.

238 SUMMONS in same. 239 a like warrant for \$105.96.

Verdict & Judge 242 SUMMONS in same. 246, Finding of Court and certified. *in 2^d case.*

- Verdict & Findings* 247 A like finding, &c. 249, Like finding, &c. 250, Like finding, &c.
- 251 Another writ of replevin by Gates vs. Speer, &c. 253, Return writ.
- 253 Replevin bond, *signed* by Gates and B. F. Haddock, as surety, August 5, 1858.
- (This *proves* Haddock's notice of all these proceedings—he holding a mortgage on the *hotel*, and thus trying to prevent Speer's getting money to him on his mortgage—helping these *insolvent tenants* to *defraud* Speer out of the rents, was unjust.)
- 254 to 256 Is stipulation for judgment and order for return of goods in part.
- 257 Isaac Speer's lease of July 1, 1853, to Goodman & Mason for ten
- 263 years, for \$11,000 for the hotel part of said house, and three other leases. *Recorded March 20. 1857 in Book 153 of deeds at page 274.*
- 264 2D LEASE, from same to same for a lower room at \$800 a year, dated June, 1857. *Recorded*
- 263 3D LEASE, from same to same for *another part* of said building at \$1,800, dated July 5, 1856. *Recorded*
- 273 4TH LEASE, from same to same, for *another part* at \$800, dated July 3, 1856. *Recorded*
- 277 The conclusion of the judge's certificate of evidence.

257. In *each lease* is a clause that Speer should "have a *first and valid lien* on all the goods and chattels of G. & M. as *security* for the payment of the rents—any law to the contrary, notwithstanding." Nor would "they *underlet* the premises, or *assign* the lease, without Speer's written *assent*." Gates & Haddock claim that G. & M. sold and assigned the leases and all the goods to Gates; if so, Gates & Haddock had notice at the time, of *terms* of said leases, and that back rents were due, and that there was a valid lien on the goods for back rents, as they claim title and possession under said leases, sale and transfer. *see p. 257.*

B. F. Haddock for plaintiff

142
Speed

2
Skinner

Abstract

Filed April 28th 1883

L. Leland
Clk

14766

IN SUPREME COURT

OF STATE OF ILLINOIS.

THOMAS SPEER, Et AL.,)
vs.)
BENJAMIN H. SKINNER.)

ADDITIONAL ABSTRACT.

WAITE & TOWNE, ATTORNEYS FOR APPELLER.

Filed May 4 1864
Leland McK

IN SUPREME COURT

OF STATE OF ILLINOIS.

ADDITIONAL ABSTRACT.

The abstract in this case is very imperfect; to aid the court in getting at the matters in controversy, we will in part supplement it. No question is made in regard to the right to try the questions in this way, for by the record it appears, p. 69: "And the defendant, upon such argument, waived the question of jurisdiction of a court of equity to entertain the case, and stipulated that the court should hear and examine the case upon its merits, without considering the question of jurisdiction or the right of a court sitting in chancery to hear and determine the case." And as no question of the kind is made in appellant's brief, we, therefore, will adduce no authorities upon that point. The case naturally divides itself into the two questions: 1st. Has Speer, by levying his distress warrant against Goodman & Mason upon certain of the goods which Gates replevied and gave the usual bonds, acquired any such lien upon the property that it will override the title or claim of Skinner to the property? 2d. What is Skinner's title to the property? As the last is a question of fact, and will require a reference to the record, which is not abstracted, we will refer to the record: The property in question is goods and chattels, in constant and daily use about the Metropolitan Hotel, kept by Skinner, and consists of what is required to keep a hotel; and is described in schedules A and B. The prop-

1, 2, 3 eity described in schedule A, the purchased at a chattel mortgage
 sale, under a mortgage made by Gates to Haddock, and paid for
 the same \$2,675.75. The proof upon this point is a mortgage
 made by Josiah L. Gates to Benjamin F. Haddock, dated May 31,
 1859, and given to secure a note of \$1,744.66, of the same date, and
 payable with 10 per cent. interest, in one year after date: the note
 73 and mortgage are to be found upon pages 107, 108, 109, 110, 112
 and 119 of the record. Edward P. Towne testifies: he is an attorney
 at law. Some time in October, 1860, B. F. Haddock came to
 my office with this mortgage, and requested me to examine certain
 notices in writing for the sale of the property under the same. I
 examined and corrected the same, so as to conform with the provisions
 of the mortgage in regard to the sale of the same. Three
 copies were prepared and signed by Haddock, and a clerk in our
 office named Hamilton took the said notices and a hammer and
 went out for the purpose of posting the same; and when he re-
 74 turned, stated that he had posted the same, one at Metropolitan
 Hotel, one at the court house, and one at the post-office. These
 places were designated by me as public places in the county of
 Cook, and said notices were prepared and posted more than ten
 days before the day of sale. The notices are not in his possession,
 and don't know where they are. It was admitted by the plaintiff
 in error that the notices referred to by Towne were posted by Hamilton
 as stated.

75, 76 James A. Marshall testifies that he is an auctioneer. On the
 9th day of November, 1860, he made a sale under the direction of
 B. F. Haddock, at the Metropolitan Hotel, under this mortgage
 from Gates to Haddock (which is shown to him). Previous to this
 sale he had made a sale at the request of Granville Kimball, receiver,
 which sale closed on the 8th of November, 1860, and em-

braced part of the property mentioned in the mortgage. The balance of the property not sold at the receiver's sale, sold under the mortgage on the 9th; that he was simply auctioneer in making the sale. It was conducted as I generally conduct sales. The plaintiff, Mr. Skinner, became the purchaser. Mr. Haddock arranged with him for the pay. The articles were sold separately or by the piece, when it could be done so, so as to fetch the best price at public auction, for cash. They were sold in the usual manner, for cash. He made out the bills for the receiver's sale. On cross-examination, says B. F. Haddock did not become the purchaser of all the goods sold by the receiver. Don't know what articles others purchased; the amount did not exceed \$300. Haddock repurchased the same; made a bill to Haddock. Isaac Speer and Thomas Speer attended first sale; Thomas was only present at the second but a moment. Isaac Speer, however, was present at the last sale. Don't remember that they forbid the first sale. Isaac Speer objected at the first sale to my selling in the large quantity I was then at. But at the second sale he came into the dining room and forbid the sale, stating that if any purchased they did it at their peril. Skinner was present at the time when Speer objected to the way I was selling. I was offering a bed, bedstead and bedding of one bed for so much for the lot.

Bill of sale from Marshall to B. F. Skinner for \$2,674.95, copied at large from pages 8 to 21.

William H. Waite testifies that he is cashier; that on the 15th day of November, A. D. 1860, he paid Mr. Haddock \$2,674.94 on Skinner's check; that the check was returned to Skinner when his account was made up. On cross-examination, says: The

money, to pay that check was deposited there at various times. He had that amount there, kept in his own name. He had been depositing in the bank six months or a year. The money paid Haddock was taken from the bank and not redeposited. He (Skinner) always made his deposits in small amounts.

91

John Carothers testifies that late in the spring he served for Haddock a distress warrant against Mr. Gates, of the Metropolitan Hotel. Went and served the distress warrant, and closed the house for a short period, an hour or so; then put in keepers. It run along two or three days, and was settled, as I understood, by a chattel mortgage.

102

W. H. Wells, from 103 to 106, testifies to seeing the notice posted at the hotel of the sale made by Marshall; that Marshall sold the furniture of the house, and that the sale lasted two or three days.

In the abstract filed on the other side there appears the deposition of Job Smith, J. A. Nelson and James Marshall, and that the same were excluded by the court. By reference to the record it will be seen that this is not so. The record shows the defendant "then offered in evidence the following affidavits" (190); then follows the affidavits; and after which occurs the following (196): "to the reading of which the complainant objected, and which objection the court sustained." By calling these depositions, we do not know what is intended. No principle is better settled than that affidavits cannot be read in evidence on the final hearing; they are *ex-parte*, and the other side have no opportunity to cross-examine.

From 197 to 199 is the deposition of J. A. Marshall, called as a witness for the appellant. There is very little additional in his testimony, except he says that when he commenced the sale; at his own suggestion, he offered the whole contents of a room: Haddock wanted the sale made for the best advantage. Speer objected; stated it was not best, and it was done otherwise; that he has been an auctioneer 23 years, and the sale was so conducted as to bring the most money. The usual way of selling chamber furniture is in sets, but Speer objecting, it was done otherwise.

Appellant then introduced C. N. Deming. We add to the abstract, May 30. Speer wanted him to help Nelson to take an inventory of the furniture at the Metropolitan Hotel. Haddock came in. Nelson said he had the distress warrants shown him. (One describes a large amount of property, and the other the bar-room property.) Haddock was willing to turn out the bar-room property. Skinner objected; said the property belonged to him. Haddock said he would make it right with Skinner. Was present at the sale made by Marshall. Skinner was buying; also other men. Isaac Speer bought and bid. On cross-examination says: The property in the saloon is on the back of the writ; (this is not in controversy in this suit); this Haddock was willing to turn out, and with the balance said we had no right. Skinner claimed the property as his. Haddock was to make it right with him. The first sale spoken of by him was a receiver's sale by Marshall. Saw hand-bill; thinks he saw them stuck up. Was a partner of Speer.

The writs were offered in evidence, 200 to 205. On the back is an indorsement showing the return of certain of the property, which is not in controversy here, and which was the saloon furniture.

At 209 of the abstract, occurs what purports to be the deposition of Isaac Speer. This deposition was rejected, as was also that of Joseph L. Smith. By reference to the record, page 222, it will be seen that objections were made to these depositions before the hearing, on the ground of interest; and it was admitted that the defendants (below) claim the property as belonging to said witness, Isaac Speer, he having made an assignment for the benefit of creditors; and it being admitted that the witness, Smith, signed the replevin bond, and is holden for the return of the property, the objection was sustained. We do not well see what argument could be made upon their admissibility; indeed, none is made in the points filed. In regard to the goods described in schedule B, the bill alleges that he holds them, under an agreement with Hadduck, as lessee. Hadduck's title is derived under a receiver's sale. By our brief, a chronological statement is made of the facts. The mortgage by Goodman & Mason to F. H. Benson, is dated January 14, 1857, and secures on its face a note of \$10,000, of even date, due in one year, with 10 per cent. interest. Upon the maturity of the mortgage, Benson's assignees undertook to take possession. January 20, 1858, Goodman, Mason & Gates filed their bill in chancery against Benson, *et al.*, in the Circuit Court of Cook County, [the record of which is given from pages 116 to 190,] and procured an injunction enjoining them till the further order of the court. The bill set forth that Goodman & Mason were the keepers of the Metropolitan Hotel, and the owners of the furniture; that Benson was a banker; that Goodman & Mason executed said mortgage note; that "they were given to be held as collateral security for the payment of any indebtedness then existing, or which might thereafter accrue to said Benson, as banker;" and that Benson gave the following receipt:

Chicago, Jan'y 14, 1857.

"Rec'd of Goodman & Mason a chattel mortgage upon furniture, &c., in the Metropolitan Hotel, conditioned for the payment of a note, dated January 14, 1857, for \$10,000, payable in one year after date, said mortgage and note being held by me as collateral security for any indebtedness now existing, or which may hereafter accrue to me, or F. H. Benson & Co., whether the same exists in the form of bill, note, check, account, or in any matter whatever, and agrees to give up the note and cancel mortgage when Goodman & Mason shall pay all indebtedness to F. H. Benson, or F. H. Benson & Co."

It then goes on and states the dealing between the parties, and after saying that Benson took in one Kingsbury as partner: that said G. & M. made, during the months of August and September, their four promissory notes, two dated August 12, at 60 days, for \$2,000 each, one dated August 27, at 90 days, for \$1,000, one dated September 8, at 30 days, for \$1,500: that, August 27th, they made another note of \$1,500, at 90 days, as collateral to one of the \$2,000 notes: that these notes were discounted and placed to the credit of G. & M., and that Benson & Co. have failed, and that G. & M. had credit upon their books of some \$2,500: that said notes have been negotiated by Benson & Kingsbury, and are in the hands of *bona fide* holders: that G. & M. sold said furniture to said Gates, Nov. 5, 1858, subject to said mortgage: that Benson & Kingsbury did, on or about the 14th day of October, 1857, make an assignment for the benefit of creditors, to John L. Beveredge and William P. Moss, and are insolvent: that on the 14th day of January, 1858, the day said note and mortgage matured, said Beveredge & Moss declared the condition of said chattel mortgage broken, and entering the said hotel, undertook to take possession: that they will do so, unless restrained: and that they have no guarantee that the

140 proceeds will be applied to said notes; and praying that account
 it may be taken between said G. & M. and F. H. B. and F. H. Ben-
 143 son & Co., and the same may be settled and adjusted, and that the
 balance may be ascertained, and that said chattel mortgage may be
 declared and decreed a security for such balance only. On this
 150 bill an injunction was granted, Thomas Speer being one of the bail
 for said injunction. Under this bill, by leave of the court, B. F.
 Haddock filed a petition, which seems to have been called a cross
 bill, setting forth that he is the holder of one of the \$2,000 notes,
 150 to 162 said in the original bill to be outstanding, and asking the benefit
 163 to 169 of the security. This bill Benson, Beveredge & Moss answer.

60 Under these proceedings a decree was taken, the amount being
 fixed by stipulation as the amount of \$2,000 note, and interest on
 it, held by Haddock, and \$300 balance found due to F. H. Benson &
 180 Co., which is assigned to Haddock. Under the decree, Granville
 Kimball was appointed receiver, and ordered to sell the property
 in default of payment. He made sale, and reported to court, and
 this report was confirmed.

60 Upon this branch of the case M. D. Henessey was sworn. He
 80 says that he was solicitor for G. M. & G. in filing said bill: that he
 85 signed the stipulation as their attorney: that stipulation subserved
 the object of complainant's bill, and was made in perfect good faith.

89 There was no fraud in the matter. On cross-examination he
 says: The sole object of the bill was to ascertain the amount
 due; and when the stipulation was made, it was considered
 by me to subserve the ends sought by complainant's bill, and I so
 advised my clients. The details of the settlement were confined
 almost exclusively to the parties to the suit, and Mr. Haddock.

93 F. H. Benson says that he is the Benson mentioned in said
 bill: that said suit was compromised; John L. Beveredge repre-
 sented him: that he was present, and assented to the transaction.

Said settlement was made in good faith. There was a balance due G. & M, from B. & K., October 8, 1857, of \$2,174.48, on which interest was computed to March 7, 1860, making the amount due at that date \$2,608. There was the \$10,000 note, which was given to secure any obligation. At this time, March 7, 1860, there were three notes outstanding, one for \$2,000, and two for \$1,500 each. He procured the two \$1,500 notes, and on the settlement made in March, 1860, they amounted to about \$3,300. They were handed over to either Gates or Mr. Henessey, and the account was settled by cancelling the balance due G. & M., and the payment of some \$400 in cash by Mr. Gates, or his Attorney. I have forgotten which paid it, and B. F. Haddock's note of \$300—leaving one note of \$2,000 still to be paid. This Haddock held, and which, with the \$300 for which Haddock gave his note, was to be paid by said mortgage. I cannot state, without computation, what was then due upon the mortgage; but it was the note held by Haddock, with interest, and the \$300 for which Haddock gave his note, and which was assigned to him. There was no fraud or circumvention used in effecting the settlement. The note held by Haddock was one of the notes secured by the chattel mortgage. There is, likewise, in the case, a paper signed by Gates, showing the giving of the \$1,744.66, secured by the chattel mortgage, to Haddock. Also a paper in Beveredge's handwriting, showing the details of the settlement, testified to by Benson and Henessey.

We do not deem any further abstract necessary to the understanding of the case.

WAITE & TOWNE,
for Appellee.