

No. 13519

Supreme Court of Illinois

Walker

vs.

Wilson.

71641  7

STATE OF ILLINOIS,
SUPREME COURT,
Third Grand Division.

No. 237.

Walker
vs

Wilson
1861

135A

United States of America
State of Illinois. Cook County { *P.*

Plead before the Honorable the Judges of
the Superior Court of Chicago within and for
the County of Cook and State of Illinois at
a regular term of the Superior Court of
Chicago begun and holden at the Court House
in the City of Chicago in said County and
State on the first Monday being the first
day of October in the year of our Lord
Eighteen hundred and sixty and of the
Independence of the United States of
America the Eighty fifth.

Present The Honorable John M. Wilson Chief Justice
Of the Superior Court of Chicago
Van W. Higgins & Grant Goodrich.. Judges
Charles Haven Prosecuting Attorney
John Gray . . . Sheriff of Cook County

Attest

Walter Kimball.. Clerk.

Be it remembered that heretofore to wit on the
twenty fifth day of October in the year of our Lord
one thousand eight hundred and fifty nine came
Martin O. Walker by J. W. Haughesi his Attorney and
filed in the Office of the Superior Court of Chicago
his certain precept for Summons against Charles L.
Wilson and Samuel S. Baker; Which said precept
is in words and figures as follows, to wit,

"Martin O. Walker	{	Superior Court of Chicago
— (u) —		Of the November Term A.D.
Charles L. Wilson and		1859. Action of Debt
<u>Samuel S. Baker . . .</u>		Damages \$10,000 ⁰⁰ / ₁₀₀

The Clerk will please issue a
Summons in the above cause.

J. W. Haughesi

Att. 25th 1859."

Plffs Atty.

And thereupon accordingly on the said twenty
fifth day of October A.D. Eighteen hundred and fifty
nine, Summons issued out of and under the Seal of
said Superior Court; Which said Summons with the
Sheriffs return thereon undersea is in words and figures
following to wit,

"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 Charles L. Wilson and Samuel L. Baker if they shall be found in your County personally to be and appear before the Superior Court of Chicago 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 first Monday of November next, to answer unto Martin O. Walker, in a plea that they rendered unto the said Martin O. Walker his Debt in the sum of Two thousand dollars which they owe to and unlawfully detain from the said Martin O. Walker to the damage of the said Plaintiff as he pays in the sum of Two thousand dollars And have you there 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 25th day of Oct. A. D. 1859.

Seal

Walter Kimball Clerk,

(Endorsed)

Served by this Writ to the within named Defendants the 28th day of October 1859.

John Gray, Sheriff

By F. Lombard, Deputy.

And thereafter to wit on the twenty fifth day of November A. D. Eighteen hundred and fifty nine, the said plaintiff, by his said Attorney, filed in the Office of the Clerk of said Court, his Declaration in said cause: Which said Declaration is in words and figures following, to wit,

" Martin O. Walker	}	Superior Court of Chicago Of the November Term A. D. 1859. State of Illinois } Cook County ... } So.
vs		
Charles S. Nelson and Samuel S. Baker ...		

Martin O. Walker assignee of George P. Hanson then acting Coroner of said County of Cook and also of William James his Successor in Office according to the form of the Statute in such case made and provided complains of Charles S. Nelson and Samuel S. Baker of a plea that they tender to the said Martin O. Walker as assignee as aforesaid, the sum of Two thousand dollars of lawful Money of the United States, which they owe to and unjustly detain from him &c

For that whereas heretofore to wit on the fourth day of November A. D. 1858 at Chicago in said County of Cook the said plaintiff distrained the Goods and Chattels of the said Charles S. Nelson for a certain sum of Money then due to the said plaintiff for rent

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And the said goods and chattels being so distrained the said Charles S. Wilson (one of the said defendants) afterwards and within the space of five days then next ensuing to wit, on fourth day of November A. D. 1858 at Chicago in said County of Cook made his Pleint (or Affidavit) to and filed the same in the Cook County Court of Common Pleas of said County of Cook (now Superior Court of Chicago in said County of Cook, and sued out of the said Court a Writ of Replevin against the said Martin O. Walker plaintiff herein, and one Charles M. Pine his Bailiff, for the unjustly detaining of the said goods and chattels of the said Charles S. Wilson by the said plaintiff and his said Bailiff and then and there delivered the said Writ of Replevin to the said George P. Hanson the Coroner of said County of Cook and prayed the said Coroner that the said goods and chattels might be forthwith replevied and delivered to the said Charles S. Wilson And thereupon the said George P. Hanson being Coroner of the said County of Cook, according to the form of the Statute of said State taken from the said Charles S. Wilson and from the said Samuel S. Baker as two responsible Purches a bond in double the value of said property goods and chattels in the penal sum of ten thousand dollars And the said Defendant Charles S. Wilson and the said other Defendant Charles S. Baker on the fourth day of Nov: (November meaning) at Chicago in said County of Cook by their certain writing obligatory Sealed with their respective Seals and now shown to this

Honorable Court, the date whereof is to wit, the day and year last aforesaid did jointly and severally acknowledge themselves to be held and firmly bound unto the said George P. Hanson so being the Coroner of the said County of Cook in the said penal sum of Ten thousand dollars as above demanded to be paid to the said Coroner and his Successors in Office executors administrators and assigns and for the payment of which said sum of Ten thousand dollars, the said defendants did bind themselves, their heirs, executors and administrators, with the Condition as therein written, of said obligation is such, that whereas on the fourth day of November in the year of our Lord one thousand eight hundred and fifty eight the said Charles L. Wilson sued out of the 'Common Pleas' Court (out of the Cook County Court of Common Pleas, now Superior Court of Chicago meaning) of Cook County, a Writ of replevin against Martin O. Walker (and Charles M. Fine meaning) defendants for the recovery of the following described goods and chattels property to wit, being the same as is hereinafter described as set forth said declaration Now if the said Defendant Charles L. Wilson plaintiff in said Replevin suit should 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 Coroner in replevying the said property, then this obligation to be void, otherwise to remain in full force and effect And thereupon the said George P. Hanson as

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Corner as aforesaid and remove and take from the said
Plaintiff, the said goods and chattels and deliver them to
the said Charles. S. Nelson, and at the January term of
the said Cook County Court of Common Pleas A. D. 1859 the
said Charles. S. Nelson by his Attorney filed his Declaration
in the said cause alleging the wrongful detaining of the said
Goods and chattels of the following description to wit, One
small Steam Engine, Boiler and gearing, One power press
printing, One paper folding Machine, One stone top table
3 Stones and pipe, all the rollers & fixtures belonging to
the printing press, One iron safe - 3 Desks, One Pigeon case
One long table, One short table, One case for blanks, One
block, 2 power presses, 3 hand presses, 2 Carve presses,
2 wiping stones, 4 hundred cases of type, assorted, against
Sureties, pledges &c. to the damage of the said Charles. S.
Nelson of Five thousand dollars and therefore he brought
his suit &c. And thereupon such proceedings were had in
the said case and on the said plea in the said Court,
that afterwards, to wit, in the September term in the year
of our Lord one thousand eight hundred and fifty nine
in the said Court, it was considered and adjudged in and
by the said Court, that the said Charles. S. Nelson, one of
said Defendants should take nothing by his said Return
but that he and his pledges to prosecute should &c. and
that the said Plaintiff should go thereof without day, and
that the said Plaintiff should have a return of the said
goods and Chattels as by the record and proceedings
thereof now remaining in the said Court more fully appears

And the said Plaintiff in fact further saith that the said Charles, L. Wilson did not prosecute his said action with effect against the said Plaintiff for the alleged unjustly detaining the said Goods and Chattels, nor make a return of the said Goods and Chattels or any part thereof, according to the form and effect of the said Condition of the said (Bond) writing obligatory but has hitherto wholly neglected and refused and still wholly neglects and refuses so to do. Therefore the said writing obligatory became forfeited to the said George, P. Hansen Coroner of said County of Cook as aforesaid and his Successors in Office, and the same being so forfeited, the said Coroner afterwards to wit, on the Twenty fourth day of October A. D. 1859 at Chicago in the County of Cook aforesaid, at the request and costs of the said Plaintiff by an endorsement on the said writing obligatory duly made under his hand and seal, assigned the said writing obligatory to the said Plaintiff according to the form of the Statute in such case made and provided as by the same assignment endorsed on the said writing obligatory as aforesaid and to this Court now shown, the date whereof is the day and year last aforesaid, may fully appear. And afterwards to wit on the twenty fifth day of October in the year of our Lord one thousand eight hundred and fifty nine at Chicago in said County of Cook at the like request of the said Plaintiff William James the Successor of the said George, P. Hansen as Coroner, and who was at the date last aforesaid, the Coroner of said County of Cook, and still is the

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Coroner of said County of Cook, also by an endorsement written on the back of the said writing obligatory, and under his hand and Seal, and duly made assigned the said writing obligatory to the said Plaintiff according to the form of the Statute & as by the said assignment endorsed on the said writing obligatory as aforesaid the date whereof is the day and year last aforesaid and now shown to this Court will more fully appear.

By means whereof and by force of the Statute in such case made and provided an action hath accrued to the said Plaintiff as assignor of said George P. Hanson there being Coroner of said County of Cook and the said William James his Successor, as aforesaid, to demand and have of and from the said Defendants the said sum of Ten thousand dollars above demanded.

2nd Count

And for that whereas also heretofore to wit on the fourth day of November A.D. 1855 at Chicago in said County of Cook the said Plaintiff distrained the Goods and Chattels of the said Charles S. Nelson for a certain sum of money then due to the said Plaintiff for rent And the said goods and Chattels being so distrained the said Charles S. Nelson (one of the said Defendants) afterwards and within the space of five days, then next ensuing to wit, on the fourth day of November A.D. 1855 to wit at Chicago, in said County of Cook made his Plea in the Cook County Court of Common Pleas (now Superior Court of Chicago) in and for said County of Cook and sued out of the said Court a Writ of Habeas against the said Martin A. Walker Plaintiff herein

and one Charles M. Pine (his bailiff) for the unjustly detaining of the said Goods and Chattels of the said Charles L. Wilson by the said Plaintiff and his said bailiff Which said goods and Chattels are described in said Writ as follows, to wit, 1 Small Steam Engine, Boiler & Hearing - 1 power press printing - 1 paper folding Machine. 1 Stone top table - 2 Stones & Pipe. All the rollers & fixtures belonging to the printing press. 1 iron safe - 3 desks - 1 pigeon case. 1 long table - 1 short table - 1 case for blanks. 1 block & power presses. 3 hand presses. 2 hand presses. 2 unproving stones. 4 hundred cases assorted type and then and there delivered the said Writ of Replevin to the said George P. Hanson the Coroner of the said County of Cook and directed & prayed the said Coroner that the said goods and chattels might be forthwith replevied and delivered to the said Charles L. Wilson, and thereupon the said George P. Hanson being Coroner of the said County of Cook according to the form of the Statute &c did take from the said Charles L. Wilson and Samuel L. Baker the said Defendants as two responsible parties, a bond for double the value of the said goods and Chattels in the penal sum of Ten thousand dollars which said Bond is in the words and figures following, to wit, 'Know all Men by these presents That we Charles L. Wilson and Samuel L. Baker are held and firmly bound unto George P. Hanson Coroner 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 Ten

"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 fourth day of November in the year of our Lord one
 "Thousand eight hundred and fifty eight, the said Charles L.
 "Wilson paid out of the "Common Pleas" Court, (out of the
 "Cook County Court of Common Pleas meaning intending
 "of Cook County, a writ of Replevin against Martin, D.
 "Walker (and Charles N. Fine meaning and intending)
 "defendant, for the recovery of the following described goods
 "and chattels, property, to wit: One small Steam Engine,
 "Boiler and gearing. 1 power press. 1 printing. 1 paper
 "folding Machine. 1 Stone top table. 2 Stones Vise, all the
 "Rollers & fixtures belonging to the printing press. 1 Iron safe
 "3 Desks. 1 pigeon Case. 1 long table. 1 short table, 1 case
 "for 1 Blanks. 1 clock. 2 power presses. 3 Stand Presses. 2
 "large presses. 2 imposing Stones. 4 hundred Cases of type
 "assorted of the value of five thousand dollars.

"Now if the said Charles L. Wilson 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 done and keep harmless the said Coroner
 "in replevying the said property then this obligation to be void
 "otherwise to remain in full force and effect.

"Witness our hands and seals this 11th day of Nov.

"(November meaning) W. D. - Charles L. Wilson (Seal)

"Witness, Benj. F. Taylor "

S. L. Baker " (Seal)

And the said Bond as above set forth was duly executed by the said Charles L. Wilson and the said Samuel S. Baker by the name and description of S. S. Baker and delivered to the said George P. Hansen and thereupon the said George P. Hansen did replevy and take from the said plaintiff the said goods and chattels and delivered the same to the said Charles L. Wilson And at the January term of the said Cook County Court of Common Pleas A.D. 1859 the said Charles L. Wilson by his Attorney filed his declaration in the said cause alleging the wrongful detaining of the said goods and chattels of the following description to wit, one small Steam Engine, boiler and gearing one power press printing one paper folding machine, one stone top table, 2 Stones 1 pipe, all the rollers and fixtures belonging to the printing press. One iron safe. 3 Desks. One judge case - One long table. One short table. one case for Blanks one Clock, 2 power presses. 3 hand presses. 3 Card presses 2 wiping stones. 4 hundred cases of type assorted, against sureties and pledges &c to the damage of Five thousand dollars and therefore he brought his suit &c And thereupon such proceedings were had in the said case and on the said Pleas in the said Court that afterwards to wit in the September term in the year of our Lord one thousand eight hundred and fifty nine in the said Court it was considered and adjudged in and by the said Court, that the said Charles L. Wilson one of the said Defendants should take nothing by his said replevy, but that he and his pledges

to prosecute should be that the said Charles S. Nelson plaintiff therein should go thereof without day, and that the said Plaintiff should have a return of the said goods and chattels as by the record and proceedings thereof now remaining in the said Court more fully appears

That the said Plaintiff in fact further saith that the said Charles S. Nelson did not prosecute his said action with effect against the said Plaintiff for the alleged unjustly detaining the said Goods and Chattels, or any part thereof, according to the form and effect of the said Condition of the said (Bond) writing obligatory, but has hitherto wholly neglected and refused and still wholly neglects and refuses so to do Therefore the said writing obligatory became forfeited to the said George P. Hansen Coroner of said County of Cook as aforesaid and his Successor in Office That the same being so forfeited the said Coroner afterwards to wit on the twenty fourth day of October A.D. 1859 at Chicago in said County of Cook at the request of, and at the cost of the said Plaintiff by an indorsement on said writing obligatory duly made under his hand and seal assigned the said writing obligatory to the said Plaintiff, which indorsement or assignment was in the words and figures following, to wit:

"For value received I hereby assign sell transfer and put over unto Martin O. Walker all my right title interest and claim in and to the within Bond as the late Coroner of Cook County Illinois. Given under my hand and seal this 24th day of October A.D. 1859.

Geo. P. Hansen (Seal).

according to the form of the Statute in such case made and provided as by reference to the said assignment endorsed on the back of the said writing obligatory will also fully appear and to this Court now shown.

And afterwards to wit on the twenty fifth day of October in the year of our Lord one thousand eight hundred and fifty nine at Chicago in said County of Cook at the like request of the said Plaintiff, William James, the successor of the said George P. Hansen as Coroner and who was at the date last aforesaid Coroner of said County of Cook and still is the Coroner of said County of Cook also by an endorsement written on the back of the said writing obligatory and under his hand and Seal and duly made assigned all his interest in the said writing obligatory to the said Plaintiff, which said writing is in the words and figures following to wit - "For value received I hereby assign sell transfer and get over unto Martin O. Walker all my right title interest and claim in and to the within Bond as successor of George P. Hansen as Coroner of Cook County Illinois - Given under my hand and Seal this 25th day of October A.D. 1859"

"Wm James (Seal)"

according to the form of the Statute in such case made and provided as by reference to the said writing obligatory as aforesaid now shown to the Court will more fully appear. By means whereof and by force of the Statute in such case made and provided an action hath accrued

on the 4th day of November in the year of our Lord one thousand eight hundred and fifty eight the said Charles L. Nelson sued out of the Common Pleas Court of Cook County a Writ of Replevin against Martin. O. Walker defendants for the recovery of the following described goods and chattels property to wit One small Steam Engine, Boiler & Gearing 1 power press printing. 1 paper folding Machine 1 stone top table, 2 Stone & Pipe. All the rollers & fixtures belonging to the printing press. 1 Iron safe - 3 Desks, 1 Pigeon case, 1 long table - 1 short table, 1 case for Blanks - 1 block, 2 power presses - 3 hand presses. 2 large presses & imposing stones. 4 hundred cases of type assorted, of the value of Five thousand dollars.

Now if the said Charles L. Nelson 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 same and keep harmless the said borrower in replevying the said property then this obligation to be void otherwise to remain in full force and effect.

Witness our hands and seals this 4th day of Novr. A.D. 1858.

Witness

Charles L. Nelson (Seal)

Benj. F. Taylor,

S. L. Baker

(Seal)

With the following endorsements on the back thereof
For value received I hereby assign sell transfer and set over unto Martin. O. Walker all my right title interest and claim in and to the within Bond as the late borrower of

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Cook County, Illinois Given under my hand and seal
this 24th day of October A. D. 1859.

Geo: P. Hansen (Seal)

For value received I hereby assign sell transfer and
set over unto Martin, C. Walker all my right title interest
and claim in and to the within Bond as Successor of
George, P. Hansen as Coroner of Cook County, Illinois

Given under my hand and seal this 25th day of
October A. D. 1859.

Wm. James (Seal)

And afterwards to wit on the fifth day of December
A. D. Eighteen hundred and fifty nine came the said
Defendants and filed in the Office of the Clerk of said
Superior Court their Answer to said Declaration;
Which said Answer is in words and figures following
to wit,

"Martin, C. Walker
(us)
Charles, S. Nelson and
Samuel, L. Baker,)

In the Superior Court of Chicago
Of the December Term A. D. 1859.

And now comes the said
Defendants by R. S. Blackwell their Attorney and
defend the wrong and injury where to and say that
the said Declaration and the matters therein contained
in manner and form as the same are therein stated
and set forth are not sufficient in law for the said

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Plaintiff to have or maintain his aforesaid action against them the said Defendants and that they the said Defendants are not bound by the law of the land to answer the same. Also this they are ready to verify. Therefore I pray a sufficient declaration in this behalf the said Defendants pray judgment and that the said Plaintiff may be barred from having or maintaining his aforesaid action against them &c.

R. S. Blackwell P. W."

And afterwards to wit on the sixteenth day of January (being one of the days of the January term of said Court) A. D. eighteen hundred and sixty, the following proceedings were had in said cause and entered of record in said Court to wit—

"Martin G. Walker

@

Charles L. Wilson and

Samuel L. Baker

} Debt.—

This day comes said plaintiff by J. W. Manghrop his Attorney and said defendants by R. S. Blackwell their Attorney also come and defendants having filed their demurrer herein to plaintiff's declaration and Counsel having argued the demurrer and the Court being fully advised overrules the demurrer and it is ordered that defendants plead over by coming in of the Court on Monday morning next.

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And thereafter to wit on the fourth day of February
 A. D. Eighteen hundred and sixty came said defendants
 and filed in the Office of the Clerk of said Court their
 Plea and Affidavit of Merits in said cause: Which said
 Plea and Affidavit is in the words and figures following
 to wit,

" Charles L. Wilson and	} Superior Court of Chicago
Samuel L. Baker	
also	
Martin O. Walker	} Of the Feb. Term 1860

And now come the said defendants
 by Sherman & Kales their Attorneys and defend the wrong
 and injuries when they say that the said supposed
 writing obligatory is not the deed of them or either of
 them, and of this they put themselves upon the Country &c
 Sherman & Kales

Defts Attys

And the said Plaintiffs doth the like
 A. W. Vaughan
 Plffs Attys "

And the said defendants too further plead by leave
 of the Court first had to said action because they
 say that the said property goods and chattels so reclaimed
 by the said defendant Wilson as is in said declaration
 supposed were at the time when &c the goods and chattels
 and property of him the said Wilson and not the property of
 the said plaintiff or of any other person as is in said

in said declaration supposed And this the said defendants are ready to verify &c

Sherman & Kales

Defts Attys

And for further Plea in this behalf by leave to the said defendants say that the said property goods and chattels so replevied by said defendant Wilson as is in the said Declaration supposed were not at the time when &c liable to the distress of said Plaintiff in that behalf, as is in said declaration supposed And this the said defts are ready to verify.

Sherman & Kales

Defts Attys

And the said defts by leave to for further Plea &c say as follows, because they say that the said Plaintiff hath not been damaged by reason of the matters & things in the said Declaration mentioned And this the said defts are ready to verify &c

Sherman & Kales

Defts Attys

"Martin O. Walker

vs

Charles L. Wilson and

Samuel L. Baker

Superior Court of Chicago.
State of Illinois
Cook County

Charles L. Wilson being duly sworn says he

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is one of the defendants in the above entitled suit, and
 that said defendants have a good and substantial defense
 to said cause upon their merits }
 Subscribed and sworn to before } Charles S. Nelson.
 me this Feby 4th W. D. 1860 }
 M. Kimball, Clerk "

And afterwards to wit on the Eleventh day of
 February (being one of the days of the February Term of
 said Court) W. D. Eighteen hundred and sixty the following
 proceedings were had in said cause and entered of record
 in said Court to wit,

Martin G. Walker }
 vs }
 Charles S. Nelson and } Debt.
 Samuel L. Baker }

This day again came the parties by
 their respective Attorneys as aforesaid and plaintiff submits
 motion to strike defendants pleas herein pleaded from the
 files of this Court.

And afterwards to wit on the thirteenth day of February
 (being yet of the said February Term of said Court) W. D.
 Eighteen hundred and sixty the following further proceedings
 were had in said cause and entered of record in said
 Court to wit

' Martin O. Walker

@

Charles L. Nelson and Debt
Samuel L. Baker ... }

And now again come the parties to this cause by their respective Attorneys as aforesaid and the Court being fully advised overrules Plaintiffs Motion heretofore submitted herein to strike Defendants pleas from the files.

And thereafter to wit on the third day of October A.D. Eighteen hundred and sixty one the said Plaintiff came filed in the Office of the Clerk of said Court his replication in said cause: Which replication is in the words and figures following that is to say.

' Martin O. Walker

@

Charles L. Nelson and
Samuel L. Baker ... }

Superior Court of Chicago

Of October Term A.D. 1860

And the said Plaintiff saith that the said defendants ought not to be admitted or allowed to plead the said plea by him secondly above pleaded saith that the said Plaintiff by reason of anything by said Defendants in that plea alleged ought not to be barred from having and maintaining his aforesaid action thereof against the said defendants and of this the said Plaintiff

puts himself upon the Country &c

And defendants doth the like.

And the said Plaintiff as to the said plea of the said defendants by them thirdly above pleaded saith that by reason of anything in the said plea alleged, ought not to be barred from having and maintaining his aforesaid action thereof against the said defendants And of this he puts himself upon the Country &c

And doth doth the like

And the said Plaintiff as to the said plea of the said defendants fourthly above pleaded says that the said Plaintiff by reason of anything by the said Defendants in that plea alleged ought not to be barred from having and maintaining his aforesaid action thereof against them And of this the said Plaintiff puts himself upon the Country &c

L. H. Haugthorn

Per Atty

And defendants do the like.

And afterwards to wit on the fifteenth day of October (being one of the days of the October term of said Court) A.D. Eighteen hundred and Sixty the following proceedings were had in said cause and entered of record in said Court, to wit

"Martin G. Walker

Charles S. Wilson and

Samuel S. Baker

Debt

This day comes the said Plaintiff

by John W. Haughop his Attorney and the said Defendants by Sherman & Kales their Attorneys also come and upon agreement of the parties made now here in open Court this cause is submitted to the Court for trial on the issues joined herein without intervention of a Jury and the Court now here after hearing the evidence and arguments of Counsel and being fully advised in the premises finds issues for Plaintiff and finds that Defendants owe and are indebted to the said Plaintiff as in his Declaration herein alleged to the sum of Two thousand dollars debt and assesses his damages for detention thereof to the sum of One thousand four hundred and thirteen dollars and twenty cents.

And thereupon the said defendants submit their Motion herein for a new trial.

And afterwards to wit on the nineteenth day of October (being yet of the said October term of said Court) A. D. Eighteen hundred and Sixty the following further proceedings were had in said cause and entered of record in said Court to wit -

" Martin A. Walker

(vs)

Charles L. Wilson and

Samuel S. Baker

Debt

This day again comes the said Plaintiff by John W. Haughop his attorney and the said

Defendants by Sherman P. Kales their Attorneys also come and Counsel being now heard on the Motion heretofore submitted herein for a new trial in this cause by the said defendants and due deliberation being thereupon had and the premises being fully understood it is considered by the Court that the said defendants Motion for a new trial herein be and is hereby overruled, to which ruling and decision of the Court the said defendants now here except. Wherefore the said plaintiff ought now to have judgment entered on the finding of the Court heretofore rendered herein.

Therefore it is considered that the said plaintiff do have and recover of the said defendants his debt of Ten thousand dollars and also his damages of One thousand four hundred and thirteen dollars and ninety cents in sum aforesaid by the Court here found and assessed and also his costs and charges in this behalf expended and have execution therefor.

And thereupon it is ordered that the debt aforesaid be discharged on payment of the aforesaid damages interest and costs.

And afterwards to wit on the twenty fifth day of October (being still of the said October term of said Court) A. D. Eighteen hundred and Sixty the following further proceedings were had in said cause and entered of record in said Court to wit

"Marvin B. Walker
Charles S. Wilson and
Samuel S. Parker

} Debt.

And now again come the

said defendants by Sherman & Kales their Attorneys and pray an Appeal herein to the Supreme Court of this State, which is allowed to them upon filing their Appeal Bond in the penalty of Twenty two hundred dollars with security to be approved by a Judge of this Court, Bond with Bill of Exceptions to be filed within thirty days.

And thereafter to wit on the twenty ninth day of October A. D. Eighteen hundred and sixty the said defendants filed in the Office of the Clerk of said Court their Appeal Bond which said Bond is in the words and figures following to wit.

"Know all Men by these presents that we Charles L. Wilson and George C. Brown of the County of Cook and State of Illinois are held and firmly bound unto Martin G. Walker also of the same County and State in the penal sum of Twenty two hundred dollars lawful Money of the United States, for the payment of which well and truly to be made we bind ourselves our heirs executors & administrators jointly severally and firmly by these presents.

Witness our hands and seals this 29th day of October A. D. 1860.

The Condition of the above Obligation is such that whereas the said Martin G. Walker did on the 19th day of October A. D. 1860 in the Superior Court of Chicago in and for the County of Cook and State aforesaid one of the

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October Term thereof, A. D. 1860 recover a Judgment against the above bounden Charles L. Nelson and one Samuel L. Baker for the sum of Fourteen hundred and thirteen dollars and twenty cents being plaintiffs damages in an action of debt, the debt to be discharged on payment of damages herein costs of suit, from which said judgment of the said Superior Court the said Charles L. Nelson and said Baker have prayed for and obtained an Appeal to the Supreme Court of said State.

Now therefore if the said Charles L. Nelson and said Baker shall duly prosecute their said Appeals with effect and moreover pay the amount of the judgment costs interest and damages rendered, and to be rendered against them in case the said judgment shall be affirmed in said Supreme Court, then the above obligation to be void otherwise to remain in full force and virtue.

Taken and approved and entered
into before me in Chicago this 29th } Charles L. Nelson (Seal)
day of Oct: A. D. 1860 } Geo: E. Brown (Seal)

Grant Goodrich
Judge of the Superior Court
of Chicago."

And hereafter to wit on the twenty fourth day of November A. D. Eighteen hundred and sixty, came the said Defendants by their said Attorneys, and filed in the Office of the Clerk of said Court their Appeal Bond in said cause: Which said Rule of Exceptions is in the

words and figures following that is to say.

" Martin O. Walker . . Plaintiff

vs

Charles L. Wilson &

Samuel L. Baker . . . Defendants

} Superior Court of
Chicago. October
Term W. D. 1860.

Be it remembered that heretofore to wit on the 15th day of October W. D. 1860 this cause was called for trial in said Court and a Jury having been waived, the cause was tried by the Court, And upon the said trial the Plaintiff introduced in Evidence a certain Bond and the several assignments thereon in the words and figures following

"Know all Men by these presents that we Charles L. Wilson and Samuel L. Baker are held and firmly bound unto George P. Hansen Coroner 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 Two 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 where as on the fourth day of November in the year of our Lord one thousand eight hundred and fifty eight, the said Charles L. Wilson sued out of the Common Pleas Court of Cook County, a Writ of replevin against Martin O. Walker defendant, for

recovery of the following described goods and chattels property
to wit, One small Steam Engine Boiler & Gearing - 1 power
press printing - 1 paper folding Machine. 1 Stone top table
3 Stone Vices. Also the rollers and fixtures belonging
to the printing press. 1 iron safe - 3 Desks. 1 Paper Case
1 long table - 1 short table. 1 case for Blanks 1 block.
2 Power Presses. 3 hand Presses - 3 hand Presses. 2
unpressing Stones - 4 hundred cases of type, assorted. of
the value of Five thousand dollars.

Now if the said Charles L. Wilson, 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 same and keep harmless the said Comor
in recovering the said property, then this obligation to be
void, otherwise to remain in full force and effect.

Witness our hands and seals this 4th day of Nov.
A. D. 1858.

Witness

Bey. F. Taylor.

Charles L. Wilson (Seal)

S. S. Baker (Seal)

(Endorsed.)

"For value received I hereby assign sell transfer
and get over unto Martin O. Walker all my right title
interest and claim in and to the within Book as the late
honored of Cook County, Illinois. Given under my hand
and seal this 24th day of October A. D. 1859.

Geo. P. Hansen (Seal)

"For value received I hereby assign sell transfer and
get over unto Martin O. Walker all my right title interest

and claim in and to the within Bond as predecessor of—
George P. Hansen as Coroner of Cook County, Illinois
Given under my hand and Seal this 25th day of—
October A.D. 1859.

W^m James (Seal)."

And the said Plaintiff further to maintain the issues
on his part offered in evidence all the records and
proceedings in a certain matter of assessment of rent-
had against the said Charles L. Wilson and others in the Circuit
Court of Cook County, which said Records & proceedings were
admitted as evidence by the Court are in the words and
figures following.

"State of Illinois }
County of Cook }

Pleas before the Honorable George Massey
Judge of the Seventh Judicial Circuit of the State of
Illinois and also presiding Judge of the Circuit Court
of Cook County in the State aforesaid at a special
term thereof begun and held at the Court House in the
City of Chicago in said County on the second Monday
(being the fourteenth day of February in the year of
our Lord one thousand eight hundred and fifty nine
and of the Independence of the United States of America
the eighty third in pursuance of an order made and
entered of record at a former term of said Court to wit
at the January Special term thereof in the year of our
Lord one thousand eight hundred and fifty nine which said

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Ordo is in the words and figures following to wit—
 Ordered, that a special term of the Circuit Court of said
 Cook County for the trial of civil and criminal causes
 be and the same hereby is appointed to be held at the
 Court House in the City of Chicago on the second ~~and~~
 Monday of February next being in the year one thousand
 eight hundred and fifty nine And it is further Ordered
 that the Clerk notify the Supervisors of said County of
 the appointment of said term with a request that the said
 Supervisors cause Jurors to be summoned to attend upon
 said term as required by law.

Present The Honorable George Manierre, Judge of the
 Seventh Judicial Circuit—

Carlos H. Hume Atty. Gen.

John Gray Sheriff of Cook County

Asst. William S. Church Clerk."

"State of Illinois }
 Cook County . . . } ss.

To be W. True the Marshal of the
 Northern District of Illinois in the County of Cook

I hereby authorize and command you to detain
 upon and seize the Goods and Chattels that may be
 found in said County of Cook belonging to Charles S.
 Wilson or Robert H. Morris to an amount sufficient to
 make the sum of One thousand two hundred and
 eighty eight dollars and thirty three cents (\$1288.33) for
 the purpose of satisfying and paying the said sum of One

Thousand two hundred and eighty eight dollars and
 thirty three Cents which is an arrearage of rent due to
 me and unpaid by virtue of the Covenants of a certain
 written demise to them and one R. S. Nelson now
 deceased by me dated November the Eighteenth in the
 year of our Lord one thousand eight hundred and fifty
 three of the premises now occupied as the Chicago Daily
 Journal Office in Dearborn Street in Chicago in said
 County of Cook and you the said goods and chattels
 safely keep until the same can be disposed according to
 Law - And this shall be your sufficient Warrant and
 authority for so doing.

Given under my hand and seal this twenty
 ninth day of October A. D. 1856.

Martin, C. Walker (Seal).

"R. S. & C. S. Nelson & Co."

To M. C. Walker Dr

To rent of Journal Office for four years
 and two months & 9 days from Nov 21st
 1853 to October 1st 1858 at \$1400 for each yr. \$6801.57
 Cr By rent paid to Waughp & Co current
 account \$2601.58
 Cr By rent paid to M. C. Walker
 April 1, 1856 466.66
 Cr By rent paid Oct. 4th 1856 to
 M. C. Walker 700.00
 Cr By cash on account to Waughp 225.00

6^{to} By Check on Tinkham to Haughp. \$120.00

6^{to} By one years rent on Current acc^{ts}

to Haughp. 1400.00 \$5573.24

Balance \$1288.33.

"As commenced I have this day distrained and seized the Goods and Chattels set forth in the Inventory hereto annexed the same being the property of C. S. Wilson one of the within named Defendants and have them now in custody and have given due notice of the proceedings had to the said Defendant.

November 2^d 1858.

L. N. Poir

W. S. Marshall, N. D. Sec."

"Inventory of the property of Charles S. Wilson & this day distrained and seized by virtue of the within writ, 1 Small Steam Engine, Boiler & Gearing - 1 Power Press printing, 1 paper folding Machine, 1 Stone top table, 2 Stones & Hips, all the rollers & fixtures belonging to the printing press, 1 Iron safe - 3 Desks, 1 Pigeon case, 1 long table 1 short table, 1 Case for blanks, 1 Clock - 2 power presses, 3 hand presses, 2 Card presses & unpressing stones - 400 Cases of type assorted.

L. N. Poir

W. S. Marshall, N. Dist. Sec."

"Filed November 4th 1858

W. S. Church, Clerk."

(Precipe for Summons)

34 "Martin G. Walker
(vs) Cook County Circuit Court.
Charles S. Nelson & } Of the November Term A.D. 1858
Robert H. Morris } Distress for Rent.
Demand \$1288.33.

The Clerk will please issue a Summons in
the above cause to the Coroner.

J. W. Haughon

Plaintiffs Attorney".

"Filed November 10th 1858

Wm. S. Church. Clerk."

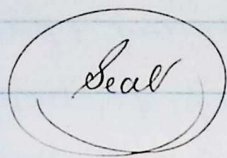
(Summons)

"State of Illinois
County of Cook } ss.

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

We Command you that you summon Charles S. Nelson
and Robert H. Morris 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
held at the Court House in Chicago in said City on the
third Monday of November instant to answer unto Martin
G. Walker in a plea of Distress for rent to the damage of
the said Plaintiff as is said in the Sum of One thousand
two hundred and eighty eight dollars and thirty three cents
and leave you 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 Tenth day of November A.D. 1858.

William L. Church, Clerk."

(Enclosed)

"Served by reaching to the within named
Defendants the 10th day of November 1858.

Geo: P. Hansen, Coroner."

(Judgment and Order)

"Martin B. Walker

February 19th 1859.

vs

Charles S. Nelson &

Robert H. Morris

Distress

This day comes the said Plaintiff by
J. H. Staughp his Attorney and due personal Service of
process of Summons issued in this cause having been had
on the said defendants and they being now three times
severally solemnly called in open Court and not nor does
any person for them but herein they severally make
default Wherein on Motion is ordered to be taken and entered
of record Whereupon said Plaintiff ought to have and recover
of the said defendants the amount due him for the rent of
the premises described in his Warrant of distress filed in said
cause And the Court upon hearing the allegations and proofs
submitted by the said Plaintiff in support of his said action
against the said Defendants and being fully advised in the

premises now finds that the said Defendants owe and are indebted to the said plaintiff for rent of the premises, described in said Distress Warrant to the sum of One thousand two hundred and eighty eight dollars and thirty three cents.

Therefore it is considered and Ordered that the finding of the Court as aforesaid be certified under the Seal of this Court to the said plaintiffs bailiff who made and returned the levy and distress in this cause and that he proceed thereupon forthwith to make the said sum \$1288.33 of One thousand two hundred and eighty eight dollars and thirty three cents together with the costs of this proceeding, out of the property distrained according to the Statute in such case made and provided and with the return thereof according to law.

(Execution)

"State of Illinois,
Cook County . . .

The People of the State of Illinois to
Esq. N. Pine, Greeting.

Whereas at the February Term of our said Circuit Court begun and held at the Court House in the City of Chicago in said County on the second Monday (being the fourteenth day) of February in the year of our Lord one thousand eight hundred and fifty nine such proceedings were had in said Court in a certain cause therein pending wherein

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Martin B Walker was Plaintiff and Charles S. Wilson and Robert St. Morris were Defendants in an action for the recovery of rent by distress, as that the said defendants were adjudged to owe and be indebted unto the said Plaintiff in § 1288 "33 the sum of One thousand two hundred and eighty eight dollars and thirty three Cents which said sum was adjudged to the said Plaintiff for rent of the premises described in the Distress Warrant filed in said cause, together with his § 8 "95 proper costs amounting to Eight dollars twenty five Cents.

You are hereby commanded to proceed to make the sum aforesaid, due as aforesaid, out of the property distrained together with the costs aforesaid according to the statute in such case made and provided and make and return herof, with an endorsement ~~thereon~~ in what manner you shall have executed the same.

Seal.

Witness William S. Church Clerk of our said Court and the Seal thereof at Chicago aforesaid this twenty seventh day of September A.D. 1859.

William S. Church Clerk."

(Endorsed)

I hereby certify that I have made a demand of the property distrained on in this proceeding this day and the said Charles S. Wilson refused to turn the same out to me.

Chicago October 25th 1859.

Frank M. J. "

And the said plaintiffs further to maintain the issues on his part offered in evidence all the records and proceedings in a certain replevin suit in the Cook County Court of Common Pleas, now Superior Court of Chicago, being an action to replevy the goods distrained on as aforesaid brought by the said Charles L. Nelson against the said Martin C. Walker and the same action in which the Replevin Bond given on in this case was taken by the officer which record and proceedings were admitted by the Court and are in the words and figures following.

"United States of America
State of Illinois Cook County, *Se*

Pleas before the Honorable Judges of the Superior Court of Chicago within the County of Cook and State of Illinois at a regular term of said Superior Court of Chicago begun and holden at the Court House in the City of Chicago in said County and State on the first Monday being the fifth day of September in the year of our Lord one thousand eight hundred and fifty nine and of the Independence of the United States of America the Eighty fourth,

Present The Honorable John M. Wilson, Chief-
Justice of the Superior Court of Chicago.
Wm H Higgins & Grant Goodrich, Judges
Charles Stuart, . . . Prosecuting Attorney
John Gray, . . . Sheriff of Cook County
Orest. Walter Kimball, Clerk.

. (Affidavit for Replevin Writ)

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"State of Illinois,
Cook County, ss.

Charles S. Wilson being duly sworn upon his Oath deposes and says that he is one of the firm of Charles S. Wilson & Co of the City of Chicago proprietors and publishers of the Chicago Journal a daily, tri weekly and weekly journal or Newspaper published in the said City, that the said affiant is the only member of said firm And affiant further deposes and says that he is the owner and entitled to the possession of the goods and chattels or personal property mentioned and particularly described in the distress Warrant inventory & return hereto attached as an exhibit marked (A) and which affiant prays may be taken and considered as a part of this his affidavit, which said goods and chattels are of the value of at least five thousand dollars. And this affiant further deposes and says that the said personal property or goods and chattels have been wrongfully distrained and are wrongfully unjustly and unlawfully detained from this affiant by one Martin O. Walker & Charles H. Pine And affiant further deposes and says that the said Goods and Chattels have not been taken for any tax or assessment or fine levied by virtue of any law of this State, nor seized under any execution or attachment or against the goods and chattels of this affiant liable to execution or attachment Affiant therefore prays that a Replevin Writ may be awarded in his behalf for the goods

and Chattels aforesaid returnable in due course of law
 And further this affiant saith that John L. Wilson the
 Sheriff of the said County of Cook is a brother of this
 affiant.

Subscribed and sworn to before me Charles L. Wilson."
 On this 4th day of November
 1858 . . . Walter Kimball. Clerk"

"Exhibit A"

"State of Illinois } To C. N. Pine the Marshal of the
 Cook County } ss. District of Illinois in the County
 of Cook, greeting.

Whereby authorize and command you to distrain
 upon and seize the goods and chattels that may be found
 in said County of Cook belonging to Charles L. Wilson or
 Robert W. Morris, to an amount sufficient to make the sum
 of Twelve hundred and eighty eight dollars and thirty three
 cents (\$1288.33) for the purpose of satisfying and paying
 the said sum of Twelve hundred and eighty eight dollars
 and thirty three cents which is an arrearage of rent due to
 me and unpaid by virtue of the Covenants of a certain written
 demise to them and me B. L. Wilson now deceased, by me
 dated November the Eighteenth A.D. 1853 of the premises
 now occupied in the Chicago Daily Journal Office on
 Dearborn Street in Chicago in said County of Cook, and
 you the said goods and chattels safely keep until the
 same can be disposed of according to law. And this shall

be your sufficient Warrant for so doing.

41 Given under my hand and seal this 29th day of
October A.D. 1858.

Martin B. Walker (Seal)."

' I do command & have this day distrained and
seized the goods and chattels set forth in the inventory
hereto annexed the same being the property of C. S. Wilson
one of the within named defendants and have them now
in custody, and have given due notice, of the proceedings
had to the said Defendant.

Now 20 A.D. 1858.

C. N. Pine

W. S. Marshall, N. Dist. Ill.

Inventory of the property of Charles S. Wilson and this
day distrained and seized by virtue of the within writ,
1 Small Steam Engine Boiler &earing - 1 power press
printing. 1 paper folding machine. 1 Stone top table. 2
Stones & pipes. Also the rollers and fixtures belonging to the
printing press. 1 Iron safe. 3 Desks 1 pigeon case.
1 long table - 1 short table. 1 case for Blanks. 1 block
2 power presses. 3 hand presses. 3 bar presses. Dumping
Stones. 400 Cases types assorted.

C. N. Pine

W. S. Marshall

Northern Dist: Ill: "

(Replevin Writ)

" State of Illinois }
Cook County. }

S. The People of the State of Illinois
to the Coroner of said County, greeting

Whereas Charles S. Nelson Plaintiff complains that
 Martin O. Walker and Charles M. Reid defendants do
 unlawfully and wrongfully detain the following described
 goods and chattels to wit,

1 Small Steam Engine Boiler and Heating
 1 Power Press printing. 1 Paper Folding Machine.
 1 Stone top table. 2 Stones and pipes.

Also the rollers & fixtures belonging to the printing press.

1 Iron Safe. 3 Desks. 1 Pigeon case -

1 long table - 1 short table. 1 Case for Blanks.

1 Clock. 2 Power presses - 3 hand presses

3 Barre presses. 2 wiping stones -

4 hundred cases of type assorted, of the value
 of Two thousand dollars.

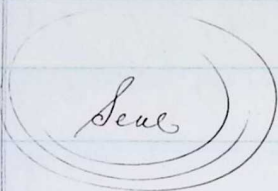
Therefore we command you that if the said
 Plaintiff shall give you bond with good and sufficient
 security in double the value of the said goods and chattels
 as required by law to prosecute his suit in this behalf to
 effect and without delay, and to make return of the goods
 and chattels if return thereof should be awarded and to save
 and keep you harmless in replevying said goods & 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 Cook County Court of Common Pleas for said County on
 the first day of the next term thereof to be holden at the
 City of Chicago in said County on the first Monday of

January next to answer said plaintiff in the premises.

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And have you then and there this Writ with an endorsement thereon in what manner you have executed the same together with the Bond, which you shall have taken from the said plaintiff as before commanded before executing this Writ

Witness Walter Kimball, Clerk of our said Court and the Seal thereof at Chicago in said County the 4th day of Nov. 1858.



Walter Kimball - Clerk,"

(Endorsed)

"The Plaintiff having given Bond as hereto annexed I have taken the within described goods and delivered them to the plaintiff as per his receipt heron to and Endorsed and served this Writ on the within defendants by reading this fifth day of November 1858

Geo: P. Hansen

Coroner."

"Received of George P. Hansen, Coroner, the within described property this 5th day of November 1858.

Charles L. Wilson."

(Plea)

" Martin O. Wacker } Book County Court of Common
 at } Pleas. Of the 2^d November
Charles L. Wilson. } Special Term,

And the said Defendant by
 John W. Draughon his Attorney comes and defends the
 wrong and injury when &c and well avows the taking of
 the said goods and chattels in the said declaration
 mentioned, in the said printing Office in which &c and justly
 so because he says that the said Plaintiff was indebted to
 the said defendant in the sum of One thousand two hundred
 and eighty eight dollars and thirty three cents (\$1288.33)
 for and on account of rent under a written demise of the
 premises in which the said goods and chattels were found
 when taken made by the said defendant to the said Plaintiff
 That the term of the said written demise is not yet expired
 That the said goods and chattels were seized and taken in
 distress for rent to make the aforesaid sum which was due
 and unpaid on the said demise and in pursuance of the
 Statute in such case made and provided, and under no other
 pretense. And this he the said defendant is ready to verify
 Therefore he prays judgment and a return of the said goods
 and chattels together with his damages &c according to the form
 of the Statute in such case made and provided to be adjudged
 to him &c

J. W. Draughon

Defts. Atty.

(Judgment & Order)

45- " Charles L. Wilson

September 22nd 1859.

vs
Martin C. Walker & Replevin
Charles M. Pius

This day come said defendants by J. Waughop their Attorney and Plaintiff being called in open Court comes not but fails to prosecute his suit in this behalf Whereupon on Motion defendants attorney it is Ordered said suit be and it is hereby dismissed at costs paid Plaintiff want prosecution.

Whereupon said defendants ought to have return of the property replevied in this cause with Writ of Return ~~and~~ Habeas and recover one Cent damages for detention thereof.

Therefore it is considered and adjudged that defendants do have return of the property replevied in this cause and recover of Plaintiff their damages of one Cent, together with their costs and charges about their defence in this behalf expended, and have execution.

(Execution)

State of Illinois }
County of Cook } S.

To the Sheriff of said County, Greeting.
Whereas Martin C. Walker and Charles M. Pius defendants were summoned to appear before our Cook County Court of Common Pleas of said County to answer Charles L. Wilson,

Plaintiff of a plea, wherefore the said defendant on the fourth day of November A.D. 1858 at the County aforesaid took the goods and chattels of him the said Plaintiff to wit

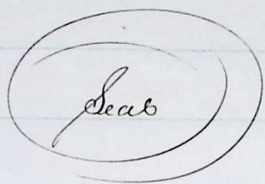
- 1 Small Steam Engine Boiler and Gearing.
- 1 Power press printing. 1 paper folding Machine
- 1 Stone top table - 2 Stones and pipe - All the rollers and fixtures belonging to the printing press - 1 iron safe.
- 3 Desks - 1 Pigeon Case - 1 long table - 1 short table -
- 1 case for Blanks - 1 Clock, 2 Power presses - 3 Hand presses. 2 Carve presses 2 Imposing Stones &
- 400 Cases of type assorted.

and unjustly detained the same against gages and pledges until & as it was said; Whereupon such proceedings were had thereon in the Superior Court of ~~the County~~ 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 One Cent for his damages on occasion of the premises and Two dollars and seventy 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 irreplevisably in form aforesaid.

We also command you that of the goods and chattels lands and tenements of the said Charles Nelson Plaintiff aforesaid in your County you cause to be made the sum of Two dollars and seventy one Cents for the damages and costs aforesaid and that you have that money in ninety days from the date

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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 thirty days from the date hereof.



Witness Walter Kimball, Clerk of our said Court and the Seal thereof at Chicago in said County this 28th day of September A. D. 1859.

Walter Kimball. Clerk."

(Endorsed)

"I have demanded of the within named Charles S. Nelson the within described property, also the payment of the within Writ, he refusing to turn out the property and to pay execution, I have the within Writ property not found & costs not satisfied this 26th day of December 1859.

John Gray - Sheriff

By A. C. Nesbitt. Depty."

"Filed December 31. 1859.

W. Kimball. Clerk."

And it further appeared on said trial that the rent assessed by said Circuit Court was the same rent for which the Plaintiff had issued his Distress Warrant against the goods and chattels of the said Defendant Nelson and others which were by said Nelson prior to said Assessment levied, and on account of which Replevin the said Bond of the said defendant was presented.

To the introduction of each and every of which several parcels of testimony at the time the same were respectively offered by the Plaintiff, the Defendants and each of them then and there objected, which said objections, which were as to matters of substance, but not of form, the Court then and there overruled, and admitted said parcels of testimony in evidence.

To which said several rulings of the Court and the admissions of said parcels of testimony, the said Defendants and each of them then and there duly accepted.

The said Plaintiff here ~~rested his case~~, and thereupon the said Defendants to sustain the issues on their part offered to prove the following facts to wit,

1st That at the time the said Plaintiff made his said distress that no rent was in fact due from the defendant Wilson and others to the Plaintiff; and

2nd by way of reducing the plaintiffs damages, to prove that said Defendant Wilson and others at the time of said distress, only owed the said Plaintiff the sum of Five hundred dollars for rent as aforesaid

To allow the Defendants to prove which said several matters on their part and behalf the said Plaintiff then and there objected, and the Court then and there sustained the several objections of said Plaintiff to the said Defendants making such proof of the said matters, or any of them.

To which said several rulings of the Court the said Defendants then and there duly excepted.

The foregoing is all the evidence introduced or offered in this case on either side, and thereupon the case was given to the Court, who afterwards returned a verdict for the Plaintiff.

Whereupon the Defendants and each of them moved the Court for a new trial during the said term, because the Court upon said trial admitted improper testimony on the part of said Plaintiff going to the merits of said action and not to matters of form, after objection from said defendants. And because the Court then and there rejected proper evidence then and there offered on the part and behalf of the said defendants. And because the testimony introduced by said Plaintiff on his part and behalf is not sufficient to authorize the said verdict or judgment - and because the said verdict is contrary to the evidence in the case.

Which said Motion was then and there overruled by the Court and judgment entered against said Defendants.

To the overruling of which last mentioned Motion and rendering judgment the said defendants, and each

of them there and there excepted.

And they the said defendants and each of them may this their Bill of Exceptions may be signed and sealed and made a part of the record in this cause, which is done. In witness my hand and Seal.

Grant Goodrich (Seal)
one of the Judges of said Court.

State of Illinois
Cook County ss.

I Walter Kimball Clerk of the Superior Court of Chicago, within and for the County of Cook in the State of Illinois Do hereby certify the above and foregoing to be a full true and perfect Transcript of the papers now on file in my Office, together with the Orders and judgments entered of record in said Court, in a certain suit therein, wherein Martin C. Walker was plaintiff and Charles S. Nelson and Samuel S. Baker were defendants.

In testimony whereof I have hereunto set my hand and affixed the Seal of said Court at Chicago in said County the fifth day of January A. D. 1861.

Walter Kimball Clerk

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State of Illinois }
Cook County .. 8

Martin O. Walker

vs

Charles S. Wilson
Et al

Record.

Filed April 17, 1861
L. Leland
Clerk

\$15 $\frac{50}{100}$