

No. 14685

Supreme Court of Illinois

Stone

vs.

Argrave.

STATE OF ILLINOIS,
SUPREME COURT,
THIRD GRAND DIVISION.

No. 59

J. W. Middleton & Co., Stationers, 100 Lake St.

Stone
vs

Angrove

Edward F. Stone et al
Impleaded to, Appellants
vs
Clifton Augrave, Appellee

Supreme Court of Illinois
3^d Grand Division
April Term 1863

It having been verbally agreed and stipulated before the commencement of the said term of said Court, by the undersigned L. Proudfoot, Counsel for the appellants in the above case, with John V. Le Moyne Counsel for the appellee, that said case should be submitted to said Court upon printed arguments to be filed therein, it is now expressly agreed and was then intended by the undersigned that said Verbal agreement shall have the same force and effect, and be as binding, and entitle the parties to all rights that would have accrued to them, and put them exactly in the same plight and condition they would have been in, had said agreement or stipulation been reduced to writing and filed with the record in said case, but under said agree

ment, it was understood and intended ^{by the undersigned} that
no rights whatever under the rules of prac-
tice of the said Court were waived, and
such waiver was no part of said agreement.
(The undersigned understanding the rule to
be, that in order to submit a case for
trial, there must be a finding in Error,
and the rule to that effect was taken upon
the appellee) and when said stipulation
was entered into by the undersigned, he had
no intention whatever of waiving any of
such rights, or rules of practice, and he did
not do so, and nothing was said by the
undersigned or by Mr. Le. Mayne in regard
to a finding in Error or a waiver thereof
when said verbal agreement was made
or subsequent thereto, and had there been
a proper finding in Error under the rule
of the said Court to that effect upon the
appellee, the case would have been sub-
mitted to the said Court under the verbal
agreement as aforesaid

Witness my hand this 27th day of May 1863

Lo. Throckmorth
Counsel for Appellant,

The order must stand
L.D.

278 203
Supreme Court of Illinois
April Term 1863

Stone et al, Impleaded to
Appellants

vs

Augrave, Appellee

Speculation

Filed Aug. 13. 1863

L. L. L. and Co

The motion heretofore made

to set aside the order moving

the judgment of court below

for non joinder, ^{in error} is submitted

on the within statement.

If the cause is over stated, the

briefs of both parties are on file

and the cause is to be tried

as submitted upon them

C. B. Smith for
Appellee

L. O. Ponder for
Appellants

UNITED STATES OF AMERICA,

STATE OF ILLINOIS, COUNTY OF COOK, SS.

Pleas, before the Honorable George Manierre Judge of the Seventh
Judicial Circuit of the State of Illinois, and sole presiding Judge of the Circuit Court of
Cook County, in the State aforesaid, and at a 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 April in the year
of our Lord One Thousand Eight Hundred and forty-two and of the
Independence of the said United States the eighty-seventh

Present, Honorable George Manierre Judge of the 7th Judicial Circuit
of the State of Illinois. }

Joseph Knox States Attorney.

Anthony B. Waring Sheriff of Cook County.

Attest, William L. Church Clerk.

Be it remembered, that heretofore
to-wit: on the Tenth day of September in the year of our
Lord One thousand Eight hundred and forty-one, there
was filed in said Court a certain, Receipt, Bond for
Cost, affidavit for Attachment and Attachment Bond
which are respectively in the words and figures following
to-wit-

Receipt

"In Circuit Court of Cook County
October Term A.D. 1861.

Delipton Angrave

Edward Stone, William A.
Kortwright & James L. Littlewood

to-wit: of attachment
an affidavit and Bond filed herewith and summon

No. Bunnell + E. W. Hyatt - as garnishees
 J. V. Le. Moyné. pffs atty.

To Mrs Church Esq

belong of sd Court

Recd for Cost

Leiftan. Ingrave

— Circuit Court of Cook County

Edmond Stone, William A.

Kortright + James L. Littlewood

I do hereby enter myself
 security for costs in this cause and acknowledge myself
 bound to pay or cause to be paid, all costs which may
 accrue in this action, either to the opposite party
 or to any of the Officers of this Court, in pursuance of the
 laws of this State

J. V. Le. Moyné

Dated this 10th day of }
 September AD 1861 }

Affidavit for Attachment

State of New York }
 City + County of New York }

Leiftan. Ingrave of the City of
 Brooklyn, County of Kings and State of New York
 being duly sworn deposes and saith that Edmond
 Stone, William A. Kortright and James L. Littlewood
 composing the firm of E. Stone & Co are justly indebted to
 deponent, upon their promissory note hereto annexed

in the sum of four hundred and fifty-dollars with interest thereon at the rate of seven per cent per annum from the 23^d day of August 1861, that said promissory note was made endorsed + delivered to defendant by the said Stone, Kortright and Littlewood, who were then copartners as aforesaid for goods wares and merchandise sold and delivered by defendant to them.

Defendant further saith that the said Stone, Kortright and Littlewood do not reside in the State of Illinois, but reside in the State of New York.

Given before me this 7th day of September 1861, in due form of law witness my hand & official seal



John Bissell Notary Public
11 Wall St

Attachment Bond

"Know all men by these presents That we, Leiflaw. Angrave of the City of Brooklyn County of Kings and State of New York and John V. McQuinn of the City of Chicago County of Cook and State of Illinois, are held and firmly bound unto Edward Stone, William F. Kortright and James L. Littlewood, in the penal sum of Nine hundred and three dollars fourteen Cents, lawful money of the United States, for the payment of which said sum well and truly to be made, we bind ourselves our heirs, Executors and administrators, jointly and

severally by these presents.

Sealed with our seals and dated this tenth day of September A.D. 1861.

The Condition of the above obligation is such, That whereas the above bounden Defton Angrove has on the day of the date hereof, prayed an attachment out of the Circuit Court of Cook County - at the suit of himself against the estate of the above named Edward Stone William F. Kortwright and James C. Bitterwood for the sum of Four hundred and fifty-one dollar fifty-seven cents, and the same being about to be paid out of said Court, returnable on the second Monday of October next to the term of said Court, Now if the said Defton Angrove shall prosecute his said suit with effect, or in case of failure therein, shall well and truly pay and satisfy the said Edward Stone William F. Kortwright and James C. Bitterwood all such costs in said suit - and such damages as shall be awarded against the said Defton Angrove his heirs Executors, or administrators, in any suit or suits which may hereafter be brought for wrongfully suing out the said attachment, then the above obligation to be void, otherwise to remain in full force and effect.

Defton Angrove

by J. V. Le Moyne
J. V. Le Moyne

Sea

Sea

Attachment Writ

State of Illinois }
Cook County } ss

The People of the State of Illinois

to the Sheriff of said County. Greeting.
Whereas Elefson Angrove plaintiff hath complained
on oath to William S. Church, Clerk of the Circuit
Court of Cook County that Edward Stone, William F.
Kortwright and James C. Sittlerood are jointly indebted
to the said Elefson Angrove in the sum of Four hundred
and fifty dollars, and Interest, and oath having also
been made that the said Edward Stone, William F.
Kortwright and James C. Sittlerood reside out of
this State so that ordinary process of law cannot be
served upon them; And the said Elefson Angrove
having given bond and security according to the act
in such case made and provided; We therefore Command
you that you attach so much of the estate real
and personal of the said Edward Stone, William F.
Kortwright and James C. Sittlerood to be found
in your County, as shall be of value sufficient to
satisfy the said debt and Costs, according to the
said Complaint, and such estate so attached in your
hands to secure, or so to provide that the same may
be liable to further proceedings thereupon, according to
law, at a term of the Circuit Court to be held at
Chicago, within and for the County of Cook on the
3^d Monday of October next, so as to compel the
said Edward Stone, William F. Kortwright and
James C. Sittlerood to appear and answer the
Complaint of the said Elefson Angrove; and that
you also summon W. Burnell and E. Hyant
as garnishes to be and appear before the said Court

on the 2 Monday of October then and there to answer
what may be objected against them, when and
where you shall make known to the said Court
how you have executed this writ. And have you
then and there this writ-

Seal

Witness William L. Church, Clerk of our
said Court, and the seal thereof at
Chicago this Tenth day of September in
the year of Our Lord One thousand Eight
hundred and fifty-one
Wm L Church cl

And afterwards to-wit: on the 16th day of September
in the year last aforesaid, said plaintiff by J. V. Le
Moigne his Attorney, filed in said Court his certain
Declaration, in words and figures following To-wit:

In the Circuit Court of Cook County
* Of the October Term A.D. 1861.

State of Illinois } ss
County of Cook }

Leiften. Angrove plaintiff in this
suit by John V. Le Moigne his Attorney complains of
Edmond Stone, William F. Northright and James Le
Bitterwood partners under the firm name of E Stone
& Co defendants who are attached to of a plea of
trespass on the case on promises; For that whereas
the said defendants, heretofore to-wit: on the twentieth
day of December in the year of Our Lord One thousand
Eight hundred and fifty at New York to-wit at

4

7

paid County of Levek. made their certain promissory note in writing bearing date the day and year aforesaid in and by which said note, said defendants by the name style and description of "E. Stone & Co" promised to pay to the order of themselves. Four hundred and fifty dollars. at eight months after the date thereof for value received. And the said defendants to whose order said note was payable afterwards to-wit: On the day and year aforesaid at New York. that is to say at the County of Levek aforesaid endorsed said note in writing by which said indorsement the said defendants then and there ordered and appointed the said sum of money in said note mentioned. to be paid to said plaintiff, and then and there delivered said note so endorsed to the said plaintiff. By means whereof and by force of the statute in such case made and provided, the said defendants became liable to pay said plaintiff said sum of money mentioned in said note according to the tenor and effect of the said note and of the endorsement so thereon made as aforesaid and being so liable the said defendants in consideration thereof then and there undertook and promised to pay the same to the said plaintiff, according to the tenor and effect of the said note, and of the indorsement aforesaid. to-wit: at the place aforesaid. And whereas also the said defendants afterwards to-wit: on the first day of September in the year of Our Lord One thousand Eight hundred and fifty One, to-wit: at said County became and were indebted to the plaintiff in a large sum of money to-wit:

seven hundred dollars, for money before that time lent—
 and advanced to said defendants by said plaintiff
 at said defendants request; and also in the like sum
 for money before that time paid, laid out and Expended
 for said defendants by the said plaintiff at the like
 special request of said defendants; and in the like sum
 for money before that time had and received by said
 defendants to and for the use of said plaintiffs; And also
 in the like sum for goods wares and merchandise before
 that time sold and delivered by said plaintiff to said
 defendants, at the like special instance and request;
 and also in the like sum for the labor Care and
 diligence of the said plaintiff before that time done
 and performed by said plaintiff for said defendants
 and at the like instance and request of said defendants
 and being so indebted, said defendants in Consideration
 thereof, then and there undertook and promised
 to pay said plaintiff said several sums of money
 above mentioned, when thereunto afterwards he

→ requested —

And whereas also the said
 defendants, afterwards, to-wit; on the same day and year
 last aforesaid, and at the place aforesaid, accounted
 together with the said plaintiff of and concerning divers
 other sums of money before that time due and owing from
 the said defendants to the said plaintiff and then and
 there being in arrear and unpaid; and upon such accounting
 the said defendants were found to be in arrear and
 indebted to said plaintiff in the further sum of seven

9
hundred dollars, And being so found in wrong + indebted
to said plaintiff, the said defendants in consideration
thereof, afterwards to-wit: on the same day and year last
aforesaid, and at the place aforesaid, undertook and then
and there faithfully promised the said plaintiff to pay
unto the said plaintiff the said sum of money last-
above mentioned when they the said defendants should
be therunto afterwards requested — But the said
defendants not regarding their said promises + undertakings
but contriving to do, although often requested so to do
have not paid said plaintiff either of said sums
of money above mentioned, or any part thereof, but
so to do have hitherto wholly neglected and refused
and still do neglect and refuse, to the damage of
said plaintiff of seven hundred dollars, and therefore
he brings this suit to

John T Le Boyer
plaintiff's Attorney

Copy of Instrument and account filed on

\$ 14 571. —

New York December 20 1860

Eight Months after date we promise to pay
to the order of Quereles, Four hundred and fifty
dollars. Value Received

E Stone & Co

Indorsed

E Stone & Co

And afterwards to-wit: on the 23^d day of October in the year last aforesaid. said writ of attachment. was returned into said Court by said Sheriff. Endorsed as follows Do-wit -

Served by reading this writ to E. W. Myant + W. Burrill as garnishees, Myant on the 10th day of September next and Burrill this 27th day of September 1861. the within named defendants not found in my County, and no property wherein to levy.

Fee. 2 services 1.00

4 mile 20

1 return

1.30

Anthony Le Deseing plaintiff
by John H. Nelson deputy

And afterwards to-wit: at the October Term of said Court to-wit: on the 23^d day of October in the year last aforesaid. the following proceedings among others, were had and entered of record Do-wit:

"Relifon. Ingrave

Attachment

Edmund Stone, William H.

Northright + James L. Littlewood

On motion of John V. LeMayne

of Counsel for said plaintiff this cause is continued with order for notice to be given the said defendant of the pendency of said suit by publication in accordance with the statute in such case made and provided

211013.

And after-wards to-wit: on the Eighth day of January
in the year of Our Lord One thousand eight hundred &
sixty two, said plaintiff filed in said Court, a
Certificate of publication of notice heretofore issued
in said Cause, in words and figures following To-wit:

"State of Illinois }

Cook County ss. }

Cook County Circuit Court

November Term 1861.

Leifston Angrave

Edward Stone, William F.
Kortwright & James C. Littlewood

Public notice is hereby given
to the said Edward Stone, William F. Kortwright and
James C. Littlewood, that a writ of attachment issued
out of the office of the Clerk of Cook County Circuit
Court, dated the tenth day of September AD 1861, at
the suit of the said Leifston Angrave and against the
Estate of the said Edward Stone, William F. Kortwright
and James C. Littlewood for the sum of four hundred
and fifty dollars and interest, directed to the Sheriff of
Cook County, which said writ has been returned
Executed. Now therefore unless you the said Edward
Stone, William F. Kortwright and James C. Littlewood
shall personally be and appear before the said Cook
County Circuit Court on or before the first day of the next
term thereof to be holden at the Court House in the
City of Chicago on the 3^d Monday of November AD 1861
give special bail and plead to the said plaintiffs

action, judgment will be entered against you
and in favor of the said deft. Ingrave, and as
much of the property attached as may be sufficient
to satisfy the said judgment and costs, will be
sold to satisfy the same. *Wm Church clerk*
J. V. Le. Wayne peffs atty

This certifies that a notice of which the annexed printed slip is a true copy was
published for four successive weeks to-wit: twenty-four times in the Daily Edition of
the Chicago Post, a newspaper published in the City of Chicago & of general circulation
throughout Cook County & the State of Illinois & that the date of the first paper containing
the same was the 25 day of October 1861. & that the date of the last paper
containing the same was the 3^d day of December 1861. & that we have
received five dollars for publishing the same. Dated at Chicago, this 3^d
day of Dec 1861. Jas W Sheahan, A. A. Eastman, Andie Mathison, Publishers
Herrington & Ames, No. 111 North Dearborn St.

This day comes the said
plaintiff by John V. Le. Wayne his attorney, and it
appearing to the satisfaction of the Court, that the
said defendants have been duly notified of the
pendancy of said suit against them by publication
in accordance with the statute in such case
made and provided, and they being now three
times severally solemnly called in open Court,
come not, nor does any person for them, but herein they
make default, which on motion is ordered to be
taken and entered of record. Therefore said plaintiff
ought to have and recover of said defendants his

action, judgment will be entered against you
and in favor of the said Lelston Ingrave, and so
much of the property attached as may be sufficient
to satisfy the said judgment and costs, will be
sold to satisfy the same. *Wm Church clerk*
J. V. Le. Wayne peffs atty

And afterwards to-wit: at the January Term of
said Court to-wit: on the Eighth day of January
in the year of Our Lord One thousand Eight-hundred
and fifty-three, the following proceedings, Among others,
were had and Entered of record To-wit:

"Lelston. Ingrave

1013

Edward Stone, William A.
Kortwright + James B. Littlewood

} Attachment

This day comes the paid
plaintiff by John V. Le. Wayne his attorney, and it
appearing to the satisfaction of the Court, that the
said defendants have been duly notified of the
pendancy of said suit against them by publication
in accordance with the statute in such case
made and provided, and they being now three
times severally solemnly called in open Court,
come not, nor does any person for them, but herein they
make default, which on motion is ordered to be
taken and entered of record. Therefore said plaintiff
ought to have and recover of said defendants his

9
13

damages herein sustained by occasion of the premises and the Court after hearing the allegations and proofs submitted by said plaintiff and being fully advised in the premises, doth assess said plaintiffs damages herein to the sum of four hundred and fifty-dollars and fifty-seven cents.

\$460⁵⁷

Therefore it is considered by the Court that said plaintiff do have & recover of the said defendants his damages of four hundred and fifty-dollars and fifty-seven cents in form aforesaid assessed, together with his Costs and Charges by him about his suit in this behalf Expended, and have execution therefor against the property attached in said Cause.

And it further appearing to the satisfaction of the Court that Wm Burrell and E H Wyant have been duly personally served with process as Garnishes of the said defendants in said Cause, and they having failed to appear and discover mouth (or affirmation) what property or effects of the said defendants they had in their possession or under their Control, or in what sum or sums they were indebted to the said defendants at the time of the service of said Garnish summons upon them, and they being now three times severally solemnly Called in open Court. Come not nor does any person for them, but herein they make default. which on motion is ordered to be taken and entered of record; Therefore the said defendants ought to have and recover of the said Wm Burrell & E H Wyant

garnishes as aforesaid, for the use and benefit of the said plaintiff, a Conditional Judgment for the sum of Four hundred and fifty dollars and fifty seven Cents, the Judgment aforesaid recovered against the said defendants by the said plaintiff

Therefore it is Considered that the said defendants do have and recover of the said Wm Burrill and Edwin W. Bryant, garnishes as aforesaid for the use and benefit of the said plaintiff the said sum of Four hundred and fifty dollars and fifty seven Cents, together with the Costs and Charge in this behalf Expended

And it is further ordered that a writ facias issue against the said Garnishes

Scire Facias v. Garnishee.

State of Illinois, } ss. **The People of the State of Illinois to the Sheriff of Cook County, GREETING:**
COOK COUNTY,

WHEREAS, at the January term of the Circuit Court of the County of Cook, in the year one thousand eight hundred and fifty-seven, a judgment was rendered in and by said Court against Edward Stone defendant, in favor of William F. Kerbright - James L. Belter and Helen B. Bogue for the sum of Four hundred and fifty Dollars, and fifty seven Cents: And Wm Burrill & Edwin W. Bryant having been duly summoned as garnishee of the said defendant, and they having failed to appear and discover on oath or affirmation what lands, tenements, goods, chattels, moneys, credits and effects of the said defendant were in his custody, charge or possession, or under their control, or what moneys or property were by them owing to said defendant as is required by law, a conditional judgment for the above named amount was by said Court rendered against said garnishee and this writ ordered to be issued.

Now THEREFORE, we command you that you summon the said

Wm Burrill & Edwin W. Bryant

garnishee as aforesaid personally to be and appear before the said Circuit Court on the first day of the next term thereof to be holden at Chicago in said County on the 15th Monday of January next, then and there to show cause, if any they have or can show, why final judgment should not be entered against them upon the due execution and return of this writ. And have you then and there this writ, with an endorsement hereon in what manner you shall have executed the same.

Witness, LOUIS D. HOARD, Clerk of said Circuit Court and the seal thereof, at Chicago, this 15th day of January A. D. 1857

Seal

Wm L. Church

Clerk.

garnishes as aforesaid, for the use and benefit of the said plaintiff, a Conditional Judgment for the sum of Four hundred and fifty dollars and fifty seven cents, the Judgment aforesaid recovered against the said defendants by the said plaintiff

Therefore it is Considered that the said defendants do have and recover of the said Wm Burrell and E. H. Bryant, garnishes as aforesaid for the use and benefit of the said plaintiff the said sum of Four hundred and fifty dollars and fifty seven cents, together with the Costs and Charges in this behalf Expended

And it is further ordered that a *pein facias* issue against the said Garnishes returnable to the next term of this Court, requiring them then and there to appear and show Cause if any, they have why final Judgment should not be entered against them herein and execution issue therefor thereon

And afterwards to-wit: on the 18th day of February in the year last aforesaid, said Garnishes filed in said Court their joint Answer, in words and figures following To-wit:

"Beliftan. Ingrave

Wm Burrell, & Edwin H. Bryant
Garnishes of Edward Stone. William

COOK CIRCUIT COURT,

Feb

Term, 1862

Ingrave

vs.
Slone

SCI. FA. v. GARNISHEE.

Served this writ by reading to the within named
Henry Beavell on the 24 day of January 1862
and on Edwin W. Myer on 31 day of January 1862

As garnishees

fees

2	5	100	paid by
M.		20	
R		10	
		\$ 130	by plaintiff

A. A. Haring Sheriff

by Mr. Mayman kept

J. V. Seaborn Atty

15

F. Kortright and James L. Bittlewood, partners under the name of "E. Stone & Co."

In the Circuit Court of Cook County. February Term AD 1862.

State of Illinois }
Cook County }

The answer of Henry Burrnell and Edwin W. Myant. Garnishes as aforesaid.

These respondents upon oath say that they are indebted to said Edward Stone, William F. Kortright and James L. Bittlewood, in the sum of Six hundred & Eighty one ²⁸/₁₀₀ dollars, being upon a book account for goods sold and delivered and which account was due prior to Jan 1st 1862
Subscribed & sworn to before me this 17th day of February AD 1862

Alexander M. Guthrie
Notary Public

And afterwards to-wit: at the February Term of said Court to-wit: on the Eighteenth day of February in the year last aforesaid, the following proceedings, among others, were had and entered of record. To-wit:

William H. Ingrave

211013

Henry Burrnell & Edwin W. Myant. Garnishes of of Edward Stone, William F. Kortright & James L. Bittlewood

This day again comes the said Plaintiff by J. V. de Moyné his attorney, and it appearing to the Court from an inspection of the records thereof, that the said Plaintiff did on the Eighth day of January last past recover a Judgment against the said defendants Edward Stone, William F. Hartwright + James. C. Littlewood in this Court, for the sum of Four hundred and sixty dollars and fifty-seven cents, damages, together with Costs of suit; and that a Conditional Judgment was Entered against the said De Burrell and E. H. Myant as Garnishees of the said defendants in said Cause, on the said Eighth day of January last past for said amount of damages and Costs, And the said Burrell and Myant having this day appeared in open Court, and filed their answer under oath to said plaintiffs Interrogatories filed herein. from which it appears to the Court that the said Burrell and Myant were at the time of filing their said Answer indebted unto the said defendants in the sum of Six hundred Eighty One dollar and twenty Eight Cents -

Therefore it is Considered and adjudged by the Court that the said Edward Stone William F. Hartwright and James. C. Littlewood defendants as aforesaid do have and recover of the said De Burrell + E. H. Myant Garnishees as aforesaid, for the use and benefit of the said plaintiff, the sum of Four hundred seventy-nine

14
9
dollars and p^{er}cent four Cents, being the amount
of the Original judgment entered against the said
defendants, and the interest thereon from the date
of the entry thereof, and the Costs aforesaid, and
the Costs of this proceeding, and have Execution
therefor.

And afterwards to-wit: at the
same term of said Court last aforesaid, to-wit: on the
Tenth day of March in the year last aforesaid, the
following proceedings, among others, were had and entered
of record. To-wit:

"Leifton. Ingraham

} Motion re

21013.
W Burrell & H. W. Grant
Garnishes of Edward Stone Et al

On motion and for Cause
shown it is ordered that Execution be stayed upon
the judgment heretofore entered against the said
Garnishes in this Cause, until the further order of
this Court in the premises

And afterwards, to-wit: on the
13th day of March in the year last aforesaid, the said
Garnishes by their Attorney, filed in said Court their
Certain Motion, in words and figures following To-wit:

" State of Illinois

Cook County Circuit Court

March Term A.D. 1862

Leiftan. Angrove

Wm. Burrell & Edwin D. Hyant
Garnishes of E. Stone. Etal

Judgment rendered
against the above named Garnishes for \$ 479.74
Feb'y 18. 1862.

And now Comes the above
named Garnishes by W. M. Clarke their attorney, and
moves the Court to set aside the judgment against them
in this Cause, based upon facts and Circumstances, con-
tained in papers now on file, with said Court in this
Cause, and for leave to amend the answer herein touching
the notice of assignment-re
Mch 13. 1862.

W. M. Clarke
Atty for said Garnishes

And afterwards to-wit: at the
^{14th day} Term of said Court - to-wit: on the Fourteenth day
of March in the year last aforesaid, the following proceedings
among others, were had and entered of record. To-wit:

Leiftan Angrove

Motion re

W. Burrell and E. D. Hyant
Garnishes of Edward Stone Etal

On reading and filing
the affidavit of said Garnishes, and on their motion
it is ordered that the judgment heretofore entered
against them in said Cause. Do-wit: on the 18th day

21013

19th

of February last past; be set aside, vacated and for naught esteemed, upon said Garnishes paying into this Court the sum of Four hundred and seventy nine Dollars and seventy four Cents, the amount of the Judgment so entered against them as aforesaid, and that said Garnishes have leave to file an additional answer herein; and bring into Court as parties defendant to this suit the assignees named in said affidavit; And it is further ordered that said sum of money remain on deposit with the clerk of this Court, until the further order of this Court.

And afterwards, to-wit: on the Fifteenth day of March in the year last aforesaid said Garnishes, filed in said Court their amended answer, in words and figures following To-wit:
"State of Illinois.

Cook County Circuit Court

March Term A.D. 1862

Clifford Angrove

Henry Burrell + Edwin W. Nyant
Garnishes of Edward Stone, William
F. Kirtwright + James L. Littlewood
partners under the name of E. Stone & Co

The further answer of E. W. Nyant and Henry Burrell Garnishes as aforesaid by permission of the Court just had and obtained thereto, respectfully shew. Their respondents

upon oath say that the garnishee process in the above entitled Cause was first served on them on the 27th day of September A.D. 1861.

That they were then indebted as they supposed to the paid E Stone & Co in the sum of Six hundred and Eighty-One dollars and Twenty Eight Cents as appears by their former answer filed with this Court. But ~~upon~~ looking over their account again with the paid E Stone & Co, these respondents find that they made a mistake of One hundred dollars, and they now state that at the time of the service upon them of the paid Garnishee process, to-wit: on the 27th day of September A.D. 1861 they were indebted to the paid E Stone & Co in the sum of Five hundred and Eighty-One dollars & Twenty Eight Cents, which correction these respondents pray this Court to allow —

That during the pendency of this Garnishee suit against them as aforesaid, these respondents were served with a notice of assignment of their paid indebtedness to paid E Stone & Co by Stone & Hale of New York assignees of paid E Stone & Co on the 18th day of December A.D. 1861, and during the pendency of this action as aforesaid —

And these respondents further state that on the 17th day of February A.D. 1862 they made out an oath their answer in the above entitled Cause, and that the same was filed with this Court —

"
21

February 18th AD 1862 but no mention was made by these Respondents in their said answer in any respect of said Notice of assignment served upon them by said Stone & Wall assignees of E Stone & co on said 18th day of December AD 1861 as aforesaid. And these Respondents pray that said Stone and Wall assignees as aforesaid of said E Stone & co may be allowed and permitted to come into this Court under the Circumstances as set forth in this answer as parties in the above Entitled Cause and protect their rights and interests under the assignment herein referred to. And these Respondents further state that they have deposited with this Court the sum of \$479.74 in American Gold being the amount required by the order of this Court subject to its adjudication in this Cause.

Given to & subscribed } E H Myant. of the
Before me this 13th day of } firm of Burrill & Myant
March 1862 }
Hannah T Galt } Notary Public.

And afterwards to-wit; on the 22^d day of April in the year last aforesaid, said Stone and Wall by Dr. Broadfoot their attorney filed in said Court their Certain Answer in words and figures following To-wit -

"Circuit Court of Cook Co

April Term AD 1862

The answer of Edmond F. Stone and John M. Wall by the order of said Court made parties to the suit of Leiflon Angrove vs Henry Burrill and Edwin F. Hyant garnishees of Edmond Stone Etals they being the defendants in the attachment suit of Leiflon Angrove —

And the said Edmond F. Stone and John M. Wall answer and say that they are Copartners in trade in the City County and State of New York under the firm name of Stone and Wall, That on the fifth day of September AD 1861 the said Edmond Stone Etal made an assignment of their choses in action and effects to these respondents, a copy of which assignment is hereto annexed; That the choses in action and effects so assigned are fully enumerated and set forth in schedule A of said assignment and that said claim against the said Henry Burrill Etal garnishees as aforesaid for three hundred & ninety four 97/100 dollars, is set forth in said schedule; And was one of the choses in action so assigned. That more than fifty per cent of the outstanding accounts mentioned in said schedule A are entirely worthless, they being the indebtedness of Southern firms, which it is now impossible to collect. That said assignment was so made by said E Stone Etal to these respondents in

Consideration that these respondents would pay or cause to be paid, and they have thereby agreed and obligated themselves to pay. Certain indebtedness of said E Stone Eals which are fully enumerated and set forth in schedule B of said assignment. That said ~~paid~~ assignment was a bona fide transaction and was made by the said E Stone Eals to these respondents for the consideration above named -

And these respondents further answer and say that at the time of the said Attachment suit of Leifston Ingraham vs E Stone Eals, and also at the time of the service of the Garnishee process against said Henry Burrall Eals, and since that time, the said E Stone Eals had, and have had no interest whatever in the said claim against the said Burrall Eals but the interest in the same was and has been vested in these respondents by virtue of said assignment -

State City & County } vs Edmund F. Stone
of New York John M. Wall

Subscribed & sworn to before
me by the said Edmund F.
Stone & John M. Wall this 29th
March 1862. I.B. Joyce
Seal Commissioner of Illinois

State let- & County } ss
of New York

On this 13th day of April
A.D. 1862 before me personally appeared the
above named Edward F. Blum & John McCall
and made oath that they have respectively
read the above answer subscribed by them
and know the contents thereof and that the
same is true of their own knowledge

J. B. Meyer, Commissioner
of the State of Illinois for the County of New
York, in the State of New York

Seal

No 262 Broadway

Schedule A.

Daniel Carver	account	292.59
Teller & Page	"	9.50
Wm Keith	"	43.04
R. P. Smith	"	16.85
Otho Sharr	"	9.89
John Bevelan	Note	100.10
Waltz & Fish	"	87.62
Mrs. Frances Griffith	"	46.87
A. Van Winkle	"	29.50
C. Moehler	Note	711.82
Burrill & Myant	"	595.97
George W. Seaman	"	26.88
W. V. Lathane	"	15.97

25

A. V. Smith	account	29.24 47.24
W. F. J. B. Mason	"	112.37
W. R. Frost	"	87.87
W. Van Franklin	"	10.10
David Worman	"	116.16
John. C. Wright	"	32.50
E. McLean	"	78.25
C. Capps	"	249.92
L. E. Dond	"	91.50
D. C. Dye	"	123.32
L. S. Greene	"	34.96
Pratt & Clark	"	73.62
Robert Loder	"	72.00
Wm. Mye	"	146.00
A. C. Punguan	"	147.20
W. B. Taylor	"	123.00
S. A. Dudley	"	32.27
John. S. Sleeth	"	574.16
Wm. M. Sleeth	"	102.25
S. E. Nipton	"	69.50
Wm. W. Smith	"	62.75
White & Rich	"	60.75
P. Lotter	"	141.37
Bough & Tillman	"	76.00
S. P. Beckley	"	69.04

W. F. Mason	Note	534.91
R. Jones	"	302.79

S. E. Tipton	Note	157.56
W. W. Young	"	147.02
Meullen Brothers	"	99.25
R. J. Barnes	"	67.75
R. D. Kemp	"	68.60
George Berry	"	192.65
Wm M. Steuth	"	166.25
Joseph Sandborough	"	26.12
Wm W. Smith	"	1624.07
Harri Rand	"	84.80
J. S. Boggs	"	83.91
James W. Warlett	"	356.92

Schedule B.

Barth Thomas & Davis.	due Aug 6/01.	27.13
Borchaw. A. & Digleman	" Mch 3.	40.60
Bennett & Strickland	" Oct 23 "	63.43
Emo Paulin & Valentine	" June 25 "	39.30
P. W. Lewis & Bro	" Dec 27 "	12.50
Clark & West	" Sept "	17.00
A. Frager		16.50

Imp & Trades Bank	400.00
New York	300.00
Continental	500.00
Manhattan	600.00
Mess B. B. Threlt.	128.25
Maullin. Bigdon	70.00
J. Woodhead & Sons	605.38
Atter & Tillinghast	257.50

27

14

For and in consideration of the sale and delivery
 of to us of the notes and accounts mentioned
 and referred to in schedule A hereto annexed
 by E Stone & Co we do hereby promise and agree
 to pay to the persons and firms the respective
 sums set opposite their respective names
 in schedule B. also hereto annexed paid
 schedule B. containing the amount of indebted-
 ness of said E Stone & Co to the persons & firms
 therein described, and we hereby agree to pay
 to each of said persons & firms said sums with
 interest on or by the first day of November 1862
 Dated September 5th 1861 Stone & Hall
 E Stone & Co

And afterwards to-wit: at the
 April Term of said Court. to-wit: on the 22^d day of
 April in the year of Our Lord Eighteen hundred and
 fifty two, the following proceedings, among others, were
 had and entered of record To-wit:
 Belifton Angrave

Henry Burmell & Edwin W. Myant
 Garnishees of Edward Stone & Co and
 Edward F. Stone & John M. Wall
 claiming as assignees of E. Stone & Co

Garnishment

And now come
 again the parties, the paid plaintiff by H. M. Wayne
 his attorney, and the paid Burmell and Myant

Garnishes of E. Stone res by Henry W. Belcher their attorney, and Stone and Wall claiming the indebtedness of Burrill and Myant to E Stone res as assignees of E Stone res also come by E Broadfoot their attorney, and it appearing to the Court from the affidavits heretofore filed in this cause, and from the answer and claim in writing of the defendants Stone and Wall, that the paid Stone & Wall claim to be the bona fide assignees of the indebtedness admitted by the paid Garnishes Burrill & Myant to be due to the paid E Stone res amounting to the sum of Five hundred and ninety five dollars and ninety seven Cents, by an assignment executed and delivered before the service of process upon paid Garnishes, and as such claim to be entitled to paid indebtedness as against the paid E Stone res and all others claiming under them; And therefore it is by the request of the parties directed that a Jury be Empannelled to try the issues of fact between the parties and ascertain and determine whether there was an assignment of the paid indebtedness in good faith from E. Stone res to the paid Stone & Wall before the service of Garnish process in this cause —

And afterwards to-wit: at the same Term of said Court last aforesaid, to-wit: on the 23rd day of April in the year last aforesaid, the following proceedings, among others, were had & entered of record to-wit:

29

Leiflaug Angren

Garnishment

21013

W. B. Sumner & E. M. Grant Garnishers
of Edward Stone & Co and Edward
J. Stone & John M. Wall claiming
as assignees of E. Stone & Co

This day come the
said plaintiff by J. V. de Moyné his attorney, and
the said Garnishers and Assignees by Henry W. Clark
and S. Pondfoot their attorneys also come, and
issue being joined herein it is ordered that a Jury
come, whomsoever come the Jurors of a Jury of good
and lawful men to-wit: Ira Goldsland, Robert
Clarkson, George E. Cooper, A. B. Kellogg, J. B. Harris
William Van Fleet, S. P. Cornell, A. Finch, A. German
A. M. Leane, C. M. Birch and Peter Doy who being
duly elected tried and sworn well and truly to
try the issue joined aforesaid, and a true verdict
render according to the law and the Evidence, and
after hearing the Evidence and arguments of
Counsel as well on the part of the plaintiff as of
the Garnishers and instructions from the Court
retire to consider of their verdict, with the further
instruction given by Court of said parties to sign
and seal up their verdict when they shall have
agreed upon the same, and return^{it} into Court
at nine o'clock tomorrow morning

And afterward To-wit: at the same term of said Court last aforesaid. To-wit: on the 24th day of April in the year last aforesaid, the following proceedings, among other, were had and entered of record to-wit:

"Elihu Ingraham

Garnishment

21013

vs Burrill and E. Myant
Garnishes of Edmund Stone Et al
and Edmund A. Stone + John M. Wall
Claiming as assignees of E Stone & Co

This day again came the said parties by their attorneys, and the Jurors of the day aforesaid also came, and having agreed upon and sealed their verdict in said Cause say: "We the Jury find from the Evidence that the debt due from Burrill and Myant Garnishes was not assigned to Stone + Wall in good faith before the process in this Cause was served on the Garnishes, We the Jury find that there was not a bona fide assignment; We the Jury find for the plaintiff the amount of former Judgment + interest Thereupon said assignees by their Counsel move the Court for a new trial of said Cause

And afterwards to-wit: on the 25th day of April in the year last aforesaid, said defendants Stone + Wall by their paid Attorney filed in said Court their Motion for a new trial

of said Cause, in words and figures following To-wit:
 "Heliploc. Angrove"

Edmund F. Stone Et al by order
 of the Court made parties with
 W. Burdell Et al Garnishers of Edmund F. Stone Et al

Circuit Court of
 Cook Co
 April Term 1862

And now Cometh the
 defendants Edmund F. Stone and John M. Ball by
 L. Proudford Jr their attorney, and move the Court
 for a new trial of the above named Cause for the
 reason that the verdict of the Jury was contrary to
 law and the Evidence. That the Court erred in
 admitting testimony which should have been Excluded
 from the Jury. That the proceedings were irregular
 in that, the said Cause was submitted twice to
 the same Jury, the Court having misdirected them
 and they having retired, decided upon a verdict
 which verdict was sealed up and ready to be
 delivered into Court. they then separated for the
 night, on the following morning they were re-instructed
 by the Court, and they again retired and brought
 in a second verdict in the said Cause, all of which
 proceedings were irregular and prejudicial to the
 rights of the said defendants
 April 25th 1862

L Proudford Jr
 Att, for defts

And afterwards to-wit: at the same term of said Court to-wit: on the 26th day of April in the year last aforesaid, the following proceedings, among others, were had and entered of record To-wit:

"Leiftan. Ingrave

Garnishment

Henry Burrill & Edwin W. Myant
Garnishees of E Stone & Co & Edward
J. Stone and John M. Wall. Claiming
as assignees of E Stone & Co

And now come again the said parties by their respective attorneys, and the motion for a new trial interposed by Stone and Wall assignees now come on for argument, and the same being argued by Grandfort in behalf of the said assignees and Le Moigne for the plaintiffs and the Court being sufficiently advised of and concerning the same doth overrule the said motion to which decision of the Court the said assignees by their attorney here Except.

It is therefore ordered and considered by the Court that the said plaintiffs have and receive of the said Garnishees Burrill and Myant the sum of Four hundred and seventy nine dollars and seventy four cents, out of the said indebtedness to E Stone & Co the amount of the plaintiffs Judgment including interest and costs against the said E Stone & Co And inasmuch the said amount has been deposited in Court by said Burrill and Myant subject to

the order of this Court, it is further ordered that the clerk be directed to pay said sum to the plaintiff and Cause the said plaintiff to enter a satisfaction of this Judgment on the record by himself or authorized Attorney deducting therefrom such costs as are properly chargeable to the plaintiff, and it is further ordered and Considered by the Court that the said defendants Stone and Wall pay all costs which have accrued in this suit since the Judgment against said Burrell and Myant was entered, and also the costs of the Entry of that Judgment and the order setting the same aside, and in default of such payment by the said Stone and Wall within ten days from the date of this Judgment, then and in that case that Execution issue against them in favor of said plaintiff for the Collection thereof. Whereupon the said Defendants Stone & Wall pray an appeal from the Judgment rendered herein, which is granted by the Court on condition that they Enter into Bond in the penal sum of Nine hundred and fifty-nine dollars and forty-eight Cents with good and sufficient sureties to be approved by the Court by an order to be entered of record herein conditioned for the payment of said Judgment and all interest which may accrue thereon together with the costs adjudged against them and all costs which may accrue by reason & in consequence of their appeal from said Judgment; And it is

Further ordered that said Bond be filed on or before the first day of June AD 1862

And afterwards Do=rit: at the same Term of said Court last-aforsaid, to=rit: on the 3^d day of May in the year last-aforsaid, the following proceedings. Among others, were had and Entered of record. Do=rit:

"Relief in Angrave

Garnishment-

21013

Wm. Burwell and Edmund W. Myant
Garnishes of Edward Stone & Co. and
Edward F. Stone + John M. Wall
claiming as assignees of E Stone & Co.

This day again came the said Stone and Wall by their Attorney and offer William Barry as surety on their Appeal Bond to be hereafter filed in said Cause, and the Court being fully satisfied that the said Barry is good and sufficient surety. orders that he be accepted as such surety

And afterwards, to=rit: on the 3^d day of May in the year last-aforsaid, said defendants Stone + Wall by S. Proudfoot their Attorney, filed in said Court, their Bill of Exceptions in words and figures following Do=rit:

State of Illinois }
Cook County }

In the Circuit Court of Cook County

Lefton. Ingrave

Attachment

Edward F. Stone, + John M. Wall
by order of the Court made parties
with Henry Burrill Etal Garnishees
of Edward Stone Etal

Be it remembered
that on the trial of this cause at the April Term of
said Court A.D. 1862. before his Honor Judge George
Manerie, the said plaintiff to maintain the issues
on his part by his counsel read to the Jury the
 sworn answer of Henry Burrill and Edwin Nyant
under the Garnishee process, which is in the words
and figures following to-wit:

In the Circuit Court of Cook County
State of Illinois }
Cook County }

February Term A.D. 1862

Lefton. Ingrave

Henry Burrill + Edwin W. Nyant
Garnishees of Edward Stone. William
F. Kerbright and James C. Littlewood
partners under the name of E. Stone & Co

The answer of Henry
Burrill + Edwin W. Nyant Garnishees as aforesaid

These respondents upon oath say that they are indebted to said Edward Stone, William F. Kortwright and James L. Littlewood in the sum of six hundred and Eighty-One ²⁸/₁₀₀ dollars being upon a book account for goods sold and delivered, and which account was due prior to Jan 1st 1862/ subscribed & sworn to before { Henry Burrall
 me this 17th day of February { E. H. Myant
 1862. Alexander M. Guthrie

Notary Public

and said plaintiff by his Counsel thereupon rested his case —

And the said defendants by their Counsel to maintain the issues on their part, then called Henry Burrall to the stand, who testified that at the time the garnishee process was served upon them (Burrall & Myant) to-wit: on the 27th day of September AD 1861. they supposed they were indebted to E Stone & Co to the amount mentioned in said answer having at that time received no notice of an assignment having been made, that on the 18th day of December AD 1861. they received notice by mail from Stone and Wall that their (Burrall & Myant) indebtedness to E Stone & Co had been assigned to them, the said Stone & Wall, that on the 17th day of February 1862 they subscribed and swore to the said answer, being then under the impression that the statement made by them

On the 27th day of September 1861 was Concluded, and therefore they made in their answer. (From to on paid 17th day of February 1862) no mention of the fact that on or about the 18th day of December 1861 they had received paid notice from Stone & Wall of the sale of their (Burrill & Myant) account to them the paid Stone and Wall by E Stone & Co.

Upon Cross Examination.

Said witness further testified that they Burrill & Myant had in October 1861 received by mail a letter from paid E Stone & Co telling them that they E & Co were greatly in need of money and asking payment of their account or a part of it, not mentioning any assignment, but he was not certain that he had ever received such a letter or that (if it was received by him) it was in the month of October, but it was his best impression that he had. he further stated that he was in the habit of filing his business letters, that he had searched for it and had been unable to find it.

The paid defendants by their counsel then read to the Jury the deposition of Edward Stone and the Exhibits "A" "B" & "C" thereto attached which are in the words and figures following To-wit:
 "State of Illinois }
 County of Cook }

State of Illinois, } ss.
COUNTY OF COOK.

The People of the State of Illinois,

To Joseph B. Mayer Esq. City and State of
New York

WHEREAS, it has been represented to us that David S. Torrance, Isaac A.
Austin, Mary E. Stone, John Woodhead and Edmund
Stone and William F. Kerbight

material witness^s in a certain cause now depending in our Circuit Court of Cook County, in and for the
County of Cook aforesaid, between

Leiften Angrove

Plaintiff, and Edmund A. Stone Esq. by order of Court made
parties with Henry Burrell Esq. Garnishes of
Edmund Stone Esq.

Defendant^s, and that the said witness reside at New York City aforesaid,
without the said State of Illinois, and that ~~their~~ personal attendance cannot be procured at the trial of
the said cause: Now know ye that we, in confidence of your prudence and fidelity, have appointed you
Commissioner to examine the said witness^s, and do therefore authorize and require you to cause the said
witness^s to come before you at such time and place as you may therefor designate and appoint, and
diligently to examine the said witness^s on the oath or affirmation of the said witness^s by you first duly
in that behalf administered, and faithfully to take the deposition of the said witness^s, upon all interroga-
tories inclosed with or attached to these presents, both on the part of the said Plaintiff and of the said
Defendant^s and none others; and the same when thus taken, together with this Commission and the said
interrogatories, to certify into our said Circuit Court of Cook County with the least possible delay.

WITNESS, WILLIAM L. CHURCH, Clerk of our said Court, and seal thereof, at Chicago,
in said County, this Eighth day of April A. D. 1862



Wm L Church
CLERK.

INSTRUCTIONS

AS TO THE MODE OF TAKING, CERTIFYING AND RETURNING DEPOSITIONS ACCORDING TO THE STATUTE LAWS OF ILLINOIS.

1. Caption to the Deposition.

"THE DEPOSITION of _____ of the County of _____ and State (or Territory) of _____ a witness of lawful age, produced, sworn and examined, upon his corporal oath, on the _____ day of _____ in the year of our Lord one thousand eight hundred and sixty _____ at the office (or house) of _____ in the town (or city) of _____ in the county of _____ and State (or Territory) aforesaid, by me _____ a commissioner (or "by us," if more than one commissioner, inserting all the names of the commissioners,) duly appointed by a DEDIMUS POTESTATEM or COMMISSION issued out of the Clerk's office of the Circuit Court of _____ County, in the State of Illinois, bearing TESTE in the name of _____ Esq., clerk of the said Circuit Court, with the seal of said court affixed thereto, and to me (or "us," if more than one) directed as such commissioner (or "commissioners") for the examination of the said _____ a witness in a certain suit, and matter in controversy now pending and undetermined in the said Circuit Court, wherein _____ is plaintiff, and _____ is defendant, in behalf of the said _____, as well upon the cross interrogatories of the _____ as on the interrogatories of the _____ which were attached to, or inclosed with the said COMMISSION, and upon none others. The said _____ being first duly sworn by me (or "by _____ one of the said Commissioners," if more than one) as a witness in the said cause, previous to the commencement of his examination, to testify the truth as well on the part of the plaintiff as the defendant, in relation to the matters in controversy between the said plaintiff and defendant so far as he should be interrogated, testified and deposed as follows:—"

"Interrogatory First;" (here insert the first interrogatory.)

"Answer to first Interrogatory," (here insert the answer), and so on successively in the order in which the interrogatories may be propounded and answered. Then follow: "Cross Interrogatories and answers thereto by the witness on the part of the defendant," (or plaintiff as the case may be.) (Here again write down the interrogatories and answers, successively, in the order aforesaid.) After the deposition is taken, the interrogatories and answer should be read over to the witness, and if he assents to the truth of the answers as written down, the witness will then sign his name at the bottom of the deposition, and swear to the truth of it before the commissioner (or before one of the commissioners, if more than one.) This oath is in addition to the preliminary oath, which is administered previous to the commencement of his examination.

The COMMISSIONER should then certify as to the time, place and manner of taking the deposition, as follows:

I _____ of the county of _____ and State (or Territory) of _____ a commissioner duly appointed to take the deposition of the said _____ a witness, whose name is subscribed to the foregoing deposition, do hereby certify that previous to the commencement of the examination of the said _____ as a witness in the suit between the said _____ plaintiff, and the said _____ defendant, he was duly sworn by me as such commissioner (or "by _____ one of said commissioners," if more than one), to testify the truth in relation to the matters in controversy between the said _____ plaintiff, and the said _____ defendant, so far as he should be interrogated concerning the same; that the said deposition was taken at my office (or "at the house of _____") in the city (or "town") of _____ in the county of _____ and State (or "Territory") of _____ on the _____ day of _____ A. D., 186 _____; and that after said deposition was taken by me (or "us") as aforesaid, the interrogatories and answers thereto as written down, were read over to the said witness; and that thereupon the same was signed and sworn to by the said deponent _____ before me (or "us;") the oath being administered by _____ one of said commissioners; (where there are more than one) as such commissioner, at the place, and on the day and year last aforesaid."

(signed), _____, "Commissioner."

(The foregoing certificate of the commission should be at the foot, or bottom of the deposition, immediately following the signature of the witness.)

The commissioner should then fold up the deposition as thus taken and certified, together with the commission and interrogatories, and all exhibits (if any) produced on the examination, properly marked or lettered, as "exhibit A.," "exhibit B.," etc., and enclose the whole in a suitable wrapper or envelope, and then seal up the same securely with three seals, writing his name transversely across the middle seal; or if two commissioners, they will each write their names, one on each of the outside seals; or if three commissioners, then each one will write his name across one of the seals in manner aforesaid. The commissioner (or commissioners) will also endorse the names of the parties to the suit, transversely across one end of the package thus sealed up, according to the proper title of the suit, and direct the same to the proper address of the clerk, who may issue the commission, and transmit the same by mail to the proper Post Office. Neither of the parties to the suit, or their attorneys or agents, or any person at all interested in the event of the suit, are permitted by law to dictate, write or draw up any part of the deposition required to be taken as aforesaid.

N. B.—It is important to the validity of the deposition that these requirements and instructions should be strictly attended to.

P. S.—One caption will answer for the depositions of several witnesses, where they are all taken at the same time and place, to be read as evidence in the same suit, by so modifying the form here given, as to make it applicable to the number of witnesses to be examined—as for instance, at the commencement say: "The depositions of A. B., C. D., and E. F., of the county of _____ and State of _____ witnesses of lawful age, produced, sworn and examined on their respective corporal oaths," etc., and then in the latter part of the caption, say: "The said A. B. C. D. and E. F., being first duly sworn by me as witnesses in the said cause," etc. Then at the commencement of each deposition say: "Interrogatories propounded to the said A. B., a witness produced and sworn as aforesaid, on the part of the said _____ and his answers thereto, as follow:—"

"Interrogatory 1st." [Here insert the first interrogatory.]

"Answer to 1st Interrogatory." [Here insert the answer.]

And so on successively with all the interrogatories to be propounded to that witness. Then insert the Cross-Interrogatories as before directed. The deposition should then be read over to the witness, and signed, and sworn to by him, before the next witness is examined. Then proceed with the second and third witnesses in like manner to the end.

One certificate as to the time, place and manner of taking such depositions, and that each one was signed and sworn to by such witnesses respectively, will be sufficient, provided due care be taken to insert the names of ALL the witnesses, and the certificate in other respects be in conformity with the form given in the first instance.

Great care should always be taken to attach such depositions firmly together by means of tape or riband, and using wax, or wafers when necessary.

State of Illinois }
County of Cook }

Circuit Court of Cook Co
April Term 1862

Belifton Ingrave

Edmund A. Stone Esq made
parties with Henry Byrrell Esq
Solicitors of Edmund Stone Esq

You are hereby notified
that on Saturday the Twelfth day of April 1862
at 12 O'clock Noon of said day or as soon thereafter
as Counsel can be heard. I shall apply to William
L. Church for a Decree, Protestation or Commission
to be issued out of and under the seal of said Court
and directed to Joseph B. Moyer Esq of New York
City in the County of New York and State of New York
authorizing and requiring him to cause Jared S.
Torrence. Horace T. Curtis. Mary L. Stone. John
Woodhead and Edmund Stone of New York City
in the County and State last aforesaid, who are
necessary witnesses on the part of Defendants residing
without the State of Illinois, in the State of New
York to come before him, and to take their depo-
sitions upon such interrogatories as may be enclosed
with or attached to said Commission, to be read
as evidence in the above entitled Cause, on the
part of the defendants, a copy of which interrogatories
is hereto attached, when and where you may

appear and file Cross interrogatories and join
in said Commission if you see fit
Dated Chicago the 2^d day of April AD 1862

L. Proudfoot
Attorney for Defendant

D. D. V. Le Moyne Esq

Atty for Plff

State of Illinois }
County of Cook }

L. Proudfoot being first duly sworn deposes
and says. that on the 2^d day of April AD 1862 he perused
the foregoing Notice and the Interrogatories hereto attached
upon D. D. V. Le Moyne Esq Attorney for Plaintiff by leaving
a true Copy thereof with him at his Office in said City
of Chicago and further says not.

Subscribed & sworn to this day of AD 1862 before
me

In the Cook County Circuit Court

State of Illinois }
Cook County }

Interrogatories to be administered to
Jared S. Torrance, Horace F. Curtis & Mary S. Stone
John Woodhead and Edmund Stone of New York City
in the County of New York and State of New York
to be produced from and Examined, under and by
virtue of the annexed Commission before J. Joseph
B. Moys Esq in a certain Cause now pending and
undetermined in said Circuit Court of Cook County

wherein Belifton Ingrave is plaintiff and Edmond J. Stone Esq by order of the Court made parties with Burrill and Myant garnishees of Edmond Stone Esq are defendants on the part and behalf of said defendants as follows. to-wit:

Interrogatory 1st.

What is your name, age occupation & place of residence

Interrogatory 2nd

Do you know the parties plaintiff and defendants in the Caption to these Interrogatories mentioned, or either and which of them, and how long have you known them respectively

Interrogatory 3^d.

Do you know anything in relation to an assignment made on or about the 5th day of September A.D. 1861. by Edmond Stone res to Messrs Stone and Wall for the benefit of Certain Creditors of said Edmond Stone res if so state fully all you know in regard to the same

Further Interrogatories to be put to Worace A. Laurie

Interrogatory 4th

Were you at any time in the employ of Edmond Stone res if so state when and in what capacity

Interrogatory 5th.

Look at Schedule A in the assignment hereto annexed made by said Edmond Stone res to said Stone & Wall and state if the accounts and amounts therein set forth are correct

Interrogatory 6th

State (if you know) if all the outstanding accounts obtained in paid schedule A. are good & collectable and if not, state what proportion of said aggregate amount is not good and not collectable and why
Interrogatory 7th

Look at schedule B in paid assignment, and state if the accounts and amounts therein set forth are correct, and what paid schedule B represents

Further Interrogatories to be put to John Woodhead
Interrogatory 4th

Look at schedule B in the assignment hereto annexed and state if you are a member of the firm of J. Woodhead and Son therein named, and state also if the sum therein set forth is the true amount of the indebtedness of paid E. Stone & Co to the said firm of J. Woodhead & Son

Interrogatory fifth

If in answer to the third Interrogatory you say that you do know of such assignment, state whether you recognize paid Stone and Wall as the assignees of paid E. Stone & Co and state whether you hold paid Stone and Wall liable under paid assignment for the amount of the paid indebtedness of paid E. Stone & Co to the firm of J. Woodhead & Son

The plaintiff by its attorney objects to the 3rd, 4th, 7th general Interrogatories and to the 4th & 5th Interrogatories to John Woodhead
J. T. Le Moigne, plaintiff's atty.

44

It is hereby stipulated that the plaintiff by his Counsel shall be at liberty to Cross Examine the defendants witnesses orally before the Commissioner who shall Execute the Commission hereto attached and that the Examination so taken, shall be taken down by the Commissioner and annexed hereto and ^{also} that the defendant may re-examine said witnesses orally, also that the plaintiff by his Counsel may examine orally before the said Commissioner William F. Kortright a witness on behalf of the plaintiff, and that defendants by their Counsel may Cross Examine said Kortright orally, and that his testimony so taken shall be taken down by the said Commissioner and hereto annexed. The testimony given by defendants witnesses on Cross Examination and the testimony of said Kortright to be used on the trial of said cause, subject to all exceptions as to the competency of the witnesses, the additional expense occasioned by the examination of said Kortright to be borne by the plaintiff. It is also agreed that said Commissioner ~~may~~ may issue forthwith, and that plaintiffs Counsel in New York shall have notice of the time and place of taking said testimony.

D. V. Le Moynes peff atty
 L. Roudfoot Jr defts atty

Chicago April 8. 1862

Edmund Stone. Being by me first duly sworn as aforesaid deposed and says in answer to the several Interrogatories as follows.

Ans. 1st What is your name age occupation & place of residence

Ans. My name is Edmund Stone. I am 37 years of age by occupation a Merchant & Trader in New York City

2^d Q. Do you know the parties plaintiff & defendant in the Caption to these Interrogatories mentioned, or either ^{or either} of them, and how long have you known them respectively

Ans. I have known plaintiff 7 or 8 years - I also have known all the defendants about 5 years or upwards
J B Moyer Comer, Edmund Stone.

I adjourn the taking of further testimony in this Cause till Monday the 12th April 1862 at 3 O'clock P.M. at my office No 262 Broadway
J B Moyer Comer

Saturday April 12 1862,

Monday April 14. 1862 3 O'clock P.M. next pursuant to last adjournment when said Witness Edmund Stone again presented himself for further Examination & we proceeded as follows.

3^d Q. do you know any thing in relation to an assignment made or about the 5th day of September

46

1861. by Edward Stone & Co to Messrs Stone & Wall for the benefit of certain creditors of Edward Stone & Co. if to state fully all you know in regard to the same -

Ans. I do know of such an Assignment. (Where Mr D. Thurston appears as attorney for Peff who also appeared on Saturday last) witness produces the original Assignment which is hereto annexed and marked Exhibit. It in this Cause and says. That I am a member of the firm of E Stone & Co executed to Stone and Wall paid Annexed Assignment and paid Stone and Wall also executed it - It was executed in duplicate - we kept one + Stone + Wall kept the other. They were executed and delivered on the 5th of Sept 1861. or a day or two afterwards - witness produces a paper marked Exhibit 'B' in this cause + annexed. (Mr Thurston for Peff objects to this testimony which is taken subject to the Exception) and says. - this paper was executed + delivered on the 5th September 1861 + delivered to Stone + Wall at the same time with Exhibit 'A' Annexed
E Stone

Now Examined by Mr Thurston
X Int- The signature to the foregoing Exhibit. A. B. annexed. of E Stone & Co. are signed by witness - The assignment + schedule marked 'A' were executed at Stone + Wall's store 234 Broadway + Exhibit B. was executed at witness house - The signature

47
of Stone and Wall to assignment and schedule is in
the handwriting of my son Edward A. Stone of said
firm of Stone and Wall. I think Marshall was
present when I signed Exhibit A - I don't recollect
or know if any body else was present. - The list of
accounts were drawn off on the 5th Sept 1861. - I
think this assignment was Executed on the said
5th Sept - or a day or two afterwards - The reason
why I think so is I then signed them as aforesaid
because the 5th Sept 1861 was my wife's birth day
and that Exhibit ^B was made then - + Exhibit
A was Executed then, or a day or two after -
I know the firm of Stone and Wall. Edward A.
Stone + John M. Wall Compose that firm -
that firm was formed on the 3^d of August 1861.
E Stone recd paid out to them at that time,
I was present when Edwrd A. Stone signed, -
I par him sign it - I do not know that he
signed it at the same time I signed ours -
We signed it at Stone and Wall's store No 25 1/2
Broadway N.Y. Exhibit B was first signed
at my house + my Daughter Mary S was then
present + I think my other daughter Ellen S.
was also present, Wall was not there Edwrd
A. Stone might have been, but I don't recollect -
Exhibit B the body of assignment was drawn
by my daughter Mary S and the bill on the
other side by my Book Keeper. - The assignment

was drawn in the rough + the my said daughter
Copied it, and when Copied was signed by me
at the same time after this was signed I had
Exhibit A drawn off. Exhibit A is in the
hand writing of my daughter Helen S. Stone &
Wall signed first before I did, after I executed
said papers I delivered them to Stone and Wall
I delivered them personally to Stone, either on the
5th Sept 1861 or a day or two afterwards. - It was
delivered in our store 254 Broadway N.Y.
I think Mr Wall was present, but don't know.
yet I think both Stone and Wall were present.
Exhibits A & B were delivered at the same time,
a casual conversation occurred between us, but
don't recollect the conversation, I cannot state
the day of the week. I do not know of any
fact or circumstance not already stated. to
fix the day on the 5th Sept 1861. - I notified
Burrill and Myant of paid assignment and
mailed paid notice some time in December 1861.
I don't think I ever called on them to pay it
after the 5th Sept 1861. - I don't know that I
ever asked any body to do so. - The firm of
E Stone & Co dissolved on 1st Aug 1861 by limitation
I don't know that Mr Kortright knew of this
assignment. - I had told him that I meant to
sell notes & accounts to pay debts of the firm
afterwards I told Kortright I had sold notes &
accounts to pay debts of an concern. - E Stone.

Direct-resumed).

E Stone & Co were indebted to the different persons mentioned in schedule B attached to Exhibit A in the amounts therein set forth, & Stone & Wall have paid some of these debts since this assignment. There were different departments of the firm of E Stone & Co which were attended to by each member - I attended to the financial department of the firm. paying debts, negotiating notes - receiving money, signing checks & notes and giving credits & negotiating paper & selling goods & deciding on who we would sell to -

(The whole of the above direct-resumed objected to plaintiffs counsel) The Kerbright attended to the manufacturing of ready made garments also to purchasing & to selling goods occasionally. Kerbright & I played together & occupied a desk in Stone & Wall's store for the purpose of settling up the affairs of E Stone & Co - The Kerbright was there very little of the time after we went into Broadway

E Stone

Re Cross

The witness produces paper marked Exhibit B and annexed, and says this is a copy of a paper executed by the members of the firm of E Stone & Co when we dissolved

E Stone

50
 pumps with interest - on or by the first day of
 November 1862
 Dated September 5th 1861.

Stone & Wall
 E Stone & Co

Schedule ~~A~~ B

Daniel Carra	Account-	292.59
Teller & Page	"	9.50
Mr Keith	"	43.04
R. P. Smith	"	16.85
Olto Shan	"	9.89
John Berulin	Note	100.10
Wentley & Fish	"	87.62
Mrs. Frances Griffith	"	46.87
Wm Winkle	"	29.50
C. Koehler	Note	74.82
Russell & Bryant	"	595.97
George W. Seaman	"	26.88
W. T. Latham	"	15.97
A. V. Smith	"	79.24
W. F. d. Blum	"	142.37
W. R. Frost	"	87.87
W. Van Vranken	"	10.10
David Worman	"	116.16
John. C. Heighy	"	32.50
E. Mcburn	"	78.25
C. Krupp	"	249.92
L. E. Dorr	"	91.50
C. C. Dye	"	123.32

Exhibit A

Schedule B.

Baisto Thomas & Davis	due Aug 6. 61	27.13
Borchans A + Digleman	" Mch 3 "	40.60
Bennett + Strickland	" Oct- 23 "	63.43
Ens Berlin + Valentine	" June 25 "	39.30
Pr W. Lewis + Bros	" Dec 27 "	121.50
Clark + Meert	" Sept-	17.00
A. Krugger		16.50

Imp + Graders Bank	1411.00
New York "	311.00
Continental "	511.00
Manhattan "	611.00
Mess B.B. Vermont	128.25
Maullin + Bigelow	70.00
J. Woodhead + Son	615.38
Went + Tillinghast	287.50

For and in consideration of the sale and delivery of to us of the notes + accounts mentioned and referred to in schedule A hereto annexed by E Stone & Co we do hereby promise and agree to pay to the persons and firms the respective sums set opposite their respective names in schedule B. also hereto annexed paid schedule B. containing the amount of indebtedness of said E Stone & Co to the persons and firms therein described. and we hereby agree to pay to each of said persons and firms said

Exhibit A
J.B. Meyer
Comd

E Stone

52

L. B. Greene	Account-	34.96
Putnam + Clarke	"	73.62
Robert Loder	"	72.00
Wm. Key	"	146.00
McKungun	"	147.20
M. B. Taylor	"	123.00
S. H. Dudley	"	32.27
John S. Sleeth	"	574.16
Wm. M. Sleeth	"	102.25
S. E. Tipton	"	69.50
Wm. Ira Smith	"	62.75
White Rich	"	60.75
P. Kottler	"	141.37
Bough + Tillman	"	76.00
J. P. Beckley	"	69.04

Wm. J. Mason	Note	534.91
R. Jones	"	302.79
S. E. Tipton	"	157.56
W. H. Young	"	147.02
Allen Brothers	"	99.25
R. H. Barnes	"	67.75
P. D. Kemp	"	68.60
George Perry	"	192.65
Wm. M. Sleeth	"	166.25
Joseph Sandborough	"	26.12
Wm. Ira Smith	"	167.07
Haarn Rand	"	84.80
J. S. Boggs	"	83.91
James H. Kullitt	"	556.92

Exhibit B

For value received we hereby sell assign and
transfer the within account to Stone & Wall of the
City of New York and do hereby authorize them to
collect the same in our name or otherwise but at their
own expense
Dated Sept 5th 1861 E Stone rec

Exhibit "B." J B Hayes Comr
E. Stone

New York ——— 186.

Messrs Burrill & Myant
Chicago Ill.

Bought of E Stone & Co
No 404 Broadway New York
Importers & Sellers of all descriptions of English
French German and Swiss. Gentlemen's Furnishing
Goods. also manufacturers of Shirts Collars. Drawers
Stocks. Ties. Etc. No claims for Reduction, Returns
or delays will be allowed unless made within
one week after receipt of Goods

Terms Cash

To Bal of open a/c

\$ 595.97

Exhibit "C."

Notice is hereby given that the Copartnership heretofore
existing between the undersigned under the firm

Name of E. Stone & Co is hereby dissolved by limitation
 the business of the firm will be settled by E Stone &
 Wm F. Kortright - who are alone authorized to adjust
 the same
 Dated New York Aug 11 1861
 (Copy)

Edward Stone
 William F. Kortright
 James C. Settlement

The paid defendants by their counsel then read to the
 jury the deposition of Jared D. Torrance which is in
 the words and figures following To-wit

"Jared D. Torrance being duly sworn as aforesaid faith
 1st Int. — What is your name age occupation
 and place of residence.

Ans. — Jared D. Torrance. I am 42 years old
 by occupation Attorney & Counsellor at Law & I
 reside in the City of New York

2^d Int. — Do you know the parties plaintiff and
 defendants in the Caption to these interrogatories
 mentioned, or either and which of them & how long
 have you known them respectively

Ans. — I have just made the acquaintance
 of Jeff Anger. Now present. I know Stone &
 Wall for nearly one year — I know E Stone & Co about
 4 or 5 years

3^d Int. — Do you know any thing in relation
 to an assignment made on or about the 5th day
 of Sept 1861. by Edward Stone & Co. to Messrs
 Stone & Wall for the benefit of certain Creditors

of said Edm^d Stone & Co. I state fully
all you know in regard to the same

Ans — I do. I drew the form of said assignment — Exhibit "A" + also Exhibit "B"
annexed — I subsequently after it was
executed pass the one attached to this
Commission in the hands of Stone & Hall, and
I pass another copy signed by Stone & Hall
in the hands of E Stone, I drew the said papers
about the 1st Sept 1861. + a short time afterwards
I pass it in their hands as before stated.

J. S. Torrance

Cross Examined

I drew the assignment about the first Sept 1861.
I can't recollect how long after that I pass it —
executed in the hands of Stone & Hall — I
think it was within a week or 10 days. I
cannot say positively. I have nothing to fix
my recollection as to when I pass it in their
hands but I know I drew it about the 1st
day of Sept 1861. — I know Stone & Hall
called my attention to it, soon after it was
executed + asked me if it should not be
witnessed by a subscribing witness — I pass it
in the Stone (of Stone & Hall) hands + I pass
also a duplicate of it at same time in the
hands of the Stone of E Stone & Co

J. S. Torrance

56 ~~27~~

The paid defendants by their Counsel then read to the Jury the deposition of Mary Louisa Stone, which is in the words and figures following. To-wit-

"Miss Mary Louisa Stone being duly sworn
On her oath saith

1st Int- What is your name, age
occupation and place of residence

Ans- My name is Mary Louisa Stone
I am 25 years old - by occupation none
I reside in the City of New York

2nd Int- Do you know the parties
plaintiff and defendants in the Caption
to these Interrogatories mentioned, or either
and which of them + how long have you
known them respectively

Ans- I do not know the plff - I
know the deft Stone. My Father Edmond
+ My Brother Edmond. I for a series of
years. I know Mr. Kortright + Mr. Littlewood
for several years, but I don't know any
other of the defts except Wall - I have
known him for a number of years

Int 3^d - Do you know any thing in relation
to an assignment - made on or about the 3rd day
of September AD 1861. by Edmond Stone & Co
to Messrs Stone & Wall for the benefit of certain
Creditors of said Edmond Stone & Co if so

state fully all you know in regard to the same
Ans — I do. I know it was made
about that time — I pass the draft of
(Exhibit A annexed) on the 5th Sept 1861
It was Exhibit A was not then executed
and my sister made Exhibit A from that
draft on the 6th of Sept 1861. — Exhibit B
annexed is in my hand writing — I made it on
the 5th of Sept 1861. My father Mr E Stone
executed it on the night of said 5th of
September
Mary E Stone

Cross Examined
Exhibit B was executed on the 5th Sept 1861
I know that from said day being my mother's
birth day — My father executed a number
of these assignments at the same time. they
were signed on that evening as soon as
executed, he took them and I know nothing
further about them — My father myself and
two sisters were present. I don't recollect
who else, my brother was in and out during
the evening but I don't know if he was there
at that time
Mary E Stone

Re-direct. resumed
I pass a duplicate of Exhibit A, in my
father's possession, executed, within two weeks

58 28

from 3rd Sept 1861. (Objected to by pffs at)
I cannot state more definitely - My father
had it - I did not read it - I looked over
some of the names - I had it in my hands
I knew it to be the duplicate from the
general appearance of the paper it being in
my father's handwriting + in possession of
my father - it was executed by E Stone rec
+ Stone + Wall, when I saw it in my father's
hands - It must have been Exhibit "A"
I think - or its duplicate. I read the assignment
+ schedule + accounts before they were executed

May L Stone

I adjourn the taking of further testimony in this
Cause till tomorrow. Tuesday 15 April 1862
at 10 O'clock AM at my office No 262
Broadway. April 14, 1862

D B. Hayes Commr

April 15 1862. Met pursuant to last adjournment
when John Woodhead presented

The paid defendants by their Counsel then read to
the Jury the deposition of John Woodhead
which is in the words and figures following to-wit:

"April 13 1862. met pursuant to last adjournment
when John Woodhead presented himself for
Examination, and being by me duly sworn as

aforsaid. said

1st Int. — What is your name, age, occupation and place of residence

Ans — My name is John Woodhead. I am 72 years old, by occupation a merchant and I reside in the City of New York

2^d Int. — Do you know the parties plaintiff & defendants in the Caption to these interrogatories mentioned and which of them and how long have you known them respectively

Ans — I have known Mrs Ingrave 7 or 8 years, I have known Edward Stone some 30 years. Edw. F. Stone 6 or 8 years — Mrs M. Wall 15 or 20 years. Mrs Kerbright 6 or 8 years + James C. Sittlerwood 3 or 4 years I don't know any of the other defendants

3^d Int. — Do you know anything in relation to an assignment made prior about the 5th day of September 1861, by Edward Stone res to Messrs Stone + Wall, for the benefit of certain Creditors of said Edward Stone res if so state fully all you know in regard to the same

Ans — I know one was made. I saw it from after it was made in Edward Stone's possession. I also saw one in Stone + Wall's possession. they occupied the same store —

60 29

4th Int: — Look at Schedule B. in the assignment hereto annexed, and state if you are a member of the firm of Woodhead & Son therein named, + state also if the sum therein set forth is the true amount of the indebtedness of said E Stone & Co to the said firm of J. Woodhead & Son

Ans — I am (Objected to by peffs Atty) a member of such firm, said amount therein set forth is fully owing to my said firm besides other amounts not therein set forth + for which my said firm is liable

5th Int: — If in answer to the 3^d interrogatory you say that you do know of such an assignment say whether you recognize said Stone & Wall as the assignees of said E Stone & Co and state whether you hold said Stone & Wall liable under said assignment for the amount of the said indebtedness of said E Stone & Co to the firm of J. Woodhead & Son

Ans — I do recognize Stone & Wall as the assignees of said E Stone & Co. I do hold said Stone & Wall liable for such indebtedness

J. Woodhead

Gross Examined

I might have taken said assignment in my hands I did not read it all through. I took Mr Stone word that it was all correct. I recognized it

as the assignment. It was duly signed. I understood that it was the assignment; I had not seen it before then, this was either in the last of August or beginning of September 1861. It could not be as late as the latter part or middle of September 1861, I cannot fix the day. I know of no circumstance by which I can fix the day. I saw it at the same time in the hands of Stone & Wall, I only saw one, although others might have been there, Stone & Stone & Wall were together. I had an interest in it. I don't know whether or not it was in the hands of Stone & Wall, it might have been but I do know it was in the hands of E Stone. At the same time I noticed the amount carried to the name of my firm. I have never seen the paper since - excepting within a day or two past & now; - the indebtedness of E Stone to my firm \$605 ³⁸/₁₀₀ was for a note of my firm given in payment of a debt of E Stone to which note E Stone to agreed to protect. There was a dispute about this note as to the time to run, but it is now paid by Stone & Wall. I believe that note was given to Belcher & Bogart. I cannot remember when said note was given. It had 3 months to run originally being a 6 months note & antedated about 3 months. I know that Stone & Wall

62 ³

paid it because I have got the note back
honored - that is the only knowledge I
have of its being paid and I know that
E Stone & Co could not pay it - I have
called upon E Stone & Co to take care of
paid Note - not frequently

J. Woodhead

Direct resumed.

I also called upon Stone & Wall to pay and
protect the aforesaid note of my firm given
as aforesaid to pay a debt of E Stone & Co
Woodhead & Son are endorser on the notes
mentioned in schedule B of the paid
Assignment and held by the following Banks
viz.

Importers & Traders
Bank of New York
Manhattan

\$ 4111.00
3111.00
6111.00

and also to Wunt & Tillinghast

\$ 287.50

I know the E Stone & Co. owes to the Continental
Bank \$ 5111. (the last answer is objected
to by Jeff's atty)

J. Woodhead

Cross resumed.

E Stone ~~has~~ told me he owed the \$ 5111 to
the Continental Bank & hence I know it

J. B. Moore

J. Woodhead

The Plaintiff by his Counsel to further maintain the issues on his part then read to the Jury the deposition with Exhibit D thereto attached of William F. Kortright. objection was made by Counsel for the defendants, to that portion of the said deposition being admitted to the Jury which set forth any written or oral statement or any act or acts of the said Kortright or of Edward Stone in relation to said sale, made subsequent to the date of said sale, on the ground that any such subsequent statements or acts of the vendors were inadmissible to prejudice the rights of the Vendees already vested in them by such sale, upon this objection being made the Judge said that as there was a question in the case as to the exact time when the bill of sale was made & delivered and as he could not determine whether the declarations objected to were made before or after such delivery, that being a question for the Jury to determine from the Evidence, he would allow the evidence to go to the Jury subject to an instruction then and there given to the Jury that they would entirely disregard such declarations if they found from the Evidence, that the declarations were made in fact subsequent to the delivery of this bill of sale. The evidence was then read to the Jury, to which overruling by the Court of the objection to the admission of said Evidence and allowing the same to go in Evidence

upon such instruction the defendants by their Counsel then and there took exceptions, and the said Evidence of the said Kortright is in the words and figures following to-wit-

William T. Kortright - being produced as a witness on the part of ~~the~~ plaintiff and being duly sworn according to law on his oath faith.

1st Int - What is your name age occupation and place of residence

Ans. - My name is William T. Kortright I am 35 years of age old, by occupation late merchant - and reside Brooklyn New York

2^d Int - Do you know the parties Plaintiff and defendants in the Captions to these Interrogatories mentioned, or either & which of them & how long have you known them respectively

Ans - I know the Angers for 6 or 8 years E. Stone about 17 years. J. L. Letherwood for 16 years. (myself being a defendant) Edw. J. Stone 10 or 12 years. Mrs. M. Wall 4 or 5 years. Mr. Sumrell 5 or 6 years & Mr. Hyant 12 or 15 years.

I was a member of the firm of E. Stone & Co. said firm dissolved by limitation on 1st August 1861. We occupied No 407 Broadway a desk in Stone & Wall's Store, by we, I mean myself & Edw. Stone - this was after the 1st of August - sometime before 1st of Sept. I continued there

till the Early part of Decembe - I was there Every day during the time I occupied it - I made purchases in the firm of E Stone & Co, that was my department and attended also to the Correspondence of the firm - I also attended to the Manufacturing - Exhibit B. being shown to witness, he says; I do not know any thing about it - I never saw it before nor - Exhibit H. being shown to witness he says. I know nothing about it - I know the signatures to both these Exhibits - I never saw it till last Saturday at Mr Torrance's office; Mr Wyant told me some time ago about 3 or 4 ^{weeks} ~~years~~ ago that Mr Stone told him that his account (Burnell & Wyant) had been paid to Stone & Hall - Mr Edward Stone never Consulted me on the subject of these Exhibits - Mr Edm Stone has requested me to ask them for payment - I don't recollect the time - I am not positive but I think it was in October or November - that is my impression - Peffe Counsel requests witness to look at the letter Book to refresh his recollection & attorney for defendants objects to so doing - and also objects to all the testimony of this witness from the jump and to each particular question and answer.) the last time I saw the letter book was with Stone and Hall, (Peffe atty again calls for paid letter book and atty for depts remain passive). Mr Settlement told me that Mr Burnell

32
66

told him that Mr. Angrove had attached Burwell
and Wyant's account. I cannot say for certain
where said letter book is, it is not in my possession

Jm F. Kirtright

Cross Examined

I never Communicated what Littlewood told me
(as above stated) to either Edm^d Stone or
Stone and Wall or either of them - If Mr Stone
requested me to write to Burwell and Wyant
I did so + if I did write, I copied the letter
in the letter book, and the letter book will show
the date of the letter and the time I wrote

Book shows witness + he says this is the letter
book referred to the last letter I wrote therein
is dated October 21, 1861. - I don't know that
Stone and Wall knew any thing about my writing
this letter - I suppose they did not know any
thing about it - I mailed the letter myself

Jm F. Kirtright

Re Direct

I wrote the letter at the request of
Mr Edward Stone, this is the letter I alluded
to in my direct Examination a Copy of which
marked Exhibit D is hereto annexed. Mr
Edward Stone requested me to write the letter
the morning it bears date - as near as I recollect
he told me to tell them to send on the money
for their account

J. F. Kirtright

Exhibit - D.

Now Burdell & Wyant -

Gents - We are very much in want of money and if it is a possible thing for you to do, you will greatly oblige us by sending us a draft for as large an amount as you possibly can, hoping that you will not forget us but that you will remember us and do for us all you possibly can and be sure and let us have some money right away for we are very much in want of it -

We are your true
E Stone & Co

Exhibit - D.

W B Hayes Counsel
Mr F. Kertricht -

The defendants by their Counsel then read the further deposition of Edward Stone to the jury, who had been recalled for the purpose of re-buttling the evidence of the said Kertricht - which said testimony is in the words and figures following, to-wit -

Edward Stone re-examined by defts Counsel
objected to by ppsr Counsel -
I never requested Mr Mr F Kertricht the last witness to write to Burdell and Wyant

for the payment of their account after the 5th of Sept 1861. The letter book being shown to witness & by him examined, he says, that the said letter does not appear in its proper place in said letter book. It appears among the letters of June 1861, and is not written in the same ink kept by us. It don't appear to be - It is Copied in page 400. And should be in the order of its date on page 522 of Payne book, on looking through the letter book I find only one other letter, where money was rec'd Copied out of place. Counsel for plaintiff objects to all the foregoing - Witness Kortright has always had free access to said book
E Stone

Re Cross Examined

I don't say that no other letters are copied out of place - as I have not gone all through the book - but I do say that it is not indexed as it ought to be; it is Copied on the wrong side of the page where we never copy letters and is not indexed at all. A letter indexed "Birrell & Myant" - 400, in Pencil appears in said index whereas the index to a former letter is 445 in ink and the letter referred to above at 400 in pencil is not the letter in question Counsel for plaintiff objects to the foregoing statement as not responsive to the question. from the

69
word above, "And the letter referred to above" to
the close. - On page 400 of said letter book
there appears to be a copy of a letter address-
ed to Burwell and Wyant: dated 24th
June 1861. - on the back of said leaf out
of order appears the letter in question (objected
to by plffs Counsel) there is no page number-
ed on the back of said leaf the leaves
on the book are only paged on one side, there
are some of the letters copied on the wrong
side of the page but in their proper order
E Stone

Amusements fees paid by defts
for the Examination of their witnesses
\$15 and fees paid by plff \$3
for examination of their witnesses
J B Moyer

The plaintiff by his Counsel then called to the
stand Mr Edwin Wyant: who testified that
James L. Littlewood one of the members of the
firm of E Stone & Co told him (the witness) in
September or October 1861 in the City of New York
that the debt of the said firm of E Stone & Co
to the plaintiff upon which this suit is brought
was of a Confidential Character being for money
loaned by him to them at a time when they were
afraid they would fail and that money was

34
70

loaned to try to secure them + was loaned them upon the agreement that in any event the plaintiff Auger should protect ~~the same~~ that Stone had so agreed and that it should have been preferred to all other debts of the firm. Witness also testified that he at that conversation informed said Littlewood of said Garnishee process having been served upon said Burrill & Myant, he further testified that he had not told the defendants Stone and Hall of the service on Burrill and Myant of the said Garnishee process. Counsel for the defendants then showed a letter to the witness dated New York December 18th 1861, which witness recognized as the one received by said Burrill & Myant notifying them of the sale by E Stone & Co of the account of said Burrill and Myant to the subscribers, the said Stone and Hall which said letter is in the word and figures following To-wit-

New York Dec 18, 1861.
Dear Burrill & Myant
To E Stone & Co
To Balance of old acct 539.10
" Int- ~~from~~ to Jan 1/62 18 34 \$ 557.44

1861.

March 19. To Merchandise

268.37

May 8 " "

73.50

341.87

894.31

1861.

June 24 By Cash

145.00

July 16 " "

150.00

275.00

624.31

Messrs. Burdell + Bryant

Chicago Illinois

Gentlemen

The above acct having been transferred to us, we are desirous of having it settled. On receipt of this please send us draft for the above acct, or if not convenient to send the whole amt. have the kindness to send us part of it - And you will greatly oblige

Yours Obedt Servants

Stone & Wall

This was all the evidence given by both parties on the trial of the said Cause, and the said defendants by their Counsel asked the Court to instruct the jury as follows

1st One member of the firm has the full power and right: either before or after the dissolution of such firm to sell and dispose of the partnership assets, without consulting other members of such firm, for the purpose of paying

35
72

debts of such partnership, and he may ^{also} ~~so~~ prefer
Certain Creditors to the exclusion of all other
Creditors of such firm. If the jury believe
from the evidence that a bona fide sale was
made by E Stone of the firm of E Stone & Co (pre-
vious to the commencement of this suit by
Angrove) to Stone & Wall of certain notes and
outstanding accounts belonging to the firm of
E Stone & Co of which the account now in
question in this cause was one, for the purpose
of paying certain preferred debts of said firm
of E Stone & Co they must find for the defendant.

2^d If the jury believe from the evidence that a
bona fide sale was made by E Stone. One of the
members of the firm of E Stone & Co to Stone & Wall
of the account now in question in this case previous
to the commencement of this suit by Angrove
for the purpose of paying certain debts of said firm
of E Stone & Co, the Bill of sale herein produced
in evidence, must be received as collateral
evidence, and any want of form or error in said
Bill of sale must not be allowed to prejudice
the Vendor. A written bill of sale is not ^{legally} ~~needed~~
any in the transfer of open accounts & but
the title to such property is sold passes
by delivery, and a verbal contract coupled
with a delivery is valid.

3d. If the jury believe from the evidence that a bona fide sale was made by E Stone One of the members of the firm of E Stone & Co to Stone & Wall of the account now in question in this Case, previous to the Commencement of the suit by Angerme for the purpose of paying Certain debts of said firm of E Stone & Co they must exclude any evidence on this trial adduced showing subsequent written or oral declarations by any member of the firm of E Stone & Co. the Vendors, which would prejudice the rights of Stone & Wall the vendees

4th
If the jury believe from the evidence that the sale by E Stone to Stone & Wall was made in good faith, and a bona fide transaction, they must find for the defendants. Stone & Wall by the laws of the State of New York, which laws must govern the ^{rights of the} parties herein) have made themselves liable to the Creditors of E Stone & Co, whose names are included in the list of preferred Creditors, and their (Stone & Wall's) liability to such Creditors can be enforced by an action of law against them

5th
The jury are instructed, if they shall find from the Evidence that a bona fide sale of the account in question was made by E Stone & Co or one of the partners of said firm to Stone & Wall before

the commencement of this suit. then the title to the same absolutely vested in Stone & Wall and it makes no difference whether Burrwell & Myant the garnishees are notified of such sale before the service of the garnishee process on them or not -

And thereupon the said parties by their Counsel proceeded with their several arguments to the jury. And upon the closing of the same the Court proceeded to instruct the jury for the defendants having modified, altered and interlined the said instructions as drawn by the Counsel for said defendants -

If the jury find from the Evidence that a bona fide sale was made by E Stone & Co or by E Stone after the dissolution with the consent of his partners or of Court right previous to the commencement of this suit, to Stone & Wall of the account in question for the purpose of paying certain preferred ~~creditors~~ debts of said firm of E Stone & Co they must find for the Claimant Stone & Wall

If the jury believe from the Evidence that a bona fide sale was made by E Stone one of the members of the firm of E Stone & Co to Stone & Wall of the account now in question in this case previous to the commencement of this suit

by Angrove, and with due authority from Courtwright his partner for the purpose of paying certain debts of said firm of E Stone & Co, the bill of sale herein produced in Evidence, must be viewed as collateral Evidence and any want of form or error in said bill of sale must not be allowed to prejudice the Vendor, a written bill of sale is not legally necessary in the transfer of open accounts &c, but the title to such property is passed by delivery and a verbal contract coupled with a delivery is valid

3d

If the jury believe from the Evidence that a bona fide sale was made by E Stone & Co or by E Stone one of the members of the firm of E Stone & Co, with the consent of Courtwright to Stone & Wall of the account now in question in this case, previous to the commencement of this suit by Angrove for the purpose of paying certain debts of said firm of E Stone & Co they must exclude any evidence on this trial adduced showing subsequent written or oral declarations by any member of the firm of E Stone & Co the Vendor, which would prejudice the rights of Stone & Wall the Vendor

4th

If the jury believe from the Evidence that the sale by E Stone to Stone & Wall was made before this

put was brought in good faith with due authority from his partner and was a bona fide transaction. They must find for the defendants Stone & Wall by the laws of the State of New York would in such case be liable to the creditors of E Stone & Co. whose names are included in the list of preferred creditors and their (Stone & Wall) liability to such creditors can be enforced by an action at law against them.

The jury are instructed if they shall find from the evidence that a bona fide sale of the account in question was made by E Stone & Co or one of the partners of said firm, with the consent of the other express or implied, to Stone & Wall, before the commencement of this suit then the title to the same absolutely vested in Stone & Wall and it makes no difference whether Burwell & Nyant were notified of such sale before the service of the garnishee process or not.

And the said defendants by their Counsel then and there Excepted to the instructions as given to the jury by the said Court, in so far as they instructed the jury that said sale must have been made with the cooperation or authority of Kerbright as partner of E Stone but no other Exception was taken by the defendants either to giving or withholding

44
any of the other instructions asked for by
the defendants aforesaid

The Court then instructed the jury for the
plaintiff as follows —

1st —
Unless the jury believe from the Evidence that
an assignment was made in good faith the
plaintiff must recover

2)
Unless the jury believe from the Evidence that
an assignment of the account of Burrill &
Wyant was made and delivered in good
faith to the assignee before the Commencement
of the attachment suit, the plaintiff must
recover, such assignment was not complete
if the jury find from the Evidence that after
it was signed it was retained by E Stone
in his Custody and not actually delivered
until after process was served on the
assignees

3)
If the jury find from the Evidence that the firm of
E Stone & Co had dissolved at the time of the alleged
sale to Stone & Wall of Burrill & Wyant's account;
that by the terms of the dissolution, power to settle
the business of the said firm was vested in Stone &
Worbright jointly, and that Stone without the knowledge

38
78

of Courtwright made a sale of a large portion of the assets of said Stone and Hall to secure the payment of debts ^{due} to Certain Creditors of E Stone & Co and that such debts were preferred by E Stone without the approbation of Courtwright, then such sale was without authority and absolutely void

And the said defendants by their Counsel there and there Excepted to the 3^d instruction as given to the jury by the said Court in so far as it instructs the jury that the sale would be absolutely void, if it was made by E Stone without the Co-operation or Authority of Courtwright his partner

And the plaintiff asked for the following instruction which was refused. Do not

4. The terms of the agreement upon dissolution offered in Evidence does not authorize one partner to assign to a trustee the partnership property for the payment of preferred debts without the knowledge and consent of the other liquidating partner

5.
It is Evidence of bad faith on the part of E Stone to make an assignment of the partnership property without the Consent or Knowledge of the other liquidating partner

6.
One partner after a dissolution of the firm has no

refused

~~Michael~~

right to assign the partnership property to a Trustee for the payment of preferred debts without the knowledge or consent of the other partner unless he is specially authorized by the terms of dissolution —

The jury then retired and by order of the Court were to bring in a sealed verdict on the following morning at the opening of the said Court — A verdict was agreed upon which was written out and sealed and the said jury separated for the night; at the appointed time on the following morning before the opening and publication of any verdict the attorneys for plaintiff & defendant both being present the Court informed the jury that he thought there was error of law in a part of his instructions of the previous evening and that before their verdict was made known he would re-instruct them in respect to those matters in which he thought such error existed and thereupon proceeded to do so, by giving on the part of the defendants the second, third, fourth and fifth instructions as they were originally drawn by Counsel for the defendants and withdrawing the first instruction —

On the part of the plaintiff the Court then withdrew the third instruction given for the

39
80

plaintiff and gave the other two to the jury as on the Evening previous; and the said jury was thereupon by the said Court sent out a second time to deliberate in the said Case. No exceptions or objection was taken or suggested by either party to the propriety or correctness of the practice here pursued. But the said plaintiff excepted to the instructions thus given for the said defendants. The jury brought in a verdict for the plaintiff in the form and to the effect set forth in the record of the proceedings on the trial.

Whereupon the defendants Stone & Wall by their Counsel moved said Court to grant a new trial of said case, which said motion is in the words and figures following To-wit:
"Beliflon Angrave"

Edmund F. Stone, Esq
by order of the Court made
return with Russell Esq
Counselor of Edmund Stone Esq

Superior Court of Cook
Co. April Term 1867

And now comes the defendants Edmund F. Stone & John H. Wall by S. Proudfoot their Attorney and move the Court for a new trial of the above named case for the reasons that the verdict of the jury was contrary to law and the evidence. That the Court erred in admitting testimony

31
which should have been excluded from the jury. That the proceedings were irregular in that the said Case was submitted twice to the same jury, the Court having misdirected them, and they having retired, decided upon a verdict, which verdict was sealed up and ready to be delivered into Court. They then separated for the night, on the following morning they were re-instructed by the Court and they again retired and brought in a second verdict in the said Cause, all of which proceedings were irregular and prejudicial to the rights of the said defendants.

April 25. 1862

I Prandfoot for
Atty for defts

Whereupon the said Court afterwards on hearing the arguments of the Council in said Cause overruled the said Motion for a new trial of said Cause and the said defendants. Stone & Wall by their Council then and there took Exception to the ruling of said Court overruling the motion for a new trial of said Cause.

Whereupon the said defendants Stone & Wall by their Council, inasmuch as the matters aforesaid do not appear by the record of the judgment aforesaid, prayed that their Bill of Exception may be signed and sealed by the Judge according

to the statute in such case made and provided
and thereupon the judge aforesaid at the
request of the counsel for said defendants
doth hereby sign and seal this Bill of
Exceptions pursuant to the aforesaid statute
in such case made and provided

Given under my hand and seal
at Chicago this third day of May. AD 1862
George Manierre Seal
Judge of Judicial Circuit
Illinois

And afterwards, to-wit: on the 3rd day of May
in the year of Our Lord One thousand Eight-
hundred and fifty-two, said defendants,
Stone & Wall, filed in said Court their Certain
Appeal Bond, in words and figure following
To-wit: -

Know all men by these presents, that we Edward
F. Stone and John M. Wall of the City and County
and State of New York and William Barry
surety of the City of Chicago, County of Cook
and State of Illinois are held and firmly
bound unto Eleazar Anger of the said
City and State of New York in the penal
sum of Nine hundred and fifty nine ⁴⁸/₁₀₀
dollars, lawful money of the United States
for the payment of which well and truly to be
made, we bind ourselves our heirs Executors

and administrators jointly severally and
 firmly by these presents —
 Witness our hands and seals this Twenty fourth
 day of May AD 1862

The Condition of the above
 obligation is such that whereas the said
 Reuben Angrove did on the day of
 AD 1862, in the Circuit Court for and for the
 County of Cook and State aforesaid and
 of the April Term thereof AD 1862, receive a
 judgment against Henry Burrill and Edwin
 W. Myant as garnishees, and against said
 Edward F. Stone and John M. Wall who
 upon their own application had by order of the
 said Court been made Co-defendants with the
 said Burrill - Myant for the sum of Four
 hundred and seventy nine dollars and seventy
 four Cents besides Costs of suit from which
 said judgment of the said Circuit Court
 the said Edward F. Stone and John M. Wall
 have prayed for and obtained an appeal
 to the Supreme Court of said State —

Now therefore if the said Edward
 F. Stone and John M. Wall shall duly prosecute
 their said appeal 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

41
84

above obligation to be void, otherwise to remain
in full force and virtue

Edmund A. Stone
per Poundfoot for
his atty in fact

Seal

John M. Deall
per Poundfoot for
his atty in fact
William Barry

Seal

Seal

Taken and entered into before me
at my office in Chicago this
day of May A.D. 1862

clerk

205
Supreme Court of
Illinois

Maria Grana Durbin
apud Term AD 1863

Edward F. Stone et al
Imp^r &c Appellants

vs

Clifton Augrave
appellee

Appearance of appellee

Filed Apr. 23, 1860.
L. Delano
Clerk

John V. Le Moyne.
Chicago
appellee's attorney

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 All papers & all proceedings Entered of Record in a certain cause betw pending in said Court, on the Common Law side thereof, wherein Leiften Hargrave was plaintiff and Edward Stone Defendant.

In Witness Whereof, I have hereunto set my hand, and affixed the Seal of said Court, at Chicago, this Fifth day of March A. D. 1883

Wm L Church Clerk.



Supreme Court of Illinois
Third Grand Division

April Term AD 1863

Edward F. Stone ^{vs}

John M. Hall,

Impleaded with Edward Stone
William F. Kortright, James
C. Littlewood, Henry Burrell
and Edwin A. Wyant
Appellants

^{vs}
Clifton Angrose, Appellee

Assignment
of Errors

And now come the said Appellants Edward F. Stone and John M. Hall by S. Proudfoot, their Attorney and say, that in the records and proceedings aforesaid, and also in the rendition of this judgment aforesaid, there is manifest error in this, to wit:

- 1st The Court erred in admitting testimony to the jury which should have been excluded from them
- 2^d The Court erred in modifying instructions for defendants
- 3^d The Court erred in giving instruction for plaintiff
- 4th The Court erred in submitting the case a second time to the jury, after they had arrived at a verdict; which verdict was sealed and ready to be delivered into Court and they had separated for the night.

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 All papers & all proceedings Entered of Record in a certain cause betw pending in said Court, on the Common Law side thereof, wherein Walter Ingraham was plaintiff and Edward Stone Defendant.

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

Wm L Church Clerk.



Supreme Court of Illinois

Third Grand Division

April Term A.D. 1863

Edward J. Stone and John M. Hall
impleaded with Edward Stone, William
F. Kortwright, Jas. C. Littlewood, Henry
Burwell and Edwin H. Wyant

Appellants

v.

Clifton Angrave

Appellee

I hereby enter the appearance of Clifton
Angrave, Appellee in the above entitled Cause

John V. Le Moyne

Attorney for said

Appellee

Chicago April 21. 1863

- 5th The Court used in reinstructing the jury after they had separated,
- 6th The Court used in overruling motion for new trial.
- 7th The verdict was contrary to law and the evidence
- 8th The Court used in entering judgment against garnishes in favor of plaintiff

And the said Edw^d. F. Stone and John M. Hall pray that the judgment aforesaid for the errors aforesaid, and for other errors apparent in the record and proceedings aforesaid may be reversed, annulled and altogether hold for nothing; and that they may be restored to all things which they have lost by occasion of the said judgment

L. P. Woodford
Attorney for Appellants

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
in a certain cause... pending in said Court,
on the... side thereof, wherein...
and...
Defendant

In Witness Whereof, I have hereunto set my hand,
and affixed the Seal of said Court, at Chicago, this
... day of
A. D. 186 .

Clerk.

205

E. H. Stone &
Others

As

Cliftine Angrove

84
30
25.20

Recd

Yalco Apr 23.

1863

J. L. Leland
CM