

No. 12704

Supreme Court of Illinois

Barker

vs.

Valentine

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1859

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County of Kane
State of Illinois

Plas before the Honorable Isaac
B. Wilson Judge of the Thirtieth Judicial
Circuit and presiding Judge of Kane
County Circuit Court in the State of
Illinois at a Term of said Court begun
and held at the Court House in General
in said County on the Twelfth day of
May in the year of our Lord One thousand
Eight hundred and fifty Six

Present The Hon Isaac B. Wilson Judge
Lawrence P. Parker Sheriff

Attest, Luther Deusteron
Clerk

As it is remembered that heretofore to wit,
on the 4th day of January A.D. 1855 a Pricipe and
affidavit was filed in the clerk's office of said Kane
County Circuit Court, which are in under signing
following to wit.

State of Illinois

Kane County

The clerk of the Kane County
Circuit Court will please issue a
writ of Replevin in favor of Daniel Volentine against
Lawrence P. Parker and have it returnable at the
Special Term of the said Court to be holden at the Court
House in Kane County on the third Monday of January 1855
for the property described in the affidavit filed herein.

Witness my hand and seal
this 4th day of January 1855
L. Deusteron clerk

R. E. Montgomery
att'y for Volentine

State of Illinois

Kane County

This affiant first being duly sworn
deposes and says that he believes the
facts in this affidavit stated to be to that Daniel
Volentine is the owner of the following goods wares and
Merchandise about to be replevied of and from Laura
P. Parker which have been by him wrongfully taken
and is wrongfully detained from the said Daniel
Volentine - that is to say, the goods wares and
Merchandise hereinafter described - 195 Woolen
coats - 68 yards Pilate cloth 28 vests, 90 Prs Woolen
Pants, - 35 Prs Summer Pants - 60 fancy vests, 84
Spring & Summer Coats - 80 prs Summer pants, 186
Summer coats, - 1 large Iron safe, 20 fancy vests -
25 Ps Brown Shetling 1 Ps Deceback diaper 2 ps
brown table diaper, 2 ps bleached table diaper, 1 ps
bearskin, 1 ps. varition do, - 1 ps Turkey red table
covering. -

60 Deer, 15 pairs of churning, 2 Rules Butts
11 Rakes, 60 glue 60 Robin 1 ps Bush Iron sud 50
gross Sheloc, 19 scythes 10 glue 6 yds tobacco, 50
Emory 58 lamp black 19 scythe snaths 12 Rakes
23 trap Cords, 1 saw, 12 forks 3 Bush Peas 50 sulphur
5 Rules Shetling 3000 yds 150 Satts, 100 justice 130
lamp black, 50 sulphur - 100 Rope - 3 Boxes Tobacco
100 peaches 50 Rope, 30 Tea - 66 Bushels 11 cts Iron 10
sacks coffee, 1 sack Spice, 1 sack butts, 3 Pot pills, 325
carnage bolts, 2 boxes Herring 200 Nails, 300 carnage
bolts, 600z Incophorus, 900 carnage Bolts, 90 soap
2 boxes Herring, 23 boxes pipes, 60 coffee, 110 loaf
sugar, 134 Soap, 3 Wash boards, 200 bottles gumme
15 Sacks of salt 17 bottles Wild Cherry 1/2 gross vials, 6
doz Incophorus, 144 bottles, 1 gross vials, 60 Potash.

50 chd. Lino, 9 bott Mosher expectorant, 1 Box pipes
100th Whiting, 225th Sugar coco bags 4 talis batts, 55
Sugar, 65th coprag, 39 Kegs nails, 5 gross vials, 150th
Sugar coco bags, 4 talis batts, 55 Sugar 140th Emory
48 Blasks, 69 Blasks 2 1/2 gross bottles, 72 flasks of 3 pack
bottles, 8 Bush peas, 20 Bird cages, 3 chairs, small, 1 cradle,
3 gross vials, 20th leucite soap, - 2 chum cases, 6 doz bottles
1 cradle, 1 sand searaw, 30 doz pt bottles, 1 box 8 cy the shapman
34 yds ginghams, 14th yds print - 61 1/2 yds print 1320 yds
print, 1198 1/2 yds print, 350th yds print, 236th yds print
2044 1/2 yds print, 244th yds print, 175th yds Print, 431 yds
Print 47 yds Print, 1 ps check, 2 ps Cambric, 75 yds
Carpet, 20 yds do, 30 yds carpet 17 yds do 75 yds carpet
122 yds do, 4 ps Hemp Carpet, 399th yds, 125 yds Wool
Carpet, 1 Rem. do 30 yds, 1 Robt, 2 ps Cambric, 1 ps Cornet
Jeaw 12 pr kip boots, 12 prs do, 12 prs top do, 4 pr boots
9 pr boots, 114 prs boots, 7 ps Rubber, 5 pr sandals do,
12 mens Rubber, 2 Ladies do, 4 prs over shoes 103 prs
boots, 7 pr shoes, 3 do gaiters - 8 do slippers, 21 pr shoes
34 pr boots, 4 cases umbrellas, 157 yds drill, 243 yds
drill, 46 yds diaper, 5 bush potatoes, 1 bbl 43 gal
coach varnish, 1 bbl 43 gal molasses 1 bbl Elephant oil,
1 bbl 43 1/2 gal do, 3 bbls oil or 1 bbl furniture varnish
45 gal - 1 bbl Japan do 43 gal, 1 bbl camphire 42 gal
1 cask etard Brandy 20 gal, 15 Kegs butter, 2 bbls
mackerel, 3-1/2 bbls white fish, 175th butter 410 ps
candles, 1 do sperm, 60th lard, 1 bbl Japan varnish 20
gals, 1 bbl varnish coach 35 gals, 1 bbl 35 gals furniture
varnish, 1 bbl 45 gals do, 1 bbl 40 gals coach do, 1
bbl 5 gals furniture do, 1 Bale shirting 1 Box Straco
321th do, 3 boxes 311th do, 2 chests Jew, 22 tons Glass
16 lights do, 1 box Glass 1 bbl 44th Gal Syrup, 1 bbl 18
Gal molasses 1500th Bro Sugar, - 2 bbls varnish Red,

100^{lb} Sugar, 2 Blk yellow ochre, 1 Blk pitch 2 1/2 Bushels
applz, 2 Chute Deer, 10^{lb} Nuts, 2 parts Keys tobacco, 4
Keys nails, 3 Keys wrought do 1 Key Red lead, 1/2 Blk
mackerel 1/2 Blk white fish, 2 1/3^{lb} putty, 50 bladder do,
1900^{lb} White lead, and he says that the said goods more
+ merchandise have not been taken for any tax, duty
or fine, levied by virtue of any law of this state, nor
seized under any execution or attachment against the
goods and chattels of the said Daniel Volentine liable to
execution or attachment, and this affiant further says
that the said Parker is Sheriff of said county and
interested in this suit as defendant and therefore prays
that the writ of Replevin be directed to the corner of the
said county to be executed, and this affiant further
says that he is agent for said Volentine and makes
this affidavit on his behalf.

Subscribed & sworn to before me } D. H. Stockwell
this 2^d day of January A.D. 1855 }
J. C. Burr J. P.

This affidavit as aforesaid sworn to before
me this 4th day of January A.D. 1855

Luther Dearborn clerk Kans Lee lincourt.
Filed Jan'y 4. 1855, L. Dearborn clerk.

And on the day and year last aforesaid a
writ of Replevin was issued by the clerk of said court in
the words & figures following to wit,

State of Illinois }
Kans Lee lincourt } 65. The People of the State of Illinois
to the corner of said county Greeting,
Whereas D. H. Stockwell agent of Daniel Volentine
Plaintiff complaining that Laurence P. Parker
defendant, took and wrongfully detaining from the

said Saml Volante, the following goods wares and
merchandise, that is to say, the goods wares and
merchandise hereinafter described. 195 Woolen coats,
68 yards Pilot cloth, 28 vests, 90 prs Woolen pants, 35 prs
summer pants, 60 fancy vests, 84 Spring & summer coats,
80 prs summer pants, 186 summer coats, 1 Large Iron
safe, 20 fancy vests, 25 prs brown shooting 1 prs muscatuck
diaper, 2 prs brown lattice diaper, 2 prs bleached lattice diaper
1 prs carpet 1 prs vanity do, 1 prs Turkey Red lattice covering
60 kegs, 15 Pails & charcoal 2 Bales Batts, 11 Rakes, 60
Blue, 60 - Rown 1 prs Buck Dimity Sack, 50" Green Shiloe
19 Scythes 10" glue, 67" Tobacco, 50" Emory 58" Lamp
black 19 Scythes snaths, 13 Rakes, 23 Gros knots, 1 Saw,
12 forks, 3 Buck Peas 50" Sulphur 5 Bales shooting
3800 yds, 150" Salts, 100" putic, 130" Lamp black, 50"
Sulphur, 100" Rope, 3 Boxes Tobacco, 100" Peachy,
50" Rope, 30" tw, 66 turkis, 11 chub tw, 16 sacks
coffee, 1 sack spico, 11ale batts, 3 Pot Pails, 325
carriage bolts, 2 Boxes keening, 200" Nails, 300
carriage Bolts, 6 doz Micophenng, 900 carriage bolts,
70" Soap, 2 Boxes keening, 23 Boxes pipes, 60" pipes, 110
loaf Sugar, 134 Soap, 3 Hard boards 200 Bolts Dimine
15 sacks salt, 17 both wild cherry, 1 prs gross nails, 6 doz
Micophenng, 144 Bottles, 1 gross nails, 60" Pot ash,
50 chd Sime, 9 bolt Mower's appot - 1 Box pipes, 100"
Whiting, 225" Sugar, 65 coperaz 39 Kegs nails, 5 gross
nails, 150" Sugar, 600 bags, 4 Bales Batts, 55 Sugar
140" Emory, 47 flasks, 69 flasks, 2 prs gross Bottles,
72 flasks 93 Pack Bottles, 8 Buck Peas, 23 Airseng
3 chairs (small) 1 cradle, 3 gross nails 23" castile soap,
2 Chew cases 6 doz bottles, 1 cradle, 1 Land Scurer
3 doz print bottles, 1 box Scythes sharpners, 34 yds Gingham
74 1/2 yds printz, 617 yds printz, 1320 yds printz, 1198 1/2

2 yds prints, 350³ yds prints, 236 yds prints, 204⁴ yds prints,
244² yds prints, 175² yds prints, 4431⁴ yds prints, 147 yds
prints, 1 pr. check, 2 pr. cambric, 75 yds carpet, 20 yds do,
30 yds carpet, 17 yds do 75 yds carpet, 125 yds do, 4 pr.
Kemp carpet, 399² yds, 125 yds wool carpet, 1 Rem do
30 yds, 1 Robt, 2 Pr cambric, 10 Pr. corset Jean, 12 Pr Kp
Boots, 12 Pr do, 12 pr. lugs do, 4 Pr. boots, 9 Pr boots, 114
pr boots, 7 Pr Rubber, 5 pr Sandles do, 12 mens
Rubber, 2 Sadies do, 4 pr over shoes, 103 pr boots, 7
Pr shoes, 3 do gaiters, 8 do slippers, 21 pr shoes, 34 pr boots,
4 cane umbrellas, 15 yds drill, 243 yds drill, 46 yds
draper, 5 Bush Potatoes, 1 Bbl, 43 Gal coach varnish,
1 Bbl 43 Gals Molasses, 1 Bbl elephant Oil, 1 Bbl 43 1/2 gal
do, 3 bbls vinegar, 1 Bbl furniture varnish 45 gals, 1
Bbl Japan do 43 Gals, 1 Bbl Camphene 42 Gals, 1 Cask
Alard Brandy, 20 gals, 15 Kegs Butter, 2 Bbls Mackerel
3-1/2 Bbls White Fish, 175² Gutter, 4 boxes candles, 1 do sperm
leo² Lard, 1 Bbl Japan varnish, 20 Gals, 1 Bbl varnish Coach
35 Gals, 1 Bbl 35 gals furniture varnish, 1 Bbl 45
gal do, 1 Bbl 40 gals Coach do, 1 Bbl 45 gals
furniture do, 1 Bale sheeting, 1 Box Tobacco, 32⁴ do
3 Boxes 311² do, 2 chests Tea, 22 Bops Glass, 16
lights do, 1 Box Glass, 1 Bbl 44 1/2 Gals Syrup, 1
Bbl 18 Gals Molasses, 1500² Br Sugar, 2 bbls Vermilion
Red, 100² W. Sugar, 2 bbls yellow ochre, 1 bbl peaches,
2 pr bark Dried apples, 2 chests Tea, 10² lumber, 2 pr
Kegs Tobacco, 4 Kegs nails, 3 Kegs wrought do, 1 Keg
Red Lead, 1/2 Bbl Mackerel, 1/2 Bbl White Fish, 213²
Putty, 50 bladder do, 1900 White lead,

Therefore now command you, that if the said
Plaintiff shall give you bond with good and
sufficient security, in double of the value of said
goods and chattels as required by law, to procure

his said writ in this behalf to effect without delay, and
to make return of the said goods and chattels, if
return thereof shall be awarded, and to save and to
keep you harmless, in Replevying the said goods and
chattels, ~~and~~ you cause the same to be Replevied, and
delivered to the said Plaintiff without delay, and also
that you summon the said defendant to be and
appear before our circuit court for said County on the
first day of the next Special Term thereof to be holden
at the Court House in Geneva on the third Monday of
January AD 1855, to answer said plaintiff in the
premises, and have you then return this writ with an
endorsement thereon in what manner you shall have
executed the same together with the bond which you
shall take of the Plaintiff before executing this writ,
Seal of said Court and the seal thereof of Geneva in said
County this 4th day of January AD 1855.
Seth A. Sedgwick Clerk

Copy of Endorsement—
Personally served on the within named Laurence
P. Barker by reading, and replevying the within described
property, and delivering the same to the Plaintiff Samuel
Volentine, and taking Bond for the same this
January 5th 1855
J. P. Bartlett
Clerk of said Court.
Filed Jan'y 5th 1855.
S. Sedgwick Clerk

Copy of the Bond returned by said clerk,
to the clerk of said court with the writ of Replevin.
Known all men by these presents that we Samuel
Volentine, Aaron Root, Edward Sawton, &

Gilbert Keen, & Cyrus P. Whitford of the County of
Kane are held and firmly bound unto J. P. Bartlett
of the same place Coroner of the said County, in the sum
of sixteen thousand, dollars lawful money to be paid
to the said Coroner or to his assigns, for the payment
of which well and truly to be made, we bind ourselves
our and each of our heirs, executors and administrators,
jointly and severally firmly by these presents.

Sealed with our seals & signed the 3^d day of January
A.D. 1855. The condition of this obligation is
such that if the above bounden Daniel Volentine shall
prosecute to effect and without delay, a certain ^{Bill} ~~Bill~~
of Replevin, which he has commenced in the Circuit Court
of Kane County of record and State of Illinois against
Lawrence P. Parker Sheriff of said County for wrongfully
taking and wrongfully detaining the following goods
wares and merchandise, to wit, the articles mentioned
& described in the annexed Schedule marked "A"
and make return of the property if return thereof
shall be awarded, and save and keep himself the
said Coroner in Replevying such property, and then
this obligation shall become void or otherwise remain
in full force -

D. Volentine *Ends*
By W. H. Benton his atty in fact.
Amos Cook *Ends*
Gilbert Keen *Ends*
Edward Stanton *Ends*
Cyrus P. Whitford *Ends*

"A" 60 keels 15 Pails, 7 Churns 2 Bales Butts, 11 Rakes
60 ^{lb} glue 60 ^{lb} Rum, 1 1/2 Bush Timothy seed 50 ^{lb} gum
Shells, 19 scythes 10 ^{lb} glue 6 7 ^{lb} Tobacco 50 ^{lb} Emory
58 ^{lb} Lamp black 19 scythes straths, 12 Rakes 25 ^{lb} pop corks

1 Saw, 12 pkts, 3 Bush Peas, 50^{lbs} Sulphur, (5 Bales
Shirting 3800 yds) 150^{lbs} Salt, 100^{lbs} Justice 130^{lbs} Lamp
black, 50^{lbs} sulphur 100^{lbs} Rope, 3 Bales Tobacco 100^{lbs}
Prachis, 50^{lbs} Rope, 30^{lbs} Tea, 66 Bunches, 11 Chets Tea
16 Sacks of coffee, 1 sack of Spice 1 Bale Batts, 3
Pat pails, 3 25 carriage Bolt, 2 Boxes Keerning, 200^{lbs}
nails, 300 carriage bolts, 6 doz Nicotterong, 900
carriage Bolts, 70^{lbs} Soap, 2 Boxes Keerning, 23 Boxes
Pipes, 60^{lbs} Coffee, 110^{lbs} loaf sugar 134^{lbs} Soap, 3 Wash
Boards, 200 bottles Quinine, 15 sacks of sack, 19 Bottles Wild
Cherry 1 1/2 gross vials 6 doz Nicotterong 144 Bottles
1 gross vials 60^{lbs} polark, 30^{lbs} chloride Lime, 9 Bottles
Mushin expectorant, 1 Box pipes, 100^{lbs} Whiting, 225^{lbs}
Sugar, 65^{lbs} Aspirin, 39 doz nails, 5 gross Beads, 150^{lbs}
sugar, 600 Pages, 4 Bales Batts, 55^{lbs} sugar, 100^{lbs}
Cinnamon, 48 flasks, 69 flasks 2 1/2 gross Bottles, 72 flasks
93 pint bottles, 8 Bush Peas, 23 Bush Cages, 3 small chairs,
1 Cradle, 3 gross vials, 23^{lbs} chloride soap, 21 Chew cases
6 doz bottles, 1 Cradle, 1 sand screen 3 doz pt bottles,
1 Box Stryke Sharpner, 34 yds Lingham, 7 1/4 yds print
6 1/4 yds print 1320 yds print, 1198 1/2 yds print 350 3/4 yds
print, 236 1/4 yds print 214 1/4 yds print, 244 3/4 yds
print 175 yds 1/2 yds print, 113 1/4 yds print, 47 yds
print, 1 piece check, 2 pieces cantine, 75 yds carpet
20 yds Carpet, 30 yds carpet, 17 yds carpet, 75 yds carpet
122 yds carpet 4 piece hemp carpet, 39 1/2 yds - 1 piece
Wool carpet 125 yds, 1 do 30 yds, 1 do 2 pieces
cantine 1 pc cobit Jane, 12 pkts lots, 10 pr do,
12 pr top, 4 pair boots, 4 do, 114 pr boot, 7 pr Rethers
5 Sandal do, 12 menu do, 2 ladies do, 4 pr over shoes
10 pr boots, 7 pr shoes, 3 do Gaiters, 8 do slippers, 21 pr shoes
34 pr boots, 4 cases umbrellas, 154 yds drilling, 243 yds
do, 46 yds diaper, 5 Bush Potatoes, 166 1/2 yds crack

Coach varnish, 1 Bl 45 gal, molasses, 1 Bl Elephant oil
 1 Bl do 43 1/2 gal, 3 Bl vinegar, 1 Bl furniture varnish
 115 gal, 1 Bl Japan varnish 43 gal, 1 Bl camphire
 42 gal, 1 Cask Starch Brand, 20 gal, 15 Keg butter, 2
 Bl Mackerel, 3 1/2 Bl Whitefish 175 lb butter, 4 Bps
 candles, 1 do sperm, 60 lb lard, 1 Bl Japan varnish 2 gal
 1 Bl coach varnish 35 gal, 1 Bl 35 gal furniture varnish,
 1 Bl 45 gal do, 1 Bl 40 gal Coach do, 1 Bl 5 gal
 furniture, 1 Bales Shuteing, 1 Box Tobacco, 32 lb do
 3 boxes Tobacco, 311 lb do, 2 Chubs Tea, 22 Bps Glass,
 16 lights do, 1 Box do, 1 Bl 44 1/2 gal Syrup, 1 Bl 12 gal
 molasses, 1500 lb Brown sugar, 2 Bl reunion Red, 100
 lb white sugar, 2 lb yellow ochre, 1 Bl peaches, 3 1/2
 Bush dried apples, 2 Chubs Tea, 10 lb winter, 2 parts Keg
 Tobacco, 4 Keg nails, 3 Keg wrought nails, 1 Keg Red
 Lead, 1/2 Bl Mackerel 1/2 Bl white fish, 213 lb putty,
 50 Bladder do, 1900 lb white lead, 195 Woollen coats
 67 yds Pilot cloth 28 vests 90 pr Woollen pants, 35 pair
 summer pants, 60 fancy vests, 84 spring summer
 coats, 80 pr summer pants, 186 summer coats, 1
 large Iron safe, 20 fancy vests, 25 pr Iron Shuteing
 1 pr Hambuck buckles diaper, 2 pr brown table diaper
 2 pr bleached table diaper, 1 pr carpet 1 pr
 reunion do, 1 pr Turkey Red table covering.

And afterwards went, on the 16th day of
 January AD 1858 a Declaration was filed in the Clerk's
 office aforesaid, which is in the words and figures
 following to wit,

State of Illinois }
 Kane County } Of the January Special Term of
 the Kane County Circuit Court AD 1858
 Laurence R. Barker was summoned
 to answer Daniel Volentine of a plea wherein he

took the property hereinafter mentioned and detained the same against said ^{3rd} ^{9th}
pledges until &c., and the infor the said said
Volenture by R. S. Muntony his attorney complaining,
for that the said Laurence P. Barker on the first day
of January AD 1855 unlawfully took in the county
& State of Indiana of him the said Volenture the following
goods wares and Merchandises of great value to wit,
of the value of Fifty thousand Dollars, to wit, —
195 Woollen coats, 68 yds Pilot cloth, 28 suits, 90 pair Men's
pants, 35 pr: Summer Pants, 60 fancy suits, 74 spring and
Summer coats, 10 pr: Summer pants, 176 Summer
coats, 1 Large Iron safe, 20 fancy suits, 25 Pr: brown
shirting, 1 Pr: Turnabout Knife, 2 pr: Brown Table Linen
2 pr: Matched table drape 1 pr: Carpet, 1 pr: Transition do,
1 pr: Turkey Red table covering, 60 boxes, 15 barrels, 7
Churns, 2 Bales Batts, 11 Rakes, 60" glue, 60" Resin
1/2 Bush Timothy seed, 50" Green Shells 192 cythrs 10"
glue, 67" Detaceo, 50" Emery 58" lamp black 19 cythrs
Snaths, 12 Rakes, 23 pr: forks, 1000, 12 forks, 3 Bush
Peas 30" Sulphur 5 Bales shirting 3700 yds, 150" Salts
100" putty, 130" lamp black 50" Sulphur, 100" Rope
3 boxes Detaceo, 100" Peaches 50" Rope, 30" Seal 6
Brushes, 11 cts Tea, 16 sacks coffee, 1 sack spice, 1
bale salt, 3 Pat pails, 325 carriage bolts, 2 Bunch
Herring, 200" Nails 300 carriage Bolts, 6 doz Nicoph
erous, 900 carriage Bolts, 70" soap, 2 Bunch Herring
23 Bunch pipes, 60" coffee, 110 loaf sugar, 134" Soap
3 Wash boards, 200 bottles Turpentine, 15 sacks salt, 17
Bot Wild cherry 1/2 pr: rials 6 doz Nicophorous, 144
bottles, 1 gross rials 60" Potash, 50" ch: Lime, 9 bolts
Musk affectorant, 1 Box pipes, 100" Whiting, 225" Sugar
65" Cooperage, 39 Keys nails, 5 gross rials 150" Sugar

Coolidge, 11 Balsaltz, 55" Sugar, 140" Emery 18 Black
69 flasks, 2 1/2 Spore bottles, 72 flasks, 93 pack bottles, 8
Bark peas, 23 Bird cages, 3 Chair (small) 1 cradle, 3
groceries, 23" carded soap 2 chamois, 6 1/2 bottles
1 cradle, 1 sand benene 3 1/2 pint bottles, 1 Box Scythe
Sharpener, 34 yds Lingham, 74 1/2 yds Print, 617 yds
Print, 1320 yds Print, 1198 1/2 yds Print, 350 3/4 yds Print
236 yds Print, 204 yds Print, 211 1/2 yds Print, 175 1/2 yds
Print, 431 yds Print, 47 yds Print, 1 pr. Check, 2 pr.
Cambric 75 yds carpet 20 yds do, 30 yds carpet
17 yds do, 75 yds carpet 123 yds do, 4 pr. 10 canps
carpet 399 1/2 yds 125 yds Wool carpet, 1 piece do, 30
yds - Robe, 2 pr. Cambric, 1 pr. Court Jeans, 12 Pr
Kip boots, 12 pr. do, 12 pr. boys do, 4 pr boots, 9 pr boots,
114 pr boots, 7 pr. Rubber, 5 pr. Sandal do, 12 men's
Rubber, 2 Ladies do, 4 pr over shoes, 103 pr. Boots
7 pr. Shoes, 3 do. Gaiters, 8 do. slippers, 21 pr shoes, 34 pr boots
4 cases umbrellas, 154 yds Dill, 243 yds Dill, 46
yds diaper, 5 Bush Potatoes, 1 Blk 43 gal coach varnish
1 Blk 43 gal molasses, 1 Blk Elephant oil, 1 Blk 43 gal
ditto, 3 Blks vinegar, 1 Blk furniture varnish 45 gals
1 Blk Japan varnish 43 gals, 1 Blk camphor 42 gals
1 Cask Alard Brandy 20 gals, 15 Kegs butter, 2 Blks
Mackerel 3 - 72 Blk Whitefish, 175" Butter, 4 Buns
candles, 1 do Sperm, 60" Sash, 1 Blk Japan varnish
20 gals, 1 Blk varnish coach, 35 gals - 1 Blk 35 gal
furniture varnish, 1 Blk 45 Gal do, 1 Blk 48 gal
Coach do, 1 Blk 45 gal furniture do, 1 Pale shating
1 Box Tobacco, 32 lb do, 3 Boxes 311" do, 2 chests
Tea, 22 Boxes Glass, 16 lights do, 1 Box Glass, 1
Blk 44 1/2 Gal Syrup, 1 Blk 17 gal molasses, 1000
Pr sugar, 2 Blks Venetian red, 100" W. Sugar
2 Blks, yellow ochre, 1 Blk crackers, 2 1/2 turk dis off

2 Chub lead, ten # number, 2 parts Key tobacco, 4 Key
 nails, Key wrought do., Key Red lead, 1/2 Bbl mackerel
 1 1/2 Bbl white fish, 2 1/2 # pulley, 50 # bladder, 1900 # white
 lead, and unjustly detained the said goods
 wares and merchandise, from the said Daniel
 Volentine, until &c against sureties and pledges to the
 said damage of the said Plaintiff of five in the sum
 of Five thousand dollars wherefore he brings his
 suit &c.

Filed Jan 16 1855

S. Dearborn Clerk

R. S. Montgomery
 atty for Plff.

And afterwards took, on the
 5th day of November A.D. 1855, "Plea" now filed with
 the Clerk of said Court which are in the words and signifying
 following, to wit,

Laurence P. Barker }
 atz }
 Daniel Volentine }

Kans Circuit Court
 May Term 1855

And the said defendant by Plea
 his attorney, comes and defends the wrong and
 injury whereof and says that he did not take the
 said goods wares & merchandise of the said Plaintiff
 in the said declaration mentioned, in manner
 and form as the said Plaintiff has thereof complained
 against him; and of this he puts himself upon the
 country &c
 To the Plff. by Montgomery his }
 atty doeth the like }

Pl to atty
 for Def.

And for a further plea in this
 behalf the said defendant says, actio non, because
 he says that the said goods wares and merchandise
 in the said declaration mentioned at the said time

whereas was the property of the said defendant and not the property of the said Plaintiff and this he is ready to verify &c.

Plato for Deft.

And for a further plea in this behalf the said defendant says actio non, because he says that the said goods &c at the said time when &c was the property of Rollin C. Audenon, Hiram C. Audenon & Hiram Boutwell, partners under the name and style of Audenon Boutwell & Co and not the property of the said Plaintiff, and this he is ready to verify &c.

Plato for Deft.

And for a further plea in this behalf the said defendant says actio non, because he says that the said goods &c at the said time, when &c was the property of Rollin C. and Hiram C. Audenon and not the property of the said Plaintiff, and this he is ready to verify &c.

And for a further plea in this behalf, the said defendant will answer the taking of the said goods, wares and merchandise, in the said declaration mentioned, at the said time when &c and justify, because he says that at the said time when &c he was and for a long time previous thereto to wit, from the 20th day of November A.D. 1854 had been Sheriff of Kane County, that on the 8th day of December A.D. 1854 and for a long time previous thereto, to wit, six months Rollin C. Audenon, Hiram C. Audenon & Hiram Boutwell late copartners under the name and style of Audenon Boutwell & Co, were indebted in the sum of Twenty Hundred Ninety one dollar and twelve cents to George A. Whitney, John P. Deane & John L. Childs (copartners under the name and style of Whitney Deane & Childs) that on said last named day, the said Whitney Deane & Childs sued out of the Circuit Court

of said Kane County a writ of attachment in their
favor for said sum of money, against the estate real
and personal of the said Andersons & Pontwell directed
to the sheriff of said county of Kane, and placed the
same in the hands of the said defendant as Sheriff to
execute - That on the 16th day of December aforesaid the
said Andersons & Pontwell Copartners as aforesaid were
and for a long time had been indebted in the sum
of Fifteen Hundred Dollars to Henry Sonmig & George
A. Wisko, Copartners under the name and style of
Sonmig, Wisko & Co, that on said last named day the
said Sonmig, Wisko & Co sued out of the circuit court of
said Kane County a writ of attachment in their favor
for said sum against the estate, real and personal
of the said Anderson, Anderson, & Pontwell, directed
to the Sheriff of Kane County and placed in the
hands of the said defendant as Sheriff, to execute -
That on the fourteenth day of December aforesaid ^{and}
for a long time before the said Andersons & Pontwell
Copartners, aforesaid, were indebted in the sum of one
hundred Ninety Dollars & Sixty seven cents to Philander
Barclay & James E. Barclay Copartners under the name
so of Barclay Brothers - That on said last named
day said Barclay & Barclay sued out of the said
circuit Court a writ of attachment in their favor
for said sum against the estate real and personal of
the said Andersons & Pontwell, directed to the Sheriff
of said county and placed in the hands of the said
defendant as Sheriff to execute - That on the 30th
day of December aforesaid, and for a long time tenet, six
months prior thereto, the said Andersons & Pontwell
copartners as aforesaid were indebted in the sum of
516 ¹⁶/₁₀₀ Dollars to Henry C. Brown & Theodore W. Nance

Samuel P. Holmes & Henry S. Stone, copartners
under the name &c of Poirer & McNamee, that on
said last named day the said Poirer & McNamee
Holmes & Stone sued out of the circuit court of said
County a writ of attachment in their favor for said last
named sum, against the estate Real & personal of
the said Anderson & Pontrell, directed to the Sheriff
of said County, and placed in the hands of said
defendant as such Sheriff to be executed.

That on the 24th day of November 1854 and for a long
time prior the said Andersons and Pontrell copartners
as aforesaid were indebted to George E. Walenman, in the
sum of Two hundred Ninety eight doll^{rs} & 24^{cts} eight
cents, that on said day the said Walenman sued out
of the said circuit Court of Kane County a writ of
attachment for said sum of money, against the estate
Real and personal of the said Andersons and Pontrell
directed to the Sheriff of said County and placed in the
hands of the said defendant as such Sheriff to be executed.

That on the 11th day of December aforesaid and for a
long time prior, six months prior thereto, the said Rollin
C. & Herman C. Anderson late copartners under the name
&c of R & H Anderson were indebted to Cyrus E.
Anderson in the sum of Six hundred Eleven dollars
& 52^{cts} two cents, that on the said last named day the
said Cyrus E. Anderson sued out of the said circuit
Court a writ of attachment in his favor for said sum
against the estate real and personal of the said Rollin
C. & Herman C. Anderson directed to the Sheriff of said
County and placed the same in the hands of the said
defendant as such Sheriff to be executed. That the
said several writs were each duly signed under the
hand and official seal of the Clerk of said court

and in the name of the People of the State of Illinois
 commanded the Sheriff of said county to attach so
 much of the estate real and personal of said Rollin C.
 Anderson & Lerrain C. Anderson & Leancy Buntwell
 (except the said writ in favor of ^{Leancy} K. Anderson which
 directed the Sheriff to attach the estate of Rollin C. &
 Lerrain C. Anderson) to be found in said county as should
 be sufficient to satisfy the respective debts and cuts of
 each writ, and the estate so attached to so secure
 or provide that the same might be liable to further
 proceedings thereon according to Law. That said
 defendant being still Sheriff as aforesaid by virtue of the
 said several writs, and as such Sheriff afterwards did
 at the said time aforesaid seized and took the said
 goods wares and merchandise in said declaration
 mentioned as the copartnership property of the said
 Andersons & Buntwell - and the said defendant
 avers that the said property at the said time aforesaid
 was the property of the said Andersons & Buntwell liable
 to seizure on said attachment, and not the property
 of the said plaintiff and this he is ready to verify &c.
 Plats atty of Deft.

Filed Nov 5th 1855 }
 S. Dearborn Clk. }

The following Replications appear upon the
 files, but bear no evidence or endorsement of having
 been filed by the clerk of said Court. To wit,

Samuel Valentine }
 v }
 Lawrence P. Barker }
 Kana Circuit, Nov Term
 AD 1855

And the said Plaintiff as to the
 Plea of the said defendant secondly above pleaded

says precludi' now, because he says that at the said
time when &c the said property in the said declaration
mentioned was the property of the said Plaintiff without
this, it was the property of the said defendant in manner
and form as the said defendant has in the said Plea
alleged, and this he prays may be enquired of by the
Jury &c R. E. Montony atty Plff

And the said Plaintiff as to the Plea of
the said defendant thirdly also pleaded says precludi'
now, because he says that at the said time when &c
the said goods wares and Merchandise in the said
declaration mentioned, were the property of the said
Plaintiff without this that it was the property of Rollin
C. Audenon, Hiram C. Audenon & Leamy Pontre
as partners under the name and style of Audenon
Pontre & Co and this the said Plaintiff prays may
be enquired of by the Jury &c R. E. Montony
atty for Plff.

And the said Plaintiff as to the Plea of the said
defendant fourthly also pleaded says precludi' now
because he says that at the said time when &c the said
goods &c in the said declaration mentioned was
the property of the said Plaintiff, without this they were
the property of the said Rollin C. Audenon in manner
and form as the said defendant in the plea hath
alleged, and this the said Plaintiff prays may be
enquired of by the country &c.

And the said Plaintiff as to the Plea
of the said defendant fifthly also pleaded says precludi'
now because he says, at the said time when &c
the said goods &c in the said declaration mentioned
were the goods & the property of the Plaintiff, without
this, they were the property of Rollin C. Audenon

William C. Audenon and Nancy Penton, as parties
or otherwise, in manner and form as the said defendant
in the plea hath alleged, and this the said Plaintiff
prays may be enquired of by the court.

R. S. Muntony
Atty. for Plff.

And hereafter to wit, on the 14th day of
February AD 1855 it being one of the days of the
Regular February Term of said Court, the following
among other proceedings was had in said Court and
entered of Record to wit,

Daniel Volentine }
v } Replevin
Laurence P. Barker }

Time to plead extended to —
by agreement of the parties hereto.

And afterwards to wit, on the 12th day
of February 1856 it being one of the days of the
regular February Term of said Court in the year
last aforesaid, the following among other proceedings
in said Court was had and entered of Record to wit:

Daniel Volentine }
v } Replevin
Laurence P. Barker }

This day comes the said Plaintiff
by Muntony, Day & Blackwell, and the said Defendant
by Plate and on motion of Plaintiff it is ordered
that a Jury come, thereupon came a Jury of good
and lawful men to wit,

Smith Warford S. A. Kizer Amos Newlin
Samuel Stirling Ronald H. Adams George E. Conner

Joseph Dutton, Geo McCollum, John Snow
Daniel Heydo, Amos Gillett, Mark Stringer
who being severally selected tried and sworn also come
and after hearing a portion of the evidence it is
agreed that they may separate and meet the court
tomorrow morning at 9 o'clock

And afterwards court, on the 13th day of
February in the year last aforesaid, it being as
yet of said February Term of said court, the following
further proceedings were had in said court and entered
of Record to wit,

Daniel Valentine	} Replevin
Laurence P. Parker	

This day comes the parties to this
suit, and the jury heretofore empanelled herein also
come, and after hearing a portion of the evidence
it is agreed that the jury may separate and
meet the court tomorrow morning at nine o'clock

And afterwards, court, on the 14th day of
February in the year last aforesaid, it being as yet
of said February Term of said court the following
further proceedings were had in said court and
entered of Record to wit,

Daniel Valentine	} Replevin
Laurence P. Parker	

This day comes the parties to this
suit and the jury heretofore empanelled herein also
come, and after hearing the balance of the evidence
and a portion of the argument of counsel, it is agreed

that the Jury may separate and meet the court
tomorrow morning at 9 o'clock.

And afterwards, to wit on the 15th day of
February in the year last aforesaid it being as yet of
said February Term of said court the following
further proceedings in said court were had and entered
of Record, to wit,

Daniel Valentine }
v } Replevin
Lawrence P. Parker }

This day came the parties to this
suit by their attorneys, and the Jury heretofore empanelled
herein also came, and after hearing the balance of the
argument of Counsel and instructions of the Court
relative under charge of a sworn officer of the court to
consider of their verdict.

And afterwards to wit on the 16th day of
February in the year last aforesaid, the same being
as yet of said February Term of said Court the
following further proceedings were had in said cause
and entered of Record, to wit,

Daniel Valentine }
v } Replevin
Lawrence P. Parker }

This day came the parties to this
suit by their attorneys, and the Jury heretofore
empanelled herein being returned into Court to
for a verdict upon their oaths say, as the Jury find
the issue joined in favor of the Plaintiff and assess his
damages at one cent. Whereupon comes the defendant
by Mansworth his atty & moves the court for a new trial
herein.

And afterwards, to wit, on the 28th day
of May AD 1856, it being one of the days of the regular
May Term of said Court in the year last aforesaid,
the following further proceedings in said cause were had
and entered of Record in said Court to wit,

David Valentine }
v } Replevin
Lawrence P. Parker }

This day comes the Plaintiff
by Day, and the defendant by Hilcox & Plate & defendant
motion entered at the last Term of this Court for a
new trial, after argument of counsel the Court being
fully advised overrules said motion. It is therefore
considered by the Court that the Plaintiff have and
recover from the defendant the sum of one cent
damages, together with his costs in this behalf expended,
and have execution therefor. To which ruling of the
Court in overruling said motion, and rendering
judgment on the verdict the defendant excepts and
prays an appeal to the Supreme Court of this state,
which is allowed by the Court on condition he enter into
bond in the penal sum of Two Hundred Dollars
with security to be approved by the Court, Bonds and
Bills of exceptions to be filed in three months.

And afterwards to wit, on the 9th day of
March AD 1857 it being one of the days of the regular
February Term of said Court in the year last aforesaid
the following further proceedings in said cause were had
and entered of Record, to wit,

David Valentine }
v } Replevin
Lawrence P. Parker }

Trid at May Term 1856.

This day comes the Plaintiff by Day
his attorney, and the defendant by Plato his attorney
also comes, and by their agreement the time for filing
bills of Exceptions in this cause is extended indefinitely.

And afterwards, to-wit, on the 24th day of
August A.D. 1856, an appeal Bond was filed in the
Clerks office of said court, which is in the words & figures
following to-wit,

Know all men by these presents that
we, Laurence P. Barker as principal and to-wit, being
George W. Fisk, George W. Whitman, John P. Deane,
John S. Childs, Theodore M. Fain, Henry C. Brown
as sureties are held and jointly bound unto David
Volentine in the penal sum of Two thousand for the
faithful payment of which sum well and truly to be
made, we hereby bind ourselves, our heirs, executors
& Administrators jointly by these presents,

Sealed with our seals and dated this 18th day of
August A.D. 1856.

The condition of the above obligation
is such that whereas the said David Volentine did at
the May Term of the Kane County Circuit Court
1856 in an action of Replevin recover a Judgment for
the property in controversy and the costs of suit against
the above bounden Laurence P. Barker from which said
Judgment of said circuit court the said Laurence P.
Barker has taken an appeal to the Supreme Court of
the State of Illinois, now if the said Laurence P. Barker
shall prosecute his said appeal with effect, and shall
pay the said judgment, costs and interest and damages
in case the said Judgment shall be affirmed on the trial
or dismissal of said appeal in the supreme court

then this obligation to be void, otherwise to remain in full force and effect.

Approved by me this 24th }
day of August AD 1856 }
L. Hartman clk

Filed Aug 24. 1856 }
L. Hartman clk }

L. P. Barker Esq
Henry Senn Esq
George A. Drake Esq
By H. P. Plate their atty in fact Esq
George A. Whitney Esq
J. Burke Esq
George W. Shaw Esq
William A. Elden Esq
Henry J. Wood Esq
By H. P. Plate their atty in fact

And afterwards to wit on the 1st day of March
AD 1858 a "Bill of Exceptions" was filed with the clerk of
said court which is in the words and figures following to wit.

Daniel Volentius }
" }
Lawrence P. Barker }
Reflexion

Be it remembered that in the trial
of this cause the Plaintiff introduced as witnesses,
D. M. Stockwell who testified as follows, I know Daniel
Volentius, and have known him and been in his employ
over five years, part of the time in Washington County
Vermont, New York, and a part of the time in Aurora
Illinois. I came to Aurora Illinois in the fall of
1854 - am twenty one years old, have been in
Volentius employ ever since he came to Illinois, was
in his employ when Sheriff Barker attached the
goods in question, this was on or about the first day
of January 1855 - they were reflected on the 5th day.
Volentius was in possession of the goods and had been
about two months - was present when Volentius took
possession of the goods on the 7th day of November

1854, he took possession from Rollin C. Anderson, one
of the firm of Anderson Pontrebo & Co. The firm
consisted of Rollin C. Keenan C. Anderson & Keenan
Pontrebo. Stephen G. Gillett was a clerk for said
firm. I with Gillett and Volentine made an
estimate of the goods in the establishment. I did it
for Volentine at his request. They made but one
estimate. I made my estimate of the whole stock
of goods at nine hundred ~~thousand~~ ^{four} hundred and fifty
dollars (9450). Gillett's estimate was Eleven thousand
dollars. After comparing estimates with Gillett, I
added to mine Eleven thousand dollars for goods
not ^{yet} received but said to be on their way from the
East. We made report to Volentine & Anderson of our
estimate. Soon after the district Attorney came
in to the store and said we have sold the goods
to Mr Volentine. I was not present when any sale
was made. did not learn the terms of sale from
Anderson. The Plaintiff's attorney then asked the
witness this question, "Will you state upon what
basis you made your estimate" which was objected to
by Def. the court overruled the objection & allowed the
witness to answer to which ruling the def. excepted.
The basis of my estimate was the cost mark on the
goods. Knew the mark before making estimate -
was not with Gillett when he made his estimate - but
he told me he estimated from cost mark - have
been acquainted with mercantile business for years
the estimate made was higher than the real value
of the goods - think the cash value of the goods about
fifty per cent in the dollar of the estimate. many
of the goods were damaged - somewhat - some were
purchased at a greater price than Volentine usually.

paid for like goods - many of the goods were out of
season and unsaleable. I have known Volentine five
years, I came to Belvidere on a visit four years ago -
settled here in 1854, Volentine was engaged in part
in the flour business, before he purchased of Anderson -
When he purchased the goods think he was worth about forty
thousand dollars, his means consisted of stock in
Eastern Banks, Real Estate, a flouring mill, Bonds
& mortgages &c. The goods purchased of Anderson
Antontesloo was in Aurora - were not moved from the
store - Volentine is now in business at Aurora - he has
sent after goods when the attachments were levied - he
came home the day the goods were levied - he
purchased a large stock - from ten to twenty five
thousand dollar worth - he has made additions to
his stock since he came from the East - the average
value of his stock since that time has been from ten to
twenty five thousand dollars - Anderson & Antontesloo
had a sign over their door - it was taken down and
Volentine's put up. Anderson & Co after delivering possession
of the stock of goods ceased doing business in the store -
Some of the clerks including myself who had been
in Anderson's employment, engaged and continued
in Volentine's employment after his purchase - I know that
Volentine has made some payment on the stock of goods
never saw anything paid to Anderson - has seen
notes paid, the goods attached were not taken out
of the store, but the Sheriff came into the store and asked
for the keys which were delivered to him and the goods were
attached & inventory made - the Sheriff held the
possession some days or 6 until Volentine replenished
them, no goods sold or store opened during that time.
On long examination the witness said - having

in the employ of Volentine in New York about a year
and a half before he came to Illinois - Volentine sold
out his store and was in the grain business - he never
told me how much he was worth, have seen and
read his deeds which I took care of, having no
knowledge beyond this - Volentine had money in Bank
of Troy, also in Albany Bank, was a director in one
of the banks, has seen certificates of deposits, - In
October 1854 I came to Illinois - boarded with Mr
Estes - Volentine's brother-in-law in Aurora - Volentine
had been here three or four months before writing came.
Audenon Pontreille had bought wool for Volentine
P. C. Audenon was the leading name in the firm - I
was in the employ of Audenon Pontreille about
three weeks as clerk and book keeper, had charge of the
safe, and saw two of the bills of goods purchased,
don't know as Volentine saw them - Audenon Pontreille
had adopted the cash system, most of the money
received in the store passed through my hands -
remained with A. P. & Co until they sold out -
Volentine was not in their store much - he traded there
some and assisted A. P. & Co in making a Bill
of Crockery - Volentine requested me to make estimate
it took us about two hours - we commenced in the upper
or third story, estimated shelling by the Bale - estimated
the nails, counted the number of Kegs and then the shelling
and crockery - the shelling was in the bale - 750 to
800 yds in a bale, I knew about how much crockery
there was - we put the crockery at \$800. - \$500.
Cut mark was on the chests - Coffee \$200. - The whole
amount in 3^d story was \$1400. - in the second
story was clothing, boots and shoes amounting to
about \$1700 - some of the circumstances - price of clothing

leaves, one piece full, about one hundred yards,
the lower room was the sale room, a general variety
of goods in it, drugs and medicines occupied
one side of a part of lower room. The boots & shoes in
the store \$300. They were principally in cases, the
best mark in the town. The boots broken or spoiled
& the boots & shoes counted. Prints, many full pieces
lying piled up in boxes, we counted the pieces, and
estimated the number of yards. The prints in this
floor we estimated at \$400. The carpet at \$200. The
drugs on this floor were estimated at by Dr. Munier
at \$500. We took the goods in the drawers out when
we estimated them. There were also goods in the
shoe case. Volentine was with me in making the
estimate. Looked over the prices, estimate was
made on Monday the 5th or 6th of November.
made a separate estimate of the hardware in the
cellar was two hundred dollars worth of Butter -
did not weigh it, estimated by the price, we
made inventory 5 or 6 days after Volentine took
possession, we had sold some but kept an account
of them & they were included in the inventory. There
was five or six Barrels of ramish in cellar, worth
from nine shillings to three dollars per gallon. 40
gallons in a cask. some oil, two or three casks of Brandy
arrived five or six days after, two cases of 200 min
also came afterwards worth five hundred dollars,
Brandy worth three dollars and a half a gallon
in our estimate there was no oil taken into account,
Elletts, Volentine & I came together in lower floor &
compared estimates. The business of the store was
going on during the time. The day after Volentine
took possession, Elletts, Randall, & Volentine

myself took an inventory, engaged prompt
to six days - the amount of goods in store at cost
was Seventeen thousand dollars (\$17,000.) I knew
nothing about the value of the property in the carriage
shop. Volentine took Anderson, Boutwell & Co bills and
I suppose he purchased them, he also took the notes
and books of account due A. B. & Co, he also took
their safe. In the last estimate or inventory the notes
and books of account were not included. The debts
in the employ of Anderson Boutwell & Co remained with
Volentine - the sign of Anderson Boutwell & Co was
taken down about two weeks after the sale I think,
but will not say but that it was up at the time the goods
were attached. - A. B. & Co made their deposits from
sales with Hackney & Jenks, the money passed through
my hands from sixty to seventy^{five} dollars a day -
they had been receiving large quantities of goods
just before making the sale to Volentine - the first
I knew of Volentine's intention to purchase the goods
was about a week before the sale - he spoke to me
about it, - I came from New York at Volentine's
request, have lived with him since I was sixteen
years old, I went into Anderson's store at Volentine's
request or suggestion -

On re-examination by
Plaintiff, witness said, Volentine was unwell
before coming west and had sold out in New York
and come west on account of his health, and did
not design going into business when he first came.

As to the clerk in the employ of A. B. & Co that remained
with Volentine, Randall left first, then Gillett and
Newton Randall left about two weeks and Denton about
two months after Volentine took possession -

Of the clerks of A. P. Lee that remained with Volentine, was Sandale, Giddett, Meulen Audenon and myself. Audenon is Volentine's brother-in-law and went into A. P. Lee's store as clerk about three weeks before I did. The bills of Audenon & Lee were generally receipts, the bills of drugs on the way which Volentine bought was estimated at \$500.

Benjamin Lockney who testified as follows, I live in Aurora, and engaged in Real Estate business, in the fall of 1854 and Spring of 1855 was a banker in company with Mr. Jenks - he did business with Audenon & Lee - they are indebted to us about four thousand six hundred dollars, we had judgment notes against them, and acquainted with Volentine, first knew him in the fall of 1854.

A. P. Lee made their deposits with us - they were pressed by us to pay up their notes which had fallen due. He was tight up and was arguing the payment of our demands against them, which were over due and had been some time - On Saturday the 4th of November 1854 called on R. C. Audenon and told him he must pay all or part of his notes or give additional security - this was sometime during the day - in the evening was at the church, R. C. Audenon called me out, and we went to Mr. Jenks. Jenks got him to go to the store of A. P. Lee, we went down together and went up stairs into a small room in the 2^d story - found Volentine, Eldon Acton his brother-in-law and Herman C. Audenon there.

R. C. Audenon said he had had an offer for his stock of goods - understood he had been offered by Volentine 55 cents on the dollar - he asked if we would take the goods and give more than that? I asked how many

goods they had, Herrin said about Eight thousand
Dollars worth - we told him did not want the goods
we wanted our money - Junker told him he had
better wait and look about for a better offer - Herrin
said it of no use, we must sell - Rollin asked
us if we would wait provided he paid us a thousand
Dollars on Monday, and secured the balance, I
told him that would be satisfactory, Rollin said
he would not allow the Sheriff to sell his goods, nor
would he make an assignment, he said every man
could manage his affairs best - I told him we
wanted our pay, I supposed Anderson had a
good deal of Real Estate, around town, and also
bonds and mortgages for lands sold and could give
us security, when he spoke of an assignment it had
reference to assigning securities to secure us - I
left the store late that night, Anderson, Volentine and
some others came into the Bank on Monday afternoon -
Volentine paid Hackney of Junker one thousand Dollars
and gave drafts for the balance which was endorsed
by W. P. Lee to be paid in 30 or 60 days I think -
Volentine agreed to deposit with him the money
received from trade in the store, which he thought
at the end of 60 days would be equal to the drafts or
notes given by him - Anderson bought Lee daily
deposits averaged one hundred Dollars daily, Volentine
about the same, after he went into the store - W. P. Lee
at one time deposited about Thirteen thousand Dollars,
Volentine was buying grain and whatever the farmers
had to sell - Anderson's reputation for ability was
good at the time of Volentine's purchase - there was a
little jealousy against them in the minds of a few
in Aurora, but I believed them good, Anderson said

he wanted a little time - The times were hard -
banks were breaking and money scarce - Anderson
said he had expected a partner from the East but was
disappointed - Valentine continued to deposit with
us while we were banking - I went out of the bank
in the Spring after, he was engaged also in buying
grain - Anderson told me that the only debt that
was crowding him now was one or two in Chicago & the debt
due our bank - did not think much of their stock
of goods, they were out of season and the old goods
were dirty & unsalable - heard Valentine say he
would rather give one hundred dollars than have
anything to do with them, thought R. C. Anderson
with 20 thousand dollars and liabilities - understood
Valentine to be a man of means & property - when we
left the store on Saturday night the understanding
was that we was to have \$1000 - on Monday and the
balance of our demand secured.

An crop examination witness said - it was seven
or eight o'clock on Saturday evening when he was
called out of church by R. C. Anderson and went to
store with Jenks - the store was closed when we arrived
there was a light in the lower room - Jenks, Anderson
& I went directly up stairs and found Elder Estlin,
Harlow C. Anderson, Valentine & one or two others,
I do not now remember in the room - there was but
one candle in the room not very light - room in
the second story - when R. C. called witness out
of church said he wanted to see him and Jenks at
the store - was about selling his goods, don't recollect
that I advised them to make an assignment -
requested them to assign something to me - Jenks
told them to take time and see if they could not get

a better offer - don't remember seeing note or draft
given by Valentine - Junker attended to that matter -
I requested Audenon to endorse the notes in Valentine's
papers, because Valentine was a stranger to me -
Valentine and R. C. Audenon's reputation for solvency
and honesty in my opinion - stood on an equality
with other firm & business men in town - talked with
Audenon on Saturday about noon - told him I had
heard that he was about making an assignment or
selling out - he said it was false and a story started
by his enemies, the arrangement made on Saturday
night was that we should advance two thousand dollars on
Monday and the balance arranged satisfactorily -
don't know what induced Valentine to say he would
rather give 100 dollz than have anything to do with
goods - I have examined the bank books of Keackney
& Junker with the view of ascertaining the amount of
deposits of A. P. Lee and Valentine - A. P. Lee's
deposits in Sept & October 1854 were from one to two
thousand dollars per month - Valentine in Nov &
Dec about the same - we paid some of A. P. Lee's checks
on the Saturday mentioned - part of their debt to us
was from our drafts and loans, they did a large
business, larger than any other merchants in town
other merchants deposited with us, Wharton & Ogden
did - loans were made by us to Audenon to buy
butter and wool - the reason of our being anxious
for security was that we learned that they were owing
two houses in New York five thousand dollars
each, the men from New York came to Aurora in
September or October and inquired of us as to A. P. Lee's
solvency, the men from New York represented the house
of Robert McNamee - his demand was due in two months

I knew that A. P. Leo owed some eight to twelve thousand
dollars concerning due in four and six months -
In giving up Anderson + Boutwell's judgment notes
and taking Valentine's simple notes off hand, we
would lose our security, I had would rather have
had A. P. Leo's notes than Valentine's alone -

Thornton a merchant in Aurora had failed and made
an assignment that summer - One thousand dollars paid
us on Monday by Valentine and his notes given for balance
at 60 and 90 days, Valentine said he would deposit with
us so as to make it equal to the notes -

An re-examination by Plff into said, at the time
of my conversation with the New York man his note was
not due, it came due in 2 months - Notwithstanding the
debts which I knew A. P. Leo owed, I thought them good
and thought they would have real estate left after the
payment of their debts -

Levi Jenks said, I am a
banker, was in Nov 1854 with Mr Heackney, knew the
firm of A. P. Leo since they were in business, first saw
Valentine in November, A. P. Leo then owed Heackney
Jenks about four thousand + five or six hundred dollars
they had loaned at different times before Nov, some
had been due and not paid, I told R. C. Anderson
did not want his note to run over - fifteen hundred
or two thousand had been had to buy butter for thirty days,
that was past due, talked with Rollin two or three times
about it, On Saturday Nov 4, 1854 Heackney said there
was a report that they had sold out or was about to sell,
Anderson went in with Heackney into the bank - Anderson
said that he had not sold, nor was not going to sell,
that night Rollin C. Heackney came to my house and
wanted me to go to the store with them, I did so and

was then introduced to Valentine - Rollin said he
had an offer for the goods at 55 cents on the dollar
and wanted to know if we would give more - I
remarked I did not want the goods, did not
want anything to do with the goods - I told them
they had better take time - Heron said to Rollin
"You recollect that demand in Chicago, and the
reports got up against us and the tight times will
prevent our getting in, Rollin said he had time
to find purchasers, Valentine was sitting in a chair,
we were all sitting in the room together, I understood
that Valentine had offered 55 cents on the cents of
the goods, that A. B. Lee could do no better, and
that on Monday Anderson was to swing paid 1000
dollars and the balance satisfactorily arranged -
I was satisfied that Valentine was to see the agreement
carried out - about the time I left, I asked Valentine if
he would see the 1000 paid, said he would - On Monday
afternoon one thousand dollars was paid us by Valentine
and Valentine's notes taken for the balance, the notes were
endorsed by Valentine Anderson, think they were cut
throat notes, Anderson, Leachman & Valentine were in the
back room of the bank, and I went in, Valentine said
he would make a deposit of some two or three thousand
dollars, in some number of days, something was
said about wagon shops, Valentine and Pontre
were talking about an engine, Wagon & Valentine
said they had all been cut down at so much and he
would pay no more - On Saturday night at the
store, Valentine said he had all the business he
wanted and did not wish to purchase the goods as
he had not expected to remain in Illinois - on
Monday in reference to paying on demand,

Valentine said he could not nor would pay sooner, but would pay his note promptly, he paid at or by the time they were due, on Saturday night Rollin C. in reply to my suggestion about an assignment, said he was going to manage his own business, could pay his debts, and calculated to, he spoke promptly and with a great deal of importance - there was a writing of the sale between the parties, it was witnessed by Heackney, I know nothing about the state of goods never examined them - heard Valentine say on Saturday night that the purchases were made too high, that some were old goods, he would give no more - "light times for money &c" don't know what W. B. also were worth or reputed to be worth at that time, knew nothing against their credit only what Heackney said to me - the writing I was called upon to witness, was drawn up and I took it to be a writing of the sale, (The witness here produced the Book of the bank showing the deposit account of Audenon Pontrele also and Valentine as follows,

Audenon Pontrele & Co.

	Payer	Dr.	Cr.
Am't. Brt. forward from 41		\$16866.65	\$17263.52
Oct 11 th To cash ck	By cash 138	101 00	110 00
" 12 th To cash ck ¹⁴⁷⁵ 50875	By cash 130	1925 75	1301 03
" 13 th To ck	By 183 3144	100 00	268 00
" 14 th	By 142		124 00
" 16 th To cash ck	141	22 50	
" 17	" 144	110 55	50 00
" 18	" 146	105 00	
" 19	" 148	197 19	50 00
" 20 th	" 150	90 93	84 00
" 21 st	" 152	202 74	

" 25th	"	"	156	400 00	74.84
" 28th	"	"	158		127 00
" 30th	"	"	160		81 00
" 31st	"	"	162		57 00
Nov 1st	"	"	162	212 60	
" 3rd	"	"	166		285 00
" 6th			168	276 71	
" 7th			170		591 23

1854	Daniel Volentine		Dr	lev
Nov 8th		Py		91
" 9th		"		126 75
" 10th		"		164 83
" 13		"		173 00
" 14	Do	"	643 02	117 44
" 15	"	"		55 00
" 18				165 00
" 20			1501 00	1253 00
"				112 00
" 21			46 80	91 00
" 23rd				182 00
" 25			80 00	
" 28				288 00
" 30				185 00
Dec 1			400 00	152 00
" 2			37 00	
" 4			53 00	
" 5				366 50
" 6				279 25
" 8			301 50	228 87
" 9			848 98	129 00
" 12			266 34	

Dec 13			191 00
16			69 75
17			115 00
19			135 00
20		623 00	105 34
21			87 00
22			133 84
25		93 84	105 00
27			129 00
29			75 00
30			90 00

Our crop examination interview said, at the Store on Saturday Evening Nov 11th I advised Anderson to make an assignment because he spoke of being cramped, I asked him if he had not better take time or make an assignment, he said he would not, nor have the Sheriff sell his property, - I made no threats about our notes, Debt, Valentines notes were paid in part by his deposits - if there is deposits enough, that is a common way of paying notes, Anderson Deleos debt to us was increased Monday by paying his checks on us - that was included in the amount of Valentines notes, he said he would manage his own affairs, without the aid of the Sheriff or any body else, this was said in the room at the store on Saturday evening - Valentine said that he (Valentine) usually bought his goods for cash and bought cheaper than Anderson who purchased on credit - Bills of goods purchased in New York show whether bought on credit or for cash - more usually cash - I have been a merchant in Aurora - I don't

Know that Audenon offered to sell to others, was surprised
on Saturday to learn that they were selling out - told
them they were frightened unnecessarily. - Up to this time
I had considered the Audenons good, some considered
R. C. Audenon an honest man, others not, I don't
think the reputation of the Audenons very good, or that
they stood very fair in Aurora. - Some time previous
to the alleged sale I told Audenon they must pay up
their notes, had been due about a month - Some
of the notes had been received - never threatened to
enter up judgment against them -

On re examination
by Plff witness said, Valentine said he had rather
give a hundred dollars than take the goods - fifty
cents on the dollar is all I would have given for the
goods and all they were worth.

Chas Button testifies
that he had a demand of four hundred & sixty
dollars against A. P. Leo for money loaned them in
August 1854 - by an arrangement A. P. Leo's note
was given up and I took Valentine's a little before
Audenon left the country. I afterwards received
my pay - am a minister of the Baptist Church.

On cross examination witness said, I live in
Aurora, am preaching there - R. C. Audenon
& Valentine boarded together at Elder Estus - Valentine's
brother in law - All I ever heard about the sale of the
goods was at Estus house - Audenon & Valentine were
members of the Baptist Church, also Elder Estus -
Henry Whittier - said, knew A. P. Leo, also Valentine,
had a demand of about 300 dollars against A. P. Leo
for money - the debt accrued about ten months
before their failure - an arrangement was made

between R. C. A. & Valentine by which Valentine was to pay me, he did so -

Our crop examination witness said, I saw R. C. A. and asked him if he was going to let us suffer - he said Valentine would pay us - the lumber was used about Christmas house - In December first heard of failure, went to the store - saw Valentine and Audenon there - soon after the Audenons attended

Daniel G. Carpenter, - had a note against A. B. Co. for 700 dollars for lent money, gave up that note, took Valentine for the amount - has it still -

D. H. Stockwell - knows the hand writing of R. C. & H. C. Audenon - saw him at the time of sale - he examined over all the books in the store, Bay Book, Sedger & Co to Valentine -

The Plaintiff then ~~offered~~ in evidence the following papers:

Recd. Aurora November

6th 1854 of D. Valentine Exp -

Cash ~~~~~ \$ 1000.00

his note for Three thousand dollars payable 30 days after date ~~~~~ 3000.00

also his note for One thousand dollars payable 1st of Dec 1000.00

" " " " Six hundred fifty four ³/₄ cents 654.13

" " " " Four hundred eighty six ¹⁵/₁₀₀ of 1st of Dec next 486.15

" " " " Three hundred forty five ⁷/₁₀₀ of 1st of Dec next 345.08

One thousand dollars 90 " " \$ 1000.00

Five hundred eighty eight ⁸⁷/₁₀₀ of 1st of Dec 588.85

Seven hundred seventy 4 " " 770.00

Two hundred six ²⁵/₁₀₀ " " " 206.25

(signed) Audenon Brothers & Co \$9051.25

In the introduction of which papers as evidence to the Jury the defendant objected - the objection was overruled by the Court and the papers read to the Jury - to which decision of the Court in allowing said papers to go to the Jury as evidence, the defendant by his counsel at the time excepted - Valentine paid Williams of Chabbona Grove a due bill for goods of 174.00 - being the balance of a bill of goods bought by Williams of A. B. Leo for which Williams had given his note for 500.00 - the note of Williams endorsed over to Valentine by A. B. Leo. The Andersons left about a week after the order Valentine took possession -

The Plaintiff then introduced the following depositions - Deposition of Willard Gay, of Rensselaer County, in the State of New York -

I know the plaintiff in this suit, Mr David Valentine - I have known him in business for five years last past - prior to August 1854 he was engaged in business and resided at Chesham in Washington County New York - He was engaged as a Merchant and Manufacturer during my acquaintance with him - He left the State of New York in the month of August 1854 - at that time he was worth over thirty thousand Dollars - his property consisted of bank stocks, promissory notes, mortgages & cash - he owned bank stock in Troy & Albany New York to the amount of ten thousand Dollars, and mortgages on different pieces of property to the amount of ten thousand Dollars - and notes and cash to more than ten thousand Dollars, he was not indebted to any person to my knowledge - I know the general reputation ^{for integrity} of the said David Valentine - his reputation for ^{for integrity} is good -

Willard Gay

Deposition of David Leonce of Rensselaer County in
the state of New York — I know the Plaintiff
in this suit Mrs Daniel Volentine — I have known him
in business for ten years at Shushaw in Washington
County New York — he was engaged as a
merchant during my acquaintance with him, —
He left the state of New York in the month of August
1854, at that time he was worth over twenty thousand
dollars — his property consisted of Banks stock, notes
and money — before he left Washington County in
August 1854 — he had done a prosperous business
and always paid cash for his purchases — I have
sold him a great many goods for the ten years
preceding August 1854 — he was not indebted to
any person to my knowledge — I know the general
reputation for integrity of the said Daniel Volentine, his
reputation for integrity is good.

David Leonce

Deposition of James Gibson of Salem in the County
of Washington and State of New York —

My name is James Gibson, my age is 39 years,
my place of residence in the town of Salem, County
of Washington and state of New York — I am an
attorney & counsellor & presiding Judge of the County
Court of said County — I know the Plaintiff Mrs
Daniel Volentine — & have known him over 20 years
most of the time of residing in Salem or its vicinity —
He was in the business of merchandizing most of the
time — I know by reputation only that he left this
state last fall — his pecuniary condition by reputation
was then good — I cannot state the particulars
as to his property or effects, or what they consisted of

or their value, & have no means of knowledge
except from reputation on these subjects. I have
no knowledge that he owed any person any
sum whatever - I know his general reputation for
integrity - during the whole time I have known him
I never heard any imputation or insinuation whatever
against him, or his character in that respect -
James Gibbons

Reputation of William Lawrence of the Village of
Shushan, in the Town of Salem in the County of
Washington and State of New York.

That he, William Lawrence is aged Twenty nine
years - by profession a Merchant in Dry goods
Groceries, Hardware, Crockery & Provisions - that
his place of residence is Shushan - Town of Salem
Washington, State N. York. - That he knows the said
Daniel Volentine - has known him for the last Twelve
years, while he lived at Shushan Washington, State of
New York - that his business or occupation was that
of a merchant in dry goods, groceries, Hardware
Crockery & Provisions. - That the time when he left
this County was the last part of the month of Sept
1854 - that he was possessed of property at that time as
near as I can judge, about Twenty thousand Dollars
consisting of bank stock, Bonds & mortgages, promissory
notes, $\frac{1}{4}$ of a grist mill, $\frac{1}{2}$ of a woolen factory & one
saw mill, - that I was employed as a clerk by him
in his store for five years, was in company as an
equal partner with him in business for four years, that
I knew of no debts he owed that amounted to over
one thousand Dollars - The Reputation of the said
Daniel Volentine for integrity & strict moral honesty -
was above suspicion or reproach - Wm Lawrence

Deposition of Samuel Reuter, of White Creek in the
County of Washington and State of New York -
To the first interrogatory this deponent says, that he Samuel
Reuter is aged fifty one years, by profession a farmer -
that his place of residence is at White Creek Washington
County, State of New York -

To the second Interrogatory this deponent says - that
he knows the said Daniel Volentine, has known him
for twenty years, while he lived at Sheshard in said
County of Washington and State of New York -

To the third Interrogatory this deponent says, that
his business or occupation was that of a merchant in
the dry goods, grocery and provisions business -

To the fourth Interrogatory this deponent says, that the
time when he left this county was about the 20th of
September 1854 - that he was possessed of property at
that time as near as I could judge of twenty ^{thousand} ~~thousand~~
dollars, consisting of Bank stock, bonds and
mortgages, promissory notes, $\frac{1}{4}$ of grist mill, $\frac{1}{2}$ of Shoshone
factory, & one saw mill - that I was often consulted
by him in making his instruments - and drew
many of his papers in relation thereto, that I know
of no debts he owed that would amount to one ~~thousand~~ ^{thousand} dollar -

To the fifth Interrogatory this deponent says, that the
reputation of the said Daniel Volentine for integrity
and strict moral honesty was a true question or
reproach -
Samuel Reuter

Deposition of J. A. P. Thomas of Sandgate in the
County of Bennington State of Vermont -
That J. A. P. Thomas aged 43 years, am by
occupation a farmer & dealer in Real Estate and in
personal Property - I reside in Sandgate & know

Town adjoining Salem Washington County N. Y.
I have known said David Volentine for the last
ten years and during that time he has generally
resided in the village of Salem in said Town of Salem
During most of the time I have been acquainted with
said Volentine he has done business in said Shushier
as a merchant; - For some two or three of the last
years said Volentine has dealt largely in flour, wool
lumber grain and pork - Said Volentine moved
from the State of New York sometime last fall -
About the time he left I took some pains to inform
myself with regard to his pecuniary condition, and
satisfied myself that he was worth at least twenty
five thousand dollars. - His property consisted principally
in Bank stock, money on deposits in Banks - Bonds &
Mortgages on Real Estate, notes and accounts against
respectable persons - and Real Estate - I have never
known any business man as prompt as said Volentine
in meeting all his pecuniary liabilities and could
never ascertain that there are any demands
standing against him - I have always heard
Mr Volentine spoken of as a man of the strictest integrity,
keeps a very large amount of business - was
generally known, and as far as I am able to judge
was universally regarded as an honest man - I
never heard during the time referred to any
intimation to the contrary, further deponent swears -
J. B. Thomas

Deposition of Franklin Stevens of Salem in the
County of Washington and State of New York -
I Franklin Stevens am by occupation a farmer and
reside in the Town of Salem Washington County N. Y.

Said Volentine myself have been neighbors in the
in the said Town of Salem for the last twenty years,
and have been on the most intimate terms during that
time - Most of the time I have known Mr Volentine he
has been engaged in the mercantile business - and was
reputed to do more in this line than any merchant
in the vicinity - In addition to this he has been
doing for the last four or five years an extensive
business in the wool trade, also in flax, Lumber
Pork and grain - Mr Volentine left this State
some time back full - I had good reason at that
time to believe him worth a good deal of money,
I had money deposited and stock in the same
Banks he had - I knew of Real Estate belonging
to him of the value of ~~some~~ four thousand Dollars -
Money in Bank Stock and deposits in Bank Several
thousand Dollars - money loaned on bonds mortgage
five thousand Dollars - and notes and accounts
for several thousand more - I knew of property in
his possession of over Twenty thousand Dollars, he
was indebted to no one to my knowledge to any amount.
For honesty, integrity, and fair dealing - I know
of no one who stood higher than said Volentine -
Mantlin Sterling -

Deposition of Ira Gleason of Salem in the County of
Washington and State of New York -

My name is Ira Gleason - aged 36 years, I am
in the lumber business and reside in the Town of Salem
Washington County, State of New York - I am
acquainted with said David Volentine - have
known him for the last twenty years, in the said
Town of Salem where he has resided generally traded

would be left for Illinois some time last fall -
Since my acquaintance with the said Daniel
Volentine, he has most of the time been engaged
in the mercantile business in said Salem and always
had the reputation of selling more goods than any
other merchant in the county. For the last few
years he has also dealt, independent of his store,
extensively in Wool, grain, Salt Pork and lumber.

Said Volentine left the East for Illinois some time
last year - at that time he was reported to be worth
a large amount of money - owned one fourth of a
flouring mill - one half woolen factory, and a
saw mill and other Real Estate all of which was
worth at least \$5000, and readily convertible into
cash at a fair valuation - according to the best of my
knowledge and belief when Mr Volentine left Salem
there were no debts standing against him -

In addition to his Real Estate Mr Volentine had bank
stock and money deposited in Bank and had money
loaned on bond and mortgage - I have been in business
with Mr Volentine for the last four years - had access to his
papers and a good opportunity to acquaint myself with
his pecuniary affairs, and do not believe when he left
here for Aurora Illinois he was worth less than forty
thousand dollars - I never heard an intimation from
any source but what he was a wealthy man - During
my acquaintance with Daniel Volentine his character
for integrity, honesty and fair dealing has been of no
doubt -

Reprint of James J. Pick of
Salem in the County of Washington and State of
New York - He is aged twenty nine years -
is by profession a minister clergyman - that his place

of Residence Shushan, town of Salem, County of Washington
and State of New York - knew the said Daniel Valentine
have known him for nine years which he lived at
Shushan town, county and state aforesaid - his business
or pursuit was that of a Merchant in the sale of dry
goods, Groceries, Provision and crockery - That the
time when he left this country was about the 20th of September
1854 - That he was possessed of property at that time as
near as I ^{able to} judge of from twenty to twenty five thousand
dollars consisting of Bank stock, $\frac{1}{4}$ of a Wind Mill, $\frac{1}{2}$ of
a Woollen factory, one saw mill, together with obligations
against sundry persons - I knew of no debts to any
account that he owed - The Reputation of the said
Daniel Valentine was above suspicion, his integrity without
a stain -
James J. Peck

Hurd - is a partner of Valentine, has been since
August 1855 - knew A. P. Schoon was in Aurora
about the last of Sept 1854, knew the stock of goods
saw them first in Oct 1854 - A. P. Schoon wished to sell
them to me - did not make a thorough examination of
the goods - In Jan 1855 examined the goods pretty
thoroughly, found many goods out of style - many shags
rotten - some rusty cutlery, in bad order nearly all
spoiled by the rust - boots and shoes mouldy - a good
deal of summer clothing, light colored prints and
delaines - the store is very damp - a good deal of
water stands in cellar - would not give over ten
cents on the dollar of cost price of the cutlery -
The Plaintiff then asked the witness, what was the value
of the goods in January 1855 - to which question the
defendant objected - the objection was overruled by the
Court and the witness allowed to answer to the Judge

to which decision of the court in overruling said objection and allowing the witness to answer the question to the jury the defendant at the time by his counsel excepted - The witness answered - not worth over fifty cents on the dollar of cost price -

Our cross Examination witness said, I bought an interest in the goods last August - looked at the goods generally on lower floor - did not go into the cellar - saw no new goods in Sept 1854 did not go into either of the upper storages - saw no fall purchases - did not see any water in the cellar in October or January - Valentine's store occupies the store - Rents it of Dr Root - it is a stone store - 30 by 70 feet - built by the Andersons - The wine was not damaged - nor the opium - nor the morphine - I came out from New York about the time Valentine did - had known him before he came here - of the goods purchased of A. P. Polo there was about four thousand dollars worth when I purchased in - have been in business before in Vermont about two years before coming to Aurora - Bills of purchase do not always indicate whether bought for cash or on credit - have seen them both ways -

Milo Kemp said, I am a brother in law of Rollin C. Anderson - saw two notes given by Valentine to A. P. Polo in Nov 1854 for 1000 Dolly each, one went to Chicago to pay a debt there don't know where - a lawyer from Chicago by the name of Ward took the note, the other note Dr Root took, it was applied on Anderson's debt - I had a note against A. P. Polo for money lent of 200 Dolly in July 1854 - Valentine agreed to pay it - I showed it to him - he said it was all right - and it was to be

endorsed on notes given by Volentine to A. B. Lee on
purchase of the goods - He has not paid me yet.
Dr Root took the 1000 dollar note to pay him for
what he had to pay in Chicago for A. B. Lee.

Am Crop Examination inters said - Dr Root and
I gave a note for 1000 for a debt of A. B. Lee in
Chicago, the note was made at my home in DuPage
County - Ward was Anderson's attorney - he came
out with Anderson from Chicago - Hiram C. had
been captured in Chicago - R. C. Hiram C. - Ward
+ Dr Root were at my house in the afternoon and I
went to Aurora for Volentine at their request - when I
got back the company had assembled - it was agreed
the note should go to Chicago to get Anderson out of
his trouble - Volentine said if Dr Root would get
the 1000 dollar note sent to Hiram C. he would pay
it when due - I was not in the room with them -
Rollin, Hiram, Volentine + Root all staid all
night at my house - I went to Aurora for Volentine
and he went to Palatia with me - and Volentine
agreed to shorten the time of his note given to A. B. Lee
for the goods + also divided up the notes to accommodate
A. B. Lee + Dr Root, so that Dr Root himself might
take his notes to pay for A. B. Lee's indebtedness in
Chicago when Hiram Anderson had been arrested -
Dr Root is the father-in-law of Anderson Rollin - this
occurred the first part of November 1854 -
Hiram Cleland went right away -

R. C. Minton said he made and attested a
bill of sale from A. B. Lee to Volentine - I told
them it was not necessary to attach an inventory -
this was on Monday evening at my office -

Am Crop Examination inters said he was

and had been the attorney of Valentine - in the whole matter - and was in the ments growing out of the sale of the goods - before the sale was made. Valentine came to me, and asked me if he could safely buy the goods - I told him he could.

The Plaintiff then offered and read in evidence an estimate made of the goods, a part of which admitted to be in the hand writing of Valentine as follows -

The defendant introduced as witnesses
Henry Vaughan who said I am acquainted with
Anderson Pontrebo and Valentine, had a note
of 500 dollars against A. P. Lee - there was an
agreement between Anderson, Valentine & myself
that Valentine should take their note and give me
his - I gave Valentine their note - this was after the
sale of the goods - Valentine did not give me his note
nor pay theirs - Saw Anderson next day in the store
Anderson had a pair of horses, in the barn which
Valentine afterwards had - he sold them for 300. dollars
Anderson also had a cow, single harness and buggy
which Valentine took - the harness worth 15 or 16 dollars
Buggy from 70 to 100 dollars - he had a double wagon
of Andersons worth 70 dollars - Dr. Root took Andersons
furniture - Edward or Valentine occupied A. stable

Our cross examination witness said, - it was the
understanding between Anderson, Valentine & myself
that I should give up A. P. Lee note and take Valentine
and the amount was to be rendered on notes given by
Valentine to Andersons for the goods -

E. R. Allen said, I am acquainted with Anderson
and Valentine - am acquainted with the lands and
lots described in the deed from R. C. Anderson to Dr.
Root Recorded Nov 11th 1854 - the property at date of
Recording worth Eighteen thousand dollars - myself
and Hawkins examined the lots mentioned in the
abstract we had from Rearden office as being conveyed
to Root, Eitel and Pratt - The lands and lots in
Roots deed at 17000 dollars - the store on one of the
lots store built by Anderson worth 5000. good
stone store - The lot of three acres has good house

worth 100. Lots 9, 10 Blk 8 worth 1800 Dollars -
The property then conveyed to Ertw was worth \$3000.
but Ertw had put the home on it - had a bond for it
the year previous and had paid Anderson for the lot
except \$100 - the lands and lots deeded to Pratt
6000, worth 6000, - don't know Mr Pratt - never saw
him - have heard of him as some relation of Anderson
at Lake Superior - the 43 acres of timber valuable -
the 3 plots deeded to Pratt worth one hundred fifty dollars
each - the timber worth one hundred fifty dollars per
acre - all the improvements on the lots conveyed to Root
and Pratt were put on by R. C. Anderson - a few
days after the sale of goods I had some conversation
with Valentine - he said that he bought Anderson
out because they were involved and must sell -
he said Rollin said he must sell or he would be sold
out at ten per cents on the dollar - Anderson had no
other real estate than that conveyed by him in the deed
to Root, Pratt and others to my knowledge - he sold
out all his property so far as I know - Valentine when he
spoke about Anderson selling out did not mention any
debts except that due to Leachney and Jones and one
in Chicago, and myself did not know whether ^{he} referred
to them or not -

James Randall - was in A. Polo's
employ at Aurora previous to sale to Valentine -
was afterwards in Valentine's employ as clerk - had a
conversation with Valentine while marketing goods
received by A. Polo just before sale - Valentine
said Anderson paid too high for his goods -
that he could buy goods cheaper for the reason that
he would buy with cash while Anderson had
bought on credit - An cross examination

Valentine said - had some conversation with Valentine
since testifying before - told Valentine he might
possibly be mistaken as to time - but felt quite
sure he was not -

S. P. Burdick is a brother
in law of R. C. Audenon and at Aurora on a Nov-
ber near Elgin - brot some deeds from Audenon
to the Recorder's office - Audenon told me he wished
them put on Record that night - Audenon and
Valentine were in the store - Audenon said to Valentine
Mr Burdick can do the business and save us the
trouble of a journey up to Geneva - Harrison gave
the money to pay for recording the deeds - I
brought them up and left them at the Recorder's office
it was about night - Can't say whether Valentine
knew that Audenon was recording any deeds by me
or not - nor if he knew of any deeds from Audenon
being sent for Record -

J. A. Blanchard, I am
deputy clerk and Recorder - A deed from R. C.
Audenon wife to Aaron Root, to Wm A Pratt, and
Elizabeth Ester, John Hurns & A Sonnell was brought
to the office by Mr Burdick Nov 4, 1854 about dark -
Pratt & Ester's deeds are yet in the office - have not
been called for.

The defendant then introduced as
evidence to the Jury the following described notes,
the signatures to which were duly proven - to the
introduction of which said notes as evidence the
Plaintiff objected - the objection was overruled by the
court to which decision the court in overruling said
objection and allowing said notes to be read as
evidence the Plaintiff by his counsel at the time excepted

The notes were then read to the Jury as follows,
\$109 ⁶⁷/₁₀₀ Chicago July 1st 1854
Five months after date we promise to pay
to the order of Messrs Barclay Bros. One Hundred and
Nine Dollars ⁶⁷/₁₀₀ value received -

(Signed) Anderson Pontreille & Co
\$105 ³¹/₁₀₀ Chicago Aug 1st 1854
Five months after date we promise to pay
to the order of Barclay Bros. One Hundred and five
Dollars ³¹/₁₀₀ for value received

(Signed) Anderson Pontreille & Co
\$454.04. Boston March 24th 1854
Six months after date we promise to pay
to the order of Sonny Erik & Co four hundred and fifty four
dollars ⁰⁴/₁₀₀ Payable at their office - value received.

(Signed) Anderson Pontreille & Co
Chicago Feb 9th 1854
For cash Rec^d we promise to pay C. K. Anderson or
bearer, five hundred and twenty dollars one day after
date (\$520) (Signed) R. & K. Anderson
\$935 ⁵⁰/₁₀₀ Boston April 3rd 1854

Six months after date we promise to pay to
the order of Sonny Erik & Co One hundred and thirty five
dollars ⁵⁰/₁₀₀ Payable at their office - value Rec^d
(Signed) Anderson Pontreille & Co

\$507.20 New York June 17th 1854
Six months after date for value received we the subscribers
of Aurora State of Illinois promise to pay to the order of
Bowers & McNamee One hundred and eight ²⁰/₁₀₀ dollars
at the Merchants & Mechanics Bk Chicago with
current rate of exchange for draft upon New York
(Signed) Anderson Pontreille & Co

11451'98

Boston Oct 1st 1853

For value received we the subscribers of Aurora
County of Kane and state of Illinois promise to pay
Whitney, Sumner & Co or order Twenty thousand thirty
one dollar ninety eight cents, in six months with
interest after - Attest - (Signed) Anderson Bondurant & Co
Signed J. A. Leonard

\$1204⁵⁰/₁₀₀

Boston March 22^d 1854

For value received we the subscribers of Aurora
County of Kane and state of Illinois promise to pay
Whitney, Sumner & Co or order Twelve hundred
four dollar, fifty two cents in twelve months with
interest after - Six - (Signed) Anderson Bondurant & Co

For cash Ric's we promise to pay C. H. Anderson or
bearer one hundred & sixty nine dollar & fifty two cents
one day after date - (Signed) R. & H. Anderson

\$2865.17

Boston Sept 2^d 1854

For value received we the subscribers of Aurora
County of Kane and state of Illinois promise to pay
Whitney, Sumner & Co or order Twenty Eight
thousand six hundred seventy two dollar seventy cents, in six
months with interest after -

(Signed) Anderson Bondurant & Co

\$217.85

Boston March 22^d 1854

For value received we the subscribers of
Aurora in the County of Kane and state of Illinois
promise to pay Ryntown & Woodford or order Two thousand
eighteen dollar, eighty five cents, eight months after
date - Anderson Bondurant & Co

\$302.57

Boston March 23^d 1854

For value received we the subscribers of
Aurora, County of Kane and state of Illinois promise
to pay Sumner & Co or order Three thousand

+ two Dollars 51 cents in six months with interest after
(signed) Audenon Boutin & Co
Hartford March 20th 1854

\$268*

Eight months after date as promise to pay to the
order of J. & W. Merriam Two hundred & sixty eight
dollars, value received at their office Hartford Conn.

(Signed) Audenon Boutin & Co

\$2501.71

New York Aug 25th 1854

Six months after date for value received from
the subscribers of Aurora State of Illinois promise to
pay to the order of Bowen & McNamee Two hundred
& fifty dollars at their office —

Audenon Boutin & Co,

\$508.22.

New York April 17th 1854 —

Six months after date for value received from
the subscribers of Aurora state of Illinois promise to
pay to the order of Bowen & McNamee Two hundred
& Eight ²²/₁₀₀ Dollars at the Merchants & Mechanics
BK Chicago with current rate of exchange for
draft upon New York.

Audenon Boutin & Co

\$1290.72

Hartford Conn March 20th 1854

Eight months after date as the subscribers of
Aurora state of Illinois promise to pay to the order of
Collins Brothers & Co at their office Hartford, Encls
Two hundred Ninety ⁴⁰/₁₀₀ Dollars for value received

Audenon Boutin & Co

\$358.49

New York May 7th 1854

Six months after date for value received from
the subscribers of Aurora State of Illinois promise to
pay to the order of Bowen & McNamee Two hundred
& Eighty five ⁴⁹/₁₀₀ Dollars at the Merchants & Mechanics
Bank, with current rate of exchange for draft upon
New York —

Audenon Boutin & Co

\$1544.10

New York September 28th 1854

Six months after date for value received in the subscribers of Aurora State of Illinois promise to pay to the order of Roman M. Stancosco fifteen hundred & forty five $\frac{700}{100}$ dollars at the Merchants & Mechanics Bank Chicago, with current rate of exchange for draft upon New York - Audenon Pontrevel & Co
\$561.23 Boston Sept 5, 1854

Eight months after date in the subscribers of Aurora County of - State of Illinois promise to pay Potter, Elder & Aute or order Five hundred sixty one dollars $\frac{23}{100}$ at the Exchange Bank in Aurora Ill. with current rate of exchange on Boston Map when at maturity, value received - Audenon Pontrevel & Co

\$2150. $\frac{02}{100}$

Boston March 23^d 1854

Twelve months after date for value received as promise to pay to the order of Samuel Parsons & Co Twenty one hundred fifty dollars $\frac{04}{100}$ payable at Boston Audenon Pontrevel & Co

\$1084. $\frac{13}{100}$

Boston March 24th 1854

Eight months after date in the subscribers of Aurora County of - State of Illinois promise to pay Potter, Elder & Aute or order ten hundred $\frac{90}{100}$ and eighty four dollars $\frac{13}{100}$ at the Merchants & Mechanics Bank in Chicago Ill. with current rate of exchange on Boston Map when at maturity, value received - Audenon Pontrevel & Co

The defendant also produced as evidence duly of conveyance from Rollin C. Audenon and wife to various persons - where by agreement of counsel on both sides the following abstract of the deeds of conveyance furnished by the Recorder was used as

evidence to the jury instead of the original deeds
and records

Rollin C. Audenon wife

To
Aurora Root

} M. Deed. Dated 11th Nov 1854
Consideration \$4000.

Conveys the following described
premises situate lying and being in the County of Kane
and State of Illinois viz. In the village of Aurora the West
three acres of land in Block C of Audenon's addition
to Aurora. Also lots 13 & 14 in Block D, also lot 14
in Block L. Also lots 6 & 11 in Block K. Also lots 9 & 10
in Block H. Also lots 6 & 7 in Block B. Also lots 6 & 7 in
Block K. Also the East two acres in Block C. Also lots
1, 2 & 4 in Block E. Also lot 12 in Block G. Also lot 7
in Block I. All the foregoing described lots and
lands lying and being situated in Audenon's addition
to the village of Aurora. Also in Root's addition to Aurora
the following described property viz. Lots 3, 4, 5 & 6 in Block
11. Also lots 3, 4, 5 & 6 in Block 7. Also lots 4, 5 & 6 in
Block 8. Also in the village of Aurora the following
described property viz. The Eastern part of lot No 2 in
Block 1411, being 24 feet on Main Street - by 120 feet
feet deep, being the West 24 feet of said lot - also sixty
feet off the north side of Lot No 11 in Block No 13, also
sixty feet off the north side of Lot No 11 in Block No 17.
Filed for Record 24th day of Nov. A.D. 1854
at 5 o'clock P.M. Luther A. Auburn Recorder

Rollin C. Audenon wife

To
William A. Pratt

} M. Deed. Dated 17th Oct. 1854
Consideration \$3700.

Conveys the following described
property viz. Wood land in Township 38, North Range 8

East of the 3^d principal meridian, Beginning 7.50 chs
 East of the south west corner stake of Sec 13 on Sec line, thence
 N 44.31 chs, thence E 7.71 chs, thence S 14.04 1/2 chs to Section
 line, thence West on said line 50 links, thence South 27.25 chs
 thence West 14.75 chs, thence 28.50 chs to said corner
 stake and Section line of Sec 13, thence East 7.50 chs to place
 of beginning, being part of Sections 13 & 24 containing about
 48 acres. Also in the village of Aurora, the following lots
 in Andersons addition to Aurora viz, Lot No 2 in Block
 B, Lots No 1, 2, 9, 10 in Block G, Lots 3 & 4 in Block D,
 Lots 3, 4, 7 & 8 in Block E, Lots 2 & 3 in Block H, Lots 8, 9,
 10, 13 & 14 in Block J, Lots 7, 8, 9 & 10 in Block K, Lots 1, 2,
 3 in Block L, - Also the following lots in Lots addition
 to Aurora viz, Lots 1, 2, 9, & 10, in Block No 1, Lots 2, 6, 7
 & 11 in Block No 2, Also lots No 1, 2, 3 & 4 in Block No
 3, Reference being had to Plats of said additions
 Recorded in the Recorder office of said county of Kane
 and State of Illinois - Filed & Recorded Nov 14th 1854
 5th P.M. L. Stanton Recorder

Rollin C. Andersons wife

Elizabeth Ester

W. Deeb, Dated 17th day of
 October A.D. 1854. Considered \$300.

Conveys all the following described
 lands situate in the village of Aurora county of Kane
 and State of Illinois, and described as follows - viz -
 Lots No Seven (7) Eight (8) & Nine (9) in Block E of
 Andersons addition to Aurora -

Filed & Recorded Nov 14th 1854
 5th P.M. L. Stanton Recorder

Collin C. Anderson wife }
 To } W. Aud. Dated 17th Oct 1854
 John Morris } Consideration \$100.
 Conveys all of Lot 40 (8) Eight in
 Block No 3 in Rorts addition to Aurora.
 Recorded Nov 4th 1854 @ 57th Rm.
 S. Deaton Recorder

Collin C. Anderson wife }
 To } W. Aud. Dated 4th Nov 1854
 George O. Donnell } Consideration \$125.
 Hugh O. Donnell } Conveys the following described
 property premises, situate lying
 and being in the county of Kaw & State of Illinois to wit,
 Lots A. 1st 3rd (3) and 4th (4) in Block "A" of Anderson
 addition to Aurora.
 Filed & Recorded Nov 14th 1854 @ 57th Rm.
 Luther Deaton Recorder

The defendant also produced the records and
 proceedings of the Kaw County Circuit Court of
 certain attachment suits against Anderson Pontotoc Lee
 when it was also agreed by the counsel that the following
 abstract should be used as evidence instead of the
 original papers and records—

Date	Names of Parties				Am't Paid
May 16	Henry Smith et al	&	R. C. Anderson et al		\$114 11 17
" "	George A. Whitney	"	" " "		15 28 64
" "	Lynne K. Anderson	"	Anderson & Anderson		62 3 97
" "	Henry C. Bopier et al	"	Anderson Pontotoc Lee		5 20 90
" 17	John A. Bopier et al	"	" " "		25 0 34
" "	" " " "	"	Kirwin C. Anderson		90 37

"	18	George S. Malinow & Audenon Buntinto dec	298	68
"	"	Philander H. Bondy " " "	107	22
"	"	" " " " " " "	111	69
Nov	5	George C. Whitney dec & " " "	142	68
"	9	Joseph Murrin dec & " " "	83	11
"	14	Walter S. Burnes dec & " " "	326	83
"	15	William S. Collins dec & " " "	136	08
			<u>1177</u>	<u>317</u>

The Defendant here stated —

The Plaintiff then introduced a Mortgage from R. C. Audenon to Aaron Root, also a lease from Root to Volentine of the store, the following abstracts of which it was agreed by counsel should be used as evidence instead of the original papers —

Collins & Audenon

To Aaron Root } Mortgage, Dated October 4th 1852
 Given to secure the payment of \$4000. & interest — covering the following described lots pieces or parcels of land Situate lying and being in the County of Law and State of Illinois and described as being in Township thirty eight North Range eight East of the 3^d Principal meridian, and further described as being in the village of Aurora and known as the Western part of lot number One in Block Number Eleven 24 feet on Main Street by 120 feet deep being the West twenty four feet of said lot — Also 60 feet off of the North side of Lot number one in Block number thirteen — Also eighty feet off the North side of Lot No One in Block number Seventeen — Also lots three four five & six in Block No 7, and Lots Number three, four five and six in Block number

are in Root addition to the village of Aurora "and
lots number one "and two in Block E of Anderson
addition to the village of Aurora -

Filed & Recorded Feb 15, 1853 at 12 1/2 % R. No. 1

Luther Dearborn Recorder

The Plaintiff then introduced as a witness Anson
Root who said the lease was made six or eight days
after sale of goods - it was dated back to the day
of sale - money by Rollin C. Valentine was paid -
Anderson requested me to let Valentine have the
store at that price, the sum that Anderson had
agreed he should have it for -

The foregoing was
all the evidence in the case - the Plaintiff then asked
the Court to instruct the jury, which was done as follows:

Fraud is a question of fact for the jury to determine
from all the evidence, and in the determination of which
the jury are not to presume fraud, but the burden of
proof rests upon the defendant alleging it - and
unless the jury believe from the evidence fraud to have
been proven between the contracting parties Anderson
Bontade & Co, and Valentine in the sale and transfer
of the goods they will find for the Plaintiff on that
question -

Fraud is not to be presumed by the jury
but must be proved by the party alleging the same
and therefore if the jury believe from all the evidence
that the motives and design of the sale in question was
bona fide and for valuable consideration and without
fraud they should find for the Plaintiff on that question -

That fraud is not to be presumed but must be proved and the burden of proving fraud in this case rests upon the defendant and unless the Jury believe from the evidence that the defendant has not affirmatively proved fraud on the part of Volentine they should find for the Plaintiff on that question.

If the Jury believe from the evidence that Audenon Boutwell entered into a contract with Volentine to sell the Plaintiff his stock of goods (of which the goods in question are a part) and that Volentine agreed to pay 55 cents on a dollar therefor, and that appraisers by agreement between the parties were chosen to appraise the same, and that in pursuance of thereof the said appraisers appraised the goods at \$11,000 and that Volentine then paid the said Audenon Boutwell in cash and notes 55 cents on a dollar therefor, and that said goods were delivered over to Volentine and that he had possession of the same at the time of levying of the attachment writs in the defendants Pleas, and that such sale & transfer was bona fide and without fraud either in fact or in law, then the law is for the Plaintiff.

That mere inadequacy of price in the sale of goods does not necessarily make the sale fraudulent as against creditors.

The mere fact that Audenon Boutwell was in debt for the goods in question did not prevent them from selling the goods to Volentine or any other person, and conveying a good title thereto. And if the Jury believe from the evidence that the Plaintiff purchased the goods in question from Audenon Boutwell without fraud

before the levying of the attachment aints in the defendant's
place with the intention only of making a profitable
contract or purchase of said goods to himself, then
the law is for the plaintiff and the Jury should find
accordingly, on that question.

In determining
the question of fraud the Jury should take into consideration
the whole evidence in the cause, and if they believe the
purchase money of said goods went to Anderson's
creditors and not to Anderson himself, that is one
construction for the Jury to take into consideration as
tending to prove the purchase and sale of the goods
to Volentine to be bona fide - and not with a view of
defrauding or hindering or delaying the collection
of their demands against Anderson & Co.

If the Jury believe from the evidence that
Volentine did not pay Anderson & Co. but
55 cents in the dollar, for the goods in question, and
that such sum was not the full value of the same,
but that such sale was otherwise bona fide and without
fraud on Volentine's part, that circumstance of itself
would not vitiate the sale to Volentine.

If the Jury
believe from the evidence that the price paid by Volentine
to Anderson & Co. for the property purchased was
inadequate, that fact alone is not sufficient evidence
of fraud in the purchase to vitiate the same.

In determining the question of fraud, a
knowledge of or participation in the fraud must be
shown on the part of the buyer as well as the seller
and if the Jury believe from the evidence that Anderson
& Co. acted with a fraudulent intent and
purpose of defrauding his creditors in selling the

goods & property in question to Volentine, such fraudulent intent and purpose unless found to have been participated in or known to Volentine would not render the contract and sale void as to him and the law is for the Plaintiff on that question.

In the determination of the question of fraud, the Jury should start upon the presumption of the contract being entered into between the parties bona fide and honestly and they should continue so to believe until they - from the evidence are satisfied that the contract between Anderson Boutwell & Co and Volentine was made in fraud of the creditors of Anderson & Co.

So the giving of which instructions as asked by the Plaintiff the defendant by his counsel at the time excepted.

The defendant then asked the Court to instruct the Jury which was done as follows -

1. That as the Plaintiff (Volentine) in his declaration alleges that the goods therein described at the time of the commencement of this suit belonged to him, he in order to sustain the issue on his part is in the first part thereof obliged to prove affirmatively this allegation to the satisfaction of the Jury - And if the Jury shall believe from the evidence that the said goods were in October or November AD 1854 the property of Anderson Boutwell & Co, then unless the evidence convinces the Jury that there was a sale of the goods (made in good faith without fraud or notice of fraud on the part of Volentine and for a valuable consideration) from Anderson Boutwell & Co to him, then your verdict must be for the defendant, if you further believe ^{from the evidence} that the defendant

had as Sheriff seized the goods on attachment in favor of creditors of Audenon Pontrevel as stated in the pleas in this case.

2. That fraud in the sale of goods is a question of fact for the jury to decide from the weight of the evidence, and that though it is not to be presumed but must be proved yet it may be shown by proving facts and circumstances from which its existence may reasonably be inferred.
 3. That the law in relation to the sale and purchase of property recognizes fraud as of two kinds - fraud in fact and fraud in law. 1st fraud in fact or actual fraud, is where there is an evil intent or actual bad faith on the part of both seller and purchaser - as for instance where the object of the sale on the part of both is to hinder and delay or defraud the creditors of the seller of the collection of their debts - 2^d fraud in law or as it is some times called, constructive fraud; is where there is actual fraud or bad faith on the part of the seller and no actual fraud or bad faith on the part of the purchaser but where there were such circumstances connected with the sale and acts of the seller, known to the purchaser as would have induced a man of ordinary prudence to believe that the object of the sale on the part of the seller was to hinder or delay or defraud his creditors of the collection of their debts. In such case the purchaser is held to have notice of the seller's fraud; and though the purchaser may really have no bad motive & be entirely innocent of wrong, still the law holds his act to be a fraud the same as if he had acted in bad faith -
- And a sale tainted with fraud in fact or law as above explained is void as to creditors of the seller though the purchaser may have paid full value for the goods.

4 That if the Jury believe from the evidence that Anderson Pontrelee in November AD 1754 owned the goods in controversy, and that for the purpose of defrauding their creditors out of their debts, they sold the goods to the Plaintiff (Volentine) and that Volentine's object in buying was in part to aid them in that purpose, then there was actual fraud in both seller and buyer and as the creditors of Anderson Pontrelee the sale is void.

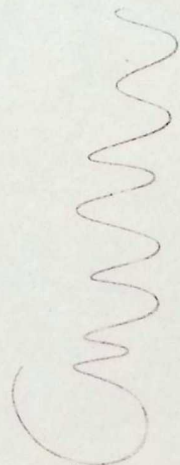
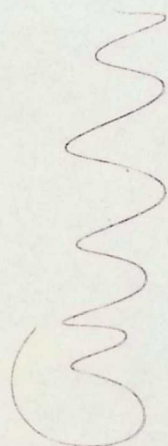
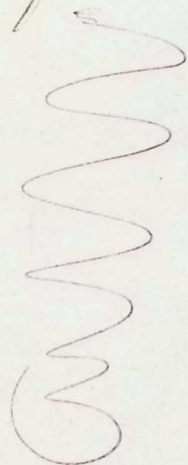
5 That if the Jury believe from the evidence that Anderson Pontrelee in November AD 1754 owned the goods in controversy, and that for the purpose of hindering and defrauding and delaying their creditors in collecting their debts, they sold the goods to Volentine, and that Volentine's object in buying was in whole or part to aid them in that purpose, then the sale as to Anderson Pontrelee's creditors was void for actual fraud on the part of both parties to the sale.

6 That if the Jury shall believe from the evidence that Anderson Pontrelee in November AD 1754 owned the goods in controversy in this suit, and that for the purpose of hindering and delaying their creditors in collecting their debts, or for the purpose of defrauding their creditors out of their debts, sold the goods to the Plaintiff (Volentine) and that Volentine knew at the time that such was their purpose, without actually participating in it, or if he did not actually know that such was their purpose yet if the Jury shall believe from the evidence that such facts and circumstances had come to his knowledge as would have led a man of ordinary prudence to suspect or believe that such was their purpose, then there was fraud in fact on the part of Anderson Pontrelee and fraud in law on the part of Volentine and therefore the sale void as to Anderson Pontrelee's creditors.

7. That if the Jury believe from the evidence that the Plaintiff (Volentine) bought the goods of Anderson Bontwistle & Co., and bought them at a price much less than they really are worth, that circumstances in connection with others may be considered in determining whether he bought them in good faith and without fraud or notice of fraud if there was any on the part of Anderson Bontwistle & Co.

8. That if the Jury believe from the evidence that Anderson Bontwistle & Co. were at the time of the alleged sale to Volentine in embarrassed pecuniary circumstances, and that for the purpose of preventing their goods being seized and sold in legal process in favor of their creditors they sold the goods to the Plaintiff, and that he (Volentine) bought the goods in whole or in part to assist them in carrying out that purpose, or knew or had notice that such was their purpose, then the sale as to Anderson Bontwistle & Co's creditors is void;

9. That in order to render the sale or transfer of the Goods by Anderson Bontwistle & Co to Volentine void as to their creditors, it is not necessary that there should be any secret understanding between them, that Volentine should hold them in trust for Anderson Bontwistle & Co - if the sale was made by both parties acting in fraud of the creditors it is as to them void.



The Jury rendered a verdict for the Plaintiff - the defendant then asked the court to set aside the verdict and grant the defendant a new trial -

The court overruled the motion and rendered its judgment for the Plaintiff on said verdict, to which decision of the court in overruling the defendant's motion for a new trial and rendering judgment on said Plaintiff verdict the defendant by his counsel at the time excepted, and prays that this his bill of exceptions may be signed which is done.

Isaac S. Wilson Judge

Filed March 1, 1857

P. R. Knight clerk

State of Illinois }
Kane County } S. S. I Paul R. Knight clerk of Kane County
do hereby certify that the above and foregoing is a true and
complete copy of the original "Preliminary", "affidavit",
"Replevin Writ", "Replevin Bond", "Declaration", "Plaint",
"Replication", "Appraisal Bond" & "Bill of exceptions",
filed in said cause - and also of all the proceedings
had in said cause and entered of Record in our
said circuit court, as appears from the files and
Records of my office.

Witness Paul R. Knight clerk of said
court and the seal thereof at Geneva in
said County this 12th day of April 1857
P. R. Knight
Clerk

Kane Circuit Court

Daniel Volentine

3

Lawrence P. Barker

Record

50

Kane County Circuit Ct.

Lawrence P. Barker

vs - appellant.

Daniel Volentine

appellee

Record &
Ass't of Recs

Filed April 22, 1888
L. Leland
clerk

W. H. C.

Burgess

May 20.

State of Minor's
Supreme Court
Lawrence P. Barker
appellant
agt
Daniel Volentine
appellee

April Term
AD 1888.

Afterwards to wit on
the 21st day of April
at this same term of

said Court Comes the said Lawrence P.

Barker and says there is manifest error
in the record and proceedings aforesaid in
this to wit-

- 1 The Court erred in giving to the jury on the trial
of said cause the instructions set forth in
the record and proceedings aforesaid as asked
by the counsel for the plaintiff in said suit
- 2 The Court erred in overruling the

Motion made by the counsel for the
appendants for a new trial of said
cause -

- 3 The Court over in rendering judgment
in favor of the plaintiff and against
the defendant in said suits - Wherefore
the said Lawrence P. Barker prays that
the judgment aforesaid for the errors aforesaid
may be reversed &c.

Hayden Miller & Lewis & Wm B. Platteau
attys for appellants

Hayden Miller & Lewis
for appellants