

13015

No. _____

Supreme Court of Illinois

Bloom

vs.

Crane et al

71641  7

STATE OF ILLINOIS, SUPREME COURT,

THIRD GRAND DIVISION.

APRIL TERM, 1860.

GARSON BLOOM }
 vs. } *Appeal from Cook.*
J. L. CRANE *et al.* }

POINTS FOR APPELLANT.

The only question in this case is one of fact.

Appellant brought his action of trespass *vs.* appellees for taking \$3,000 worth of clothing. Appellees justify the taking, under a writ of attachment against the goods, &c., of one Bennett, alleging the goods to have been said Bennett's.

On the trial, the evidence showed that *all* the goods were the property of appellees, and had been for a long time prior to the taking, and it did show absolutely that some \$500 worth of the clothing had never belonged to Bennett at all.

Deposition of Alexander, page 3 of Abstract, Int. 9.

2. No writ of attachment was introduced or offered in evidence by appellees; nothing but the return was in evidence.

Abstract, page five.

Therefore, if the goods have been shown to be the property of Bennett, the plea of appellees would not have been sustained.

3. It clearly appearing that plaintiff had possession of the goods; that they were taken by defendant; and no right being shown by defendant to take them, the case necessarily is for the plaintiff.

GLOVER, COOK & CAMPBELL,
Attorneys for Appellant.

Bloom
vs
Cramer

Points for appellants

13015

STATE OF ILLINOIS, SUPREME COURT,

THIRD GRAND DIVISION.

APRIL TERM, 1860.

GARSON BLOOM }
 vs. } *Appeal from Cook.*
J. L. CRANE *et al.* }

POINTS FOR APPELLANT.

The only question in this case is one of fact.

Appellant brought his action of trespass *vs.* appellees for taking \$3,000 worth of clothing. Appellees justify the taking, under a writ of attachment against the goods, &c., of one Bennett, alleging the goods to have been said Bennett's.

On the trial, the evidence showed that *all* the goods were the property of appellees, and had been for a long time prior to the taking, and it did show absolutely that some \$500 worth of the clothing had never belonged to Bennett at all.

Deposition of Alexander, page 3 of Abstract, Int. 9.

2. No writ of attachment was introduced or offered in evidence by appellees; nothing but the return was in evidence.

Abstract, page five.

Therefore, if the goods have been shown to be the property of Bennett, the plea of appellees would not have been sustained.

3. It clearly appearing that plaintiff had possession of the goods; that they were taken by defendant; and no right being shown by defendant to take them, the case necessarily is for the plaintiff.

GLOVER, COOK & CAMPBELL,
Attorneys for Appellant.

STATE OF ILLINOIS, SUPREME COURT,

THIRD GRAND DIVISION.

APRIL TERM, 1860.

GARSON BLOOM }
 vs. } *Appeal from Cook.*
J. L. CRANE *et al.* }

POINTS FOR APPELLANT.

The only question in this case is one of fact.

Appellant brought his action of trespass *vs.* appellees for taking \$3,000 worth of clothing. Appellees justify the taking, under a writ of attachment against the goods, &c., of one Bennett, alleging the goods to have been said Bennett's.

On the trial, the evidence showed that *all* the goods were the property of appellees, and had been for a long time prior to the taking, and it did show absolutely that some \$500 worth of the clothing had never belonged to Bennett at all.

Deposition of Alexander, page 3 of Abstract, Int. 9.

2. No writ of attachment was introduced or offered in evidence by appellees; nothing but the return was in evidence.

Abstract, page five.

Therefore, if the goods have been shown to be the property of Bennett, the plea of appellees would not have been sustained.

3. It clearly appearing that plaintiff had possession of the goods; that they were taken by defendant; and no right being shown by defendant to take them, the case necessarily is for the plaintiff.

GLOVER, COOK & CAMPBELL,
Attorneys for Appellant.

Bloom
vs

Esame et al.

Points for Appallint

STATE OF ILLINOIS, SUPREME COURT,

THIRD GRAND DIVISION,

APRIL TERM, 1860.

GARSON BLOOM }
 vs. } *Appeal from Cook.*
J. L. CRANE *et al.* }

POINTS FOR APPELLANT.

The only question in this case is one of fact.

Appellant brought his action of trespass *vs.* appellees for taking \$3,000 worth of clothing. Appellees justify the taking, under a writ of attachment against the goods, &c., of one Bennett, alleging the goods to have been said Bennett's.

On the trial, the evidence showed that *all* the goods were the property of appellees, and had been for a long time prior to the taking, and it did show absolutely that some \$500 worth of the clothing had never belonged to Bennett at all.

Deposition of Alexander, page 3 of Abstract, Int. 9.

2. No writ of attachment was introduced or offered in evidence by appellees; nothing but the return was in evidence.

Abstract, page five.

Therefore, if the goods have been shown to be the property of Bennett, the plea of appellees would not have been sustained.

3. It clearly appearing that plaintiff had possession of the goods; that they were taken by defendant; and no right being shown by defendant to take them, the case necessarily is for the plaintiff.

GLOVER, COOK & CAMPBELL,
Attorneys for Appellant.

Bloom
vs
Crome

Points for Appellant

STATE OF ILLINOIS SUPERIOR COURT

IN AND FOR THE COUNTY OF COOK

1900

1900

1900

1900

1900

1900

1900

1900

1900

1900

1900

1900

1900

1900

1900

1900

1900

1900

1900

1900

1900

1900

1900

1900

1900

1900

STATE OF ILLINOIS, SUPREME COURT,

THIRD GRAND DIVISION,

APRIL TERM, 1860.

GARSON BLOOM }
vs. } *Appeal from Cook.*
J. L. CRANE et al. }

POINTS FOR APPELLANT.

The only question in this case is one of fact.

Appellant brought his action of trespass *vs.* appellees for taking \$3,000 worth of clothing. Appellees justify the taking, under a writ of attachment against the goods, &c., of one Bennett, alleging the goods to have been said Bennett's.

On the trial, the evidence showed that *all* the goods were the property of appellees, and had been for a long time prior to the taking, and it did show absolutely that some \$500 worth of the clothing had never belonged to Bennett at all.

Deposition of Alexander, page 3 of Abstract, Int. 9.

2. No writ of attachment was introduced or 'offered in evidence by appellees; nothing but the return was in evidence.

Abstract, page five.

Therefore, if the goods have been shown to be the property of Bennett, the plea of appellees would not have been sustained.

3. It clearly appearing that plaintiff had possession of the goods; that they were taken by defendant; and no right being shown by defendant to take them, the case necessarily is for the plaintiff.

GLOVER, COOK & CAMPBELL,
Attorneys for Appellant.

Bloom
vs

Crane

Points for Appellant-

STATE OF ILLINOIS, SUPREME COURT,

THIRD GRAND DIVISION,

APRIL TERM, 1860.

GARSON BLOOM }
 vs. } *Appeal from Cook.*
J. L. CRANE *et al.* }

POINTS FOR APPELLANT.

The only question in this case is one of fact.

Appellant brought his action of trespass *vs.* appellees for taking \$3,000 worth of clothing. Appellees justify the taking, under a writ of attachment against the goods, &c., of one Bennett, alleging the goods to have been said Bennett's.

On the trial, the evidence showed that *all* the goods were the property of appellees, and had been for a long time prior to the taking, and it did show absolutely that some \$500 worth of the clothing had never belonged to Bennett at all.

Deposition of Alexander, page 3 of Abstract, Int. 9.

2. No writ of attachment was introduced or offered in evidence by appellees; nothing but the return was in evidence.

Abstract, page five.

Therefore, if the goods have been shown to be the property of Bennett, the plea of appellees would not have been sustained.

3. It clearly appearing that plaintiff had possession of the goods; that they were taken by defendant; and no right being shown by defendant to take them, the case necessarily is for the plaintiff.

GLOVER, COOK & CAMPBELL,
Attorneys for Appellant.

263
Bloom
vs
Crane

Points for Appellant.

STATE OF ILLINOIS, SUPREME COURT.

CHAS. BLOOM,

vs

JOHN W. CRANE,

Appellant.

Respondent.

CHAS. BLOOM,

vs

JOHN W. CRANE,

Appellant.

Respondent.

STATE OF ILLINOIS, SUPREME COURT,

THIRD GRAND DIVISION.

APRIL TERM, 1860.

GARSON BLOOM }
 vs. } *Appeal from Cook.*
J. L. CRANE *et al.* }

POINTS FOR APPELLANT.

The only question in this case is one of fact.

Appellant brought his action of trespass *vs.* appellees for taking \$3,000 worth of clothing. Appellees justify the taking, under a writ of attachment against the goods, &c., of one Bennett, alleging the goods to have been said Bennett's.

On the trial, the evidence showed that *all* the goods were the property of appellees, and had been for a long time prior to the taking, and it did show absolutely that some \$500 worth of the clothing had never belonged to Bennett at all.

Deposition of Alexander, page 3 of Abstract, Int. 9.

2. No writ of attachment was introduced or offered in evidence by appellees; nothing but the return was in evidence.

Abstract, page five.

Therefore, if the goods have been shown to be the property of Bennett, the plea of appellees would not have been sustained.

3. It clearly appearing that plaintiff had possession of the goods; that they were taken by defendant; and no right being shown by defendant to take them, the case necessarily is for the plaintiff.

GLOVER, COOK & CAMPBELL,
Attorneys for Appellant.

Bloom

vs

Crame

Points for Appellant-

STATE OF ILLINOIS, SUPREME COURT,

THIRD GRAND DIVISION,

APRIL TERM, 1860.

GARSON BLOOM }
 vs. } *Appeal from Cook.*
J. L. CRANE *et al.* }

POINTS FOR APPELLANT.

The only question in this case is one of fact.

Appellant brought his action of trespass *vs.* appellees for taking \$3,000 worth of clothing. Appellees justify the taking, under a writ of attachment against the goods, &c., of one Bennett, alleging the goods to have been said Bennett's.

On the trial, the evidence showed that *all* the goods were the property of appellees, and had been for a long time prior to the taking, and it did show absolutely that some \$500 worth of the clothing had never belonged to Bennett at all.

Deposition of Alexander, page 3 of Abstract, Int. 9.

2. No writ of attachment was introduced or offered in evidence by appellees; nothing but the return was in evidence.

Abstract, page five.

Therefore, if the goods have been shown to be the property of Bennett, the plea of appellees would not have been sustained.

3. It clearly appearing that plaintiff had possession of the goods; that they were taken by defendant; and no right being shown by defendant to take them, the case necessarily is for the plaintiff.

GLOVER, COOK & CAMPBELL,
Attorneys for Appellant.

Bloom

23

Crane

Points for Appealant

Jameson & Morse, Printers, 14 La Salle Street, Chicago.

SUPREME COURT OF ILLINOIS.

APRIL TERM, A. D. 1860.

GARSON BLOOM

VS.

JAMES L. CRANE ET AL.

ABSTRACT OF RECORD.

Upon the 25th day of June, 1858, the plaintiff filed in the Cook County Court of Common Pleas, his declaration in trespass, in two counts.

First—"quare clausum fregit," with "gravamen," the carrying away and conversion of 200 overcoats, 200 frock coats, 200 business coats, 300 vests, 500 pairs of pants, 50 India rubber coats, 500 hats, 500 caps, 20 trunks, 1000 shirts, 100 over-shirts, 100 pairs of over-alls, 50 guernsey frocks, 100 cravats, 100 pairs of suspenders, 100 pocket handkerchiefs, 1000 pairs of stockings, 100 pairs of gloves, 100 pairs of mittens, and 200 pairs of drawers.

Second—trespass for taking and carrying away the same number and value and description of goods in first count.

And on the 6th day of July, 1858, the defendants file pleas—

First—General issue.

Second—Plead property in the goods in the declaration in one Israel Bennett, and justify the taking complained of under a writ of attachment issued out of Cook County Court of Common Pleas, in favor of said Cranes and against said Bennett, and that said Dart was at the time of the taking a deputy sheriff and empowered to serve said writ.

And upon the 17th day of December, 1858, the plaintiff joined in the general issue aforesaid of the said defendants, and filed replication to their general plea, denying property in said Bennett and reaffirming property in plaintiff, and concluding to the country, &c., in which the said defendants the same day joined.

And the case being thus at issue, was upon a day in the September Term of said Court called for trial, and the plaintiff to maintain the issue upon his side offered the following testimony :

First. The deposition of Nathan Alexander, in the words and figures to wit:

Int. 1st. What is your name, age, residence and business?

Ans. My name is Nathan Alexander; my age is twenty-eight years; I reside in the village of Elmira, Chemung county, and State of New York; am engaged as a clerk in the business of ready made clothing.

Int. 2d. Where did you reside upon the 19th day of November, 1856, and what was your business at that time?

Ans. I resided upon the 19th day of November, 1856, in the city of Chicago. My business was then a clerk for Garson Bloom, the plaintiff in this action.

Int. 3d. Do you know the parties to this suit, or any of them? if yea, which of them, and how long have you known them?

Ans. I know the parties to this suit, James L. Crane, Garson Bloom, Isaac A. Crane and John H. Dart; have known the plaintiff about one year and a half; have known the defendants about three years.

Int. 4th. What was the business of the plaintiff on the 19th day of November, 1856?

Ans. On the 19th day of November, 1856, the plaintiff was engaged in the business of selling ready made clothing.

Int. 5th. Where was the store of the plaintiff situated?

Ans. The store was situated on North Clark street, No. 20, in the city of Chicago.

Int. 6th. If you answer to the 2d Interrogatory that you were clerk for the plaintiff, state whether you were familiar with the stock of goods of the plaintiff, and state fully your means of being acquainted with the same.

Ans. I was familiar with the stock of goods of the plaintiff. I had the whole charge of the stock while I was the clerk for plaintiff, and closely examined the stock while I was such clerk, at different times.

Int. 7th. Did you ever see any of the defendants at the aforesaid store of the plaintiff, and if yea, state which of the defendants, when you saw them, and what they did at the plaintiff's store, what they said, and what you said to them.

Ans. I have seen the defendants at the plaintiff's store aforesaid. I saw James L. Crane and John H. Dart there on the 19th day of November, 1856. They closed up the plaintiff's store by taking the possession thereof and the goods therein, and locking up the store. They said they had a writ of attachment against one Israel Bennett, and must shut up the store. I told them that the store belonged to the plaintiff. James L. Crane then said that it did not make any difference who owned the store, we are going to close it up. They then shut up the store and took possession of the goods.

Int. 8th. What was the value of said stock of goods of the plaintiff upon the 19th day of November, 1856, and what was your means of knowing the value of said goods?

Ans. The stock of goods of the plaintiff on the 19th day of November, 1856, was three thousand dollars. My means of knowing the value was my familiar acquaintance with the stock of goods, and by making an inventory thereof a short time previous to the 19th day of November, 1856, of each article in the store.

Int. 9th. Did you ever purchase any goods of any persons for Mr. Bloom, the plaintiff? if yea, of whom, and when, and how much?

Ans. I have purchased goods for the plaintiff of Leopold & Goodheart, and some at auction in Chicago; bought of Leopold & Goodheart and at auction about the 10th day of November, 1856, goods to the amount of \$450, including what I bought at auction.

Int. 10th. Where was the plaintiff upon the 19th day of November, 1856?

Ans. The plaintiff was away from home at the time—don't know where he was?

Int. 11th. Did you help to take an inventory of said stock of goods at any time? and if yea, when, and what was the amount of such inventory?

Ans. I helped to take an inventory of the stock about the 5th day of November, 1856; it amounted to from \$2800 to \$2900.

Int. 12th. Was the said stock more or less valuable on the 19th day of November, 1856, than when you took such inventory? and how much more or how much less?

Ans. The stock was worth about the same on the 19th day of November, 1856, as when the inventory was taken.

Int. 13th. Do you know any other matter or thing which would be of use to the plaintiff touching the matters in controversy, and if so, state the same fully and particularly, in answer to this interrogatory.

Ans. I don't know of anything more.

CROSS-INTERROGATORIES AND ANSWERS THERETO BY THE WITNESS ON THE
PART OF DEFENDANT.

Cross Int. 1st. State whether or not you are a Jew, and whether you are an Israelite by descent or not.

Ans. I am a Jew and an Israelite by descent.

Cross Int. 2d. If in answer to the above interrogatory you say you are a Jew or Israelite, state whether or not you were sworn at the time your deposition was being taken herein with your hat on or with your head uncovered, and state whether you consider an oath binding upon a Jew if sworn with the head uncovered.

Ans. I was sworn with my hat off and head uncovered, and I consider an oath binding upon a Jew if sworn with the head uncovered,

Cross Int. 3d. State whose sign was upon the store mentioned in your answer to the 5th direct interrogatory, on the 19th day of November, A. D. 1856, and whether or not the name of Israel Bennett was on such sign at that time.

Ans. There was no sign upon the store, at the time mentioned, of any person.

Cross Int. 4th. State whether Israel Bennett was present or about said store on said 19th day of November, 1856, or not.

Ans. He was not present or about the store at the time mentioned.

(Signed,) NATHAN ALEXANDER.

And also introduced the testimony of a certain witness named Joseph N. Barker, who testified as follows, to wit:

"I know the parties to this action. Sometime in November, 1856, I went to the store of Crane Brothers on Water street in the city of Chicago, with a writ of replevin in favor of the plaintiff for goods mentioned therein. I saw the defendant James L. Crane, and demanded the goods of him. He said they [Crane Brothers] had the goods which were taken from Bloom upon their attachment writ against Bennett, but would not give them up nor tell where they were.

I heard the defendants Morse and Butler testify upon a former trial of this matter. They testified that they helped take the inventory of the goods attached.

CROSS EXAMINED.

I used to be a law partner of Mr. Hyatt, and as such was counsel in this case. Bloom was Hyatt's client, and Hyatt had charge of the case. I have withdrawn my appearance in the case and am no longer counsel. I cannot tell whether Morse and Butler testified that they took the inventory referred to in Bloom's store or not. I was present at the trial of the former suit for this same matter, which suit was dismissed after trial. Mr. Hyatt said he dismissed in order to hold defendants to bail, the Cranes having failed since the suit was commenced. He did not say that he dismissed to make Morse and Butler parties to a new suit. I did hear him say before he commenced this suit that he should join Morse and Butler. I did not hear him say that he dismissed the suit because one of the plaintiff's witnesses appeared so bad. I don't think Mr. Hyatt called that witness a liar, but he called him something and told him to go down from the stand. He then went on with the trial. He did not dismiss the suit until the testimony was all in on both sides."

The plaintiff also introduced the return to the writ of attachment referred to by the witness Barker, which return was in the words and figures following, to wit:

"By virtue of the within writ of attachment, I have levied upon the goods and chattels mentioned and described in schedule annexed and marked C, the 17th day of November, 1856.

<i>Fees.</i> —1 Levy.....	.50
1 Mile.....	.05
1 Return.....	.10—65

JAMES S. BEACH,
Coroner and Acting Sheriff.
By JOHN H. DART, Deputy.

Served by reading to the within named Israel Bennett, the 26th day of Nov., 1856.

<i>Fees.</i> —Service.....	.50
1 Mile.....	.05—55

JOHN L. WILSON, Sheriff.
By JOHN H. DART, Deputy.

Schedule C referred to in the foregoing returns.

76 over coats, 162 assorted coats, 201 assorted vests, 212 pr pants, 12 I. R. lustre coats, 14 pr do pants, 5 rubber coats, 11 rubber hats and caps, 5 oil coats, 2 oil bags, 3 carpet do, 3 trunks, 1 doz. overalls, $4\frac{1}{2}$ doz. flannel shirts, $\frac{1}{12}$ doz. hickory do, $\frac{1}{12}$ doz striped do, $1\frac{1}{2}$ gurnsey frocks, $1\frac{1}{2}$ doz. canvas pants, $1\frac{1}{2}$ doz. denim frocks, $16\frac{1}{2}$ doz. shirts, $4\frac{5}{12}$ doz. cravats, tabs and knots, $\frac{3}{4}$ doz. suspenders, $2\frac{1}{2}$ doz. hdkfs, $3\frac{5}{12}$ half hose, $3\frac{1}{4}$ doz. gloves, 1 doz. wristlets, $3\frac{1}{2}$ doz. mits, 13 tippets, and tabs, 1 umbrella, $2\frac{1}{4}$ doz. hats and caps, $7\frac{1}{2}$ doz. pairs of drawers.

And the plaintiff then rested, and the defendants to maintain the issue upon their part, introduced the testimony of a certain witness named Hamilton B. Bogue, who testified as follows :

"I am a clerk of the American Express Company. Know J. L. Crane, Bros. & Co. Knew them on the 19th day of November, 1856; did not know Bloom; knew Bennett had stores on North Clark street and Lake street.

Was clerk of Crane, Bros. & Co. in Feb'y, 1856, and continued there one year as book keeper.

Israel Bennett was buying goods during that time frequently; has bought goods to North Clark street. I recollect two bills to go there, about \$300 each; this was in Oct., 1856, one bill the 28th of October, \$288.66, delivered to North Clark street. He paid often. Israel Bennett and son said they wanted the goods mainly for their North Clark street store; goods went there. Bought a great many goods there of the defendants; some years as high as \$3000. Never saw Bloom there. Attachment issued November 27th, 1856; was never in No. 20 North Clark street; knew where it was.

Cross-Examined.

It was not my business to deliver goods. I never did deliver any to any body. I never went with draymen to deliver goods; never saw any goods delivered except such as were delivered to purchasers at the store. I have said I was never at No. 20 North Clark street, never saw any goods delivered there, don't know as any of the goods bought by Bennett ever went there. Knew nothing of Bennett's affairs except what he told me. Bennett had several stores in the city. I don't know how many. I have said Bennett bought a great quantity of goods of defendants; said as high as \$3,000 per annum. Goods were sent just where Bennett directed them; sometimes to one place and sometimes to another.

And the defendants here rested.

The plaintiff to further maintain the issue upon his part, introduced the testimony of another witness named Charles Myer, who testified as follows:

I lived on Kinzie street, on the north side, in 1856, owned No. 20 Clark street, and leased it to Bloom about the middle of April, 1856; he took possession on the first of May; he brought in goods and commenced a clothing store; he lived up stairs; he occupied the store until the middle of November, 1856.

Cross-Examined.

I gave him a lease; never got rent from Bennett. He came along with Bloom when he rented the store; cannot tell whether it was the first time that Bloom came that they came together. Bennett was along when the bargain was made.

Which was all the evidence submitted to the jury, who after hearing the same found a verdict for the defendants, whereupon the plaintiff moved the Court for a new trial of said cause upon the ground that the verdict was against evidence, which motion the Court overruled and entered judgment upon verdict, from which judgment the plaintiff prayed an appeal, which was allowed.

The error assigned is the refusal of the Court to grant a new trial upon the motion.

L. H. HYATT,
Plaintiff's Attorney.

263-
Supreme Court

Garrison Bloom

vs

J. L. Crane et als

Abstract of Record

13015

Filed May 16. 1860

L. Leland

Clk

13015

L. H. Hyatt
Plt. Atty