

No. **12175**

Supreme Court of Illinois

Crook

vs.

People

71641  7

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Geo. A. Crook
vs
The People &c.

8 P.D.

12/75

1855

Proceedings in the Circuit Court in and for the County of
Peoria in the State of Illinois before the Honorable Onslow
Petus Judge of the Sixteenth Judicial Circuit in said State
at the Court House in the City of Peoria on the rule days or
term of said Court Commencing on Monday the fourth day
of July, in the year of our Lord One Thousand Eight hundred
and fifty three, to wit:

Wednesday July 6th A.D. 1853

Daniel O'Keefe

Hart P. Aucker
George A. Crook
William Senior

This day came the Complainant by
his Solicitors and filed his affidavit charging the defendants
Hart P. Aucker & George A. Crook, with breach of the injunction
allowed in this Cause, whereupon on his motion it is ordered
that a writ of attachment be issued by the Clerk of the Court
against the said Hart P. Aucker and George A. Crook return-
able forthwith before this Court to answer unto the People
of the State of Illinois for their breach of said injunction and
to abide the order of the Court in the premises, -

And thereupon on the said sixth day of July A.D. 1853
the clerk of said Court issued a writ of attachment under
the seal of said Court, directed to the Sheriff of Peoria
County, which with his return as thereon endorsed is as follows,
to wit:

Attachment - State of Illinois }
Peoria County } ss. The People of the State of Illinois, to the
Sheriff of Peoria County, Greeting, Whereas by a certain Injunction
lately allowed by the Master in Chancery of the Circuit Court
of said County on the 23^d day of June last in a certain cause
depending in said Court, wherein Daniel O'Keefe, Complainant
and Hart P. Aucker George A. Crook and William Senior are

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defendants, the said defendants were Enjoined to desist from disturbing the said Complainant O. Kufe in the use & occupation of the following described premises, leased heretofore from the said Hart P. Sucker as trustee of Martha M. Cook by the said O. Kufe, to wit the Store and Warehouse situated on Lot Number Six (6) in Block numbered three (3) in the City of Peoria and State of Illinois - and from removing the said Storehouse from said lot described in said lease or otherwise in any manner impairing its usefulness during the remainder of the term of said lease or said Court should make other order to the contrary, and that a writ of Injunction was issued by the Clerk of said Court pursuant thereto, which was on the 24th day of June by the Sheriff of said County duly served on said defendants, And whereas it appears by the suggestion and affidavit of the said Complainant said O. Kufe in that behalf that the said Hart P. Sucker and George A. Cook have each been guilty of a breach of said Injunction, We therefore Command you that you attach the said Hart P. Sucker and George A. Cook if they shall be found in your County, so that you may have them forthwith before the said Court at a term thereof now in session at Peoria in said County, to answer unto the People of the State of Illinois for their breach of said Injunction and to abide the order of said Court in the premises, Hence make Return as the law directs and have you there and there this writ -

L. J.

Witness Jacob Gale Clerk of said Court
and the seal thereof this sixth day of
July A.D. 1853. -

Jacob Gale, Clerk

[Indorsed]

By Command of the within writ I have attached George A. Cook & Hart P. Sucker and have their bodies now before the Court
July 6th 1853

L. B. Cornell

Sheriff P. C. Ill.

And afterwards at the same term of said Court or rule days for the hearing motions, the following proceedings were had in said cause for Contempt by Breach of injunction as aforesaid to wit,
Thursday July 7th A.D. 1853.

The People of the State of Illinois

vs.

For breach of Injunction

Hart P. Ancker

George A. Crook

This day came the said Hart P. Ancker and George A. Crook and the evidence having been heard it is ordered that they enter into recognisance with Security in the sum of five hundred dollars for their appearance at the next term of this Court to be held on the second Monday of September next to answer for Contempt of Court by breach of injunction with which they stand charged herein -

Friday July 8th A.D. 1853.

Be it remembered that on this day appeared in Court Hart P. Ancker & George A. Crook as principals and Ezra G. Sanger as Surety and jointly and severally acknowledged themselves to owe and be indebted to the People of the State of Illinois in the sum of five hundred dollars to be levied of their respective goods and chattels, lands and tenements, to be rendered as the law directs. Yet upon this condition, that if the said Hart P. Ancker and George A. Crook shall each be and appear before the Judge of this Court at the next term thereof to be held at Peoria in and for the County of Peoria on the second Monday of September next then and there to answer unto the People of the State of Illinois for Contempt of Court by breach of injunction, with which they stand charged therein and not depart thence without leave of Court then this recognizance to be void otherwise to remain in force. -

And afterwards on the fifteenth day of September A.D. 1853 the following affidavit was filed in said cause to wit,

Affidavit
for change
of venue

The People
vs

Hart P. Aucher
George A. Crook

In the Circuit Court
of Peoria County
Sept Term 1853

For Contempt in disobeying injunction
George A. Crook being duly sworn says that he fears
that he will not receive a fair and impartial trial
in the court in which this cause is pending for the reason
that the Judge of the said Court is prejudiced against
said Defendants, wherefore he prays a change of Venue to
some County where ^{the} Cause complained of shall not exist
Affiant further States that this application for a change
of Venue is made with the consent of his Co-Defendant
Hart P. Aucher.

G. A. Crook

Sworn to before me
this 15th Sept 1853

A. H. Purple
Notary Public
Peoria City
Ill.

Proceedings at a term of the Circuit Court begun and
held at the Court House in Peoria in and for the County of Peoria
in the State of Illinois on the second Monday of September in the
Year of our Lord One Thousand Eight hundred and fifty three
it being the twelfth day of said month. Present the Honorable
Onslow Peters Judge of the Sixth Judicial Circuit in the
State of Illinois, Leonard B. Cornwell Sheriff Elbridge G. Johnson
States Attorney and Jacob Gale Clerk to wit -

Thursday September 15th A. D. 1853

The People of the State of Illinois

Hart P. Aucher & George A. Crook For breach of Injunction

change of venue

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This day came the defendants by A. H. Purple their Counsel and on their application supported by the affidavit of the said George A. Crook on file It is ordered that the Venue in this Cause be changed to Tazewell County in this State and that the Clerk of this Court transmit the papers and transcript of the record and proceedings herein to the Clerk of the Circuit Court of said Tazewell County duly certified according to law—

And afterwards there was filed in the office of the clerk of said Circuit Court of Peoria County at the November Term thereof a transcript of the proceedings in said Cause in the Circuit Court of Tazewell County with the papers therein duly certified, which transcript and certificate is as follows, to wit,

Transcript from
Tazewell Co.

Proceedings in the Circuit Court of Tazewell and State of Illinois at the October Term A. D. 1853 began and held at Peoria on the first Monday of said October before the Hon. J. Van D. Davis Judge of the Eighth Judicial Circuit composed of the Counties of Sangamon McLean Tazewell &c &c
Monday October 3^d A. D. 1853

People of the State of Illinois } Change of Venue from Peoria
vs } County—
Hart P. Aucker and } Indictment for breach of
George A. Crook } Injunction

This day came the People by their Attorney and move the Court to remand this suit to Peoria County for want of Jurisdiction of this Court,

Thursday October 6th A. D. 1853.

People of the State of Illinois } Change of Venue from Peoria
vs } County—
Hart P. Aucker and } Indictment for
George A. Crook } Breach of Injunction

And now on this day came again the People by their Attorney as also the said Defendants and the People withdrew their motion entered herein to remove the

Cause to Peoria Circuit Court, Whereupon the said Defendants enter their Motion to dismiss this proceeding for want of Jurisdiction.

Friday, October 7th A.D. 1853.

The People of the State of Illinois } Change of Venue from Peoria
County

Hart P. Acker and } Indictment for breach of
George A. Crook } Detention, —

And now, this day came again as well the People by their attorney as the Defendants, and the Court having heard arguments on the Motion of Defendants herein entered to dismiss this proceeding is of opinion that the same be overruled — Whereupon it is ordered by the Court on its own Motion that said Cause be remanded to the Circuit Court of Peoria County to which said order, as also the overruling of their said Motion the Defendants by their Counsel file their Exceptions.

State of Illinois }
Peoria County } J. A. Jones

I John A. Jones Clerk of the Circuit Court in and for said County do hereby Certify that the foregoing two Pages are a true and full transcript from the Records of the Proceedings in said Court in a certain Cause in said Court of the People of the State of Illinois against Hart P. Acker and George A. Crook and that the accompanying papers marked "A" "B" "C" "D" "E" "F" "G" "H" "I" "J" are the papers filed therein.

In testimony whereof I have hereunto set my
L.S. } Hand and affixed the Seal of said Circuit
Court at Peoria this 19th Day of November
A.D. 1853.

John A. Jones
Clerk, —

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accompanying said transcript was the following Bill of exceptions filed in said cause September 29th A.D. 1853 in Yazoo County and marked (J)

Bill of Exceptions
in Yazoo Co.

The People
vs
Hart P. Ancker
and Others } Change of Venue from Peoria County
For Contempt }

Be it remembered that on the first day of the term of this Court the People by their Attorney entered a motion to remand this cause to the Circuit Court of Peoria County and on the 6th day of October A.D. 1853 and during the same term the said People by their Attorney withdrew their said motion, whereupon the Defendants entered a motion to dismiss the proceedings for want of Jurisdiction - which motion on the seventh day of October A.D. 1853 and during the same term of said Court was overruled and the Court then and thereupon its own motion ordered that said Cause be remanded to the Circuit Court of Peoria County - The Defendants Counsel then and there Excepted to the opinion of the Court in overruling their said motion and to said order remanding said Cause & requested the Court to seal this bill of Exceptions which is done. -

D. Davis 

And afterwards on the seventh day of December A.D. 1853 there was filed in said cause in the Circuit Court of Peoria County an affidavit of Daniel O'Keefe, which is in the words & figures following, to wit:

State of Illinois } Peoria Circuit Court
County of Peoria }
People vs Geo A. Crook } Contempt
Hart P. Ancker }

Daniel O'Keefe being duly sworn up

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O'Keefe is
Affidavit }
O'Keefe
Affidavit
"18"

his oath says that on or about the 6th day of July 1853 affiant made and filed his affidavit in due form of law charging the said Defendants with a breach of the Injunction in the Case of Samuel O'Keefe vs. Hart P. Snicker Geo a Crook & William Senior which said last named cause was then pending in this Court upon the filing of which said affidavit and on the motion of affiant by his Solicitor a writ of attachment was duly issued against them said Defendants to answer to a Contempt for a breach of said Injunction which said writ of attachment was duly served upon the said Defendants in this cause. That upon the return of said attachment to wit on the 7th day of July 1853 the said Court proceeded to hear the evidence touching said Contempt and after hearing such evidence ordered that the said Crook & Snicker should enter into recognizance with security in the sum of five hundred dollars for their appearance at the ^{then} next term of this Court which said recognizance was accordingly made. That at the said next term of this Court to wit September Term 1853 the said Defendants filed their affidavit in this Court for a change of Venue in said Contempt Cause whereupon a change of Venue was granted to Saginaw County in the State of Ill.^s That on the 7th Oct 1853 the Circuit Court of Saginaw County upon its own motion remanded this Cause from the said Circuit Court of Saginaw County back to the County of Peoria where it is now pending. Affiant further states that at the same time when said Cause was remanded as aforesaid the said Defendants were not recognized in said Saginaw Circuit Court to appear in this Court and for that reason have not appeared at this term of this Court. That the present term of this Court is the first term of the Circuit Court of Peoria County after said Cause was remanded as aforesaid. Affiant states that the said affidavit herein first filed charging said Defendants with a breach of said Injunction is not now in the files of this Court, but that the same was placed among the file papers in said injunction suit which said suit has been taken by change of

Venue to said Tazewell County where it yet remains and further South not

Daniel O'Keefe

Subscribed & Sworn to before me

December 7th 1853

Jacob Gale, Clerk

For the reasons set forth in the foregoing affidavit and also for the following other reasons The People by their attys move the Court for an alias writ of attachment against said defendants, to wit,

Reasons
for motion

1st Because the record in this Cause shows the defendants Ancker & Cook prima facie guilty of a breach of the said Injunction —

2, Because the said record shows that the said defendants changed the Venue of this Cause from this Court to Tazewell County, and that said Cause was remanded from said Tazewell County back to this Court without a recognizance being taken from said defts to appear at this term of this Court —

3 Because the record in this cause shows that the said defendants if out of Court have so placed themselves out of Court by reason of their own act in taking a change of Venue of this Cause to Tazewell County —

Decr 7th 53

Johnson Powell

O'Keefe, Lander & Manning
for People

Proceedings in the Circuit Court in and for the County of Peoria in the State of Illinois at a term thereof begun and held at the Court house in Peoria on the third Monday in the month of November in the year of our Lord One thousand Eight hundred & fifty three it being the twenty first day of said month. Present the Honorable Onslow Poley Judge of the Sixth Judicial Circuit in the State of Illinois Elbridge G. Johnson State Attorney, Leonard B. Cornwell Sheriff and Jacob Gale Clerk to wit —

Tuesday December 6th 1853

The People of the State of Illinois

Vs

For Contempt by Breach of Injunction

George A. Cook & Hart P. Acker

The People by their attorneys enter a Motion for an attachment against the said Cook and Acker to answer for said Contempt

Friday December 9th 1853

The People of the State of Illinois

Vs

For Contempt of Court by Breach of Injunction

Hart P. Acker & George A. Cook

On Motion of Attorney for the People

It is ordered that an attachment issue against the defendants returnable forthwith.

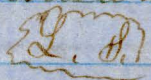
Whereupon on the ninth day of December A.D. 185-3 the clerk of said Court issued another writ of attachment to the sheriff of Peoria County, which with his return as thereon endorsed is as follows: to wit,

This attachment is of the State of Illinois

Peoria County, ss The People of the State of Illinois, To the Sheriff

of Peoria County Greeting - Whereas by a certain Injunction lately allowed by the Master in Chancery of the Circuit Court of said County on the 23rd day of June last in a certain Cause depending in said Court wherein Daniel O'Keefe is Complainant and Hart P. Acker George A. Cook and William Senior are defendants the said defendants were enjoined to desist from disturbing the said Complainant O'Keefe in the use and occupation of the following described premises leased hereof from the said Hart P. Acker as trustee of Martha M. Cook by the said O'Keefe to wit the Store & Warehouse situated on Lot Number Six (6) in Block Number Three (3) in the City of Peoria and State of Ill. and from removing the said Storehouse from said lot described in said lease or otherwise in any manner impairing its usefulness during the remainder of the term of said lease or said Court should

make other order to the contrary - and that a writ of injunction was issued by the Clerk of said Court pursuant thereto on the 24th day of June by the Sheriff of said County duly served on said defendants - And whereas it appears by the suggestion and affidavit of the said Complainant Daniel O'Keefe in that behalf that the said Hart P. Ancker and George A. Crook have each been guilty of a breach of said injunction - We therefore Command you as we have heretofore commanded you that you attach the said Hart P. Ancker and George A. Crook if they shall be found in your County so that you may have them forthwith before the said Court at a term thereof now in session at Peoria in said County to answer to the People of the State of Illinois for their breach of said injunction and to abide the order of said Court in the premises. Hereof make return as the law directs, and have you then & there this writ, Witness Jacob Gale Clerk of our said Court and the Seal thereof this ninth day of December in the year of our Lord One thousand Eight hundred and fifty three

[Indorsed]  Jacob Gale Clerk
 State of Illinois }
 Peoria County } I served this writ by taking the body of the within named Hart P. Ancker and brought him before the Court on the 9th day of December 1853, I also took the body of George A. Crook and now have him before the Court this 23rd day of Decr. 1853. -
 L. B. Cornwell Shff
 by John Bryner Deft

And afterwards on the 12th day of December A.D. 1853, the affidavit of Daniel O'Keefe as certified from files of Circuit Court of Tazewell County was filed as follows, to wit:

O'Keefe is }
 affiant } County of Peoria } This day personally appeared before the undersigned Clerk of the Circuit Court within and for said County and State Daniel O'Keefe who being duly sworn according to law upon his oath says that on the 23rd day of June A.D. 1853 this affiant filed his Bill of Complaint in

the office of the Clerk of said Circuit Court praying for a writ of Injunction against Hart P. Ancker trustee of Martha M. Crook George A. Crook and William Senior enjoining and restraining them and Each of them the said Hart P. Ancker George A. Crook and William Senior their Agents, and Servants from disturbing this affiant in the use and occupation of a certain Store and Warehouse which this affiant leased from said Hart P. Ancker Trustee of Martha M. Crook and described as follows to wit The Store & Warehouse situated on lot numbered Six (6) in Block numbered Three (3) in the City of Peoria and State of Illinois and from removing the said Store and Warehouse from said lot in said lease described or otherwise in any manner impairing its usefulness. During the remainder of this affiant's term of lease as in the said Bill which is hereby referred to and made a part hereof will more fully appear. — Affiant further states that previous to filing said Bill in said Circuit Court and in pursuance to the prayer thereof he obtained from George S. Blakely Master in Chancery within and for said County in the absence of the Judge of the said Circuit Court and order for an Injunction to enjoin and restrain the said parties as aforesaid, that in pursuance of said Bill and said order Jacob Gale Esq. Clerk of said ~~County~~ Circuit Court issued a writ of injunction under the Seal of said ^{Circuit} Court which said writ was delivered to the Sheriff of said Peoria County to execute which said writ of Injunction was on the 24th day of June A.D. 1853 duly served by said Sheriff upon the said Hart P. Ancker George A. Crook & William Senior as by the said writ and the Sheriff's return thereon which are hereby referred to and made a part hereof will more fully appear.

Affiant further states, that subsequent to the service of the said writ of Injunction as aforesaid the said George A. Crook and Hart P. Ancker have committed a breach of said Injunction by digging away the Earth around and close to the foundation of said Warehouse Situate on said premises so as to disturb affiant in the use and occupation of

Said leased premises and by their said act, in digging away the Earth in the rear of said warehouse so as to essentially impair the usefulness of said premises, and in fact by their said act, have rendered the Store & Warehouse wholly useless and unfit for the purposes for which affiant used said premises, and that the back part of said Warehouse has in consequence of said digging fallen away, Wherefore affiant says that the said Hart P. Acker and George A. Crook are guilty of a breach of said writ of Injunction and therefore prays that a writ of Attachment may issue against them and each of them the said Hart P. Acker and George A. Crook and that they may upon the return thereof answer and abide the order of the Court in the premises.

Daniel O. Rufe

Subscribed & sworn to before
me this fifth day of July A.D. 1853
Jacob Gale Clerk

State of Illinois
Jazewell County } 35 I John A. Jones Clerk of the Circuit
Court in and for said County do hereby Certify that the foregoing
is a true full and accurate copy of an affidavit filed in a
certain Cause on the Chancery Side lately pending in the said
Circuit Court wherein Daniel O. Rufe was Complainant
and Hart P. Acker & George A. Crook and William Senior
the defendants, and removed by Change of Venue from the
Circuit Court of Peoria County.

In Testimony Whereof I have hereunto
set my hand and affixed the Seal of said Circuit Court
of Jazewell County at Pekin this 9th day of Dec^r A.D. 1853
John A. Jones, Clerk

And afterwards at the said November Term A.D. 1853 the following
proceedings were had in said cause in said court, to wit,

Monday December 19th A.D. 1853

The People of the State of Illinois.

v.

for breach of Injunction

Hart P. Acker & George A. Crook

Be it remembered that on this day appeared in open Court Hart P. Acker as principal and Thomas J. Maxwell as surety and jointly and severally acknowledged to owe and be indebted to the People of the State of Illinois in the sum of five hundred dollars to be levied of their respective goods and chattels, lands and tenements, to be rendered as the law directs. Yet upon this condition that if the said Hart P. Acker shall be and appear before the Judge of this Court on the first day of the next term thereof to be held at Peoria in and for the County of Peoria on the fourth Monday of January next and shall then and there answer unto the said People for Contempt of Court by him committed by breach of Injunction with which he stands charged in said Court and shall not depart thence without leave of Court then this recognizance to be void otherwise in force.

Tuesday December 20th 1853

The People of the State of Illinois

v.

for breach of Injunction

Hart P. Acker & George A. Crook

This day came into open Court George A. Crook as principal & Ezra G. Sanger as surety and acknowledged themselves jointly and severally to owe and be indebted to the People of the State of Illinois in the sum of five hundred dollars to be levied of their respective goods & chattels, lands & tenements, to be rendered as the law directs. Yet upon this condition that if the said George A. Crook shall be and appear before this Court on the first day of the next term thereof to be held at Peoria in and for the County of Peoria on the fourth Monday of January instant then and there to answer unto the said People for and concerning a Contempt of Court by him committed by breach of Injunction with which he stands charged

in this Court and shall not depart thence without leave of Court, then this recognizance to be Void otherwise in force -

And afterwards, to wit, on the 25th day of January A.D. 1854 there was filed in said cause a certified copy of a Bill in Chancery and the order of Signification thereon in the words of figures following, to wit,

To the Honorable Onslow Peters Judge of the 16th Judicial Circuit Court within and for the County of Peoria and State of Illinois in Chancery sitting -

"E"

Humbly complaining sheweth unto your honor your orator Daniel O'Riife of the County of Peoria and State of Illinois that heretofore to wit on or about the 23^d day of March A.D. 1851 Your Orator leased from one Hart P. Ancker Trustee of Martha M. Crook the following described premises to wit, the Store and warehouse situated on Lot numbered Six (6) in Block numbered (3) in the City of Peoria and State of Illinois which said lease was made upon the following terms and conditions that is to say Your Orator was to have and to hold the said premises, with the appurtenances, unto himself his Executors and administrators and assigns from the 25th day of March 1851 (the day of the date of said lease) for and during and until the 25th day of March A.D. 1852 with the privilege of extending said lease to the 25th day of March 1854 if your orator should so desire and Your Orator in consideration of the leasing of the said premises aforesaid covenanted and agreed with the said Hart P. Ancker his heirs, Executors, administrators and assigns to pay as rent for the said leased premises the sum of twenty five Dollars per month payable in advance, Your Orator further shews that after the making of the said lease Your orator in pursuance thereof took actual possession of the said leased premises and has remained in such possession ever since, Your Orator shews that he elected to continue the said lease for and until the 25th day of March A.D. 1854 as

17 by the terms of said lease he had a right to do and now continuing to occupy the said premises under and by virtue of said lease.

Your Orator further shows that he is now and was at the time of renting said premises a Merchant and dealer in ready made clothing and liquors and that he leased said premises for the purpose of carrying on his said business as such Merchant and dealer thereon. Your Orator further shows that the said leased premises is situated on the corner of Water and Fulton Street in said City of Peoria and is well situated for carrying on said business and with a view to its favorable location Your Orator rented said premises.

Your Orator shows that he has at this time a large and valuable stock of ready made clothing and liquors on hand for sale and that he expected to continue in his said business on the said leased premises for the purpose of selling & disposing of the same. Your Orator shows that he has an interest in said leased premises of an unexpired term of about nine months and by virtue of the same has a right to possess and enjoy the same free from all disturbance by or interruption from the said Hart P. Ancker or such Trustee or any other person or persons claiming through or under him the said Ancker. Your Orator shows that he has in all things complied with the terms and conditions of the said lease and has done no act or thing to render the same ineffectual or void but on the contrary the said lease yet remains in full force and effect between your orator and the said Ancker a copy of which lease is herewith filed marked (A) and made a part hereof the original of which your orator prays leave to exhibit on the hearing of this cause. Your Orator further represents that the said Hart P. Ancker on the Twenty first day of June A.D. 1853 combining and confederating with one George A. Crook (the husband of the said Martha M. Crook) and one William Senior sold or made a pretended sale of the store house situated on said premises and that the said William Senior and the said Hart P. Ancker and George A. Crook threatens to remove the store house ^{so} occupied by your orator as aforesaid.

from said lot and disturb Your Orator from the enjoyment of the said premises, under said lease as he has a right to do by virtue of the same and that if they are permitted to remove the said buildings it will not only deprive Your Orator of his right to occupy said premises, under his said lease but will do much damage to his Stockin trade. Your Orator further represents, that the said Hart P. Ancker George & Crook and William Senior are making arrangements, to remove the said Store house and have actually commenced their operations to remove the same. Your Orator shews and charges, that the said Hart P. Ancker George & Crook and William Senior have not sufficient property over and above that which would be exempt from Execution to pay Your Orator the damage he would sustain by the removal of said Store house in being deprived of the use of the same and the damage done his goods and his business should Your Orator permit them to go on and commit said meditated trespass and should they be permitted to do so the injury to your orator would be irreparable for the reason that the said Ancker Crook and Senior are unable as before stated to pay Your Orator the damage he would sustain.

For as much therefore as your orator is without adequate remedy at law but only in Equity where such matters are properly cognizable and relievable Your Orator therefore prays that the said Hart P. Ancker George & Crook and William Senior may be made Defendants to this Bill, that the Writ of Subpoena may issue to compel them to appear and answer all & singular the allegations herein contained and that it may please Your Honor to grant a Writ of Injunction issuing under the Seal of said Court to Enjoin restrain and prohibit the said Hart P. Ancker, George & Crook and William Senior their agents, servants or workmen from disturbing Your Orator in the use and occupation of said premises during the remainder of said term and from removing the said Storehouse from said lot or otherwise in any manner impairing its usefulness described in said lease And that Your Orator may have

Such other and further relief in the premises, as Equity and good Conscience may require &c.

Daniel, O. Keefe

State of Illinois
Peoria County
This day personally appeared before me the under signed Master in Chancery within and for said County Daniel O. Keefe Complainant in the foregoing Bill of Complaint who being by me duly sworn deposes and says that the several matters and things stated and set forth in said Bill as of his own knowledge are true in substance and in fact and that the several matters and things derived from the information of others he believes to be true and further saith not

Daniel O Keefe

Subscribed and Sworn to
before me this 23^d day of June.

A.D. 1853.

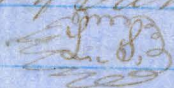
G. S. Blakely Master in Chancery
Peoria Co. Ill.

State of Illinois
Peoria County
In the absence of the Hon^{ble} Charles P. Bell, Judge of the 16th Judicial Circuit I hereby allow and do order and direct that a writ of Injunction issue as is prayed for in this bill upon the said Daniel O. Keefe giving bond in the penal sum of One Thousand Dollars to the Defendants conditioned according to Law with Andrew M. Hunt as Surety
Peoria June 23^d 1853.

George S. Blakely
Master in Chancery
Peoria Co. Ill.

State of Illinois
Tazewell County
I John A. Jones Clerk of the Circuit Court in and for said County do hereby Certify that the foregoing five pages and five lines contain a true full and accurate copy of the Bill for Injunction and the order of the

Master of Chancery of Peoria County thereunto attached in a certain Cause formerly depending in the Circuit Court of said Peoria County and by change of Venue removed to the County of Peoria aforesaid and in which Daniel O. Reese is Complainant and Hart P. Ancker George C. Cook and William Senior Defendants Witness my hand & Seal at Peoria this 21st day of January A.D. 1854



John A. Arnold

Clerk

Proceedings in the Circuit Court in and for the County of Peoria in the State of Illinois at a Special Term begun and held at the Court House in the City of Peoria in said County on the fourth Monday in the Month of January in the year of our Lord One thousand Eight hundred and fifty four it being the twenty third day of said Month Present the Honorable on the Bench Peter Judge of the Sixteenth Judicial Circuit in the State of Illinois Elbridge G. Johnson State Attorney Leonard B. Cornwell Sheriff & Jacob Gale Clerk to wit

Monday February 6th A.D. 1854

The People of the State of Illinois

vs

Recognizance for breach of injunction

Hart P. Ancker

Thomas J. Maxwell

This day came the State Attorney and the said Hart P. Ancker being three times solemnly called came not but made default on his recognizance entered into at last term for his appearance herein and Thomas J. Maxwell his surety being solemnly called failed to produce the body of the said Hart P. Ancker whereupon it is considered by the Court that the said recognizance be and the same is hereby adjudged to be forfeited to the People of the State of Illinois for the use of Peoria County and that the said People have and receive of the said Hart P. Ancker and Thomas J. Maxwell the sum of five hundred dollars the debt in the said recognizance

mentioned and also the costs of this proceeding. It is ordered by the Court that a Writ of Scire Facias issue to the said Snicker & Maxwell returnable to next term to show Cause why Execution should not issue against them on this judgment.

The People of the State of Illinois
vs.

George A. Cook

Ezra G. Sanger

This day came the State attorney and the said George A. Cook being thrice solemnly called came not but made default on his recognizance entered into at last term for his appearance herein and Ezra G. Sanger his surety being solemnly called failed to produce the body of the said George A. Cook. Whereupon it is considered by the Court that the said recognizance be and the same is hereby adjudged to be forfeited to the People of the State of Illinois for the use of Peoria County and that the said People have and recover of the said George A. Cook and Ezra G. Sanger the sum of five hundred dollars the debt in the said recognizance mentioned and also the costs of this proceeding. Ordered that a Writ of Scire Facias issue to the said Cook & Sanger returnable to next term to show Cause if any they can why Execution should not issue against them severally on this judgment.

Proceedings in the Circuit Court in and for the County of Peoria in the State of Illinois at a term thereof begun and held at the Court house in the City of Peoria in said County on the first Monday in the Month of March in the Year of our Lord One Thousand Eight hundred and fifty four it being the sixth day of said month Present the Honorable Enslow Petty Judge of the Sixteenth Judicial Circuit in the State of Illinois.

Wednesday March 8th A.D. 1854

The People of the State of Illinois

vs

In Contempt for breach of injunction

Hart P. Ancker & George A. Crook

This day came the People by the State Attorney and enters a motion that an attachment issue against the said parties to bring them before the Court for trial - 1st Because the case has been a long time on the docket to the delay of other business and the great inconvenience of witnesses, 2^d Because the case cannot be tried and disposed of without the appearance of the parties, & 3^d Because they will not appear without attachment

Proceedings at a term of the Circuit Court begun and held at the Court House in the City of Peoria in and for the County of Peoria in the State of Illinois on the Second Monday of September in the year of our Lord one thousand Eight hundred and fifty four it being the Eleventh day of said month, Present the Hon. Onslow Peters Judge of the Sixteenth Judicial Circuit in the State of Illinois.

Wednesday September 13. 1854

The People of the State of Illinois

vs

for breach of Injunction

Hart P. Ancker & George A. Crook

On Motion of Elisha A. Powell on behalf of the People of the State of Illinois It is ordered that another writ of attachment against the defendants be issued herein returnable forthwith for Contempt of Court by breach of injunction as specified in the original application for attachment herein

Whereupon the clerk issues a writ of attachment in the words & figures following.

State of Illinois

County of Peoria ss. The People of the State of Illinois to the Sheriff of Peoria County Greeting - Whereas by a certain Injunction lately allowed by the Master in Chancery in and for said County on the 23^d day of June in the year

Attachment

"et"

of our Lord One Thousand Eight hundred and fifty three in a Certain Cause depending in said Court wherein Daniel O'Keefe is Complainant and Hart P. Snicker George it Crook and William Senior are Defendants the said Defendants were enjoined to desist from disturbing the said Complainant O'Keefe in the use and occupation of the following described premises, leased heretofore from the said Hart P. Snicker as trustee of Martha M. Crook by the said O. Keefe to wit the Store and Warehouse situated on Lot numbered Six (6) in Block numbered Three (3) in the City of Peoria and State of Illinois and from removing the said Store house from said lot described in said lease or otherwise in any manner impairing its usefulness during the remainder of the term of said lease or said Court should make other order to the contrary and that a writ of injunction was issued by the Clerk of said Court pursuant thereto which was on the 7th day of June in the year last aforesaid by the Sheriff of said County duly served on said defendants, — And whereas it appearing by the suggestion and affidavit of the said Complainant Daniel O'Keefe in that behalf that the said Hart Snicker and George it Crook have each been guilty of a breach of said injunction — We therefore command you or we have often before commanded you that you attach the said Hart P. Snicker and George it Crook if they shall be found in your County so that you may have them forthwith before the said Court at a term thereof now in session at Peoria in said County to answer unto the People of the State of Illinois for their breach of said injunction and to abide the order of said Court in the premises. Now if make return as the Law directs, and have you then and there this writ —

Witness Jacob Gale Clerk of our said Court and the Seal thereof at Peoria this fifteenth day of September in the year of our Lord one thousand Eight hundred & fifty four.

Which writ was returned as follows, to wit, *Jacob Gale Clerk*
Served this writ on Hart P. Snicker and him now in court Sept 20th 1854
but George it Crook is not found in my County. L. P. Cornwell Sheriff Pl. W.
And at the same September Term the following proceedings were had therein, to wit,

Monday, September 25th A.D. 1854.

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The People of the State of Illinois

V. for breach of injunction

Hart P. Ancker &
George A. Cook

On motion of the attorney on behalf of the People it is ordered that another Capias issue in this cause against the said George A. Cook returnable to next Term of this Court and that the said Cook be allowed to give bail in the sum of Five hundred dollar, thereon.

Be it remembered that on this day personally appearing in open Court Hart P. Ancker as principal and William Lickie as surety and acknowledged themselves jointly and severally to owe and be indebted to the People of the State of Illinois in the sum of Five hundred dollar, to be levied of their respective goods and chattels, land, and tenements, to be rendered as the Court directs. Yet upon this condition that if the said Hart P. Ancker shall be and appear before the Judge of this Court on the first day of the next term thereof to be held at Peoria in and for the County of Peoria on the third Monday of November next then and there to answer unto the People of the State of Illinois for Contempt of Court by breach of injunction, and shall not depart thence without leave of Court then this recognizance to be void otherwise in force.

And afterwards the clerk of said Court issued another writ of attachment, under the seal of said Court, which with the Sheriff's return as therein endorsed is as follows, to wit:

State of Illinois

Peoria County, ss. The People of the State of Illinois, To the Sheriff of Peoria County, Greeting, Whereas by a certain injunction allowed by the Master in Chancery of the Circuit Court of said County, on the 23^d day of June A.D. 1853 on a certain Cause then pending in said Court wherein Daniel O. Rife was Complainant and Hart P. Ancker, George A. Cook and William Senior were defendants, the said defendants were enjoined to desist from disturbing the said

Attachment

"G"

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Complainant O'Keefe in the use and occupation of the following described premises leased heretofore from the said Hart P. Snicker as trustee of Martha M. Crook by the said O'Keefe to wit, the store and warehouse situated on lot numbered six (6) in block numbered three (3) in the City of Peoria and State of Illinois and from removing the said store house from said lot described in said lease, or otherwise in any manner impairing its usefulness during the remainder of the term of said lease or said Court should make other order to the contrary, and a writ of injunction was issued by the Clerk of said Court, pursuant thereto which was on the 21st day of June A.D. 1853 by the Sheriff of said County duly served on the said defendants - And whereas it appears by the suggestion and affidavit of the said Complainant Daniel O'Keefe in that behalf that the said Hart P. Snicker George et Crook have each been guilty of a breach of said injunction, We therefore Command you as we have heretofore Commanded you that you take the said George et Crook if he may be found in your County & him safely keep unless he shall give bail in due form of law so that you have him before the Judge of the said Circuit Court on the first day of the next term thereof to be held in Peoria in and for said County of Peoria on the third Monday of November next to answer unto the People of the State of Illinois for his breach of said injunction and to abide the order of said Court in the premises. Wherefore return as the law directs, Witness Jacob Gale Clerk of said Court and the Seal thereof this 31st day of October A.D. 1854

J.P.

Jacob Gale, Clerk

[Indorsed]

I have not been able to find George et Crook in my County since the issuing of this writ - November 18th 1854

L.B. Cornwell, Sheriff P.C.

Proceedings at a term of the Circuit Court begun and held at the Court-house in the City of Peoria in and for said County of Peoria on the third Monday of November A.D. 1854 it being the 2nd day of said month, Present the Honorable Orshan Peters, Judge of the sixteenth Judicial Circuit in the State of Illinois, to wit,

Wednesday, December 13th A.D. 1854

The People of the State of Illinois

V.

for breach of injunction

Hart P. Ancker & George A. Crook

On motion of the defendant Hart P. Ancker by et R. Purple his counsel it is ordered that the attorneys for the prosecution file interrogatories herein to the defendants,

Thursday, December 14th 1854

The People of the State of Illinois

V.

Hart P. Ancker

George A. Crook

This day came the attorney for the prosecution and the said Hart P. Ancker by his counsel and agree that this cause be continued to next term, On motion of the attorney for the prosecution it is ordered that another attachment issue against the said George A. Crook returnable to next term and that he be allowed to give bail in the sum of five hundred dollars.

And thereupon, on said 14th day of December A.D. 1854, Interrogatories on behalf of the People were filed in said cause as follows, to wit,
People of the State of Illinois

V.

Interrogatories - George A. Crook &

Hart P. Ancker

Interrogatories to be propounded to and answered by the said defendants George A. Crook and Hart P. Ancker for an alleged breach of an injunction issued out of the Clerk's Office of the Circuit Court of Peoria County, State of Illinois bearing date the 23rd day of June A.D. 1853 at the suit of Daniel O. Reese V. Hart P. Ancker Trustee of Martha M. Crook, George A. Crook and William Senior.

Interrogatory 1st. Was not the writ of Injunction in the above Entitled suit served upon you and each of you

on the 23^d day of June A.D. 1853 by the Sheriff of Boone County
 Int. 2^d. State whether after the issuing and Serving
 of said writ of injunction you or Either of you did not violate
 and Commit a breach of said injunction by disturbing said
 O. Kufe in the use and occupation of the premises, described
 in said writ.

Int. 3^d. Did you or Either of you not after the issuing
 and service of said writ of injunction in any manner by you
 or Either of your own act or acts, or by your or Either of your directing,
 impair the usefulness of the premises described in said
 writ so that said O. Kufe could not use and Enjoy the
 said premises, as he could at the time of the issuing and
 serving of said writ of injunction.

Int. 4th. Did you or Either ^{or both} of you not after the issuing
 and service of said writ of injunction direct the workmen
 employed to dig the Cellar on said premises notwithstanding
 the said injunction, And did not the said workmen in
 consequence of such direction dig away the Earth behind the
 Ware room situate upon the said premises, so that the back
 End of the said Ware room fell down so as to disturb said
 O. Kufe in the use and occupation of said premises &
 so as to impair its usefulness.

Int. 5th. Did you not after serving of said injunction exp-
 resly direct John McCarty to dig away the Earth at the
 back part of the Ware room situate on said premises, so that
 the back part of the Ware room fell down and disturbed said
 O. Kufe in the use and occupation of said premises, and
 so as to impair the usefulness of the same.

Int. 6th. Did you and Each of you not after the service
 of said injunction see William Senior and John McCarty and other
 men working in tearing away the Store house on said premises,
 and in digging, and conveying away the Earth from behind
 said Ware room and did you direct them or Either of them to
 desist from such tearing down or digging away the Earth.

Int. 7. Did you not make a contract or agreement

with William Senior to erect a building on the premises leased to said O. Keefe by Hart P. Acker Trustee of Martha M. Crook and after the service of said writ of injunction did you not direct said Senior to go and tear down the Store house situate on said premises, And did not said Senior by himself and workmen after the service of said writ of injunction and by your direction dig away the East from the back part of the building situate on the premises, so leased as aforesaid so as to disturb said O. Keefe in the use and occupation of said premises, and so as to impair their usefulness.

Manning, Shallen & Powell
Atty's for the People

Attachment -

And afterwards the following writ of attachment was issued in said cause, viz,
State of Illinois
Peoria County.

"K"

The People of the State of Illinois
To the Sheriff of Peoria County, Greeting
Whereas by a certain injunction allowed by the Master in Chancery of the Circuit Court of said County on the 23^d day of June A.D. 1853 in a certain cause then pending in said Court wherein Daniel O. Keefe was Complainant and Hart P. Acker George & Crook and William Senior were defendants the said defendants were enjoined to desist from disturbing the said Complainant, O. Keefe in the use and occupation of the following described premises, leased heretofore from the said Hart P. Acker as trustee of Martha M. Crook by the said O. Keefe to wit - the Store and warehouse situated on Lot numbered Six (6) in Block numbered three (3) in the City of Peoria and State of Illinois and from removing the said Storehouse from said lot described in said lease or otherwise in any manner impairing its usefulness during the remainder of the term of said lease or said Court should make other order to the contrary and a writ of injunction was issued by the Clerk of said Court pursuant thereto which was on the 24th day of June A.D. 1853 by the Sheriff of said County duly served on the said defendants - And whereas it appearing

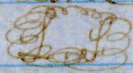
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by the suggestion and affidavit of the said Complainant Daniel O. Kuyf in that behalf that the said Hart P. Ancker and George A. Crook have each been guilty of a breach of said injunction.

We therefore Command you as we have many times heretofore Commanded you that you take the said George A. Crook if he may be found in your County thim safely keep unless he shall give bail in due form in law so that you have him before the Judge of the said Circuit Court at the next March Term of said Circuit Court to be holden at Peoria in and for said County of Peoria in the State of Illinois to answer unto the People of the State of Illinois for his breach of said injunction and to abide the order of said Court in the premise, Hereof make return as the law directs.

Witness Jacob Gale Clerk of our said Circuit Court and the Seal thereof at Peoria this 22nd day of December in the year of our Lord One thousand Eight hundred fifty four

[Indorsed]



Jacob Gale, Clerk

State of Illinois

Peoria County } By virtue of this writ I have taken the within named George A. Crook and had him safe in my Custody until he gave me bail with good & sufficient security for his appearance before our said Court at the next term thereof to answer as by said writ he is required.

David L. Irons, Sheriff

On the 27th day of April A.D. 1855, the defendants filed their answer as follows, to wit,
The People

27 } In the Circuit Court of Peoria County
George A. Crook }
Hart P. Ancker } For Contempt

The answer of the defendant, George A. Crook and Hart P. Ancker Defendant, above named to the interrogatories filed in this cause —

1st To the first Interrogatory they say that they believe the said writ of injunction was served on them on the 23rd day of June A.D. 1853.

2, To the second Interrogatory they say that to the best of their

Answers to }
Interrogatories }

"L"

Knowledge information and belief as they are advised by Counsel they did not Violate or Commit a breach of the said injunction by disturbing said O'Keefe in the use and occupation of the said premises described in said writ, they admit that before the issuing & service of said writ they commenced digging a cellar for the purpose of erecting a building on Land belonging to Martha M. Crook and continued to dig on the same after the service of said writ, but deny that said O'Keefe had any right to the occupancy of said land and that if he was thereby disturbed in his possession it was his own fault because he did not protect him self and use the usual & necessary precaution in such cases and they believe said land when they so commenced digging was not any of the land or premises mentioned in said injunction.

3. For answer to the 3rd Interrogatory they refer to their answer to the 2^d Interrogatory in which they ^{thoroughly} fully answered the same.

4. To the 4th Interrogatory they say that they did both before and after the service of said injunction employ some workmen to dig a cellar in the rear of said building situated on said premises, and that because the said O'Keefe would not as he should have done protect & take care of the same a portion of the Brick Wall of the War room did fall down which they believe was occasioned by Mr. Armstrong's digging on the side, But this digging was not on any land or lot which the injunction prohibited them from entering upon or disturbing & as they then supposed and verily believe, they further state that to the best of their knowledge & belief said digging did not interfere with or disturb said O'Keefe in the occupation of said premises, nor impair their usefulness - Because they had previously been rendered untenable by reason of Mr. John Armstrong's digging a cellar and letting down the side wall of the said War room -

5. To the 5th Interrogatory they say that they have no recollection of expressly directing John McCarty to dig away the Earth at the back

part of the Ware room, they did commence digging a Cellar as before stated and said Wall for the reasons before stated or some portion thereof fell down as aforesaid.

Q. To the 6 Interrogatory they say that they did after the service of said injunction see some persons in the Employ of Mr. Armstrong tearing away a portion of said Store house and see some persons digging away some of the Earth as before stated from behind the Warehouse they do recollect that John McCarty was so engaged, But they have no recollection that they forbid them from working as aforesaid and to the best of their Knowledge said McCarty did not dig within about four feet of the rear of the Warehouse and not on the premises embraced in the injunction.

7 To 7 Interrogatory they say that before the Injunction issued in this Cause they had made a contract with William Senior to Erect a building on the leased premises, whenever the old building should be removed, They did not after said injunction was served direct said Senior to tear down said Store house - Their Contract with Senior was, also to dig the Cellar underneath it to Mr. McCarty who did digging as before stated & no other to the best of their Knowledge and they verily believe that the said O'Keefe was not disturbed or molested in the premises leased to him and embraced in said injunction by any act of the defendants or by their direction and that whatever disturbance or molestation was occasioned to said O'Keefe of the leased premises, aforesaid was occasioned by the act of the said Armstrong & not by Defendants, as they verily believe, And the said Defendants further answering insist that this Court has, not at this time any Jurisdiction of the Subject matter of this proceeding for the following reasons.

1st Because the Venue in said Cause was changed from Peoria to Tazewell County on the 15th Sept. 1853 and is not now legally pending in this Court.

2 Because the attachment in this proceeding was

issued long after the dissolution of the said Injunction as appears by the Record & Decree of the Court herewith filed and made part of this answer. And the said Defendants further say that they never intentionally committed any violation of the said injunction and that if they have done so the same was done ignorantly and without any design to commit a breach of said injunction and they were at the time advised by their Counsel that in the digging done by said McCarty they were not violating said injunction

Subscribed & sworn to }
 before me this 27th day of April A.D. 1853 }
 Geo^t McCarty, D.P. }

[Attached]

Certified }
 Order dissolving }
 Injunctions }
 attached to answer }

Daniel O'Keefe }
 vs. }
 Wm. P. Acker }
 George A. Crook & }
 William Senior }

October 8. 1853

In Chancery

Venue from Peculiar Circuit Court

"M"

This day ^{this} Cause came on to be heard upon the motion of the Defendants herein before entered to dissolve the Injunction and the same was argued by Counsel and the Court now here being fully advised on the premises doth order Adjudge and Decree that the said Injunction be dissolved. - And the said Complainant saying nothing further in favor of his said bill it is ordered Adjudged and Decreed that the said Complainant's Bill be dismissed and that the said Defendants have and recover of the said Complainant their costs herein expended and that Execution issue therefor as in cases of Judgements at Law.

State of Illinois }
 J. John A. Jones Clerk of the }
 Pezence County } Circuit Court in and for said County
 do hereby Certify that the above Instrument of writing is a correct full and complete Copy of the final decree rendered in said

entitled Cause of Daniel O'Hugh vs. Hart P. Ancker
George A. Crook and William Senior at the October term
of said Circuit Court. In Testimony whereof I have
hereunto set my hand and affixed official Seal at
Pekin this 30th day of January A.D. 1854



John A. Jones

Clerk

Proceedings in the Circuit Court in and for Pionia County in the State of
Illinois at a term thereof held in the City of Pionia on the fourth
Monday of April A.D. 1855. The Honorable Cushman
Peterson Judge of the sixteenth Judicial Circuit in the
State of Illinois, presiding, to wit,

Saturday April 28th A.D. 1855

The People of the State of Illinois

vs.

for Contempt

Hart P. Ancker &
George A. Crook

This day came the said Hart P. Ancker and
George A. Crook in person attended by their Counsel and this
Cause came on for hearing before the Court. The Court having
heard the Evidence of the parties respectively and not being suffici-
ently advised in the premises, took time to Consider.

Monday April 30th A.D. 1855

This day again came the said Hart P. Ancker and George A. Crook
attended by their Counsel and the Court being now fully adv-
ised in the premises, do Consider and adjudge that the said
Hart P. Ancker and George A. Crook have each been guilty
of a Contempt of Court by breach of the injunction aforesaid and
that the said Hart P. Ancker do make his fine to the People of
the State of Illinois for the use of Pionia County in the Sum of Ten
Dollars that he pay one fourth of the Costs of these proceedings and
that Execution issue against him therefor. And that the said

George et Crook do make his fine to the People of the State of Illinois for the use of Peoria County in the sum of forty dollars that he pay three fourths of the Costs of these proceedings and that Execution issue against him therefor —

The Defendants prayed an appeal to the Supreme Court of this State which is allowed to the Said Crook on his filing bond in two hundred and fifty dollars with William S. Moss as Surety and to the Said Hart P. Snicker on his filing bond in one hundred dollars with Surety to be approved by the Clerk and to both defendants on their filing their bond in the sum of three hundred dollars with William S. Moss as Surety Such bond or bonds to be filed in the Office of the Clerk of this Court in thirty days and conditioned and payable according to Law. — It is ordered by the Court that the Bill of Exceptions in this cause may be settled and signed in vacation —

And afterwards the defendants filed their appeal bond on the 22nd day of May A.D. 1855 in said Clerk's office, which is as follows, to wit:
Know all Men by these presents that we George et Crook Hart P. Snicker and William S. Moss are held and firmly bound unto the People of the State of Illinois in the penal sum of Three Hundred Dollars, lawful money of the United States for the payment of which well and truly to be made and performed we and Each of us bind ourselves our heirs, executors, administrators, and assigns jointly, severally and firmly by these presents. Witness our hands and seals at Peoria this 30th day of April A.D. 1855. —

The condition of the above obligation is such that whereas the Said People of the State of Illinois have on the day of the date hereof recovered a Judgement against the above bounden George et Crook for the sum of Forty Dollars fine together with three fourths the amount of the Costs of the proceedings and also recovered a Judgement against the above bounden Hart P. Snicker for the sum of Ten dollars fine together with

one fourth the amount of the costs of the proceeding in a certain proceeding in the Circuit Court of Peoria County, in the State of Illinois wherein the said People of the State of Illinois were Plaintiffs and the said George A. Cook and Hart P. Ancker were Defendants. For breach of injunction, from which said Judgement the said Cook and Ancker have taken an appeal to the Supreme Court of the State of Illinois. Now if the above bounden George A. Cook and Hart P. Ancker shall well and truly pay the said Judgements together with the Costs, Interest and Damages therein and the Judgement of the said Supreme Court in case the said Judgement shall be affirmed and shall duly prosecute their said appeal then this Bond to be Void otherwise to remain in full force and Effect

G. A. Cook. *(Sd)*

H. P. Ancker. *(Sd)*

Wm. J. Wood. *(Sd)*

And afterwards at the May Term of said Circuit Court in and for Peoria County the following proceedings were had in said cause, to wit:

Friday, May 25th A.D., 1855

The People of the State of Illinois

vs

George A. Cook

Hart P. Ancker

for Contempt

On motion of Defendants by N. H. Purph their Counsel, Ordered that the time for settling the Bill of exceptions in this cause be extended to vacation

And afterwards, to wit, on the 7th day of June A.D. 1855-
the defendants filed their Bill of Exceptions in this cause,
which is in the words and figures following, to wit,

The People

vs
George A. Crook &

Harb P. Ancker

Be it remembered that upon the trial of this cause
the People offered in evidence an attachment marked
"A" Daniel O'Keefe's affidavit marked "B"
an attachment marked "C" Daniel O'Keefe's
affidavit marked "D" The Bill in Chancery marked
"E" the attachment marked "F" The attachment
marked "G" The Interrogatories marked "H"
The attachment marked "I" and the answers
of defendants marked "J" all of which said
documents are herewith referred to and made part of
this Bill of Exceptions and of the Record in
this cause.

The People then introduced the parol testimony
of the witnesses Patrick Dolan, Morris Rosenthal,
O. B. Warner, Michael O'Connor, William Senior,
P. Comegys, Samuel Morse, George Mc Gadden,
D. Mc Gadden, Thomas Mc Gadden, Thomas Dobbin,
George Spurck, Andrew Murphy, John Mc Carthy,
L. B. Cornwell, Thomas Rigley and James
Dolan, which testimony is as follows, to wit,

Patrick Dolan. I knew the parties O'Keefe & the defts. on June 23^d 1853 before & after: also the premises, & Storehouse on Lot 6 Block 3 in Peoria. The injunction was served on that day June 23^d: at the time it was served very little work had been done, no harm then done to the property. After that Mr. Crook's men McCarty & others went to work at the rear of the Store, where they were at work when the injunction was served. They dug down near the wall in the rear, and the wall fell out, so as to make a hole in the cellar. O'Keefe had things in the Store, digging under the wall made it fall down, think it did not fall on that day, they continued to work there some days after the injunction was served. The defts. were there some of the time when the work was going on. Crook directed the work, I thought he employed the men. Mr. Senior I think had the job of work, Crook wanted me to go to work with my men right next to the wall, I told him I would have nothing to do with it, There was a stable in the rear of the premises, this was torn down. I should think this was more than twenty feet from the wall, I mean the rear of the lot, twenty feet from the Store, the stable is less distant but don't know the distance. I do not know as I heard Crook direct, but saw him there talking with the men. A truck passed. Another passed there going to & from his meals, I saw Senior there, understand he had the contract for the work, but do not know it. I was digging in the cellar of Armstrong, right adjoining. The digging there did not effect O'Keefe's back wall, there was a rain that night, & this might have hurried the falling, but it would have fallen before long any how.

Morris Rosenblatt. The defts. had work done there after the injunction was served, at the back of O'Keefe's Store. The back wall of the Store fell down. Crook was there when the hands were at work digging. The stable was, but a few feet back of the Store. They dug down between the Store & stable and under the stable. and the stable fell down some too, this work was done after the Sheriff

read the paper to the depts. I heard him read it. Saw Crook there was not at work but was there with the hands; Saw Senior there but do not know that he was bossing the hands.

O. B. Warner - I was Marshall of the City; Saw the hands digging right back of the Store, Crook told the men to go ahead & he would back them, to work on, John McCarty was one of the men, Senior was there too, & Andrew Murphy, this was near noon, or between 10 & 12 O'clock; They had just commenced digging there, Sheriff Cornwell was there, just after I got there. I left soon after; It is so long since that I cannot recollect accurately.

Michael O'Connor I was there when the work was going on. I was selling goods on the side walk. The Sheriff came there; The work at the back of the Store was done after that; they were digging a cellar, afterwards a rain came, H. Ruff's brick wall at the end of the Store fell down; they worked there digging the day it fell; three or four hands worked there about three days after the injunction was served; Can't say whether the Stable was taken away before or after the Sheriff was there. Crook was there most of the time whilst the work was going on. He said he would have the building if it cost him his life. Can't say cut any whether this was said before or after the injunction was served - it was not after the wall fell but it was after the work of digging - they were at work at the rear of the building when he said this - am positive some of the Earth had then been taken out.

William Senior The injunction was served on me, and it was served on Crook and another; the hands worked on the cellar digging after this right at the end of the Major (O'Ruff's) Store within two or three feet of the back end of it. The wall at that end fell down - the hands worked there after the injunction was served. Crook put them to work; he hired me to hire the men & put them to work - they worked a day & a half or two days after the injunction served; the wall fell by reason of digging. I do not recollect of seeing the defendants about there whilst the men were at work; I was not about there much. Crook told me to commence

the work; & O'Keefe objected. This was before the injunction. After the injunction Crook said he was going to put the building in any how. I left as soon as the injunction was served. Work was done after that digging. all the injury was done after that. * Crook said he did not want to. O'Keefe, premises, I understood that by the injunction all work had to be stopped - the digging was 18 inches to three feet from the back wall - there was a heavy rain about that time - this helped to make it fall. do not know it would have fallen if no rain. After the injunction Acker said he would have nothing further to do with it. My foreman worked there he took down the stable. after I left he continued to work - they were digging Armstrongs Celler whilst I was there. If the wall had not fallen the digging which was three 4 or 5 feet deep would have prevented O'Keefe from the back store or getting his heavy goods in at the back door - he could not ^{use} the back side of the premises after the digging.

P. Corneys - I heard of the injunction, after this O'Keefe called my attention whether his building was not in danger. I thought it was. It was dug down 3 or 4 feet deep. I was there once when they were not digging. The wall had to be braced up. never heard Crook say anything about the injunction.

Samuel Morse I moved the stable. Can't say that this was after the injunction. I worked for Armstrong after the injunction was served. Men worked there first for Senior, he left & then Peter Hight said he would go on. Crook said the workman should go on. They worked there perhaps two days after the injunction was served. There were 4 or 5 laborers besides Peter. * I did not hear Crook say that he did not wish to injure O'Keefe. after the injunction Senior said he would have nothing to do with it (the work). Crook then said he would see him through with it; said this to Peter.

George McFadden I was not there when the injunction was served. I heard it spoken of, think I saw the men at work there after it was served - not certain of this. O'Keefe used back part of the lot to get his heavy goods in, & to go to his stable. He digging

destroyed the use of this part of the lot. The wall fell down, it would not have fallen but for the digging. O'Keefe was distant in his enjoyment of his buildings—Could not get out or in at his back door. *The side wall by Armstrong's lot would have fallen without the other digging—at the back part of the wall would not have stood long if there had been no rain. At the top they dug within a foot of the wall & slanted to about 2 or 3 feet at the bottom of the digging. I used the back part of the lot to pass over to get out & in my heavy goods—My store adjoining O'Keefe's.

D. McFadden I recollect the service of the injunction the hands worked after that, Crook was there. The work was right back of O'Keefe's store, between it & the stable. The crossing to the store house was interrupted by the digging. *Did not hear Crook give any directions about the work after the injunction was served. Thos. McFadden I heard of the injunction being served. Can't say that any work was done after this; I have forgotten about this, *The digging interrupted O'Keefe in getting out & in to the back part of his store. He could not get his goods in there after the digging till it was bridged over. O'Keefe got his heavy goods in the back way; have seen him take them in there. he kept his liquors in the back store.

Dr. Oelkie — The men worked there after the injunction was served, between the store & stable. they dug within two feet of the store.

Thos. S. Dobbins — I was along there after the injunction was served. The men were at work there. Crook came out ^{from} where the men were at work. O'Keefe was in the habit of bringing his goods in at the back gate back end of the store. kept his horse & buggy in the stable. I got 2 or 3 MW of salt out that way.

George Sprunk I heard of the injunction—there were men working there after that. I once occupied the store, an addition was put on the back part after I left it. O'Keefe was in the habit of getting his heavy goods in the back way. The digging would of course disturb his use of the way. the back lot belonged to the same premises. O'Keefe occupied the back part of the lot always after he went into the store till he was disturbed by the digging.

41 Andrew Murphy - I worked in Smithings Celler, Saw the Sheriff there by O. Keefe, Stone the men were at work there after that. Did not hear Crook give directions to workmen have seen drays going in the back way with goods for O. Keefe before the digging.

John McCarty - I knew of the injunction. I worked for Senior by the day in the Celler. I told Senior I did not want to work any more. he said I would be safe; another struck were there. They had spurs hand, at work after the injunction. I got my pay of Aucker in clothing. This was for work after the injunction. Senior was at work for Crook & Aucker. Crook told me to go on. He thought I was not good to work after the injunction; Crook insisted I should go on; he took hold of ~~my~~ ^{the} horse & backed him in. I rec^d for my work \$7.50 had \$1.50 for day for myself & teams. I quit work & then when I saw others at work I went to work again. I worked 2 or 3 days after that, dug down to the depth of the foundation of O. Keefe, building at the corner at the back end of store. Crook had ~~promised~~ ^{hurry} to have the work go on but before & after the injunction was served. O. Keefe got goods in the back way, Senior told me to go on, & Crook & Aucker both said they would see us through. We dug as Crook directed us. he was there the day we commenced & was there every day, when we dug. he said the slope was right. Crook & Aucker both order about the work; I supposed I worked for Crook & Senior. Senior paid me. Crook was there bossing; I got my pay or order of Senior or Aucker; I took the order to Aucker & got clothing for my pay. Senior said he had the job of the building, the injunction was read to us; all. Senior said I had nothing to do but to mind my business. He directed the work before the injunction, after P. Hyatt & Crook directed.

L. B. Cornwell, I served the writ of injunction. May, Senior between nine & ten o'clock in the forenoon. do not remember what was said - Two or three days after I saw that work had been done in the rear of the store.

Thos. Rigley, called for the defence. I recollect the time when

42 the injunction was served - Brook told us not to dig so near as to injure the building - to leave it the Earth three feet from the building. * Mr Brook gave directions where to dig. Senior set us to work & Brook directed us after the injunction was served not to dig so as to injure the building - He was there once or twice a day. The digging stopped up the passage way back - we dug four or five feet deep to the depth of the cellar. never saw a snicker there, Senior paid me for my work - he was my boss all the time, all the men the same James Dolan - Work was done after the injunction was served. I worked two days; Snicker directed both before and after; he said go ahead & do the work & put it thru the wall so they suffered no damage; Mr Murphy was there & ten or fifteen others were about there - Don't remember who were there but think my Father & McCarty were, I was at work on the crumpling cellar.

The defendant objects to all this parol evidence and testimony and excepts to the opinion of the Court in admitting the same -

The defendant then read in evidence the order of the Circuit Court of Wazewell County dissolving the injunction and dismissing the complainant's bill in said suit of O'Keefe vs Ancker, Brook & Senior, which order is marked "M" And made part of this Bill of Exceptions and of the Record in this cause -

This was all the evidence - The defendant objects and excepts to the final order and Judgment of the Court in the premises and requested the Court to seal this Bill of Exceptions which is done.

We agree that the foregoing Bill of Exceptions is correct and that the seal mentioned in the Bill in Chancery may be used on the trial as part of the Record and of this Bill Exceptions -
N. H. Purple, Defts atty

June 7th 1855

H. Lander for Plff.

State of Illinois
 Peoria County ss. I, Jacob Gale clerk of the Circuit
 Court within and for the County of Peoria in the State
 of Illinois do hereby certify that the foregoing is correct
 transcript from the Record of the proceedings in said Court
 in a certain cause there of the People of the State
 of Illinois against George A. Brock & Hart P. Ancker
 for Contempt of Court by breach of injunction as the
 same remains of Record and on file in my office,
 and that the papers referred to in the Bill of Exceptions
 and made part thereof, as marked "A" "B" "C" "D"
 "E" "F" "G" "H" "I" "K" "L" "M" are the same
 copies before in this record and marked on the margin
 with those letters respectively.

In witness whereof I have set my
 hand and affix the seal of said
 Circuit Court at my office in the
 City of Peoria this seventh day of
 June A.D. 1855.

Jacob Gale, clerk.

George A. Crook
 vs
 People State of Illinois

Rec'd

34
 20400

Filed June 8. 1855.
 R. Leland Clk.

And these being the said Appellants and saying that in
 the said and preceding bills in the foundation of the bill
 against them is manifest error in fact to wit
 1. The Circuit Court of Effingham County, Ga. in rendering
 the said to said County
 2. The Circuit Court of Row County had no jurisdiction
 of the case after the change of venue to Effingham
 3. Said Court had no admitting such evidence after the
 Appellants Appellants had examined witnesses
 4. Court had in issuing attachment after dissolution
 of injunction and did mistake of fact in the charging bill
 5. The Court had in entering up a judgment against
 the said John Green in said Record
 and proceeding to force that said judgment may
 be given as a bill of exchange for nothing returned
 June 26. 1855.
 At the People's Appellants
 the undersigned and
 to Appellants for Appellants

It is not an indictment it is not an information within the meaning of the law

ordered The appellants cannot take advantage of their own wrong in procuring the change of venue But was the venue wrongfully and improperly granted I think it was. This proceeding was for a contempt of the process of The Circuit Court of Prince George's County and that Court alone has jurisdiction to punish the parties for the contempt Jurisdiction could not be given to The Circuit Court of Talbot County by changing of the venue and The Talbot Court did ^{rightly} ~~wrongly~~ remand the cause back. Each of the Circuit Courts in the State within their respective Circuits have full power to punish for contempts and it would be strange indeed if parties could avoid punishment by removing the cause to another jurisdiction The law in such case does not provide for a change of venue This is not a civil cause, and does not come under the 1st of The 10th Chapter Revised Statutes 1845 Page 527 Nor does it come under the 5th Section of the same Chapter. Hence I conclude that The order of the

Circuit Court of Provia County was improper and the Pagewell Court did right in remanding the proceeding back.

The second error assigned is "That the Circuit Court of Provia County had no jurisdiction of the cause after the change of venue to Pagewell"

This error depends entirely upon the preceding one and if it shall be determined that the venue was properly moved to Pagewell then it was error to remand it back. But for the reasons before stated I do not think it was.

The next error assigned is "Said Court erred in admitting parol ~~proof~~ evidence after defendants appellants had answered interrogatories"

This certainly was not error. There is a distinction between ordinary contempts of Court and contempts for breach of an injunction. In common contempts some Courts allow the party to purge the contempt by his answers to interrogatories. But in cases for breach of injunction it is otherwise. The Court will hear evidence on behalf

of both sides to sustain this position
I refer to the following authorities
City Bank vs Schermukhordal 9 Paige 372
1 N.J. Chancery Digest Page 178 & 784 79
2 Humphrey v. Dimmock R. 46
3 Green v. J. R. 433

The next error assigned is
" Court erred in issuing attachments
after the dissolution of the injunction
and dismissal of the Bill in the chancery
suit"

Now I am willing to admit
that if the proceedings for the breach
of the injunction had not have been
commenced until after the injunction
had been dissolved that then it would
be too late to begin such proceedings
But the record in this case clearly shows
that the complaint for the breach of the
injunction was commenced before the
dissolution of the injunction All the
attachments issued afterwards were to
bring the appellants into court This will
be seen by the affidavit of O. Skepe
on page 9 of the record It was not the
commencement of a new proceeding
no more than it would be commencing

a new indictment against a party who had been indicted arrested on a Capias and gave bail for his appearance at Court and had forfeited his recognizance and another Capias had been awarded for his arrest There can be no doubt of this

But did the dissolution of the injunction purge the Contempt I think not and no authority can be found to sustain this position

It is a well established principle that while an injunction is in operation a party ought to respect it although it was improperly issued

Mont vs Holbein 2 Edw 188

Rutherford vs Metcalf 5 Hayw Trm R 58
2 Green Ch R 456

This proceeding then was for a breach of the injunction while it was in full force ~~and not for a breach~~ and was not commenced after the dissolution

It is no answer to a proceeding as for a ~~breach of~~ Contempt for the breach of an injunction so far as the rights of the adverse party are concerned that the breach was committed under the advice of counsel Howley vs Bennett 4 Paige 163

But as to the issuing of the attachment No appeal lies from an interlocutory order as for an attachment to bring a party into court
McCradie vs Senior et al 11 Paige 378

The dismissal of the Bill will not prevent proceedings by attachment to enforce an interlocutory decree in the cause 1 U.S.C. Dig. Page 176 A^o 40
1 Clark 429

The breach of an injunction regularly issued is a contempt of the court and in a proceeding against the party for such breach the court will not examine into the merits of the case. People vs Spalding 2 Paige 326.

The next and last error is "The court erred in entering up a judgment against appellants"

Certainly it is not for want of proof of a clear breach of the injunction. The answer of the appellants to the interrogatories does not purge the contempt. By no means. But rather adds insult to injury. But independent

of this the proof is clear & conclusive
and the judge most right
cannot review on error or appeal the refusal
of the court to proceed for a contempt
Wyllie v. Magee 3 Alabama R 94

Will on appeal or writ of error lie?

Crane et al
vs
The Profile
Argument of
D. J. T.

George A. Crook Esq } Appeals from Proria
The People } Abstract

July 6th 1853
Affidavit filed & Order for Attachment
issued for breach of injunction in case
of Okeefe vs Aucher Crook & Senior

July 7th Recognized to appear at
Court at next term to answer etc.

Sept 15th 1853.
Crook filed affidavit for change of
venue on the grounds of prejudice of the
Judge - Venue changed to Tazewell -

Proceedings in Tazewell County.
Oct. 6, 1853. People enter a Motion to
remand cause to Proria County,
Motion withdrawn

Oct 7. 1853
Appellants enters Motion to dismiss the
proceeding - Court overruled the Motion
and on its own Motion remanded the
Cause to Proria County -
Appellants Excepted.

The Chancery case was sent to Logansport County at some time as this case -

Oct. 8th 1853. The Injunction was dissolved and the Bill dismissed -

When this case was remanded to the Poria Circuit - the Defendants were not incognizant to appear - at the Poria Court.

On the 13th Sept 1854 an application was made for another attachment - which was issued,

On the 14th Dec. 1854. Another Attachment was ordered.

On this Crook was omitted and gave bail -

Interrogatories were filed which were answered by the Defendants
(Read them) -

The case was heard at May Term A.D. 1855. - The Interrogatories & answers were read, the People proposed to introduce Oral Testimony of witnesses to prove the Contempt & contradict the answers.

Defendants Objected - Evidence admitted & Defendants Excepted -

The Court fined the Defendant Crook \$50. Acker \$10. & they excepted & appealed

George A. Crook }
vs
The People }

Brief

1 Point

The Court to which the venue of a
cause is changed can not go behind
the order for the change of venue to
inquire whether the reasons of the change
are sufficient

People vs Scotts 3. Dean. 355.

Courts having concurrent power and
jurisdiction can not review or reverse
each others orders and decisions

Inds.

The answer of the defendants denying
the truth of the injunction is
Conclusion and parol Evidence to
Contradict it ought not to be
received,

D. Bland 461

1 Equity sig. p. 178 s. 90.

~~See see see p. 83 s. 90~~

~~See see see p. 100~~

~~1 Melles sig. p. 349 s. 90~~

~~1 Melles sig. p. 350 s. 90~~

3rd.

An attachment for Contempt for Breach of an injunction will not be granted after the dissolution of an injunction

2 12. Equity Dig. p. 178. § 90

2. Educ. Chy p. 188

1 McKeads, Chy p. 349

1 N.S. Dig. p. 324. § 333.

In this case the attachment was issued after the dissolution of the injunction & dismissal of the Bill. The Bill was dismissed Oct. 8. 1853 & the attachment under which the fine was imposed on the 14th Dec. 1854. More than 1 year afterwards.

The proceeding for Contempt after the case was remanded from Fozzwell was entirely a new and not a continuation of an old proceeding. The injunction had been dissolved & Crook was wholly out of Court both as to the Chancery proceeding and the Contempt. He was not recognized - nor was he at all under

any obligation to appear at the
Piora Court to answer the alleged
Contempt. The Court should, if they
wished to have punished the party for
a violation of the injunction, have
Suspended all proceedings in the Chancery
Suit, until the question of Contempt
had been disposed of. But after the
dissolution of the injunction & dismissal
of the Bill, the Court had no
power or authority to fine for such
alleged Contempt. & It is wholly imma-
terial at what time the proceeding was com-
menced. When it is admitted that such a
proceeding could not be commenced after
the dissolution of the injunction the whole
Case is admitted in our favor. If it
could not be commenced - It could not
be continued after such dissolution. x

Purple DM