

12224

No. _____

Supreme Court of Illinois

Love, et al

vs.

^E
Moynihan

State of Illinois,
Cook County, S.S.

Shew before the Honorable
Buckner S. Morris Judge of the seventh Judicial
Circuit Court, and presiding Judge of the Circuit Court
of the County of Cook in the State of Illinois, at a
term thereof begun and held at Chicago in said
County on the third Monday being the twenty first
day of November in the year Eighteen hundred and
fifty three, and of the independence of the United
States the seventy eighth

Present

Wm. Buckner S. Morris Judge

James M. Day State attorney

Lyons S. Bradley Sheriff

Attest

Louis D. Hoard Clerk

Be it remembered that herefore to wit on the
twenty third day of November in the year of our
Lord one thousand Eight hundred and fifty three,
there was filed in the office of the Clerk of the Cook
County Circuit Court a certain bond for costs which
is in the words and figures following viz:

State of Illinois

Cook County Circuit Court

Ann Morganham

vs

James Love and

James Love Jr.

Trespass

Cook County ss. - I do hereby enter myself
security for costs in this cause, and acknowledge
myself bound to pay or cause to be paid, all costs
which may accrue in this action, either to the

opposite party, or to any of the officers of this court
in pursuance of the laws of this State,
Dated this 10th day of November 1853. J. B. Davis {Seal}

Theodore D. Dwyer {Seal}

And ~~afterwards~~ ^{12th of August in the} on the ~~day~~ ^{year} ~~and~~ year
aforesaid, there was filed in said Clerk's office aforesaid
a certain affidavit, which is in the words and figures
following viz:

State of Illinois,
County of Cook S.S.

Ann Morganham being first
duly sworn doth depose and say that she was
the occupant and life of a certain frame house
or tenement situate on the east side of Wells Street
between Quincy and Adams Streets in the City of
Chicago County of Cook and State of Illinois, and
that she leased the same from one Chauncy D. Spikes
for and during the term of one year to commence
some time in the month of May A.D. Eighteen
Hundred and fifty three, that she went into posses-
sion at the time last above mentioned and enjoyed
peaceable possession of said house from that time
up to the tenth day of August of the same
year last aforesaid.

And this deponent further saith
that on said tenth day of August that James
Loane and James Loane Jr. (while this deponent
was absent from her premises) did with force
and arms did violently enter and break into
this deponent's house situated as aforesaid, and
did then and there with force and arms as
aforesaid through out into the street the house-
hold furniture and other goods wares and valu-
able things belonging to this deponent (to wit) two

beds and bedding, together with the bedsteads, two black walnut tables, and two common tables, one wash stand, seven chairs, one Parlor Stove and pipe, one cooking Stove and pipe and furniture, fourteen pictures and frames, one set white stone China ware, and one set Childs China, one dozen knives and forks, one half dozen table spoons, and two dozen tea spoons, four stone jars, two stalin iron three and iron, two wash tubs, two wash boards, six water barrels, three water pails, one buck saw, five baskets, two covered baskets packed with clothes, one hatchet, two hammers, one pair of candlesticks with candle snuffers and tray, twelve pots of plants, a quantity of tea, Butter, Sugar, flour, potatoes, and pork, six unfinished bed quilts, sixteen yards of carpeting, thirty six yards of cotton cloth and two dollars in money, also all the wearing apparel of the deponent two daughters and son, and trunk filled with clothes, one chest filled with clothes, nine gentlemen suits, twenty one yards of cording, two yards and three quarters insertion, all of which was of great value to wit of the value of three hundred dollars.

And also at the same time and place the said James Love and James Love Jr. expelled from the said house her child named Margaret of the age of fourteen years and Peter of the age of eleven years and put them into the Street, and left them there without any kind of protection whatsoever, and by which said deponent lost their care and custody and attention, and has lost the said dwelling house and ^{said} furniture and deponent further says that she has been,

by said James Love and James Love Jr willfully
and unlawfully, kept from the possession and
occupation of said house and still is kept
from occupying and enjoying the possession of
said house, and this deponent further says
that she has been immediately separately dam-
aged by reason of the premises aforesaid in the
sum of two hundred dollars in addition to the
said sum of three hundred dollars, and this
deponent further says that she did not return
to her said house after her said abuse until
the afternoon of the ~~said~~ day and this depon-
ant further says that she has good reason to
believe and is afraid that the benefit of whatever
judgment may be obtained will be in danger
of being lost unless the saids James Love and
James Love Jr be arrested and held to bail.

Subscribed & Sworn to ~~me~~ ^{her} Ann X Morgan
before me this 12th ~~day~~ ^{mark}
day of August A.D. 1853
L. D. Noard
clerk

And afterwards to wit on the day and year last
aforesaid, there issued out of the office of the clerk aforesaid
the Process with Capias ad Respondendum directed
to the Sheriff of said Cook County aforesaid, checked in
the words and figures following, viz:

State of Illinois,
County of Cook ss. The People of the State of
Illinois to the Sheriff of said County - Greeting;

We command you that you take the bodies of
James Love and James Love Jr found in your
County, and safely them keep so that they be
and appear before the Circuit Court of said County,

on the fourth Monday of October next to answer
unto Aaron Morganham in a plea of trespass to
the damage of the said Plaintiff as she says in
the sum of One thousand dollars.

And have you then and there this writ with an
endorsement thereon, in what manner you shall
have executed the same.



Witness Louis D. Howard Clerk of said
Court, and the seal thereof at Chicago in
said County, this 12th day of August
A.D. 1853. L. D. Howard Clerk

On the back of said writ the Clerk aforesaid endorsed,
the following over to wit:

The Sheriff will hold defendants to bail in the sum
of one hundred dollars each. L. D. Howard, Clerk

And afterwards to wit, on the thirteenth day
of August in the year last aforesaid, the Sheriff aforesaid
returned said writ, with an endorsement thereon
in the words and figures following, viz:

Served by arresting the within named James
Love and James Love Jr, and they having given
Bail as per annexed Bond I released them from custody
by August, 13. 1853. 2. Surries, 1.00 2 miles, 10. Return
10. = 1.20 app bonds 25. pd. by drafts, C. P. Bradley
Sheriff, By J. H. Norton Sept,

Attached to said writ is the Bond referred to
in the return endorsed on said writ by the Sheriff
which is in the words and figures following, viz:

Know all men by these presents, That we James
Love, James Love Junior, John Voice, and Christian
Holtz of the County of Cook and State of Illinois,
are held and firmly bound unto Cyrus P. Bradley

Sheriff of Cook County in the State of Illinois,
in the sum of Four Hundred Dollars lawful
money of the United States, for the payment of which
sum well and truly to be made to the said Cyrus P.
Bradley, Sheriff as aforesaid, or his successors in office,
executors, administrators or assigns, we hereby jointly
and severally bind ourselves, our heirs, executors and
administrators. Witness our hands and seals this
thirtieth day of August eighteen hundred and
fifty three. -

The condition of the above obligation is such,
that whereas Ann Moynihan has lately sued out
of the Circuit Court of the County of Cook, a certain
writ of Capias ad respondendum, in a plea of trespass
against James Love and James Love Junior returns
to the next term of said Court to be holden at the
Court House, in the City of Chicago, in said County,
on the fourth Monday of October next;

Now if the said James Love and James Love Junior
shall be and appear at the ^{said} Court, to be holden at
Chicago aforesaid, on the said fourth Monday of
October next; and in case the said John Voice
and Christian Herz shall not be received as bail in
the said action, shall put in good and sufficient bail,
which shall be received by the plaintiff, or shall be
adjudged sufficient by the Court, or the said John
Voice and Christian Herz being accepted as bail,
shall pay and satisfy the costs and condemnation money,
which may be rendered against the said James
Love and James Love Junior in the plea aforesaid
or surrender up the bodies of the said James Love
& James Love Junior in execution in case the
said James Love and James Love Junior shall not
pay and satisfy the said costs and condemnation

money, or surrender themselves in execution when
by law such surrender is required, then this obligation
to be void; otherwise to remain in full force and
effect;

James Lane Seal

James Lane Jr Seal

John Vance Seal

Christian Holtz Seal

And afterwards to wit on the fourteenth day of
October in the year last aforesaid, comes the said plaintiff
by her attorney and files her declaration in this cause,
which is in the words of figures following, viz:

State of Illinois of In the Cook County Circuit Court
County of Cook at the October Term 1883

James Lane and James Lane Junior
the defendants in this suit was summoned by the
sheriff of said County to answer Ann Magnan
in this suit of a plea of Trover, and thereupon
the said Ann Magnan by C. J. Cameron her
attorney complains against the said James Lane and
James Lane Junior for that the said defendants heretofore
to wit on the tenth day of August in the year of
Our Lord one thousand eight hundred and fifty three
and divers other days and times before the commence-
ment of this suit with force and arms lawfully
at the court, aforesaid, broke and entered a
certain dwelling house of the said plaintiff situ-
ated in the County aforesaid, and there and there
made a great noise and disturbance therein and
then and there ejected expelled and put out
and removed the said plaintiff and her family
from the peaceful use occupation and enjoyment
of the said last mentioned dwelling house

and kept and continues them so quiet expelled
just out and, answered for a long space of time
to wit, from thence hitherto whereby the said pla-
intiff for and during all that time lost and was
deprived of the use and benefit of her said
last mentioned dwelling house to wit at the
County aforesaid and also during the time
aforesaid to wit on the tenth day of August
in the said year of our Lord one thousand
eight hundred and fifty three with force and
arms to wit at the County aforesaid seized and
took carried away divers goods and chattels to
wit fifteen yards of Carpeting twenty eight yards
of factory cotton one parlor stove and pipe, one cooking
stove and pipe, and furniture, three Windsor Chairs,
three cane seat Chairs, one Rocking Chair, two
black walnut tables, two common tables, one
wash stand, one set of stone China, one set
of chinas China, one hair Matrap, one straw
Matrap, two bedsteads, five feather pillows, five
comforters, four pair of sheets, four pair pillow
cases, two stand covers, one table spread, one
table cloth eighteen pictures and frames
one large wrapping glass frame, one dozen
knives and forks, ~~one dozen~~ six table spoons
and twenty four tea spoons, four stone jars,
station wrens, three flat irons, two wash tubs
two wash boards, six water barrels, three water
pails, one buck and skin, five baskets, two
corner baskets filled with clothes, one hatchet
two hammers, one pair of candle sticks, one
pair of candle snuffers and tray, twelve
pots of house plants a large quantity
of tea, butter, sugar, flour potatoes and

found six unfinished bee quilts, two dollars
in money, also all the wearing apparel of the
said plaintiff & her two daughters and son, one
trunk filled with clothes, one chest filled
with clothes, nine shirts (gentlemen's) twenty one
yards of edging two yards and three quarters
sewing, all of which said goods and chattels
were of great value to wit: of the value of
three hundred dollars, and also for that the
said defendants with force and arms as aforesaid
to wit at the County aforesaid
seized took and carried away divers goods and
chattels of the said plaintiff of the like num-
ber, quantity, quality, description and value as the
said goods and chattels in the said first count
of the said declaration mentioned of great value
to wit: of the value of three hundred dollars,
these then found and being and converted and
disposed of the same to their own use and
other wrongs to said plaintiff then and there
did to the great damage of the said plaintiff
wherefore the said plaintiff saith that she is
injured and hath sustained damage to the amount
of one thousand dollars and therefore she brings
her suit &c.

C. J. Cameron

Plff's atty.

Afterwards to wit on the thirtieth day of May
A.D. 1853 comes the said defendants by their attorney
to file herein ^{a copy} their certain plea in this cause with
affidavits attached which said copy of plea & affidavits
are in the words & figures following, to wit:

Court County Court of Common Pleas.

November Term A.D. 1853

James Love & James Love Jr

vs
Ann Morgan

and the said defendants

in their proper persons come and defend the
wrong and injury, when so and pray jud-
gment of the said writ and declaration
of the said plaintiff; because they say
that the said plaintiff, before and at the
time of the commencement of this suit,
was and still is married to one Jeremiah
Moynihan then and yet her husband,
who is still living, to wit, at Detroit in
the State of Michigan, and thus he the
said defendant is ready to satisfy, wherefore
because the said Jeremiah Moynihan is not
named in said writ nor in said declaration
of the said plaintiff, the said defendant prays
judgment of the said writ and declaration
aforesaid and that the same may be ~~dis-~~
^{quashed} ~~set~~, &c.

(signed) James Love
James Love Jr

State of Illinois
Cook County, ss:

James Love Jr. one of the defendants
in the above entitled cause being duly sworn
say that the above plea is true in substance and
fact, -

Subscriber sworn to before me
this 29th day of May 1853 } James Love Jr.
L. D. Board (Jk)

State of Illinois } In the Circuit Court for Cook County
Cook County, ss. November Term A.D. 53
James Love & James Love Jr.
vs

Ann Moynihan } Elias Daniels being
duly sworn that the plea in the above entitled

and has been taken from the files or misplaced
and that he cannot find the same after diligent
search therefor. And that it is not now on the
files of the said court. And that the accused
is in substance a copy of the original and
in the above entitled cause and further
saith not. Elias Daniels
Subscribed and Sworn to before me this
30th day of May A.D. 1853. - C. S. Wolf, J.P.

November 23^d A.D. 1853. Now at this day comes the
said plaintiff by her attorney & files herein her
certain replication to the defendants plea in
this cause which is in the words & figures follow-
ing, to wit;

Ann McQuinnan } Cook County Circuit Court
vs } November Term A.D. 1853
James Lane et al }

And the said plaintiff saith
that the said action by reason of anything by the
said defendants in their said plea above alleged
ought not to be quashed because she says that
long before and at the time of the commencement
of this suit to wit in the year of our Lord one
thousand eight hundred and forty seven the said
Jeremiah deserted and forsook her and departed
from the place of their abode without leaving
her any means of necessary provision and
support and from the time of his said desertion
hitherto the said Jeremiah hath not corresponded
with her nor returned to her nor hath he
in any way or manner provided for her
maintenance and support nor furnished

her any means of support whereby she
hath been compelled to rely wholly upon her
own industry and earnings during all said
term of his said desertion of her as aforesaid
for her livelihood and support and for the
support of her family and that she hath
during all the term of said desertion of the
said Jeremiah as aforesaid provided for and
maintained herself and family and that
she hath not during all the time of the
said Jeremiah's desertion of her heard from
or of him and that she does not know
where he the said Jeremiah is nor indeed
if he be living - and that during all said
~~term~~ of five years last past she hath
acted and traded as a female sole and that
the said property upon which said trespass
complained of in her said declaration was
committed has been earned and acquired by
her since she was deserted by the said Jeremia-
iah as aforesaid and that he the said Jeremiah
is not nor never has been a resident
of the state of Illinois, but was before and
at the time of the commencement of this
suit a resident of a foreign state and
that the said plaintiff is ready to verify
wherefore she prays judgment and her
damages by her sustained by reason of
the committing of the said trespasses to
be adjudged to her &c.

C. J. Cameron Off. atty.

Afterwards, to wit, on the 28th day of November
in the year last aforesaid, came the said
defendants & file herein their Rejoinder to

to the said Replication of the plaintiff filed
heretofore in this cause, which is in the words
& figures following, to wit;

Ann Merzhanum } Cook County Circuit Court
vs } Nov. T. 1853
James Love & James Love jr }

And the said defendants to the
said replication of the said plaintiff to the said
plea of the said defendants say that the said
plaintiff ought not by reason of any thing by
her in that replication above alleged to have
or maintain her aforesaid action against the
aforesaid defendants in respect to the aforesaid
supposed trespasses in said replication and
declaration mentioned, because they say that
the said James Merzhanum did not long
before the commencement of suit to wit in
the year 1847 forsake the said Ann Merzhanum
and depart from the place of their abode with-
out leaving her any means of necessary
provision and support, and has not
from the time of his said supposed dis-
ertion failed to correspond with her or in
any manner failed to provide for her mainte-
nance and support and has not failed
to furnish her any means of support
whereby she has been compelled to rely whol-
ly upon upon her own industry and
earnings for a livelihood, and the support
of her family during the time of the aforesaid
supposed desertion in manner & form as alleged
in the replication of the said plaintiff. And
the said defendants denying it to be true, that

the said Ann Morganham has not during
all the time of the aforesaid desertion of the
said Jeremiah heard from or of him, and
that during all the term of 5 years last
past she has acted and traded as a feme sole,
and that the property upon which the said
trespasses complained of in said declaration
committed was earned and acquired by her
since she was deserted by the said Jeremiah
in manner & form as alleged in the replication
of the said plaintiff and of this the said
defendants put themselves upon the country &c

C. J. Hall & S. Audricks depts attys.
Ann Morganham

vs } Cook Circuit Court
James Lone et al } Nov. Term AD 1833

And the said plaintiff by
his attorney comes and wherein the said
defendants in their rejoinder to the replication
of the said plaintiff puts themselves upon
the country doth the like. C. J. Hall & S.
Ashton depts attys. —

And afterwards to wit: on the ninth day
of December in the year of Our Lord One thousand
Eight hundred and fifty four, the same being
one of the days of the regular November term
of said Circuit Court — this cause having been
continued from term to term, to the present term
of said Court — the following among other proceedings
were had and entered of record in this cause, to
wit:

Ann Morganham

James Love and
James Love Junior

This day come the said parties by their attorneys and the issue being joined in this cause it is ordered that a Jury come, and thereupon come the Jurors of a Jury of good and lawful men, to wit: Jacob Hop, Jacob Miller, Theodore Hubbard, Samuel Miles, George Hostley, Thomas Will, Joel Kinney, John Casey, W. A. Smith, S. J. Francis, Robert Augustin, Ruben Taylor, who being duly elected, tried and sworn well and true, to try the issue joined between the parties according to law, and the evidence, and they having heard the testimony of witnesses arguments of counsel and instructions of the Court retire under charge of an officer of the Court to consider of their verdict, and afterwards come into Court and say we of the Jury find the defendants guilty of the trespasses alleged against them in the said plaintiffs declaration and assess her damages at the sum of three hundred and fifty dollars, which is ordered to be entered, whereupon the said defendants by their counsel move the Court for a new trial herein, ^{and} in arrest of judgment, —

And afterwards, to wit: on the 14th day of December being as yet of the said November term of said Circuit Court, the following final proceedings were had in said cause, to wit: Ann Moyrnickan

Droping,
James Love v James Love Jr

This day again come the said parties by their attorneys, and the Court having heard the arguments of counsel upon the motion for a new trial herein orders that the same be overruled to which decision of the Court in overruling said motion the said defendants by their counsel except, whereupon it is ordered that judgment on the verdict be entered.

Therefore it is considered by the Court that the said plaintiff do have and recover of the said defendants his damages of three hundred and fifty dollars by the jury assessed as aforesaid together with his costs and charges by him about this suit herein expended and have execution therefor.

Afterwards, to wit, on the sixth day of January in the year of our Lord one thousand eight hundred and fifty five being as yet of the said November term of said Court for the year 1854 the following further proceedings were had in this cause, to wit;

173 Ann Morgan
vs Joseph
James Love & James Love Juniors

This day again come the said defendants by their attorneys and pray the Court to grant an appeal of this cause to the Supreme Court of this State whereupon it is ordered by the Court that the same be granted and that the defendants file their bill

of exceptions and a bond in the penal sum of Six hundred dollars with Luke Comstock as security conditioned as the law directs, within twenty days from the entering hereof -

Afterwards, to wit, on the fifth day of February in the year last aforesaid, came the parties plaintiff and defendants by their attorneys and file herein their certain stipulations which is in the words and figures following, to wit,
Ann Morganham

It is hereby agreed that James Love and James Love Jr. the Bill of exceptions in this case is hereby extended for the mutual accommodation of counsel until Monday the fifth day of February A.D. 1853 and that no advantage shall be taken by either side on account of the extension of said time. - Jan'y 25, 1853. -

Wm. Cameron Plffs. atty,
A. Wolf & Daniel, defts. attys,

And afterwards, to wit, on the fifth day of February in the year last aforesaid, came the said defendants by their attorneys and file herein their certain Bill of exceptions, which is in the words and figures following, to wit,

State of Illinois }
Cook County ss } In the Circuit Court for Cook County Dec. 24.
James Love & James Love Jr. }
vs }
Ann Morganham }

Be it remembered that on the

trial of this cause the said Ann Moynahan
to maintain and prove the issue on her
part, gave in evidence the following testimony
to wit:

First. Anna Moynahan the daughter of said
plaintiff who being first duly sworn did
depone and say. That the plaintiff entered
into a ^{possession of} house on Wells Street near the corner of
Lacey Street, in the City of Chicago by agreement
with one Chauncey D. Spaid the house belonged
to James Love Jr. Plaintiff was to pay Spaid
\$6.00 per month for the house, could not state, it
was entered in the spring of 1888 after we had been
living in the house some time James Love Jr
came to the house & told plaintiff that she
had got the rent of the house to low and the
rest of the tenants were making a fuss about
it and wanted the plaintiff to say that she paid
more dollars per month which she would not
do James Love Jr told the plaintiff that he
would be satisfied if she would so tell the other
tenants if not she must leave the house, afterwards
plaintiff and witness were absent from the house
leaving two children to take care of it when
they returned they found they found the children
turned out into the street and the Plaintiff's
goods on the side walk and in the streets and
the house he locked up & took goods home with
him. The Plaintiff afterwards took some of the
goods, the balance the witness afterwards saw
in the shed belonging to James Love Jr which
he refused to give up unless Plaintiff gave
him a receipt in full for all damages
which Plaintiff had sustained by being.

thrown out & dispossessed of the house. My mother the Plaintiff was out of a house three months. She bought some of the goods of C. D. Spaid. My mother had three children all living with her at the time. My mother lived in Detroit until about the fall of 1852. my father lived there until about three years ago when he went to the Soo and died there last June but for the past three years prior to my mother's leaving Detroit my father's habits were bad he drank all the time and would beat and abuse my mother & did not provide for her but lived with another woman. he was never in the State of Illinois. Witness also proved the value of her wearing apparel and of her mother's sister and brother value of provisions &c which is not inserted -

Crop examined says I was in Chicago when my mother left Detroit and only know of my father's death by having heard so. My mother went to Cummings to board at two dollars per week - a piece there were four in the family she boarded there for two months at that rate. Love returned a part of the things and kept the balance -

2. The Plaintiff further to maintain the issue on her part called C. D. Spaid who being duly sworn deposes and says, That I rented the house to Mrs. Moqueman occupied on well Street of James Love Jr. I was to pay him six dollars per month and I paid him a year rent in advance being \$75.00

I rented it for Mrs. Moynahan at the request of her brother who furnished the pay. She went into it some time in the spring the exact time I cannot state she staid there a few weeks when she was turned out of the house by defendants and her things were put out by them or by James Love Jr. I heard him say that he had thrown the things out and had a part of them yet and meant to keep them. I bought for her some of the things and let Mrs. Moynahan have them, cost one hundred & ninety dollars. Love came to me before he had thrown them out & wanted to raise the rent which I refused to do. He then said that he could get p. q. as per month ^{for the house} & that if I did not pay him that he would throw them out. Plaintiff's counsel then asked witness how much in his opinion was the Plaintiff damaged by being thrown out of the house with his family and being so kept out for the space of three months taking into consideration all the circumstances detailed in this case by the witnesses. Ans. - He could not state if it was his case it would be more than debt could pay - To which testimony defendant by his counsel then and there excepted and the court then and there overruled said exceptions and permitted said testimony to be given and then and there sealed this bill of exceptions. -

Cross-examined. - I do not know that all the things that I let Mrs. Moynahan have were in the house. I know nothing

of the turning of the things out of the house by defendants except what they told me as above stated. Defendants counsel then asked witness if he had not brought a suit against James Love Jr before Esquire Moon to recover damages for putting out the goods claimed for in this suit. To which question the plaintiff's counsel then and there objected and the court sustained the objection and to which ruling of the court Defendants counsel then and there excepted and the court then and there sealed this bill of exceptions. Defendants counsel then asked witness if he had not said and recovered a judgment against James Love Jr. the sum of seventy five dollars for the rent paid for the use of this house by witness. witness answered no. Plaintiff's counsel objected to this question being answered by witness and the court sustained the objection to which ruling of the court Defendants counsel then and there excepted and the court then and there sealed this bill of exceptions.

The plaintiff then and there closed the evidence on her part.

And the defendants to maintain the issue on their part then and there gave in evidence the following testimony, to wit,

1st Mrs Ann Mullen who after being duly sworn deposes and says that she is acquainted with Plaintiff and both

defendants in this case. Mrs Moynahan came to me and wanted to borrow some money to go & see her husband, this was a year ago last summer some time in the fore part of summer the exact time I cannot state. She said he lived in Detroit City in Michigan. She afterwards told me that she did not see him because she was down the river with a woman. Mrs. Moynahan said that she left her husband in the winter of 1852 & 3 and that he didn't want her to leave him and tried to prevent ^{her} ~~him~~ but she finally succeeded in getting away from him.

Defts. counsel here offered to show by this witness in mitigation of damages that Mrs. Moynahan kept a house of ill fame and that was the reason she could not obtain a house in the neighborhood, to all of which testimony Plaintiffs counsel objected and the objection was sustained by the court and to which opinion of the court defendants counsel then & there excepted and the court sealed this bill of exceptions.

Defendants counsel then offered to prove by witness that defendants after suit brought offered to return all except some twenty or thirty dollars of the goods taken out of the house and that defendants offered to return these upon release of her damages. but Plaintiff refused to receive them to which testimony the Plaintiffs counsel objected and the court sustained the objection & rejected the testimony. And defendants counsel then and there excepted to the opinion of the court and the said court sealed this

bills of exceptions -

The defendants caused further to support the issue on their part gave in evidence the following depositions, to wit:-

State of Illinois.

Cook County Circuit Court

November Term 1858,

Ann Morganham

vs

James Love and } Snrnap
James Love Jr.

State of Illinois

Cook County S.S.

The depositions of Edmund Vreger, Dewit C. Whitman and Thomas H. Kirkhead, of the County of Wayne and State of Michigan three witnesses of lawful age, produced sworn and examined upon their respective corporal oaths on the 14th day of November in the year of our Lord one thousand eight hundred fifty four at the office of James J. Lenate in the City of Detroit County of Wayne and State aforesaid by me James J. Lenate a commissioner duly appointed by a Dedamus Potestatum or commission issued out of the Clerk's office of the Circuit Court of Cook County in the State of Illinois, bearing teste in the name of L. D. Howard Esq. Clerk of said Circuit Court with the seal of said Court affixed thereto and to me directed as such Commissioner for the examination of the said Edmund Vreger Dewit C.

Whitman and Thomas H Kirkhead witnesses in a certain suit and matter in controversy now pending and undetermined in the said Circuit Court, wherein Ann Marynihan is plaintiff and James Love and James Love Jr are defendants in behalf of said defendants, as well upon the cross interrogatories of the Plaintiff as on the interrogatories of the defendants, which were attached to the said commission and upon none others. The said Edmund Visger, Dewitt C Whitman and Thomas H Kirkhead each being first duly sworn by me the said Commissioner as witnesses in the said cause, previous to the commencement of their examination to testify the truth as well on the part of the Plaintiff as the defendants in relation to the matters in controversy between the said plaintiff and the said defendants so far as they should be interrogated - testified and deposed as follows, -

Interrogatories propounded to said Edmund Visger a witness produced and sworn as aforesaid on the part of the said defendants and his answers thereto as follows, -

Interrogatory First. - What is your name and residence?

Answer to First Interrogatory, - My name is Edmund Visger. I reside in the Township of Ecorse, Wayne county, State of Michigan. -

Interrogatory 2nd. - Do you know Ann Marynihan the Plaintiff in the title to these

interrogatories named, or a person by the name of Ann Moynihan. If yes, state when, where, and how long you have known her. -

Answer to 2nd Interrogatory. - I know a person by the name of Ann Moynihan I became acquainted with her at the Village of Oshtemo County of Wayne Michigan, on or about the 22^d day of December 1882 she was then on her way to Chicago Illinois as she then said and I have not seen her since. -

Interrogatory 3rd. - What is the age stature and personal appearance of the said Ann Moynihan according to your best recollection and belief?

Answer to 3rd Interrogatory. - According to my best recollection & belief said Ann Moynihan is about forty five or fifty years of age, pretty stoutly built and about five feet five or six inches high middling fair complexion. -

Interrogatory 4th. - Whether or not was the said Ann Moynihan at or during the time you knew her married or living with any one as her husband? If yes with whom, when and how long did she so live?

Answer to 4th Interrogatory. - All the knowledge I have of her being married is what she then said Ann Moynihan told me at my interview with her at the time and place specified in my answer to the second interrogatory. She then said

and there told me she was married to one Jeremiah Moynihan, I do not know of them living together, -

5th Interrogatory, - Whether or had not the said Ann Moynihan any children, If yes how many, and what were their names? -

Answer to 5th Interrogatory, - I know a girl who called the said Ann Moynihan her mother in her presence and the said Jeremiah Moynihan her father, the girls name I do not know; -

Interrogatory 6th, - If the first clause of the fourth interrogatory is answered affirmatively, state whether the said Ann Moynihan did or did not leave Detroit? If yes at what time, in what manner and under what circumstances did she leave whether with or without the consent or approval of her husband if any she had? and, whether or not her husband if any she had continued to reside in Detroit after the departure of the said Ann Moynihan, declare the truth of the several matters enquired after by this interrogatory according to the best of your knowledge remembrance and belief. -

Answer to 6th Interrogatory, - I know that Ann Moynihan left Detroit under the following, on or about the 22^d of December 1852 viz, during the absence of said Jeremiah Moynihan the said Ann Moynihan took from the dwelling occupied by her and the said Jeremiah in Detroit the house hold furniture and hired

a waggon to take them to Dearborn as she said to me) preparatory to taking them on the Rail Road Cars for Chicago and I know that said Ann Mcginnihan left Detroit without the consent of her said husband from the following facts viz: ^{my said 22nd day of December 1892} said Jeremiah Mcginnihan, procured a warrant against said Ann Mcginnihan for stealing said house hold furniture and placed the same in my hands for service. I then being a constable, and I overtook her the said Ann Mcginnihan at Dearborn aforesaid, where I found said furniture in the Rail Road store house. She the said Ann Mcginnihan then & there told me she would not live with her said husband any longer but was going to Chicago Illinois to live; I do not know where said Jeremiah Mcginnihan now is; —

Cross-Interrogatories and answers thereto by the witness on the part of the plaintiff.

1st Cross Interrogatory. — Do you know anything of the matter inquired after in the 2nd interrogatory propounded to you by the said defendants of your own personal knowledge; If you state how you know the same. —

Answer to 1st Cross-Interrogatory. — I know nothing of my own knowledge. —

2nd Cross Interrogatory. — Do you know anything about the matter inquired after in the said defendants Sixth interrogatory of your own personal knowledge; If you state what they are and what you

means of knowledge is? —

Answer to 2nd Corp-Interrogatory. — The only knowledge I have is what said Ann Morgan has stated to me as stated by me in my answer to said sixth interrogatory and which is fully stated in said answer; —

3rd Corp-Interrogatory. — Did or did not the said Jeremiah forsake the said plaintiff and run off with a woman known ^{by the name of} the Buffalo Rack? —

Answer to 3rd Corp interrogatory. — Not to my knowledge. —

4th Corp interrogatory. — Was or was not the said Jeremiah's habits bad; was he or was not very intemperate; and did or did he not neglect to provide for his family and did he or did he not compel them and the said plaintiff to leave him on account of his ill treatment and bad usage to them. —

Answer to 4th Interrogatory. — Not to my knowledge. —

Edmond Viger

Subscribed and Sworn to
before me this 14th day of
November AD 1834.

James H. Crockett

Commissioner

Interrogatories propounded to the said
Lewis L. Whitman a witness produced and
sworn as aforesaid, on the part of the said
defendants and his answer thereto as
follows, viz:

Interrogatory 1st

What is your name residence & occupation?

Answer to 1st Interrogatory,

My name is Dewitt C. Whitman I reside in Detroit Michigan & by occupation I am a police officer.

2^d Interrogatory,

Do you know Anna Morgan (the plaintiff in the title to these interrogatories named? or a person by the name of Anna Morgan. If yes, when, where, and how long have you known her?

Answer to 2nd Interrogatory

Yes, know her at Detroit for the last 5 years up to the 22^d of December 1852. I saw her this summer at Detroit going to Chicago

3^d Interrogatory,

What is the age stature and personal appearance of the said Ann Morgan according to your best recollection and belief?

Answer to 3^d Interrogatory.-

She is between 35 and 40 years of age middle sized & height & not rather fleshy and lame by spells.

4th Interrogatory,

Whether or not was the said Ann Morgan at or during the time you knew her married or living with any person as her husband, If yes with whom

when and how long did she so live?

Answer to 4th Interrogatory, -

Yes, she lived with a man by the name of Jeremiah Morganham whom she called her husband. she so lived in Detroit for the last 4 years and up to the 22nd December 1852. -

5th Interrogatory, -

Had or had not said Ann Morganham any children. If yes how many and what were their names? -

Answer to 5th Interrogatory, -

Yes, she had children I think 5, don't remember the names of only two, Peter & Margaret. -

6th Interrogatory, -

If the first clause of the fourth interrogatory is answered affirmatively state within the said Ann Morganham did as you know leave Detroit. If yes at what time; in what manner, and under what circumstances did she leave? and whether with or without the consent of her husband if any she had, and whether or not her husband if any she had continued to reside in Detroit after the departure of the said Ann Morganham. declare the truth of the several matters enquired after by this interrogatory according to the best of your knowledge and remembrance.

and belief, with your reasons fully
and at large, -

Answer to 6th Interrogatory, -

She left on or about the 22^d of December 1852
for Chicago, without the knowledge & consent of
her husband she lived in Detroit ever since
until this spring and then left and is now,
at work on the Sac St. St. Marie Canal
my means of knowledge are from what
the said Ann Morington then told me
herself -

Cross interrogatories and answers thereto by
the witness on the part of the plaintiff, -

1st Cross-interrogatory

If you answer the first clause
of the second interrogatory in the affirmative
state how you know (of your own knowledge)
that she is Ann Morington who is plaintiff
in this cause?

Answer to 1st Cross-interrogatory,

I know by letters which I received
in relation to said suit that she is the
plaintiff in this cause,

2nd Cross-Interrogatory,

Do you know any of the ^{things} matters,
enquired after in the sixth interrogatory
of your own personal knowledge. If yes,
state how you know the same and what
your means of knowledge is? -

Answer to 2nd Corp-Interrogatory,

She was forced to leave by his bad treatment.

3rd Corp-Interrogatory,

Do you know the said Jeremiah Moynihan enquired after by the defendants, and have you the means of knowing what his character is for sobriety and industry. If yea. State what the same is, fully and at large?

Answer to 3rd Interrogatory,

Yes I know him to be a drunken worthless loafer.

Interrogatory 4th,

Did or did not the said Jeremiah leave and abandon the said plaintiff & run off with a woman known by the name of the Buffalo Rackers,

Answer to 4th Corp-Interrogatory

Yes he did to the best of my knowledge and belief.

5th Corp-Interrogatory,

Was or was not the said Jeremiah in the habit of beating and abusing the said plaintiff? and did he or did he not fail to provide necessary provision for her maintenance and support?

Answer to 5th Corp Interrogatory,

Yes, he did not provide for her and
beat her several times to my knowledge.

6th Interrogatory,

Was or was not the said plaintiff
forced to leave her said husband on ac-
count of his brutal treatment to her,

Answer to 6th Corp-Interrogatory,

Yes she was,

7th Corp-Interrogatory,

Do you know any other matter or thing
which would tend to the benefit of the
said plaintiff (If yes) state the same fully
and at large as if you had been particularly
interrogated thereto;

Answer to 7th Corp-Interrogatory,

Her said husband abuses her and
broke her wrist and tried to throw her
out of the 2nd story window, don't
think he works enough to pay for his own
board for the 2 or 3 years last past

D. C. Whitman

Subscribed & sworn to
before me this day of
November 1834

James H. G. H. G.
Concussion

Interrogatories propounded to the said
Thomas H. Kirkhead a witness produces and
sworn as aforesaid on the part of the said
Defendants and his answers thereto as follows,

Interrogatory 1st -

What is your name, residence and occupation,?

Answer to 1st Interrogatory -

My name is Thomas A. Kirkendall I reside in Detroit Michigan, and, by occupation I am a labourer, -

Interrogatory 2nd

Do you know Ann Moynihan plaintiff in the title to these interrogatories named, or a person by the name of Ann Moynihan, If yes, when, where and how long have you known the said plaintiff, Ann Moynihan? and where does the said Ann Moynihan now reside to the best of your information and belief and have you any and what means of knowing the present residence of the said Ann Moynihan?

Answer to 2nd Interrogatory,

I know a person by the name of Ann Moynihan, I knew her 5 or 6 years prior to her leaving Detroit which was late in the fall of 1852, and to the best of my information and belief the said Ann Moynihan resides in Chicago Illinois, my means of information is from letters received from her during the fore part of 1853.

Interrogatory 3^d -

What is the age, stature and personal appearance of the said Ann McQuinn according to your best recollection and belief? —

Answer to 3^d Interrogatory, —

From my best recollection and belief the said Ann McQuinn is about 40 or 45 years of age middle size and height and an Irish woman of fair complexion. —

Interrogatory 4th —

Whether or not was the said Ann McQuinn at or during the time you have known her married or or living with any person as her husband; If yea, with whom, when, where, how long, and until what time did she so live with such person if any?

Answer to 4th Interrogatory, —

When I knew said Ann McQuinn she was living with a man by the name of Jeremiah McQuinn whom she called her husband and I have known them to live together as husband & wife upwards of three years and up to the time said Ann McQuinn left for Chicago in 1852. —

Interrogatory 5th —

Has or has not the said Ann McQuinn any children; If yea, how many and what were their names?

Answer to 5th Interrogatory. —

Yes, she had 5 children
2 boys and three Girls, the boys names
were Matthew & Peter, and the girls
names were Elizabeth, Johanna and
Margaret,

Interrogatory 6th.

Read carefully the letter
marked exhibit "C" and state whether
or not you wrote said letter;

Answer to 6th Interrogatory.

Yes I wrote said
letter marked exhibit "C". —

Interrogatory 7th.

If the first clause of the fourth
Interrogatory is answered affirmatively, state
whether or not the said Ann Mognihan
left Detroit; and if yes, at what time and
in what manner she left; and whether
with or without the consent and approval
of her husband if any she had; and
whether or not her husband if any
she had continued to reside in Detroit
after the departure of the said Ann
Mognihan, declare the truth of the
several matters required, after by this
interrogatory according to the best of your
knowledge remembrance and belief;

Answer to 7th Interrogatory. —

She did leave Detroit
about the middle of December 1852
I do not know in what manner cannot
state whether with or without the consent
or approval of her said husband & I know
of her husband remaining in Detroit
for a short time after she left.

Interrogatory 8th,

Did or did not her husband
express to you any dissatisfaction or
complaints of the departure of the
said Ann Moynihan?

Answer to 8th Interrogatory, —

Not that I can
recollect. —

Interrogatory 9th —

Were you or not in the
habit of writing letters for the said
Ann Moynihan, at any time during
her residence in Detroit? if Yes. State
reason why you were in the habit so
doing. —

Answer to 9th Interrogatory —

Yes I was in the
habit of so writing letters for said Ann
Moynihan the reason was that I was
intimate with the family and she had
a daughter (Lohanna) being at Chicago
and she was in the habit of requesting
me to write letters to her said daughter.

Interrogatory 10th.

Examine the letter marked exhibit "A" and state whether or not you wrote said letter? If yea, whether you did so at the request of the said Ann Moynihan?

Answer to 10th Interrogatory.

Yes I wrote letter marked exhibit "A" at the request of said Ann Moynihan?

Interrogatory 11th.

State whether or not the said letter marked exhibit "A" was read to the said Ann Moynihan or the contents thereof made known to her?

Answer to 11th Interrogatory.

Yes said letter marked exhibit "A" was read to the said Ann Moynihan and the contents thereof made known to her.

Interrogatory 12th.

State whether or not the said letter marked exhibit "A" was sent to the persons to whom it purports to have been written; And if yea, how, whether by mail or otherwise, and whether or not at the request of the said Ann Moynihan.

Answer to 12th Interrogatory.

I do not recollect whether I mailed said letter or not cannot say.

Interrogatory 13th.

Examine the letter marked exhibit "B" and state whether or not you wrote said letter. If yes, whether or not you did so at the request of the said Ann McGinnis.

Answer to 13th Interrogatory.

Yes, I wrote said letter at the request of said Ann McGinnis.

Interrogatory 14th.

State whether or not the said letter marked exhibit "B" was read to the said Ann McGinnis or the contents thereof made known to her;

Answer to 14th Interrogatory.

Yes, said letter marked exhibit "B" was read to said Ann McGinnis and the contents thereof made known to her.

Interrogatory 15th.

State whether or not the said letter marked exhibit "B" was sent to the person to whom it purports to have been written and if yes, how, whether by mail or otherwise whether at the request of the said Ann McGinnis;

Answer to 15th Interrogatory.

Yes, it was

sent to the person to whom it purports to have been written at the request of said Ann Mozynihan. Cannot say how it was sent. —

Cross-Interrogatories and the answers thereto by the witness on the part of the plaintiff.

Cross-Interrogatory 1st

If you answer the first clause of the second interrogatory propounded to you by the said defendants in the affirmative State within you know the same of your own personal knowledge.

Answer to 1st Cross-Interrogatory. —

I do not know any of my own knowledge.

2nd Cross-Interrogatory.

Do you know anything of the matters inquired after in the seventh interrogatory propounded to you by the said defendants of your own personal knowledge or do you merely get your information from what you have heard.

Answer to 2nd Cross-Interrogatory. —

I have no personal knowledge of the matters inquired of all the knowledge I have is what I have heard said Ann Mozynihan say about it herself;

3rd Corp. Interrogatory.

What was the said Jeremiah's habits in regard to sobriety (If you know) and what was his treatment towards his family and the said plaintiff, and whether he provided for them and her previous to her leaving Detroit. State fully and at large.

Answer to 3rd Interrogatory.

Said Jeremiah was a common drunkard and treated his family in a shameful manner and did not provide for them and the said plaintiff previous to her leaving Detroit. his conduct was very bad towards them.

4th Corp Interrogatory.

Did or did the said Jeremiah have the said plaintiff and live with a woman known by the name of the Buffalo Racke. State fully and at large?

Answer to 4th Corp-Interrogatory.

Not to my knowledge —

5th Corp. Interrogatory.

If you answer the first clause of the seventh interrogatory in the affirmative, did not the said Jeremiah by his neglecting to

provide and his cruel treatment -
compel her to leave, state fully and
at large;

Answer to 5th Cross Interrogatory,-

It is my belief
that the said Jeremiah's neglect to
provide for and his cruel treatment
to said Anna Moynihan compelled her
to leave him and the City of Detroit,

6th Cross Interrogatory,-

Do you know that the letters
inquired after are the identical letters which
you wrote? And the matters and things
therein contained are true,

Answer to 6th Cross Interrogatory,

Yes I do know
that the letters inquired after are the
identical letters I wrote & I know the
contents of the same to be true,-

7th Cross Interrogatory,

Do you know any
other matter or thing which would tend
to the benefit of the said plaintiff? If
yes State the same as fully and at large
as if you had been particularly interrogated
therein.

Answer to 7th Cross Interrogatory,-

I know of nothing more.
Subscribed & Sworn } Thos H. Kirkhead

Before me this 14th day
of November 1884,

James H. Crockett, Commissioner

I James H. Crockett of the County
of Wayne and State of Michigan
a Commissioner duly appointed to take
the depositions of Edmund Visger, David
C. Whitman and Thomas H. Kinkead three
witnesses whose names are subscribed
to the foregoing depositions, do hereby cer-
tify that previous to the commencement
of the examination of the said Edmund -
Visger, David C. Whitman and Thomas
H. Kinkead as witnesses in the said
suit between the said Ann Macquibban
plaintiff and the said James Love
and James Love Jr. Defendants, they
were each and every one of them were
duly sworn by me as such Commissioner
to testify the truth in relation to the
matter in controversy between the
said Ann Macquibban Plaintiff and
the said James Love and James Love
Jr. Defendants, so far as they should
be interrogated concerning the same,
that the said depositions were taken
at my office in the City of Detroit
in the County of Wayne and State of
Michigan on the fourteenth day of
November A.D. 1884, and that after
said depositions were taken by me
as aforesaid the interrogatories and
answers thereto as written down

were read over to the said witnesses; Edmund Vign, Dewitt C. Whitman and Thomas H. Kinkhead respectively, and that thereupon the same were signed and sworn to by the said deponents Edmund Vign, Dewitt C. Whitman, and Thomas H. Kinkhead, before me as such Commissioner at the place, and on the day and year last aforesaid.

James J. Cicotte
Commissioner

The following are copies of the Exhibits referred to in the foregoing depositions in the order in which they are referred to, viz:

"Exhibit B"

Detroit, Dec. 3^d 1882

My dear daughter,

I received your afft and kind letter by the hand of Mr. Kinkhead two days ago and had no time to answer until now. I have my things all ready to start as soon as I get a chance of your father. he is to work now where he could see me but I expect next week he is going to work in another part of the city and then I will start right off. I have made arrangements to take my Beds and Chests with me and leave them at the Depot at Chicago until I will pay them for my fare. I cannot tell what day I will start but think it will be some day next week and I think one day too long until I will be with

you and as soon as he changes working
where he is I will write to you and
start next day and I think that will
be next week Mr. Kinkead and family
are all well, send them best respects to
you, Boath & Peter & Margt are well and
with the blessing of God will soon be with
you, - I remain dear daughter your
most afft mother, Ann Moynihan

(Exhibit A)

Detroit Novem^r 16th 1852

My dear daughter Mr. Kinkead took
a letter to my house last evening that he
received from you. I was glad to hear
you were well and as for me to tell
you at present when I can start it is
impossible for me to tell you further
works a near the Dept and I am a
fraid he might see me and take my
beads from me. I cannot go without
some money and if you cannot send
me some help to go I must pledge
my beads to take me there if I had to
send for it when I can and if I can tell
when I can have a chance to go I will
let you know a day or two before I start
I might write again next Monday as
I expect if I can get any money
to be ready some time next week and
it is the last thing I would like to do is to
Pledge my beads. -

I remain dear daughter your
afft. mother, Ann Moynihan

(Exhibit "C")

Detroit Jan'y 27th 1853

Mrs & Miss Marymahan

Dear friends,
we received a letter from you some eight
or ten days ago and was from home
at the time and got home yesterday
was the reason your letter was not
answered before now we were all glad
ye were well and seemed to be contented
we also enjoy the same blessing on
Christmas night Mr. Marymahan came to
my house and commenced abusing me
and my family for having you go away
and we had to give him two knock
downs and a pitch out doors before
we could get rid of him he has got
all the things out of the depot he lives
at Mr Sullivan and is following the old
rate Margaret is well and Mr Whitman
told me this morning she says she will
not go to ye. I spoke to Mr Whitman
about that Confirmation card and
he said he would send for it and give
it to Margaret if he can get Mrs
Sullivan and family are well Mrs
Kindred wants Mrs Marymahan to let
her know how she is getting along and how
situated and how she enjoys her health
and sends her best respects to her and
the girls the deacon's name that took up
to Dearborn is Charles Sedgwick the constable
name is Mr Winger of Springwells if
I was going to write to him I would

direct to Mr Wm J. Constatle of Springwell
Detroit P.O. We are glad Elizabeth is going
to get married and we hope and pray
she may have luck in the undertaking
hope ye will write to us often for we
should be glad of your welfare.

I remain my dear friends your most afft
and sincere friends. Thomas H. Kirkhead

P.S. Mary Elizabeth is going to write and
so is James Curran. I should like to get
a line from Elizabeth give her my best
respects. - T.H.K.

I have not seen anything of the Buffalo
Rucker but presume to say she is packing
a way at the old Lad

Hope you answer this right off
T.H.K.

The above is nearly all the testimony given
in the above case on the part of the Plaintiff
and also on the part of the Defendants on the
trial of the aforesaid cause except the
value of the goods taken and manner of
deft's taking possession of the house in the
absence of the plaintiff leaving his children
& goods & chattels turned out on the streets of
Chicago,

And the said Counsel for the Defendants
then & there closes the evidence on the part
of the said Defendants and rested his said defence
Whereupon the Counsel for the Plaintiff -

requested & the court then & there gave the following instructions to the jury on the part of the said plaintiff

Ann Maymohan. } In the Court leinint Court
vs }
James Sone } If the jury believe from
James Sone } the evidence that the Plaintiff's husband abandoned
and deserted the Plaintiff leaving her with-
out any means of necessary provision
and support as alleged in his replication
and she has maintained herself as a
single woman since his desertion then
the plaintiff is entitled to recover.

2 If the jury shall believe from the evidence that the husband of the Plaintiff deserted and abandoned her as alleged in her reply then you have a right to find for the Plaintiff the value of the goods together with such damages as the jury shall believe from all the circumstances in the case warrants especially if her husband is now dead,

3 If the jury shall believe from the evidence that the husband of the Plaintiff treated her in a cruel and brutal manner without the means of support and that his conduct was of such a character as to force the plaintiff to abandon the husband in law it is such a desertion and abandonment on the part of the husband as to entitle the Plaintiff to sue in her own name especially

so if you believe from the evidence that he died
since this suit was brought,

On the part of said defendants the following
instructions were asked for and then and there
given by said Court to wit:

1. If the Plaintiff has not proved all the material
facts alleged in the Replication the Jury shall find
for the defendants,

2. The burden of proving the allegations in the
replications is on the Plaintiff, and the Plaintiff
must have proved the substance of said replication
as alleged else the Plaintiff is not entitled
to a verdict on this issue,

3. Has or has not the Plaintiff proved the
substance of the replication in the replication
as there alleged or denied? This is the only
question for the Jury to answer as to the issue
for you to try "But if you find the issue
for the Plaintiff you will award him damages,"

And under said evidence as hereinbefore
set forth and with the instructions of said
Court the said Cause was left to the said Jury
and the Jury, ^{afterwards} then and there gave their verdict
for the said Ann McQuinnan for three hun-
dred and fifty Dollars damages.

Whereupon the said Counsel for defendants
did then and there on the behalf of said
defendants move for a new trial in said

cause for the following reasons, to wit,

Arren Morym'ham } Cook County, Cir Court Nov. 3, 1834
vs

James Love & James Love Jr }

1st. The verdict is against the law of the case

2nd. The verdict is against the facts,

3^d. The court erred in giving the first, second & third instructions on the part of the Plaintiff and in altering those asked for on the part of Defendants,

4th. The court erred in permitting the plaintiff to increase the damages by proving that plaintiff could not procure a house for three months -

5th. The court erred in not permitting the defendants to show in mitigation of damages that the plaintiff kept a house of ill fame and the goods were put out on that account, and on that account she could not obtain a house for said three months,

6th - The court erred in not permitting the defendant to show that the lease was void by reason of the Plaintiff's having the house ^{retained} as a place of residence and concealing from the defendants at the time of such hiring that the house was to be used as for a brothel,

7th. - The court erred in permitting recovery of the amount of servant girl's clothes rent paid by Spaid's to Defendants, and also in not permitting the defendants to show that the amount so paid had been recovered in another action against the Defendant James Love Jr and should not have

been estimated in computing the damages in this suit at all, -

8th. - The court erred in permitting the plaintiff to give evidence the report the death of the Plaintiff's husband since the commencement of this suit, -

9th. - The court erred in permitting any evidence whatever to go to the jury that did not prove or tend to prove the matters in issue, -

10th. - The estimate made by the court of the damages to be ascertained ought not to have been given to the jury, -

11th. - The damages are excessive. The above exceptions are respectfully submitted by the defendants and they pray for a new trial of said cause, - L. M. Audrick, Atty. for Defendants

And the court after hearing the arguments of counsel overruled the motion for a new trial and entered Judgment for the Plaintiff for the sum of three hundred and fifty dollars damages besides costs,

And inasmuch as the said several matters so produced and given in evidence on the part of the said plaintiff and on the part of the said defendants and the objections of the defendants counsel do not appear of record the said counsel for the said defendants did then and there upon the overruling of said motion for a new trial, ^{the defendants} excepted to the decision of the court overruling their motion for a new trial and to the judgment of the court

in manner and form as required by the Statute
in such case made and provided and
pray the Court to sign and Seal this his
bill of exceptions which is done

B. S. Morris (Seal)

And now at this twenty fifth day of January
in the year last aforesaid come the said def-
endants and file herein their certain bond
which is in the words & figures following
to wit:-

Know all men by these presents, That we James
Lore and James Lore Jr. and Luke Comstock
are held and firmly bound unto Anne
Morganham in the penal sum of six hundred
dollars lawful money of the United States
to be paid to the said Anne Morganham her
executors administrators, or assigns for which pay-
ment well and truly to be made we being
ourselves, our and each of our heirs executors and
administrators jointly and severally firmly by these
presents sealed with our seals dated this 23^d day
of December A.D. 1854, The condition of the above
obligation is such that whereas the said Anne
Morganham did recover a judgment in the Circuit
Court of Cook County and State of Illinois
on the 14th day of December A.D. 1854 against James
^{in a certain action of trespass or claims wherein said Morganham was plaintiff & James Lore & James Lore Jr. were defendants}
Lore and James Lore Jr. for the sum of three hundred & fifty dollars besides
costs from which said judgment said defendants
have taken an appeal to the Supreme Court
of the State of Illinois. Now the condition of
this obligation is such that if the said

James Love and James Love Jr. shall prosecute
said appeal with effect and in case the
Judgment of the said Circuit Court shall
be affirmed that the said James Love & James
Love Jr. shall pay the said Judgment costs
interest and damages to said Plaintiff
then the above obligation to be void else
to remain in full force and virtue
witness

I do hereby

James Love ^{seal}
James Love ^{seal}
Luke Comstock ^{seal}

State of Illinois
Cook County;

I Louis D Howard Clerk of
Circuit Court of the County of Cook in
the State of Illinois do certify that the
foregoing is a true and perfect transcript
of the Records and proceedings of the Circuit
Court aforesaid in the case wherein Ann Mary-
nighan is the Plaintiff and James Love and
James Love Junior are defendants as the
same appears from the Records & files now
remaining in my office.

In witness whereof I have hereunto
set my hand and affixed the
Seal of said Court at
Chicago in said County this
ninth day of June A.D. 1858.
Louis D. Howard ^{clerk}

Dec 14, '68

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James Love et al
vs
Ann Maynard

12224

Filed June 27, 1855
L. C. and Ck.

1855

Supreme Court of Illinois June 7 1855 -

James Love & James Love & Co. } App from Cook County Cir Court

vs.

Ann Montgomery

} Appellee.

And now comes the said James Love and James Love & Co. the above named Defendants by Sps and Demits their Attorneys and say that in the record and proceedings of said and also in giving the judgment of said there is manifest error in this to wit that the said Ann Montgomery was at the time of committing of said Trespass by said Defendants (for which said action was brought by said Ann Montgomery against said James Love & James Love & Co.) and at the time of bringing said Suit by said Plaintiff in said Court. The said Ann Montgomery Plaintiff as of said was a firm Covert (to wit) the wife of one Jeremiah Montgomery and said Jeremiah Montgomery was not competent to sue or be sued as a firm sole and that in the said Jeremiah Montgomery was living at the time of the committing of said Trespass by said Defendants and also at the time of the commencement of said Suit by said Ann Montgomery and had not in any way forfeited ^{any of his marital rights} nor ~~abandoned~~ had he abandoned said Ann Montgomery. And that in the said Jeremiah Montgomery was the only person who could maintain an action for said Trespass. And therefore that in maintaining the said above name in the name of Ann Montgomery is manifest error.

2^d That the Court erred in giving the first second and third instructions asked for on the part of the said Plaintiff.

3^d That the Court erred in permitting the Plaintiff to give in evidence the amount of Rent paid by C. D. Spaid as a portion of the claim to be considered by the Jury in estimating damages and that the Court further erred in this that after permitting the Plaintiff to give in evidence said amount so paid by Spaid by refusing to permit Defendants to show

that the rent to said land had been recovered back by said Spaid & of
said James Love & in another action.

4th That the Court erred in permitting the Plff to give in evidence the
declaration of James Love &c. respecting the raising the rent as testi-
fied to by C. Spaid & Anna Magonhon and in not per-
mitting Defendants to show in mitigation of damages that the
Plaintiffs under the pretence of turning a residence to be used
in a proper and becoming manner as a residence was keeping
a brothel and that while the Plaintiffs were under an arrest
for keeping said disorderly house said Defendants removed
the household effects of said Plff and doing so unnecessary
damage to the same.

5th The Court erred in not permitting the Defendants to
show in mitigation of damages that all the goods taken out
of the house by said Defendants except some trunks or trunks
belonging were actually taken away by the Plaintiffs.

6th The Court erred in overruling the motion for a new trial made
by the said Defendants.

7th And also that there is error in this (Dig) that by the record of the
aforesaid case it appears the Judgment of said inferior
court given was given for the said Plaintiffs the said Anna
Magonhon against the said James Love & James Love & Thomas by
the law of the land the said Judgment ought to have been given for
the said James Love & James Love & against the said Anna
Magonhon.

And the said James Love & James Love & pray the
Court that the Judgment of said inferior court for the error aforesaid
& other errors in the record & proceedings aforesaid may be re-
versed and annulled and altogether held for nothing.

D. W. J. & Co. v. J. & Co.

Attys for
appellants

And now the Appellate court says that in the
record and proceedings aforesaid there is no error &
therefore the prayer judgment may be affirmed

W. S. Cameron
for Appellee

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Love wh. is dialogue here

Evans

Filed July 2^d 1854.
L. Keland Clerk.