

STATE OF ILLINOIS,

Apr. T. 1864

SUPREME COURT,

THIRD GRAND DIVISION.

(Reported)

No. 212 178

J. W. Middleton & Co., Stationers, 196 Lake St.

Gray
v

The People

1864

1871

1878

14601

No. 14601

Supreme Court of Illinois

Gray

vs.

St. John

71641  7

Printed by BEACH & BARNARD, 14 South Clark St.

SUPREME COURT OF ILLINOIS.

THIRD GRAND DIVISION, }
APRIL TERM, A. D. 1864. }

JOHN GRAY,	}	
v.		Appellant,
SAMUEL S. ST. JOHN,		Appellee,

APPELLANT'S POINTS.

I

THE COURT ERRED IN EXCLUDING INTERROGATORIES 5, 6, 7, 8, 9, 13, and 14,
AND ANSWERS OF DEPOSITION OF ORVILLE FINCH, BECAUSE—

1. Those interrogatories and answers showed that the statement prepared for Finch, and upon which he purchased the stock of goods sold to Jackson, was false and fictitious, in every particular. The falsity of that statement, taken in connection with the fact that the goods purchased under it were immediately resold, in bulk, to Jackson, tended to show the fraudulent purpose of Finch, in making the sale to Jackson.

2. The ruling of the court, in excluding these portions of the depositions, was inconsistent with the ruling before then made. The court permitted us to show that the goods were purchased by means of the statement, and then refused to permit us to show that the statement was false. The jury were, therefore, bound to presume that it was true. If the statement was proper, as a part of the history of the transaction, everything connected with it, and giving it character, would be equally so.

3. The testimony was competent, for the further reason that it tended to prove the entire theory upon which the defense rested on the trial. They claimed that the goods bought by Finch, were so bought in furtherance of a common design and conspiracy, between Finch, Jackson, Weed, and the two Smiths. The portions of the deposition excluded, show that the scheme was first suggested by Isaac Smith: that the property named in the statement was furnished by Weed: that he also gave Finch credit, in New York, with certain houses, to be used as reference; and that, while Finch and Weed were at New York, for that purpose, they met Jackson there. This clearly *tended* to prove the fraudulent conspiracy.

4. The Court insisted that we should prove Jackson's complicity, but refused to allow the evidence to go to the jury which tended to establish that fact. It appearing that Finch, Weed and Jackson met at New York, in the summer of 1858, the Court should have permitted us to show the purpose for which Finch and Weed went there. It was only in this way that we could characterize the purpose of this common meeting, and thus show Jackson's knowledge of and complicity in the fraud.

II

THE COURT ERRED IN EXCLUDING THE ANSWER TO 7TH INTERROGATORY AND 9TH INTERROGATORY AND ANSWER OF STRATTON'S DEPOSITION, BECAUSE,

1. There was abundant evidence in the case, showing the conspiracy between all the parties named to procure these goods. Aside from the other facts of the case, the fact that they all shared in the avails of Finch's purchases would tend to establish that fact.

Williams v. Sheldon, 10 Wend., 655.

Guille v. Swan, 19 John., 381.

Weakley v. Rogers, 3 Watts, 460.

Bard v. Yohn, 26 Penn. State, 489.

2. The declarations of Isaac Smith, which the court excluded, should have been received, under the rule that wherever a conspiracy or fraudulent combination is shown, the declarations of one conspirator are evidence against all the others.

McKee v. Gilchrist, 3 Watts, 232.

Waterbury v. Sturdevant, 18 Wend., 353.

Clayton v. Anthony, 6 Rand., 285.

Ritenback v. Ritenback, 1 Rawle, 362.

Caldwell v. Williams, 1 Ind., 409.

Cuyler v. McCartney, 33 Barb., 165.

McDowell v. Rissell, 37 Penn. State, 168.

Scott v. Baker, 37 Penn. State, 333..

3. The proof in the case (Abs., pp. 48, 58) shows that Smith was at that time acting as the agent of Jackson in the particular matters referred to in his proposition to Stratton. His declarations are, therefore, admissible against Jackson on that ground.

4. The testimony was directly relevant to the issues.

Drakers v. Temple, 41 Penn. State, 242.

The objections to this testimony came too late.

III

THE COURT ERRED IN PERMITTING QUESTIONS TO BE PUT TO JACKSON. (Abs., pp. 43, 44.)

The intent of Finch, and all the other parties, is to be found by the jury from the facts and circumstances of the case.

The conclusion is for the jury to draw, and not for the witnesses.

IV

ALL THE CIRCUMSTANCES OF THE CASE POINT TO THE CONCLUSION THAT JACKSON'S PURPOSE IN PURCHASING THE GOODS WAS A FRAUDULENT ONE, AND THAT HE WAS ENGAGED IN A CONSPIRACY TO DEFRAUD.

1. He remained in business as the partner of Isaac Smith but a few months; then sold out to him upon Smith's assuming the liabilities of the firm. He became acquainted with Finch through the agency of the Smith's, and with Weed through the agency of Finch. He met Finch and Weed in New York but a short time before the purchases were made; came to Albany before they had been received; waited until they all had been received; knew that they were bought on credit, and not paid for; had daily interviews with all the parties; completed the sale the moment the purchases had all arrived; enjoined secrecy upon the clerks as to the fact of the sale; hurriedly and privately packed the goods; sold them to his Railroad conductor the next day, and had them at once shipped out of the State.

2. The goods received by Jackson were worth \$21,215.25. They cost him only \$9,220, leaving a clean balance in his hands of \$11,995.25.

V

THE REASONS ASSIGNED BY JACKSON FOR THE PURCHASE ARE WEAK AND UNSATISFACTORY.

1. He says he was sued, just before going to Albany, on one of the Fryer notes. But Smith, a joint maker, and Noxon, an endorser, who he says was worth \$200,000, both lived in the same county with Fryer, and could either or both have been sued upon the note. Why then send it to Milwaukee for the purpose of suing Jackson, who was then insolvent?

2. His object was, he says, to pay the creditors of Isaac Smith & Co. These creditors were Fryer, who held notes to the amount of \$10,000 or \$12,000, and the New York debts amounting to \$5,000 or \$6,000. But Fryer was paid in full by Smith & Finch, and the New York creditors have never been paid at all.

3. His object also was, as he says, to protect himself as a creditor of Finch. But Finch was only liable on the \$8,400—notes having three or four years to run without interest, given to Isaac Smith, and held by Noxon as security for his endorsements of the Fryer paper. Finch paid to Fryer directly, \$3,700 in goods, and to Smith, for Fryer, in money and goods, \$5,000 more. *This paid Finch's notes.*

VI

THE SALE FROM JACKSON TO ST. JOHN WAS A MERE COVER INTENDED FOR THE BENEFIT OF JACKSON. This is shown by all the facts in the case.

1. At the time of the sale to St. John, he was a railroad conductor in Jackson's employ at a salary of \$60 per month.

2. He came to Albany shortly after Jackson's arrival there, and upon Jackson's request, occupied the same room with him at the hotel; was present at various interviews between all the parties, and took a bill of sale from Jackson immediately after Jackson's purchase.

2. The necessity for making the sale to St. John and shipping the goods to him arose from the fact, that Jackson was insolvent, and had executions and creditors' bills against him in Wisconsin. Had the goods been shipped to him, they would have been liable to seizure for the satisfaction of those debts.

VII



(6)



(7)

IX

XI

The objection to the deposition of Orville Finch, made by appellee on the trial, was made too late, and was properly overruled.

Kimball v. Cook, 1 Gilm. 424.

Prink v. McClurg, 4 Gilm., 569.

26 Ala., 515; 28 do., 110, 236; 19 do., 246; 33 do., 29.

8 Black., 14. 1 Story, 169. 20 Ohio, 119. 9 California, 68.

XII

It was clearly erroneous for the court to render judgment for a greater sum than the amount of damages found by the jury.

Interest on a verdict is not given by any statute, nor was it allowed at common law. *(City of) Pelican v. Keyte* 10 13 Records of Opinions Page 11

Kelsey v. Murphy, 30 Penn., 34.

Brook v. Little 24 Mississippi, 463.

EMERY A. STORRS,

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Attorneys.

212

Gray
18
St. John

Appellants Point

Filed May 12. 18
J. Leland

SUPREME COURT.

APRIL TERM, A. D. 1864.

JOHN JOHNSTON, Appellant,

vs.

EWING FEMALE UNIVERSITY, Appellee. }

POINTS OF APPELLANT.

T. G. FROST, Att'y for Appellant.

I. The Court erred in sustaining the demurrer to the plea of *null tiel corporation* at the time of making the contract declared on. This was a good plea. It is true that under a special replication setting forth the ^{plea} facts, or by a general replication denying the truth of the facts, the Plaintiff below might perhaps have been allowed to show that the contract was made in contemplation of a corporation to be organized, and that a corporation was in fact subsequently organized. The contract in such case is, however, deemed to have been made and to take effect only from the time the corporation came into being, as there can be no legal contract without two parties capable in law of entering into contract. Hence, as a question of pleading alone, the plea must be held good, and ought not to have been overruled. Thus, in the case of *Stanton vs. Wilson*, 2 Hill N. Y. Rep., page 154, where an action was held maintainable on a bank subscription which was made before the bank was incorporated, the Court used this language, viz: "It is true that the company did not come into existence as a corporation till several months after the Defendant's subscription purports to have been made,

and the power of the President to sue did not arise till that time. The contract, though dated before, must be considered as taking effect only from the first of January," [the day the corporation came into existence.] "In legal effect, then, the contract of the Defendant was made on the first day of January, and was then to pay the corporation the amount subscribed." "This amount *then* became a debt due to the corporation."

II. The Court erred in sustaining the demurrer to the several amended pleas, at all events those purporting to answer the common counts only, which set up that the indebtedness alleged in the declaration arose upon a special contract which had not been fulfilled on the part of the Plaintiff. It is true that this, like Payment and many other defenses, might be proved under the general issue; but it is also the right of the party to avail himself of it by a special plea.

III. The Court erred in admitting in evidence the certificate of incorporation, particularly that ~~from the Secretary of State's office, interlined and erased, and in not examining~~ ^{without explaining} the erasure, and for the further reasons specified in the Bill of Exceptions.

IV. The Court erred in refusing Defendant's fourth, fifth, and sixth instructions.

V. The Court erred in modifying Defendant's second instruction by inserting the words "as to its exterior." In doing this, as well as in refusing Defendant's fourth instruction, the Court virtually released the Plaintiff from the obligations of the contract, and failed to give to the jury the true legal construction of the contract. The Defendant by the terms of his subscription "agreed to pay the sum set opposite his name for the purpose of erecting suitable and necessary buildings, and furnishing the same with the necessary books, &c.," on the following conditions, viz: "When a building shall be erected worth \$10,000, I will give, in real estate, if such building shall be erected in 18 months, \$400." The term "erecting a building," or buildings, must, upon any reasonable rule of construction, be held to mean the same thing ~~on~~ the condition as in the body of the contract. The building intended is, as stated in the body of the contract, *one*

suitable for a Female Seminary. This could not be an incomplete and unfinished edifice, unsuitable for any purpose while in that condition. The building referred to must have been completed and ready for use within 18 months, or the condition would not be fulfilled. Again: If an unfinished edifice worth \$10,000 would answer the contract, this entire amount might be laid out in a foundation alone, and nothing approximating to a suitable building would, on this construction, be held to be a compliance with the condition of the contract.

Again: There is nothing in the language used having any apparent reference to a building in process of erection, or on which a particular amount should be laid out towards erection. The language evidently refers to a completed building, and its *value when completed*.

VI. The verdict of the jury was against evidence and against the instructions of the Court.

The building was "not substantially completed, as to its exterior," as the Court held it should be to entitle the Plaintiff to recover. One of the two witnesses examined on this subject swears that it was worth, at the expiration of the eighteen months, about \$10,000, or a little over, by his estimate, and the other witness swears that it was only worth \$9,500 at that time, and upon that point the decision of the jury may, perhaps, be final; but both witnesses agree that the building, so far from being completed, was not even enclosed, and even the outer wall was not finished. It was, moreover, without roof, doors, windows or floors. The verdict under the Court's instructions was entirely wrong—was contrary to evidence, and contrary to law.

VII. The Court erred in refusing the motion for a new trial.

T. G. FROST,
Att'y for Appellant.

This Subscripⁿ is in the nature of a building contract. The performance of the work is the consideration for the Subscription. The consideration is the Contractor. The Subscripⁿ is the party for whom the work is to be done. The contract is that the building shall be erected with floor within 18 months. This means when there are no acts of qualification or reservation there are none here. just what it means in any other building contract. That the house is to be built & the entire work done to complete the building within 18 months. What was not done

Supreme Court of Illinois
Third Grand Division.

April Term 1864

John Gray
Appellant
vs
Samuel A. Johnson
Appellee

Appeal from
The Superior Court
of Chicago

Origin of the Case.

The history of the transactions out of which this suit arose is this:
In July or August 1857 Darius C. Jackson, a resident for some years of ~~Wisconsin~~ ^{Michigan}, then of Ohio, & at the time of Wisconsin where he had been a Railroad Contractor, Lobby Member of the Legislature &c and Isaac Smith a resident of Michigan, after a conference in Wisconsin met in New York City a man by the name of William J. Fryer ^{of Albany} and there arranged for the purchase of a stock of goods then in ~~Albany~~ ^{Albany} they paid \$18000, \$4 or \$5000 in Railroad Bonds, giving their notes for the balance. Jackson then returned to his Railroading & Lobbying in Wisconsin & Smith proceeded to carry on the business in Albany under the firm name of Isaac Smith & Co.

2 Oct. 28. 1857. Jackson sold out his interest in the firm to Smith.

It does not appear that any money was paid or was given at the time but it the Abstract does appear that some sums of money had previously been paid by Smith to Jackson.

3 Smith continued in business for two or three months and somewhere about January 1858 sold out to his brother Harmon Smith and Orville Finch, composing the firm of Smith & Co. This firm appears to have bought the stock for about \$16000, giving them notes.

4 May 15. 1858 Austin Chace and Harmon Smith sold out his interest to Orville Finch. The notes of Smith & Co. were at this time taken up and Orville Finch gave his individual notes.

As the result of all these changes Finch is the owner of this stock of goods in the summer of 1858 and he appears to have paid about half the cost in the summer so that he is at this time owing about \$8000. Isaac Smith & Harmon Smith although no longer interested still linger about this stock of goods as though they had conceived a sort of affection for them.

About this time there appears upon the stage William G. Mead, ~~owner~~ of the firm of Mead & Stimpsey attorneys and also of the firm of Wm. G. Mead & Co. composed of the

Some persons who carry on a Mercantile
Agency and keep Wholesale merchants
in New York & Boston posted as to the
standing of Merchants of Albany & vicinity.
This Ned becomes wonderfully
acquainted with Darin C. Jackson
in the Summer of 1838 & immediately
becomes wonderfully interested in the
affairs of Orville Finch. He does
his law business. He goes to New York and
makes Ned singularly responsible for
debt. Finch now contract with two or
three New York houses. He recommends
Finch to Boston & New York merchants in the highest
terms. For several years Finch had not
owned a dollar's worth of real estate.
At this time a brother in law of Ned
conveys to him 120 acres of land on which
there is a mortgage for \$4000 & which is
valued by the imaginative Ned
at \$9000. Finch never sees the land
and pays nothing for it. Then a mortgage
for \$2500 on just 157½ acres of land in Broome
County N.Y. is assigned to Finch. Then a
Confidential Clerk of Ned & Kingsley
conveys a House lot to the same happy Finch.
Then a mortgage on another house and
lot in Albany is obtained by this devoted
& indefatigable Ned. Finch was like the
child in the fairy tale to whom cradle all
the fairies came with their ~~various~~ gifts.
Farms & mortgages, houses & lands come
pouring in upon the happy Finch without
money and without price, and the
indefatigable Fairy at last brings them

all in William G. Need attorney
& Mercantile Agent. There was one drawback
to the happiness of Finch which I remember was
that James can no longer be trusted even in the
guise of an attorney and mercantile agent. "Ex
nihilo nihil fit." The 130 acres valued at
\$9000 & subject to an incumbrance for \$4000
was not worth more than \$2000. There are
mortgages on lands in Broome Co. but no
researches have yet been able to discover this
particular mortgage and I venture to say that
no future researches will ever find any value
in it. When Need's confidential clerk
conveyed the house etc. Need said this
clerk would attempt to collect the
rents & at the bidding of his friend &
attorney Finch conveyed this property
back to the confidential clerk. The
other mortgages vanished as, at the touch
of the enchanter's wand had all this fair
public array of houses & lands & mortgages
disappeared one day like the baneful fabric
of a vision! This however did not
prevent these pieces of property from
being used to in a statement (Page 32 of
Abstract) which was given by Isaac
Smith to Wm. P. Stratton who was
employed to purchase goods for
Finch in New York & Boston. Most
of our testimony in regard to this statement
was excluded but it is in evidence that
on the strength of this statement and
the recommendation of Wm. G. Need & Co. &
reference to the New York houses

guaranteed by Weed & Kingsley
goods to the amount of \$3000
in value ^{were purchased} for Finch on credit
in September, October, November
some arriving even after the 7th
of December.

In October 1838 Jackson
reappears at Albany. About
a week later, St John, the plaintiff
arrives at the summons of
Jackson.

St John had been the
Clerk of Jackson in Ohio, accom-
panied him to Wisconsin, sold
goods to his men, was conductor
on a Railroad in which ^{he} had
an interest and was connected
with him in various ways.

Jackson & St John remain
in Albany until the 15th of
December, stopping at the same
hotel. All this time the goods
purchased in New York and Boston
are arriving. Jackson & St John
are in and about the store,
having opportunities to see the
bills of these goods which show
that they are bought for credit
holding secret interviews with

with Ned and Isaac Smith
sometimes going to an upper
room evidently about some
act

"That has no selfish glorification in it."

Up to the time the store closed
Thursday night Dec 9. There was nothing
in or about it indicating to a casual
observer that any change had taken
place or was going on. The signs
were unchanged; Finch was
about the store as usual; the goods
were on the shelves; the clerks were
at their places; the doors open
and customers passing in and out.
On the next morning (Dec 10)
all was changed. The last goods were
packed before light and when the
sun rose the store was left
desolate. Not a ribbon was left
to flutter alone.

The creditors of Finch were soon
on the ground and found that these
goods had been removed in a manner
so extraordinary as to warrant the
belief that the whole thing was a
gigantic scheme of swindling.
They found that Finch had made

An assignment and that his only
assets were some worthless
Railroad bonds, that the Real Estate
and Securities mentioned in the
Statement signed by him were
worthless or he had no title to
them, that part of the goods had
been sent off to Auburn to straighten
the business law of Reed, that part
had been delivered to Fryer to
pay Jackson's and Isaac Smith's
debts; that the goods had been
shipped to a distant place, that
they had been packed in the cellar;
that they had been packed by
night, that secrecy had been
enjoined upon the clerks,
that while the packing was going on
business was carried on as usual;
that as goods were taken from the
shelves other goods were arranged
so that the absence would not be noticed,
that at the time Jackson was pre-
tending to be the owner of these goods
he was marking them in the name
of St John and directing them to
a place where St John had no
store and where he did not
even live; that the goods were

taken to the depot at an unusually
early hour in the morning, that
they were taken by circuitous
routes: that attempts had been
made to bribe a young man
not to be a witness as to some
of these transactions, in suits they
then contemplated or apprehended.
And that in short every thing
indicated the presence of fraud,
and they naturally believed that
if any sale had been made
under such circumstances
it was a fraudulent and as
to them a void sale.

A large quantity of these goods were shipped for Milwaukee Wisconsin, in the name of the Plaintiff on the mornings of the 8th & 10th of December. Most of these goods reached Milwaukee in safety, were immediately reshipped to Waterdown, Wis., sold out by L. J. J. to a man named Huntley, removed by Huntley to a place called Sun Prairie, sold out by Huntley to one Peter Klockner, and this is the last authentic intelligence we have of these goods. There are rumors that they have been heard of beyond the Rocky Mountains and it is not unlikely that on his last passage across Behning Straits the wandering Jew carried a portion of them in his carpet bag, and that today, somewhere on the steppes of Asia some swift footed wanderer may be crying ~~today~~ over the last remnant, going, going, gone.

The last goods packed, mostly of the old stock, shipped on the morning of the 10th were overtaken at Chicago and levied upon under writs of attachment issued in favor of some creditors of Finch against the property of Finch and subsequently sold on executions issued in these attachment suits. This action of trespass was brought against the Sheriff for taking the goods.

The Plaintiff claims that Finch sold the stock of goods to Jackson on the 7th of Dec, that Jackson kept them one day and then sold them to the Plaintiff on the 8th of Dec.

He insists that these sales were fraudulent and void & conveyed no title as against the

creditor of Finch

The trial in the Court below resulted
in a verdict in favor of the plaintiff
for \$8,695.38. The Court held a
motion for new trial under advisement
several months and then rendered
Judgment on the verdict for
\$8,973.63, adding to the amount
found due by the verdict the interest
from the rendition of the verdict
to the date of Judgment.

Error assigned

The first error assigned is based on the exclusion of a large portion of the Deposition of Orville Finch: The testimony excluded relates mostly to the property described in the statement admitted in evidence (Page 32 Abstract) and shows that Isaac Smith and William J. Need got up or assisted in getting up this statement and that the property cost nothing and on the principle "ex nihilo nihil fit" that it was worth nothing. This testimony seems to have been admissible for the following purposes:

1. To show fraud in Finch, the vendor. That he obtained these goods by fraud and to show that he was engaged in the same business in disposing of them.
2. On the ground that the acts of a conspirator are evidence against his co-conspirator.
3. To show the complicity of Jackson through his agent Isaac Smith.
4. To show knowledge and complicity of Jackson through Need his attorney.

The 3^d & 4th Verdicts are based on the exclusion of part of testimony of Wm. H. Stratton.

This testimony showed acts of both the Smiths and Reed at the time of the sales by French to Jackson, Jackson to St. John, and was competent on the same grounds, there certainly being evidence tending to establish a conspiracy between these parties and Crookson & Reed receiving goods by direction of Jackson for no other than their services and Smith assisting Jackson in carrying out his plans according to his own statements.

The acts of Reed & Smith testified to were on the 9th of Dec. On this very day Jackson told the Court that Reed was to have \$100 worth of goods out of the store and on that afternoon he came and traded out part of these goods. This was after the goods had been sold by Jackson to plaintiff. The jury might have been satisfied of the knowledge of Jackson & St. John of the fraud contemplated by them that the offer of Reed was made at the day of these parties and that they knew the necessity of keeping Stratton quiet.

11V
Modification of
Defendant's Instructions.

The Abstract shows so far
as types can show the manner
in which our instructions
were given if they can be
said to have been given
at all.

Q4
A5
Our first instruction is not
given as asked but is given
subject to and modified by
an instruction drawn and
given by the Court, and having
read Your instruction the
Court then reads his.

A6
Our 6th instruction is given
in the same way, the Court
again reading his instruction.

et
The 8th in the same way;

The 10th in the same way;
and having then given his
instruction four times in
connection with our instruc-
tions the Court then gives it
again on its own account,
and the last words which
fall on the minds of
the jury are the words of

The Judge reminding them
that they will find this
instruction inserted
"drawn & given by the Court."

The object to our Instructions
being given in this way and modified
thus because

1. This is no proper modification
and limitation of our Instructions.
This instruction of the Court
contains independent and separ-
ate propositions of law, not
exceptions to our law and
it would have been just as
proper to have laid down
any other propositions.

2. It was calculated to
mislead the Jury.

We were entitled to have our
Instructions presented to
the Jury fairly they were given
sketch. This Court would
not permit a Circuit Judge
to keep the letter of the law
by giving a partial instruction
translation into an unknown
language. This would be
of no use.

to by ^{the} ~~translation~~ ^{translation} ~~that~~ ^{that} ~~unwary~~ ^{unwary}. Nor will
it I submit permit a
Court to give a party's
Instructions in a manner
which would lead away the
mind and consideration of
the Jury from the Instruction
it pretended to give. Our
Instructions were given in such
a way that the minds
of the Jury were naturally
and almost-invariably turned
away from them to this
Instruction given with
all the weight & ~~stability~~ ^{stability}
which attached to it as
coming from the Court.

3 This Instruction was repeated
too many times.

It was made the beginning
and end of our Instructions.

It was repeated until
the Jury might have committed
it to memory. It towers
above our Instructions
and overshadows them.
"It doth beshide the narrow world
Like a colossus and our

poor Instructions ~~walk~~ under
"Walk under ~~this~~ huge legs & keep about
to find themselves dishonorable graves."

Our Instructions were read
but once. Why should this
Instruction be read five times.

4 The authorities cited at
the end of the Instruction
were calculated to give it
undue weight.

Omne ignotum pro magnifico,
And the Jury may have taken
these to be Cabalistic signs
or mystic Symbols

And now what is this
Instruction which so
engrossed the attention of the
Court that no time was
left it to consider the testi-
mony, that was worthy
to be marked "Drawn &
Given by the Court", that
was entitled to be read over
and over again, to be sandwiched
between our Instructions,
that was to be kept before

The minds of the jury until
until they might well believe
that it was the beginning and
the end, the sum and substance,
the essence and epitome of
all the law?

It seems to be liable to
these objections.

- 1 It is the statement of certain
abstract propositions of law
and does not pretend to be
based on any evidence and
was not entitled to have been
given at all, to say nothing of
its being given three times.

1922 29

18 " 246

22 " 440

28 " 135

- 2 It assumes the very points
in controversy.

The question in this case was
as to the validity of certain
sales. We claimed that they
were void because made to
defraud creditors and made
in bad faith. This instruction
assumes that this conveyance

was "made in good faith
and to pay an honest debt,"
and this ~~was~~ the very point in
controversy. In the face of all
the evidence tending to show
bad faith and fraud this
instruction assumes that
the conveyance was made
in good faith and it
is repeated to the jury
until they might well
have forgotten every ver-
ty of the evidence.

In the last clause it
is assumed that Jackson
was a creditor. We insisted
then and insist now that
Jackson was not a creditor
and this was one of the
contentious points in the
case but the Court ignores
every question at issue
and gives this instruction
as if the question was whether
or not a conveyance made
in good faith was fraudulent.
And whether or not a
creditor might take payment
of his debt.

V

The Instructions asked by defendants and refused should have been given.

1. They are not chargeable with containing arguments. They may be long but that was made necessary by the case. They were needed on account of the Instructions given on the part of the Plaintiff. They only assert that if the jury find certain facts proved that there is proper to be taken into consideration.

VI

The Court clearly erred in rendering judgment for the interest which had accrued on the verdict while the motion for new trial was pending. Interest could not be collected on a verdict at common law. This is settled in the case of The City of Pekin v. Reynolds decided at last term of this Court (at Ottawa) & unreported. Interest is not

given by Statute.
To say that the appellant waived
this is preposterous. The record
shows that the moment judgment
was rendered they prayed an
appeal to this Court. There is
nothing here to indicate that
they acquiesced in the judgment
at any part or portion
of it.

VII

It will be seen at a glance that the plaintiffs case rests upon the testimony of Jackson. A bare transfer is proved but such a transfer cannot stand a moment against the great number of circumstances proved in the case tending to show fraud in the transactions. Take away the testimony of Jackson and the plaintiffs case goes down like a cockle boat before a line of battle ship.

VIII

It is equally clear that Jackson is the real party in interest in this suit. This nominal plaintiff has never pretended or aspired to be anything else than the Clerk and humble follower of Jackson. When Jackson keeps John A. John sells goods as his Clerk; when Jackson is interested in a Railroad John is Conductor on it; when Jackson holds an office John is his deputy; when Jackson sees a stock of goods he considers whether John is calculated to sell those goods; when Jackson contemplates buying a stock of goods he sends to John to take them off his hands; when Jackson buys a stock of goods he immediately commences marketing them.

in St John's name: When Jackson
sells the goods to St John he continues
to treat them as his ~~own~~ and watches over
them as a mother watches over her first
born. When St John gives his notes
Jackson takes them up. When
Jackson gives his notes St John
pays them if they are paid at all.
When St John has a law suit Jackson
consults and employs counsel. When
testimony is needed to carry the
case through Jackson supplies
it from his infailing resources.

IX.

It will be seen that
Jackson is contradicted by
almost every witness in the case.
That his explanations of his
conduct are irreconcilable with
the ordinary principles of human
action and in looking over the
whole case it seems impossible
to reconcile his course with any
theory but our theory that
there was a grand scheme
of fraud & swindling.
The jury have found against
us but in the case so complicated,
including so many facts, where
the plaintiff has the case,
when a jury is made up

as injuries in our large cities
often are it certainly ought not
to raise any very strong pre-
sumption against us.

[Faint, illegible handwriting, possibly bleed-through from the reverse side of the page.]

²¹²
Supreme Court
John Gray
appellant

¹³⁷
vs
Thos. D. St John
appellee

Argument for
Appellant

Filed May 14, 1864
J. S. Landis

John H. Thompson

UNITED STATES OF AMERICA,

STATE OF ILLINOIS, COUNTY OF COOK, SS.

Pleas, before the Honorable, the Judges of the Superior Court of Chicago, within and for the County of Cook and State of Illinois, at a regular Term of said Superior Court of Chicago, begun and holden at the Court House, in the City of Chicago, in said County and State, on the first Monday, being the Eleventh day of January in the year of our Lord One Thousand Eight Hundred and Sixty Seven and of the Independence of the United States of America the Eighty Seventh

Present, The Honorable

John W. Allen Chief Justice of the }
Superior Court of Chicago. }

Wm. H. Piggins }
Joseph C. Gary } Judges.

Joseph O'Neal Prosecuting Attorney.

David S. Hammond Sheriff of Cook County.

Attest,

Thomas B. Carter Clerk.

It is remembered that hereunto to Sub. on the
twelfth day of December in the year of
our Lord one Thousand Eight Hundred and
Sixty Eight, Samuel S. St John by Samuel S. St John
& Charles H. Allen his attorneys filed in the office of the
Clerk of the Cook County Court of Common Pleas
(now the Superior Court of Chicago) his Petition
for a Writ of Habeas Corpus and for a writ of
Certiorari.

Cook County Court of
Common Pleas
Samuel S. St John
vs.

Juspage
Dain 225.00.

John Gray Philip Embury Andrew Brown

Clust of Corn Pleas

Please give summons to the Coroner
of Cook County in the above cause against the above
named Defendants in a plea of trespass and make
the cause returnable to the February 1859 Term of
said Court for Dam \$2500.00.

Shuman & Eales
Plffs Attys,

State of Illinois &c
Cook County &c James St. J. J. of said
County. Being duly sworn says that Court is
about to be commenced in the Cook County Court
of Common Pleas in and for the County of Cook
and State of said by Samuel S. St. John, as
Plaintiff against John Gray Phillip Conley
and Andrew Brown, as Defendants that said
John Gray is Sheriff of said County of Cook, and
when the said contemplated suit is commenced
he the said Gray will be interested therein as party
Defendant through by means whereof the summons
to be filed in the Court & to be brought should be
filed and directed to the Coroner of said County
&c according to the statute in such case made
and provided.

Sworn to before me. H. St. J. J.

On 27 day of

Dec. 1858

St. John's clerk

Samuel O. St John

vs.

John Gray, Philip Conley
& Andrew Brown

Cook County Court
of Common Pleas

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 27th day of December 1858, J. H. Stiles.

And afterwards to wit on the day and year
aforesaid there issued out of the Clerk's Office
of said Court, a Writ of Summons which with
the coroner return thereon, in words and
figures to wit.

State of Illinois }
County of Cook } ss.

The People of the State of
Illinois To the Coroner of said County
Greeting. We Command you that you sum-
mon John Gray, Phillip Conley & Andrew
Brown, of any shall be found in your County

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personally to be and appear before the Court
County Court of Common Pleas of said County
on the first day of the term then of to be holden
at the Court House in the City of Chicago in
said County on the first Monday of February
next to answer unto Samuel S. St John, in
a plea of Trespass, the damage of said
Plaintiff as he says in the form of Jurat
for Thomas Pollard. And have you
then and there this writ with an endorse-
ment thereon in what manner you shall
have executed the same.

Witness Walter P. Mitchell Clerk of my said
Court and the Seal thereof at the City of
Chicago in said County this 27th day
of Decr. A.D. 1858.

Seal

Walter P. Mitchell Clerk.

Endorsement and Return of Coroner.

Served this writ by delivering a copy to each
of the within named defendants this 8th day
of Janry A.D. 1859.

Jno. J. Coroner.

And afterwards to wit on the Twenty Eighth
day of January in the year of our Lord one
thousand Eight Hundred and Eighty nine

the said Samuel O St John. by Sherman & Oates his Attorneys filed in said Clerk's office of said Court his Declaration which is in this mid figure following to wit.

Cook County Court of
Common Pleas.

of the February Term 1859
of the Cook County Court of Common Pleas

State of Illinois ?
Cook County ?

Samuel St John the Plain-
tiff in this suit complains of John Gray &
Philip Lenley and Andrew Brown. the defend-
ants in this suit who have been summoned re
of a plea of trespass. And that the said
Defendants on the seventeenth (17) day of
December in the year of our Lord one thousand
Eight hundred and fifty eight with force
and arms &c to wit at the County of Cook afo-
said seized took and carried away certain
goods and Chattels to wit Thirty three (33)
Boxes of Dry goods Six (6) Rolls of Carpeting
Three Bales and four (4) Bales of
the said Plaintiff of great value to wit of
the value of Twenty Five (25) thousand
Dollars of lawful money then then found

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and bring and converted and disposed of
the same. to their own use so that the same
and every part thereof hath become wholly
lost. & of no use to the said Plaintiff.

And also for that the said Defendants on
^{with force and arms to wit at Chicago in Cook County aforesaid}
the day and year aforesaid seized tools and
carried away certain goods Chattels & mer-
chandise to wit thirty three (33) Boxes
containing merchandise to wit (1) Rolls of
Carpeting Thru (2) Bales of merchandise
goods & Wares and four Trunks belong-
ing to the said Plaintiff of great value to
wit of the Value of Twenty Five Thousand
Dollars (\$25000) of lawful money then due
from and bring and converted and disposed
of the said goods and Chattels Wares & mer-
chandise to the use of them the said defend-
ants so that the same and every part thereof &
became wholly lost to the said Plaintiff.

And for that the said Defendant on the day
and year aforesaid with force and arms &c.
to wit at Chicago in said County of Cook
seized tools and carried away and converted
& disposed of to their own use divers goods &
Chattels Wares & merchandise of and belong-
ing to the said Plaintiff of like number
quantity quality description and Value
as the said goods and Chattels Wares

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and merchandise in said Just Court. said
 Declaration mentioned that there found and
 being said other wrongs to the said Plaintiff
 then and there did to the great damage of
 the said Plaintiff. Count to the damage of
 the said Plaintiff of Thirty Thousand dollars
 (\$30,000) and therefore he brings suit &c.
 Sherman & Stiles
 attys for Plaintiff

And Whereas to wit on the Twenty First
 day of February in the year aforesaid the
 said John Gray, John Philip Conley, and
 Andrew Brown by Thompson & Bishop their
 attorneys filed in said County Office of said
 Court their pleas which are in Under
 figures following to wit

Phillip Conley &	Court County Court of Common
Andrew Brown impleaded	Pleas February Term A.D. 1859.
with John Gray.	Plea
add	
Samuel P St John	

And the said Defend
 Phillip Conley and Andrew Brown impleaded
 with John Gray by Thompson & Bishop their
 attorneys come and defend the ~~same~~ and

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may when &c and say, that they are not
guilty of the said several supposed trespasses
above laid to their charge. & either of them
or any part thereof in manner and form
as the said Plaintiff hath above thereof com-
plained against them and of this they put
themselves upon the Country &c.

Thompson & Bishop
Attys for Dfs Conley & Brown

And the said Plaintiff doth de l'ce

Sherman & Sales

Ofs attys.

John Gray.
Impleaded with
Phillip Conley and
Andrew Brown

ado

Samuel & St John.

Scott County Court of Commonw.
Pleas of the February Term.
A.D. 1859

Plea

And the said John Gray
impleaded with Phillip Conley and Andrew
Brown by Thompson & Bishop his Attorneys Comes
and defends. doth say & may when &c and
says that he is not guilty of the said several
supposed trespasses above laid to his charge &
either of them or any part thereof in manner
and form. as the said Plaintiff hath above
thereof complained against him impleaded

9.

into &c. as aforesaid, and of this he puts himself
upon the country &c.

Thompson & Bishop
Atty for Deft Gray,

And the said Plaintiff

doth the like

Shumauer Charles. Plaintiff attys,

And for a further plea in this behalf. as to
the seizing taking and carrying away of
certain goods and chattels and converting
and disposing of the same. to the use of the said
Defendants as in the first Count of said de-
claration mentioned & supposed to have been done
and as to the seizing taking and carrying away
of certain goods chattels and merchandise and
as to the converting and disposing of the same
to the use of the said Defendants as in the
second Count of said declaration mentioned
& supposed to have been done and as to the seizing
taking and carrying away of divers goods
chattels wares and merchandise and as to the
converting and disposing of the same: to the
use of said declaration mentioned & supposed
to have been done, the said Defendant John
Gray impleaded into &c. as aforesaid by law
of the Court here for this purpose just had
and obtained says that the said Plaintiff

might not to have or maintain his aforesaid
 action thereof against him implied with
 &c. as aforesaid because he says. that before
 the said time when &c. to wit on the 17th day
 of December¹⁸⁵⁸ one Rufus Whitney Esquire
 did swear to Walter Smithall Clerk of the
 Cook County Court of Common Pleas. of Cook
 County in the State of Illinois that Orville
 Finch was justly indebted to Joseph & White
 George & Brown Henry & Davis Joseph P. Skidmore
 and Rufus Whitney to the amount of Two
 Thousand two hundred and Sixty Eight dol-
 lars and ninety six cents, and made oath
 also that the said Orville Finch was not
 a resident of the State of Illinois and bond
 and security having been given according
 to the act in such case made. and provided.
 afterwards to wit on the 17th day of December
 A.D. 1858, a writ of attachment issued out of the
 Clerk's office of the Cook County Court of Common
 Pleas. of said County of Cook under the seal of
 said Court directed to the Sheriff of Cook County
 aforesaid, by which said Writ the said Sheriff
 of Cook County was commanded that he attach
 so much of the Estate real or personal of Orville
 Finch to be found in his County as should be
 of value sufficient to satisfy the debt and
 costs of said Joseph & White George & Brown

Henry C. Davis Joseph Hamilton and August
 H. Whitney, according to the complaint, to
 the said clerk of said Court in behalf of
 said Joseph H. White & others against said
 Orville Finch and that the said Sheriff
 should cause such estate to be attached so
 provide that the same might be liable to
 further proceedings thereupon according to
 law. at a Special Term of said Cook
 County Court of Common Pleas to be holden
 at Chicago within and for the County of
 Cook. on the first Tuesday of January
 then next ensuing so as to compel the
 said Orville Finch to appear and answer
 to complaint of the said Joseph H. White
 & others and that at said term of said Court
 he should make known to said Court
 how he had executed said Writ. and that
 he should then and there have said Writ as
 by the said Writ under the seal of said Court
 dated the 17th day of December A.D. 1858, re-
 ference being thereunto had. with magistry
 and at large appear. which said writ
 afterwards and before the return thereof and
 also before the said term when &c to wit
 on the 17th day of December A.D. 1858, at &
 Cook County aforesaid was returned to the
 defendant. who then and from thenceforth

Henry C. Davis Joseph Hamilton and Rufus
 H. Whitney, according to the complaint, to
 do said clerk of said Court in behalf of
 said Joseph H. White return against said
 Orville Finch and that the said sheriff
 should cause such estate so attached as so
 provide that the same might be liable to
 further proceedings thereupon according to
 law. at a Special Term of said Cook
 County Court of Common Pleas to be holden
 at Chicago within and for the County of
 Cook on the first Tuesday of January
 then next ensuing so as to compel the
 said Orville Finch to appear and answer
 to complaint of the said Joseph H. White
 return and that at said term of said Court
 he should make known to said Court
 how he had executed said Writ and that
 he should then and there have said Writ as
 by the said Writ under the seal of said Court
 dated the 17th day of December A.D. 1858, re-
 ference being thereunto had. with magistry
 and at large appear which said writ
 afterwards and before the return thereof and
 also before the said term where to Writ
 on the 17th day of December A.D. 1858, at
 Cook County aforesaid was returned to the
 defendant who then and from thenceforth

until and at and after the said time
 when &c. was Sheriff of Cook County of &c.
 said to &c. executed in due form of Law.
 whereupon he the said John Gray taking
 such Sheriff of Cook County as aforesaid
 afterwards and before the return of the said
 writ and also before the said time when &c.
 to wit. on the day and year last aforesaid
 at Cook County of &c. said by George Ludlow
 then and since a Deputy Sheriff under him the
 said John Gray so taking such Sheriff as aforesaid
 said did by virtue of said Attachment writ
 lay upon and attach certain goods Chattels
 wares and Merchandise whereof the goods
 Chattels wares and Merchandise in the intro duce
 (ory part of this plea mentioned and as the
 several Counts of said Declaration mentioned
 And the Defendant implicated in the &c.
 aforesaid avers that the said goods and Chattels
 wares & Merchandise in the introductory part
 of this plea & in said Declaration mentioned
 were before the said time where &c. the property
 goods Chattels wares & Merchandise of the said
 Orville Finch the Defendant named in said
 Attachment writ. and that the same had
 before the said time when &c. been fraudulently
 sold and transferred by the said Orville Finch
 and that such sale and transfer were made to

to the intent to delay hinder and defraud. the Creditors
of said Jmch of their just and lawful debts and
were clearly and utterly void as against the
said Joseph & White George & Brown. Henry
& Larr Joseph C. Hamilton and Rufus A. Whitney
and Kjaer and at the time of said sale and
transfer were the Creditors of said Jmch and
at whose suit said attachment writ was
issued as aforesaid and the defendant by
his attorneys did remove said goods. Chattels
ware and Merchandise so attached as
aforesaid and did provide that the same might
be liable to further proceedings thereon ac-
cording to law at a special Term of said Cook
County Court of Common Pleas. which was
holden at Chicago within and for the County
of Cook. on the first Tuesday of January next
ensuing the date of said writ and that
the writ in which said writ issued was at
said term of said Court. continued to the Feb-
ruary Term of said Court. and is now pending
in said Court. and that the Defendant
holds said goods. Chattels wares and mer-
chandise under and by virtue of said
attachment writ as he lawfully might for
the cause aforesaid which are the said &
supposed trespasses wrongs of the said Plaintiff
which the said Plaintiff hath above shown

do said Plaintiff hath above stated complained against him do said Defendant impleaded with &c. as aforesaid. And that he is ready to satisfy whomever he prays judgment of do said Plaintiff ought to have or maintain in aforesaid action thus against him &c.

And afterwards to wit on the fourth day of December in the year of our Lord one thousand Eight hundred and sixty the respective parties to the said suit by their attorneys respectively filed in said Clerk's Office of said Court their stipulation which is in words and figures following to wit.

Samuel S. St John.

vs

John Gray Andrew.
Cunn & Philip Conley

The Superior Court of Chicago

It is hereby stipulated and agreed by and between the parties to the above entitled cause. that the third fourth & fifth pleas heretofore filed in said Cause be withdrawn and that the Defendants shall be permitted to offer in evidence under the general issue proof of any facts which if properly pleaded would constitute a defence to said action

The goods mentioned in Leiros deposition and those mentioned in the Plentzgo declaration are admitted to be the same so far as identity is concerned.

Sherman & Stales
for Defts
Hampson & Bishop for Defts

and afterwards to put on the Eleventh day of
of the month and year aforesaid. the same
being one of the days of the December Term of
said Court. the following among other pro-
ceedings were had. and entered of record in
said Court to wit

Samuel O. Johnson.
No.

John Gay Philip Conley
and Andrew Brown.

This day comes de said
Plaintiff by Sherman & Stokes his attorney. and
de said Defendants by Smith & Dewey. and
Thompson & Bishop their attorneys also come,
and juries being formed herein it is ordered that a
jury come. Whereupon comes de Jury of good &
lawful men. to wit John Meester. J. G. Romeo
W. B. Schram Joseph P. Wallmus John Baldwin Ed-
ward Sullivan Philip Peau. E. A. Webster Elias Sherman

John Brackett Joseph Kellogg and William
Munro who being duly elected tried and sworn
they do proceed as aforesaid after hearing
part of testimony and the hour of adjournment
having arrived it was ordered upon agreement of
the parties that the Jury separate and meet the
Court again upon opening and coming in
three or more morning

And afterwards to wit on the Twelfth day of
the month and year aforesaid the same being
one of the days of the December Term of said
Court the following among other proceedings
were had and entered of record in said Court
to wit.

Samuel O St John.

Lespass

^{vs}
John Gray Philip Canley
and Andrew Brown.

And now again came the
parties to this cause the said Plaintiffs as well
the said defendants by their respective attorneys
as aforesaid and the Jury empanelled herein yes
terday for the trial of this cause also came and
after hearing further testimony and the hour
of adjournment having arrived it was ordered
upon agreement of the parties that the Jury separate
and meet the Court again upon opening and

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coming in this to morrow morning

And Afterwards to wit on the Thursday day
of the month and year last aforesaid the
same being one of the days of the December
Term of said Court the following among the
proceedings were had and entered of record in
said Court to Wit;

Samuel J St John

vs

Excess

John Gray Philip Centry
and Arthur Brown

And now again come the parties to this cause
the said Plaintiff as well the said Defendants
by their respective attorneys as aforesaid and
the Jury impanelled herein for the trial of
this cause. also come as on yesterday and
after hearing further testimony and the hour
of adjournment having arrived it is ordered
upon agreement of the parties that the Jury
separate and meet the Court again to morrow
morning.

And Afterwards to wit on the Thursday
day of the month and year last aforesaid
the same being one of the days of the Dec-
ember Term of said Court the following among

other proceedings were had and entered of
record in said Court to wit

Samuel St John.

vs.

Trespass

John Gray. Philip Corley
and. Andrew Brown

And now again comes the parties to this cause
the said Plaintiff by Sherman & Staley. his attorneys
as well the said Defendants by Smith & Pacey.
& Thompson. & Bishop their attorneys also come
and the Jury empanelled herein for the trial of
said Cause. also come as on yesterday and after
hearing remand of testimony arguments of
Counsel and the instructions of the Court the
Cause is now submitted to the Jury. and they
return to consider of their verdict and the Court
& government having agreed it is ordered upon
the agreement of the parties that when the Jury
shall have agreed upon a verdict they shall
reduce the same to Writing sign and seal the
same, and afterwards separate and meet
the Court again to morrow morning.

And afterwards to wit on the Twelfth day
of the Month and year aforesaid the same
being one of the days of the October Term of
said Court the following among other

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proceedings were had and entered of record in
said Court to wit.

Samuel J. St. John.

John Gray. Philip Conley
and Andrew Brown

Respaso.

And now again come the
parties to this cause as on yesterday the said
Plaintiffs as well the said Defendants by their
respective attorneys as aforesaid, and the Jury
empannelled herein for the trial of this cause, and
as on yesterday also come, and submit their
verdict man seal and say to the Jury
and the Defendants Guilty and we assess.
Plaintiffs damages herein against all of
said Defendants to the sum of Ten Thousand
one hundred and sixty dollars and fourteen
cents

And therefore said Defendants submit the
motion herein for a new Trial in said Cause.

And afterwards to wit on the Twenty ninth
day of the month and year last aforesaid
the same being one of the days of the December
Term of said Court the following amongst other
proceedings were had and entered of record in
said Court to wit

Samuel O St John.

vs.

Trespass.

John Gray. Philip Conley.
and Andrew Brown.

And now again comes the said Plaintiffs
by Sherman & Stales his attorneys and the said
Defendants by Smith & Dwyer and Thompson &
Bishop their attorneys also come. and the Court
having heard arguments of Counsel upon the
motion heretofore submitted herein by the said
Defendants for a new Trial in said Cause. takes
the matter under advisement.

And afterwards to wit on the Twenty sixth
day of January in the year of our Lord one
thousand Eight hundred and fifty one the same
being one of the days of the January Term of
said Court. the following among other pro-
ceedings were had and entered of record in said
Court to wit,

Samuel O St John.

vs.

Trespass

John Gray. Philip Conley
and Andrew Brown.

And now again comes the said Plain-
tiffs by Sherman & Stales his attorneys and
the said defendants by Smith & Dwyer. then

attorneys, also come, and the Court having taken the motion heretofore submitted herein by the said defendants for a new trial under advisement, at the December Term of the Court, and the Court being now fully advised on the premises Justices said the motion of Defendants for a new trial herein and it is ordered that the Defendants be allowed a new trial in this Cause, on payment of all costs.

And afterwards to wit on the Twenty second day of June in the year of our Lord one Thousand Eight Hundred and Sixty three the same being one of the ~~same~~ days of the same Term of said Court the following among other proceedings were had and entered of record on said Court to wit,

Samuel S. John.

vs.

Jessie Pass.

John Gray, Philip Leakey,
and Andrew Brown.

This Cause being this day called for trial comes said Plaintiffs by James H. Kaler and Samuel W. Fuller, their attorneys, and said Defendants, by E. J. Smith Esq. Norris, Sidney Smith and Thompson, their attorneys also come and Jones being joined

herein it is ordered that a Jury come. Where-
upon comes the Jury. Of good and lawful men.
Emil Frederick Pinalston Benjamin Luce Amin
Miller H. Rosenberg Henry Seymour P. Kirk John
Shaw. Orrin Kendall. Charles Vanatta Jones.
O. H. Beers, and Jacob. Richl. who bring duly
elected true and sworn, by the rules since
herein as aforesaid after hearing part of the
testimony, and the form of adjournment having
arrived it is ordered upon agreement of the
parties that the Jury separate and meet the Court
tomorrow morning.

And afterwards to wit on the Twenty Third
day of the Month and year aforesaid the same
being one of the days of the June Term of said
Court the following among other proceedings
were had and entered of record in said Court
book

Samuel C. St John.

vs.

Trespas.

John Gray Philip Leonly.

And Marcus Brown

And now at this day again come the parties
to this cause by their attorneys as aforesaid
and the Jury empanelled herein on yesterday
for the trial of said cause also come. as

on yesterday and having heard further testimony
and the hour of adjournment having arrived it
is ordered upon agreement of parties that the
Jury separate and meet the Court on coming in
and opening thereof tomorrow morning.

And afterwards took on the Twenty Fourth
day of the Month of August last aforesaid the
same being one of the days of the same Term
of said Court the following among other
proceedings were had and entered of
Record in said Court to wit.

Samuel St John

Trespas.

^{vs}
John Gray, Philip Lenkey
and Andrew Brown

And now at this day again come the parties
to this Cause by their attorneys as aforesaid
and the Jury heretofore impanelled herein for
the trial of said Cause, as on yesterday and
having heard further testimony and the hour
of adjournment having arrived it is ordered
upon agreement of parties that the Jury separate
and meet the Court on coming in and open-
ing thereof tomorrow morning.

And afterwards took on the Twenty fifth

day of the month and year last aforesaid
 the same being one of the days of the same
 term of said Court. the following among
 other proceedings were had and entered of record
 in said Court to wit.

Samuel J. St John.

^{vs} John Gray Philip Conley
 and Andrew Brown. Luss pass

And now at this day again come the parties
 to this cause by their attorneys as aforesaid and
 the Jury hitherto empanelled herein for the
 trial of said cause, also come as on yesterday
 and having heard further testimony, and the
 hour of adjournment having arrived it was
 ordered upon agreement of the parties that the
 Jury separate and meet the Court on coming
 in and opening thereof to morrow morning,

And afterwards to wit on the twenty sixth
 day of June aforesaid the same being one
 of the days of the same term of said
 Court. the following among other pro-
 ceedings were had and entered of record
 in said Court. to wit,

Samuel J. St John

vs.
John Gray Philip Conley.
and Andrew Brown

Juspasso.

And now at this day again
Come the parties to this cause, by their attorneys
as agreed and the Jury hitherto empaneled
herein for the trial of said Cause. also Come to
us yesterday and having heard all the tes-
timony offered on either side and part of the
arguments of Counsel and the Honor of ad-
Journment. having arrived at an ordered upon
agreement of the parties that the Jury separate,
and meet the Court on coming in and
opening due of tomorrow morning

And afterwards took on the Fourth seventh
day of the month and year. After which
the same being one of the days of the. More
Term of said Court. the following among
other proceedings were had and entered
of record in said Court. to wit,

Samuel O St John

Juspasso

vs.
John Gray Philip Conley
and Andrew Brown

And now at this day again Come the
parties to this Cause. by their attorneys as agreed

said and do Jury. empaneled heretofore
 herein for the trial of said cause, also came and
 as on yesterday and thereupon said Plaintiff
 says. he will no longer prosecute his said suit
 against the said Philip Embury and Andrew
 Brown. two of the Defendants in said cause &
 whereupon the Justice ordered that all proceedings
 as to them be dismissed and the Jury having &
 heard all the testimony arguments of counsel
 and instructions of the Court return to Consider
 of their verdict and afterwards return into
 Court. Submit their verdict and say we
 the Jury find the Defendant John Gray guilty
 and we assess. the damages of said Plaintiff
 against him herein to the sum of Eight
 thousand Six hundred and ninety five Dollars
 and thirty eight Cents.
 And whereupon said Defendant John Gray
 submits his motion herein for a new trial in
 said cause,

And afterwards took on the Twelfth day of
 January in the year of our Lord one thousand
 Eight hundred and and fifty from the same
 being one of the days of the January Term of
 said Court. the following among other pro-
 ceedings were had and entered of record in
 said Court to Wit.

Samuel S. St John

vs.

Motion for a New Trial in Supers.

John Gray

And now come the said parties to this Cause. the said Plaintiffs by Stiles & Meliam by attorneys and the said defendant John Gray by Thompson & Bishop by attorneys also comes and this Cause coming ^{now} to be heard upon the motion of said Defendant John Gray heretofore submitted herein (omit on the Party serving the day of June 22. 1863. of the same Term of the Court) for a new trial in said Cause. and Counsel being heard thereon and the Court being fully advised in the premises it is considered by the Court that the Motion of the said Defendant be and the same is hereby overruled and that a new Trial be and the same is hereby refused to the said Defendant John Gray. in said Cause to which ruling of the Court in overruling his said Motion for a New Trial in said Cause. and the said Defendant John Gray. now and then excepted. Whereupon on Motion of said Plaintiffs it is considered by the Court that said Plaintiffs might now to have Judgment entered herein against ^{the} ~~the~~ Defendant for his damages upon verdict of the Jury heretofore rendered herein at the sum of Eight Thousand Six hundred and Ninety five Dollars and thirty eight cents with interest thereon

from the date of said verdict, to this date,
being the sum of Two thousand and seventy
Eight dollars and twenty five cents amounting
to the sum of Eight thousand Nine hundred
and seventy three, Dollars and sixty three
Cents for which Judgment is given,
Therefore it is considered that said Plaintiffs
do have and receive of and from said defend-
ant John Gray, his damages of Eight thousand
Nine hundred and seventy three dollars and
sixty three cents in full as aforesaid by the Jury
here found and assessed with interest thereon al-
lowed by the Court together with his costs and charges
in this behalf expended and to be execution
therefor.

And it is upon said Defendant John Gray pays
an appeal, herein to the Supreme Court, which
is allowed, on filing bond in penalty of Twelve
thousand Dollars, with security to be approved by
a Judge of this Court, and to be filed with Bill of
Exceptions on or before the first day of the next
Term of this Court.

And afterwards to wit on the 1st day of
February in the year aforesaid the same
being one of the days of the February term of
said Court the following among other
proceedings were had and entered of record
in said Court to wit,

Samuel S. St John

vs.

Johnson

John Gray

And now comes said defendant John
Gray by J. H. Thompson his attorney and
said Plaintiff appears by Francis H. Kaler
his attorney, and on motion of said defendant's
attorney and no objection being made it is
ordered that time for said defendant to file
his bond with bill of exceptions herein to
and the same is hereby further extended fifteen
days from this day including the 1st term
day of February instant.

words and figures following to wit.

Know all men by these presents that we John Gray as principal and Elisha J. Wadsworth and Charles P. Kellogg & Chauncy J. Bowen justices of the County of Cook and State of Illinois are held and firmly bound unto Samuel P. St John of Milwaukee Wisconsin in the penal sum of Twelve Thousand Dollars lawful money of the United States for the payment of which well and truly to be made we bind ourselves our heirs executors and administrators jointly severally and firmly by these presents putting our hands and seals this twelfth day of February A.D. 1864.

The Condition of the above obligation is such that whereas the said Samuel P. St John did on the ninth day of January A.D. 1864 in the Superior Court of Chicago in and for the County of Cook and State of Illinois and of the January Term thereof A.D. 1864 receive a judgment against the said Samuel John Gray for the sum of Eight Thousand more Aligned and Seventy Three Dollars and Sixty three cents besides costs of suit from which said judgment of the said Superior Court of Chicago the said John Gray has prayed for and obtained an appeal

to the Supreme Court of said State,
Now Justice of the said John Gray,
shall duly prosecute his appeal with effect
and moreover pay the amount of the judgment
costs interest and damages rendered and to
be rendered against him in case the said judg-
ment shall be affirmed in said Supreme
Court. And the above obligation be void other-
wise to remain in full force and virtue.

Taken and entered into before John Gray Justice
my, at my office in Chicago
this day of A.D. 1861.
Chas. E. Wadsworth
Chas. P. Kellogg
Chauncey T. Brown

Apparatus
New Higgins
Image

Bill of Exceptions

State of Illinois)
County of Cook,

Superior Court of Chicago

Samuel S. St. John.

vs
John Gray Andrew Brown
& Philip Conley

Action of Trespass
Filed June 24th & 27th
inclusive 1863.

Be it remembered that on the trial of this cause commencing on the 22nd day of June and ending on the 27th day of June eighteen hundred and sixty three the Plaintiff to maintain the issues on his part called as a witness Hale Stungolley who being duly sworn testified as follows

Question. Where do you reside?

Answer. In the City of Albany and State of New York.

Q. What is your business?

A. I am a lawyer.

Q. What was your business in December 1858, and with whom were you associated?

A. I was practicing law in partnership with Thomas S. [unclear]

Q. What was the name of the firm?

A. Stungolley & [unclear]

Q. Do you know Samuel St John, Daniel C Jackson
Orville French Isaac Smith or either of them each of them?

A. I became acquainted with them all in 1858.

Q. When did you first become acquainted with them?

A. At Albany

Q. Do you know that Books now shown you containing an
inventory of goods in question & bills of sale from French
to Jackson and from Jackson to Plattiffs?

A. Yes Sir

Q. In whose handwriting is that transfer purporting to
be from French to Jackson?

A. Mine

Q. By whom does it purport to be signed?

A. Orville French

Q. Do you know his handwriting?

A. Yes Sir

Q. Do you know that to be his handwriting?

A. It was executed in my presence.

Q. In whose handwriting is the body of this bill of
sale purporting to be from Jackson to Plattiffs?

A. It is mine

Q. By whom does it purport to be signed?

A. Daniel C. Jackson

Q. Do you know his handwriting?

A. Yes Sir

Q. Is that his handwriting?

A. It was signed in my presence

Q. State whether this handwriting purporting to be a document

from inventory? was in the book at the time the Bill of Sale to P & C Jackson was made?

1. It was put due at the time and the deductions are also in my handwriting. It was done at the time when the instrument was drawn and is in my handwriting and made at the time

2. Were these Bills of Sale drawn by you about the time they are dated?

A. Yes sir the one from Finch to Jackson on the 7th December & the one from Jackson to St John the next day connect for Plaintiff. Mr Stalen. I got both papers and the book in evidence and then it was here agreed that the book was an inventory of certain goods which Parnus C. Jackson bought of Oliver Finch going on with an inventory of a larger number of pages & containing including with a footing up of \$21. 615. ²⁵/₁₀₀ from which deduct for sales \$400. making \$21 215. ²⁵/₁₀₀ from which deduct 20 per cent. making the Bill of Sale from which Finch to Jackson was here read to the Jury. and in my words & figures following to wit

Received from Parnus C. Jackson sixteen thousand nine hundred and seventy two Dollars and twenty cents in payment of the stock of goods set forth in the foregoing Inventory as follows.

P. C. Jackson note due January 6. 1859 for.	\$1500. 00.
do.	due March 6. 1859 "
do.	due April 6. 1859 "

D. C. Jackson ^{not} due May 6, 1859. \$500.00
 do due June 6, 1859. 1500.00
 do due July 6, 1859. 500.00,
 All of the above notes endorsed by Roseus R. Kennedy
 My own note held by D. C. Jackson, due May 15, 1860.
 for. \$3000.00
 do. do due May 15, 1861 for. \$3000.00
 do. do due Nov. 15, 1860. }
 for. \$2852.38, upon which there is due. 2400.00
 Rail road bond \$3000. in amount taken for. 2572.20
 Dated at Albany December 7th 1858.
 Orville Finch

The Bill of Sale from Jackson to St John was
 here read to the Jury and in the words & figures
 as follows:

For ^{and in} Consideration of the sum of sixteen
 thousand nine hundred and seventy two Dollars
 and twenty cents to me Samuel C. Jackson in
 hand paid by Samuel S. St. John of Columbus in
 the State of Wisconsin the receipt whereof, or hereby
 acknowledged, I do hereby sell, transfer and set over unto
 the said Samuel S. St. John, the stock of goods
 set forth and described in the inventory contained
 in this Book and which was sold to me, by Orville
 Finch by virtue of the preceding Bill of Sale, re-
 ceipt and transfer. Dated at Albany this Eight
 day of December 1858. Samuel C. Jackson

Q. Tell what you know about the goods mentioned and where they were situated:

A. I know nothing of my own knowledge. I only know what I understood from the parties

Q. You know Mr Finch?

A. Yes sir

Q. When did you first become acquainted with him?

A. In the Spring of 1858.

Q. What was his business?

A. He was then in the dry goods business.

Q. Where?

A. At the corner of Division & Broadway Albany

Q. With whom?

A. With Harmon Smith.

Q. Where were these houses drawn up?

A. In my office

Q. Who was present?

A. At the first Bill of sale Ed. Royce was present.

Wm Jackson & Finch

Q. At the second one?

A. Jackson & St John

Q. Look at the statement of the first bill of sale.

say what the consideration is & if you know state what it consisted of & if you know of it being paid

A. The notes & Rail Road bonds mentioned in the receipt were given over at the time to Mr Finch by Mr Jackson & Mr Root was delivered over at the same time

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Q. What was the amount of the notes?

A. The notes endorsed by Roseus A. Kennedy amounted to \$6000.

Q. Of the different amounts there mentioned

A. Yes sir

Q. And for the lengths of time state a three:

A. Yes sir

Q. What other items of the consideration do you know?

A. I think notes held by Jackson two of \$3000. each
one of which \$2400. was due. were given up at the
time

Q. What other items:

A. There were some Rail Road bonds.

Q. Do you know what Rail Road

A. Some Western Rail Road I don't remember the name

Q. Were there any other items

A. No sir that includes all. These securities were
all delivered on my office at the time the
Bill of sale was executed.

Q. Is Orville French:

A. Yes sir

Q. You say these notes were endorsed by Roseus
Kennedy what was his business:

A. He was a Farmer at Jonesville Saratoga Co he
had been a banker

Q. What were his means:

A. He was reputed to be a man of wealth, or yet.

Q. What became of these notes:

A. They were delivered on to our firm except the three

another note for \$500. delivered over for account of
our liabilities for Mr Litch. The agreement was that
he was to give them all to us but he kept the one of
\$500. We received the notes

Q. What do you mean on account of your liabilities on ac-
count of Litch?

A. We had given letters of Credit on New York in 1858.
for the purpose of enabling Litch to get goods

Q. Now about these notes do you know about their
being paid at maturity

A. Some of them were procured to be discounted, then
we turned over to the creditors of Mr Litch one of
them I think the first of \$1500. was paid at ma-
turity the others were sued Mr Kennedy refusing to
pay finally he paid It was some two or three years
before he finally paid all the notes & the costs of the suit.
Q. Out of your notes to what firms did the proceeds
of this \$5500 go?

A. Strong & Lawrence & Co New York.

Atkinson & Co.

Van Volkenburg & Co

Richardson & Co

Hopkins, Stayer, Palmer & Co

Rent of Store at Albany for which we

were liable as security for Mr Litch on the Lease

Q. What was he owing you at the time?

A. Between \$500 & \$600 for law services & expenses

Q. Did you get that?

\$166. 56,
2635. 28,
600. 00,
394. 94
554. 54

150. 00

A No instanting do for note left us short.

Q you observed that the Blue Road lands for \$3000 were taken for \$2500. what was the reason of that?

A. They agreed among themselves as to what was the market value of the lands, and that was the amount agreed on.

Q, you say certain figures there at the end of the Inventory are in your handwriting, read them to the Jury.

A. Deduct for sales \$4000

Q what was that?

A. That was a deduction made for sales, which had been made by Mr Finch during the taking of the Inventory.

Q What else?

A. Deduct 20 per cent \$400 42.43; That was deducted for the goods being cut goods & being about the shop.

Q. How what was that deduction made as a basis?

A. I am the cost paid by New York.

Q, At the time of your firm giving letters of Credit to Mr Finch what was the financial standing of your firm?

A. We had always paid our debt.

Q what was the financial standing of Mr Finch at that time?

A. I know very little about it. these letters of Credit were given by Mr Wed & I knew there was such a man as Mr Finch in business in Albany.

Q Did you know Mr Lyster?

A Yes sir

Q, What do you know about his sale to Isaac Smith?

A. It is a matter of public notoriety that he sold out

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Q When was that?

A In the fall of 1857

Q, What has become of Mr Lusk now?

A. The last I heard from him some few months ago, was that he was keeping a store some 20 or 30 miles from Albany.

Q Is he now in business?

A I do not know.

Q What connection had Weed & Stingley with Mr Lusk otherwise than as Counsel?

A Never had any

Q What business connection, you say he was a mercantile man. had they any connection in merchandising?

A No sir none at all.

Cross examination

Q How long have you been in business in Albany?

A Eighteen years next January

Q you are a Lawyer & do form of Weed & Stingley?

A Yes sir

Q It is a law firm?

A Yes sir.

Q Was there in 1858. a firm of Mr G. Weed & Co?

A Yes sir.

Q What was their business?

A Mercantile agency

Q Who composed that firm?

A Mr G. Weed & myself

Q Was your place of business the same office?

A In the same building we had several offices

Q Were they organized at the same time as the firm of Weed & Angely?
 A No sir the Commercial agency was organized in 1856, or 1857. We had been in partnership as Lawyers & since 1846.

Q What was the business of Weed & Co

A To give information as to the character standing & credit of merchants in the City of Albany:

Q You did it for pay of course:

A Yes sir

Q What was the business of Weed & Angely:

A That was a law business exclusively.

Q It was a part of the business of Mr & Weed & Co to report the standing credit & condition of Commercial men in the City of Albany:

A That was the business

Q Did it extend over any other territory than the City of Albany

A The City & County

Q Did you report the credit standing & condition of Willis Finck

A I do not know that we did

Q You had in the office of an account of the standing credit and condition of the merchants in Albany:

A I suppose we had, I did not however attend to the business much myself.

Q From whom did you obtain pay for reporting the standing credit & condition of these men.

A We received from merchants selling goods in Albany who were subscribers to the agency

Q Were these letters of credit given by Weed & Angely

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Q By Fred & Co. :

A By Fred & Co. :

Q Was that a part of the law business you transacted for Mr. Lincoln?

A No sir.

Q It was done gratuitously was it?

A I suppose it was.

Q At what time were they given?

A Some time in the Spring or Summer of 1858.

Q Were they letters of credit given from Albany or did Mr. Freed go to New York?

A Well I do not know I don't think they were dated at Albany.

Q Did not Mr. Freed go to New York on the same business?

A That I do not know he goes ~~there~~ almost every week has done so.

Q Did you in that case give a general letter to all the houses or a special letter to each house.

A Special letter to each house with the exception of E. P. Miskin & Co. there were endorsed notes.

Q Who were they endorsed by?

A By Fred & Co.

Q What amount was it?

A I don't think there was no limit as to amount of credit Mr. Lincoln must have.

Q Do you recollect what was the statement contained in that letter of credit?

A I do not.

Q Did you ever see them?

A I think I saw them after they were taken up.

Q Give what you think was the substance of them?

A I think they were requesting them to send goods & that we would be responsible for the amount of the goods.

Q In the shape of a guarantee then?

A More like that a letter of credit.

Q How now would call it an unlimited guarantee.

A Or I understood it.

Q Do you know any thing ~~about~~ that time of the standing of Lane?

A No sir

Q What was the nature of his business with the firm of Wed & Stingsley?

A He had some at subscription and a good deal of collection.

Q Did exchange or Mr Wed buy goods from Mr Lane?

A I do not recollect whether we did or not.

Q Do you remember Mr Wed buying goods of Mr Lane?

A I do not recollect I think I had a small account at the time.

Q Do not you recollect he purchased goods there?

A I do not.

Q Just before the sale?

A I do not he might have done.

Q Did you know the firm of Isaac Smith & Co?

A Yes sir I understood it was composed of Isaac Smith & Parson C. Jackson.

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Q Do you know how long they were in business in that name?

A About three weeks

Q Who did they sell out to?

A Smith & Co which was Harmon Smith & Isaac Smith

Q How long did they continue in existence?

A Till some time in the spring of 1858

Q Was Harmon Smith a relative of Isaac Smith?

A A brother

Q What became of the firm of Smith & Co?

A Harmon Smith sold out to Orville Smith ^{Fring}

Q How long did Orville Smith continue in business?

A From the spring of 1858 till December

Before long after you became acquainted with Cass & Jackson

Q I first saw him in the fall of 1858.

A Had you heard anything at that time of his connections with Fryer?

A I knew that the firm of Smith & Co ^{had} bought out the business of Fryer. He was an old merchant and in selling out made it talk about.

Q Were you attorney for either of the parties in this case?

A No Sir I knew it as a matter of Public Notoriety

I knew it through our mercantile agency

Q What was the standing of the firm of Smith & Co?

A I don't know anything about it

Q Was it in existence long enough to have a standing?

A It was in existence from the spring to the fall of 1858.

Q What was its standing upon your books?

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Q I don't know

Q Were you not in the habit of looking at your ^{mercantile} agency books?

A. No Sir we would attend to them

Q Did you know him standing at that time?

A. No Sir

Q Did you know whether any notes of his had been protested for non payment?

A. I did not.

Q Did you know how Ned Lee had reported him?

A. I do not I do not think he had been reported at all

Q Was his name on your books at all?

A. I have no doubt it was.

Q You do not know in what shape it was good, bad or indifferent?

A. I do not.

Q. Had you a Clerk in your Office named Sam + Kovenberg?

A. Yes Sir he is a practicing attorney he was our confidential Clerk.

Q. Was he confidential Clerk at that time?

A. Yes Sir

Q Was he a Clerk in the Law department or in the mercantile agency?

A. In both He attended to the business of both in our absence.

Q Have you got a statement in your possession or either of your firms or have you ever had a statement made by Orville Litch naming date & place?

45

Sept 1858, with reference to his pecuniary resources;
Is not that I know of.

I Have you ever seen such a statement;

A No sir

I Did you ever know such a statement had been
made out and used,

A I heard it after he had failed it was alleged
to have been made by his Creditors

I Did you not know before that time;

A No sir

I Do you know anything about that house and lot
mentioned in that statement;

A Yes sir

I Do you know by whom that house & lot was owned
I want to know if you know anything about a
house & lot, the title of which was in Van Hornburg
your confidential Clerk

A Yes sir

I Of whom did he purchase it;

A He purchased it of me

I To whom did he sell it

A The record shows he conveyed it to Orville Smith

I Who did he convey it to;

A The record shows that he afterwards conveyed
it back to Mr Van Hornburg

I How long was it between them;

A That I could not tell

I Was it a year;

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A That I could not tell
I was it a month;

A That I could not tell
I was it over a month;

A That I could not tell I don't know any
thing about it except that I looked carelessly
over the record without noticing the time I know
Van Horn has gone out of town

Q Do you know anything about 170 acres of land
on the plain Road between Albany & Schenectady
A I do not all I know is from the record in my
capacity as Counsel for Finch

Q Do you know whether he was the owner of that
property;

A I learned from the proceeding that he had some
thing to do with it.

Q Do you know how much he paid for it.

A I do not.

Q Do you know to whom he sold it;

A No sir

Q Do you know from C. Straight;

A Yes sir.

Q What relation is he to Wood;

A Brother in Law.

Q Did he live in Albany at that time;

A I think he was in the employ of Finch at Auburn.

Q Do you know of any goods brought out from Finch

A I don't know any thing about his business at all

5
47

I don't know about straight conveying Island to him
Nothing more than the record shows.

I did you ever know any thing about a mortgage
on 15 1/2 acres of land in Bloome Co.

A No Sir

I It never belonged to Reed & Co

A No Sir

I Now Reed & Kingsley :

A No Sir

I Did you ever see any such mortgage in your office :

A No Sir

I When did you first know Isaac Smith :

A. Sometime during the winter of 1857-8. & then he
first became acquainted with him.

I knew Mr St John & Mr Jackson in your office oc-
casinally in the month of November. 1858. :

A Mr Jackson was there

I Was not Mr St John there :

~~Not~~ Not been there the Mr Jackson has been in all any
for some time.

I You saw them together.

A Yes Sir they were in office two or three times.

I Before this sale :

A Yes Sir

Direct examination resumed by Mr Hales
Counsel for Plaintiff.

I. What was the lower lot worth you have mentioned

A I should say its fair value was about \$1500.

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Q Was it encumbered?

A It was when I purchased & when I conveyed it to him.
Q What are Van Hornes means?

A A few a man of means.

Q Who owns the property now?

A He does.

Q Who has paid the encumbrance?

A He paid it.

Q Do you know how much it was?

A I think it was \$600.

Q & you have heard the statement of Defendants
Connel in regard to the purpose of the firm of Weed &
Springs being to enter into arrangements to assist
Lynch to cheat his creditor in New York?

A I heard the gentlemen talking but I paid no
particular attention to it.

Q State all you know of any thing of a design
on the part of Weed & Co or Weed & Springley to assist
Lynch to defraud his creditor.

A No such design that I ever heard or know of.

Q In regard to Lynchs notes ~~in the city~~ which
Jackson purchased back what notes were they?

A I dont know by my own knowledge. I know
what was stated at the time.

Q How many subscribers had you to the Mercantile
agency at that time?

A About three hundred.

Q What was the Character of the agency as

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Compared with the ^{mercantile} agency. ;
Q Did not pretend to give any information except
to those who were subscribers

A Is it not customary to divide one branch into a
mercantile agency & the other into a law branch
A I don't know.

Q What has been your business since 1858. ;

A I have been practicing law. I have been away
a portion of the time in the War

Q Where is Mr Reed at this time ;

A At Albany

Q And the firm of Reed & Kingsley still continues
A Yes sir

Q How about the firm of Reed & Co

A That is in existence. I rather dis-comforted
the mixing up of law business with it after this affair
I you have said that Mr Jackson & Mr St John,
were in Albany some time before this affair, was
closed up between them & Smith, how long was
the negotiation pending between Jackson & Smith
A I think Jackson was there ^{five} ~~three~~ or six weeks

Q What was done about that negotiation what kept
it delayed from time to time

A After I found out that we were liable for the
amounts, we were. I insisted on security. ;

Q For whom ;

A, I'm myself. When I learned that Smith was
going to sell out to Jackson, I insisted that the sale

should not take place unless Jackson furnished security satisfactory to us.

I how long did it take to do that.

A I think four or five weeks.

I Did he finally get it.

A yes sir. the telegraph to Col Norton & Col Norton came over, Kennedy was Col Norton's friend & he endorsed the notes for Jackson.

I so this negotiation was in progress ^{for} several weeks.

A yes sir

I who controlled the sale & what were the reasons for exercising any control over it.

A Well I controlled it

I state whether the sale would have taken place before the time it did if there had not been any intervention of any person.

A. Jackson could not furnish the security, that was the reason of the delay. He could not furnish the security, we threatened to prevent any sale of the goods. I did not exactly tell how I could do it but I know I threatened it.

Crop examination Resumed.

I At the time Jackson first arrived in Albany had all the goods purchased by Ulrich East arrived at Albany?

A. I don't know anything about his business at all. I don't know what arrived there.

I How do you know about the amount of the goods?

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he had to secure any body :

A. It was apparent that he had a dry goods store,

Int. Could you tell it was apparent by looking into it?

A. I don't know any thing about his securing Jackson

nor about the subject of his sale to Jackson or any

any endeavor was to get security for what was his

I don't did you hear about his sale to Jackson :

A. I am a free man before

I that was about the time Jackson arrived in Albany

A. Yes sir

I how did you learn that fact :

A. I think Jackson's friends came to my office for consultation

I was there any day then fixed for consulting there

A. No sir

I was there any facts about the value of the goods in the store

A. No sir

I was at that time that you just stated your ob-
jection to the sale being made :

A. Yes sir

I did upon their institute inquiries to ascertain the
amount of goods in the store so as to be secure :

A. Then I supposed there was enough

I did you not know that goods were arriving there all the time

A. Yes sir

I did not you consider Jackson good enough to be secured

A. No sir

I don't much was the amount of the merchandise you carried

A. \$5500

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I ym did not consider him good for that :

A No sir I think he had been sued for debt of Isaac Smith also
I when did Mr Jackson first telegraph to Col Mayon :

A I do not know.

I when was Col Mayon at your place before the sale took place
A I think it was only two or three days before

I knew Isaac & Hammon Smith Colonel at that time :

A Well Isaac Smith I should say not.

I was Hammon :

A He was a young man

I Had he any property :

A No sir

I Then was he not insolvent :

A Well that does not follow a man might have no property and yet be solvent.

I Where did Col Mayon live :

A He lived at Saratoga New York was no business at New York

I Did you know Mr St John :

A No sir except that he was introduced to me by Mr Jackson

I Amel made an assignment did he not :

A Yes sir

I To whom :

A To Nathan J. Johnson

I Who is he

A He is now Captain in the 93rd Regiment New York Volunteers

I when was the assignment made :

A Sometime in December 1858.

I How long after the sale :

53

Ans That I cannot remember.

I know many days.

Q. I cannot tell it must have been between the 5th & the 31st.

I was not there next day after this transfer:

Q. That I do not remember.

I Do you know who drew the assignment:

A. I think I did.

I And you drew these transfers:

A. Yes sir.

I Cannot you state how soon after the other items

A. It was a few days sometime between the 2nd Dec: & the 1st of January.

I was not on the 9th:

Q. I said that I had no recollection: but that it was in December.

I Do not say it was not in December:

Q. That I do not.

I Was Mr Johnson a responsible man?

A. He was secretary of the N. Y. Indemnity Insurance Co.

I what became of Johnson afterwards:

A. That Company burst up.

I What did he do after the explosion:

A. I think he went into the Army.

How long had the Company been going on at that time?

A. That I do not know.

I Had Weir & Shingley any thing to do with it:

A. No sir. We had merely commenced two or three suits on premiums due.

I Were you employed by Johnson:

A. Yes sir. I think it was by Mr. Kennedy the general agent.

54 I do inform of Hud & Co. now in existence

A yes sir

I do active exertions how long did they exist?

A. It is still in existence, since I went into the Army
Hud has attended more to the law business & has not made
the efforts to procure subscribers that he did before.

I now say that at no time you felt a little doubt
as to the policy of continuing this business what was your doubt?

A. I told Mr Hud. he must not give any more guaran-
tees. That if he wanted the business of a mercantile ag-
ency he must attend to it himself.

Direct assumed.

I you may state of Hud & Murgilay in this transaction
acted in any way as attorney to Jackson or St John.
A I suppose I acted as the attorney of Jackson in
drawing the Bill of Sale to St John

I Did you at any time act as the attorney of Jackson
in drawing the Bill of Sale between Him & him

A No sir in that I was the attorney of Him & Co

I you stated that you did not doubt he was worth
\$5000. Do you mean to say that he was not good for that amount
A I simply knew the fact that the paper of Isaac Smith
& Co of which he was a member had been sued.

I you did not know but he whether he was worth
\$1000. or \$2000.

A No sir

I you took it for granted that if he was worth it
he could get security

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A yes sir

I was the security he procured for them satisfactorily

A yes sir

I They were insured by Roscius Kennedy?

A yes sir

Line of amputation Resumed

What was the nature of your law business for Lemick

A. We had, several suits collecting upon his old grocery business and he had been sued four or six times by different parties on endorsements I don't know of them.

I Parties living there?

A. Living then at Albany it was in some old miller connected with his old grocery business

I when was he sued

A. Sometime during 1857 & 1858. I don't recollect of it after the fall of 1857 After he went into the Dry Goods business he put the books of his grocery business into our hands

Quiet Resumed.

I did do miscellaneous agency department of your firm have any account against him?

A No sir

I none at all:

A No sir

I you are sure:

A yes sir.

Quiet Resumed.

Q What was the nature of these accounts against him which were sued:

A. They were unsettled accounts in which they claimed balances against him

Q He disputed these balances:

A. yes sir there was never any bad grant issued against him

Then upon the motion for the Plaintiff (Mr. Stiles) to dismiss maintain the action on his part introduced and gave in evidence the following stipulation

Samuel St John,

vs

John Gray

Andrew Brown &

Philip Conely

} Superior Court of Chicago

It is hereby stipulated and agreed between the parties to the above entitled cause that the three fourths of the pleas heretofore filed in said cause, be withdrawn and that the defendants shall be permitted to give in evidence, and under the general issue put of any of the facts which if properly pleaded would constitute a defense to their action. The goods mentioned in Huro's deposition and also mentioned in the Plaintiff's declaration are admitted to be the same so far as identity

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is concerned

signed) Sherman & Staley for the Plaintiffs
Thompson & Bishop for the Defendants.
Filed December 10th 1860.

The Comsile for the Plaintiffs Mr Staley for
the further maintenance of the action in this Co
has read the Deposition of Jacob Hays
excepting Interrogatory No 20. and the answers thereto.
Int. 1st Where do you reside & what is your ^{age} ~~business~~ occupation?
Ans to 1st Int. I reside in Kane County Wisconsin my
age is forty six years I am in the Dry goods trade.
Int 2^d Do you know the Plaintiff John Langhans you know
him?

Ans to 2^d Int. I do. have known him for a year.

Int 3^d State what you know about the purchase
by the Plaintiffs of certain goods at Albany New
York from one D Jackson in December 1858:

Ans to 3^d Int. The goods were purchased at that time
I was then in the employ of Mr Finch. Mr D. C.
Jackson bought the goods of Finch and Mr St.
John. had them packed & shipped for Milwaukee
I packed the most of them myself & shipped them.

4th Int. State whether an invoice of the goods was
taken at the time of the sale & by whom & by whose direction.

Ans to 4th Int. There was. By myself & D. C. Jackson
& Jacob Vanharen and a young man by the name
of Hudson I forget his first name and others
It was taken by the direction of Mr Finch. The

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more included the whole stock of goods in the
store. The goods were all measured and the price
carried out at new year's cost.

Int. 3rd. How was more and sale by Smith to
Jackson what was next done with the goods?

Ans. to 3rd Int. They were sold by Jackson to St John and
he sold goods from a day or so and was shipping
at the same time I think.

Int. 6th. At the time of the sale from Smith to Jackson
what was the value of these goods?

Ans. to 6th Int. They were worth taking the wholesale
beginning the new year's cost up twenty per cent. They
were more or less at new year's cost.

Int. 7th. Who compared the firm of Smith & Co prior
to December, 1858?

Ans. to 7th Int. I always supposed it was Smith
& Jackson. There was such a firm as Smith & Co. they
continued in business I think about a year. I can't
say whether I think or Smith or Jackson succeed Smith & Co.

Int. 8th. How did Smith come into this store & business?

Ans. to 8th Int. He bought the stock of goods. But I
can't say whether he succeeded Smith & Co or Smith alone.

Int. 9th. How long did Smith do business and carry on
business at Albany with this stock?

Ans. to 9th Int. I think about a year.

Int. 10th. How long were you in Smith's employ?

Ans. to 10th Int. Near five months I might have been.

Int. 11th. At the time of the sale to Jackson what

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reason did Louch give for making the sale if any to him
 Ans to 11th Int. He told me that he was owing Mr Jackson
 and wished to save him from losing what he was
 owing.

Int 12th. At the time of the sale by Louch to Jackson
 what was said of any thing as to his obligation
 to save Jackson harmless from the debt of Louch
 Ans to 12th Int. He said that he was owing Mr Jackson
 and wished to save him from losing what he owed
 him as I stated before.

Int 13th state whether you helped receive the
 goods before referred to sold to Jackson by Louch
 And whether you were acquainted with said
 goods & if so at what place were they shipped
 after such sale to whom & where directed and
 when did you next see the goods?

Ans to 13th Int. I helped receive and receive
 to. I was acquainted with said goods.
 They were shipped from Albany after the sale.
 they were directed to St John the King's
 at Milwaukee. I saw some of the goods next in
 Madison and some in Chicago.

Int 14th. In whose possession were the goods which
 you saw in Chicago and under what circumstances
 did you see them, and how do you know that
 they were a part of the same goods directed to
 to St John as you have before stated?

Ans to 14th Int. They were in the care of a shuff

goods and merchandise of such quality.
Int 18th State what was the quality & value of these
goods which you witnessed at Chicago in June 1859
Ans 18th Int. They were principally heavy goods & some
fancy goods. The invoice value was \$9000 and some
odd dollars according to New York Cat.

Int 19th Make reference to the invoice how much were
the goods in question actually worth at Chicago
in December 1858.

Ans to 19th Int. ~~make reference to the invoice~~ I think
they were worth the New York Cat least 10 per cent.
below percent. I know nothing of the market in
the way of trade. But my knowledge is derived from
other markets.

Int 21st What price market was upon these goods
at the greater part of them when you examined them
in 1858 in Chicago and how long had that market
been on them if there was any;

Ans to 21st Int. There were three different markets
one market of Lye's & the other Smith & Co's market
and the other was Lincoln market

Int 22^d On what proportion of the goods in question
was found the mark of Smith & Co

Ans to 22^d Int. The greater portion of them had
that mark. I know Smith & Co's mark

Crop ex.

Crop Examination

Int 1st In whose employment have you been since
December 1858

Q. Was I in different mens employment,
 In Mr St Johns. (de Plamers) employment from Dec
 ember 1858. to about May 9th 1859 I was then
 with Mr Cunlley who bought Mr St Johns stock of goods
 at Galutonn. Mr Cunlley moved then to Iowa
 Prairie where I remained with him until ten
 or eleven weeks ago. Cunlley then sold the
 stock of goods to Peter Klochner. I was on his employ
 until about a week ago.

Q. Do you know how the goods you have spoken
 of at Galutonn were sent from Milwaukee
 to Galutonn. If you state by whose order they were sent
 and to what place. They were sent by Route Road and I think
 by the order of Mr St Johns.

Q. Did you have charge of these goods as given
 any order in regard to them or see them upon their
 arrival at Galutonn?

A. I had charge of them at Albany
 & shipped them to Milwaukee.

Q. Did you see the goods or any of them at Milwaukee?

A. No Sir.

Q. Do you know at what time they arrived at
 Galutonn if you state when?

A. It was near the 13th of December 1858.

Q. Were they in the same condition in the same
 boxes as when shipped at Albany?

A. They seemed to be in the same boxes just
 as I packed.

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to 3

Int 7th Had Mr St John at that time any other business
Ans to 7th Int. Not that I know of.

Int. 8th Were you present at the sale you have spoken
of made by Jackson & St John of year. State on what
day of the week and month and at what place and
where was made:

Ans to 8th Int. I was not present at the agreement
and can't state the day

Int. 9th Did Mr St John tell you that he had pur-
chased the stock and of year when?

Ans to 9th Int. He did I can't give further date.

Int. 10th How many days was it before the last goods
were shipped?

Ans to 10th Int. I think it was in the neighborhood of three days

Int. 11th On what day of the week were the last goods shipped?

Ans to 11th Int. I can't state but I think it was the first of the week

Int. 12th Was the store closed on the day the last goods were shipped

Ans to 12th Int. The store was not closed until after they
were shipped on that day

Int. 13th Where did you spend the night before the
last goods were shipped & the store closed?

Ans to 13th Int. In packing the goods most of the evening

Int. 14th Where were you the first of the night?

Ans to 14th Int. After the goods were packed I was up
in the store all night

Int. 15th Were you packing goods any of the time during
the night in the cellar?

Ans to 15th Int. The goods were all packed in the

cellar we had no other convenient place.

Int. 16th How long before the last goods were shipped did you commence packing goods?

Ans. to 16th Int. I commenced packing goods right away after Mr. St. John bought the stock.

Int. 17th Are you confident, ^{that} it was in the fore part of the week that the last goods were shipped ^{as stated} as to 17th Int. I won't be confident that the last goods were shipped then but most of them were.

Int. 18th Do you not know that it was on Sunday the 10th day of December that the last goods were shipped and the store closed?

Ans. to 18th Int. I do not.

Int. 19th At what hour of the day or night were the last goods packed?

Ans. to 19th Int. I could not say what hour it was towards morning. It was after twelve o'clock.

Int. 20th Did you offer to give any persons an extra supper if the store was not shut up by Saturday night?

Ans. to 20th Int. I have no recollection of ever making such an remark, nor of making such an offer.

Int. 21st When did you first know that the goods were to be shipped to Milwaukee?

Ans. to 21st Int. At the time Mr. St. John told me that he had bought the stock of goods.

Int. 22^d Did you employ the Carrier or Drayman who took the goods from the store to the Depot?

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Ques to 22nd Int. I don't I did some of them there was more than one.

Int. 23rd Ques Did you direct them or either of them not to go through Broadway in going to the depot?

Ans to 23rd Int. I don't recollect making that remark I told some of them to go round the back way and some the front way.

Int 24th Ques Was that the direct and usual route from the store to the depot?

Ques to 24th Int. It was not the most direct way the store was on the corner of Broadway and Chambers street.

Int 25th Ques At whose suggestion of any one did you give these directions to the day men as to how to go?

Ques to 25th Int. No one gave me directions to that effect. I don't know why I directed them that way.

Int 26th Ques Who was in the store besides you during the night before the store was closed?

Ques to 26th Int Mr St John. A D Hogland. Edward a young person named Palmer. Jacob Vanhousen and Mr Jackson was in occasionally the fore part of the evening.

Int 27th Ques Who paid these men for packing the goods that night?

Ques to 27th Int Mr St John paid me, and the rest of the boys told me that Mr St John paid them.

Int 28th Ques Was not Jackson in the store a while all that night until after four o'clock in the morning?

Ques to 28th Int. He might have been but I don't know before that time I paid no attention to him.

Int 29th. Did not Jackson do right before request you to have one or two Curren at the store early in the morning to carry away these goods?

Ans to 29th Int. He did not by my recollection.

Int 30th. Do you swear that he did not give you any directions regard employing or getting Curren for that morning?

Ans to Int 30th. I don't say positively but I have no recollection of it.

Int 31st. How long after the store closed did you remain in Albany?

Ans to 31st Int. Somewhere near five hours.

Int 32^d. Was Jackson about the store the day before it closed?

Ans to 32nd Int. Yes sir. He was in and out.

Int. 33^d. At what hour of the day was the store closed?

Ans to 33^d Int. It was on the morning near eight or nine o'clock.

Int 34th. Were the shelves of the store all taken down on that morning?

Ans to 34th Int. I think some were taken down perhaps all.

Int 35th. Was the business carried on in the store during the day before it closed as usual?

Ans to 35th Int. It was.

Int 36th. Were any of the shelves during that day wholly vacant?

Ans to 36th Int. I can't say I was down stairs packing goods. did not notice. I was in and out of the sales room. but most of the time down stairs.

Int 37th. When in the sales room at any time during that day did you see any shelves from which the goods had been all taken?

Ans. to 37th Int. I have no recollection.

Int 38th. Did you not know at least a week before the
 fire was cleared that the goods were to be sent away and
 the store cleared.:

Ans to 38th Int. I did not.

Int. 39th. Did you not tell Hudson and Van Kester and
 Palmer & Hogland or either of them the week before
 the store cleared that the store was about gone and
 would not last much longer.:

Ans to 39th Int. I have no recollection of it.:

Int 40th. Was I much about the store the day before it cleared

Ans to 40th Int. I don't know.

Int. 41st. Was you present at the sale you have spoken
 of by I am clear to Jackson.:

Ans to 41st Int. I was not.

Int. 42^d. How long before the store cleared was the mortgage com-
 pleted spoken of by you in your direct examination.:

Ans to 42^d Int. I thought have been a week and more or less.

Int 43^d. How long were you engaged in taking the mortgage

Ans to 43^d Int. It was nearly a week & I should think

Int. 44th. How long before the store cleared did you first see it for

Ans to 44th Int. About four weeks

Int. 45th. During the week previous to the clearing of the
 store was the business of clearing goods carried on as usual.:

Ans to 45th Int. It was.

Int. 46th. Was any new mortgage made out when the
 goods were sold by Jackson to St Johns.:

Ans to 46th Int. Not that I know of.

Int 47th. How long was the business carried on by Jackson and the store

Ans to 47th Q^{ry}. I can't say positively but from the looks of things about a day.

Q^{ry} 48th. Was Lane in about the store during all the time up to its being closed?

Ans to 48th Q^{ry}. He was in and out. he did not seem to have much to say.

Q^{ry} 49th. How long before the store was closed did you hear that Lane had sold out?

Ans to 49th Q^{ry}. It might have been three or four days I don't know.

Q^{ry} 50th. Who first told you that Lane had sold out.

Ans to 50th Q^{ry}. I think it was Isaac Smith.

Q^{ry} 51st. Did Lane purchase a portion of his stock from Isaac Smith of your state when?

Ans to 51st Q^{ry}. I can't say whether he purchased from Isaac Smith or Smith & Co.

Q^{ry} 52nd. Were all the goods sold by Lane's factors (except those sold while Jackson was carrying on the business) bought by St John?

Ans to 52nd Q^{ry}. I don't know. Mr. Loper had some of the goods but I don't know whether it was before or after Jackson bought.

Q^{ry} 53rd. Did you assist in packing up goods taken by Mr. Loper?

Ans to 53rd Q^{ry}. None of my goods were packed that I know of except some of the dry goods which were packed and taken out the same morning the store was closed. But I assisted in packing them out.

Q^{ry} 54th. How many more goods taken by Mr.

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Inter. taken from the store,
 Ans. to 54th Int. That I can't state
 Int 55th How long before the store was closed, did
 Mr. Jayer commence selecting his goods?

Ans. to 55th Int. I can't say it was a week or so. It
 might have been more or less.

Int. 56th Did you see him picking out goods, at the
 store previous to the day before the store closed?

Ans. to 56th Int. I have no recollection of it.

Int 57th Why do you say then that he commenced
 selecting goods a week more or less, before the store closed?

Ans. to 57th Int. Because I saw him & his son carrying
 some goods, to an upper room, and his son spoke &
 said they were his father's.

Int 58th How many goods were carried to the upper
 room, and how many days before the store closed were
 they carried there?

Ans. to 58th Int. ~~How many goods were carried~~ I can't
 state the amount but quite an amount. I should
 doubt I can't state how many days, before the store
 closed, they were carried up at different times.

Int. 59th Did Jackson pay you anything for your
 notes during the week, upon closing the store?

Ans. to 59th Int. No Sir.

Int. 60th Were you engaged in the store all the time
 during that week?

Ans. to 60th Int. I was

Int. 61st Who paid you for your services up to the time

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When you were employed by St John:

Ans to 61st Int. Mr Jacob Schmitt paid me all up to about that time I gave him a receipt and he gave me one.

Int 62nd How long before the morning the slave died did you enter the employment of St John?

Ans to 62nd Int. Schmitt it was a day or two.

Int 63rd Were any but Dry goods taken by Ayer.

Ans to 63rd Int. He took Cakes, dried goods, and cloth and perhaps oil cloth.

Int 64th How long after goods are sold in New York are they worth est. price in Milwaukee?

Ans to 64th Int. If they are heavy goods they are always worth it of fancy goods the value would change in a year or so.

Signed, Isaiah Huro.

The Plaintiff's Counsel then called James R. in on behalf.

Q Where do you reside?

A I reside in the City of Chicago

Q What is your business & occupation?

A For the last month or so I have been assisting in buying Cavalry horses shipping them.

Q Where did you reside in 1858 and 1859.

A In this City.

Q Did you know Isaiah Huro?

A Yes sir

I state whether you assisted in taking an inventory of a lot of goods on Randolph st. sometime in the Spring of 1859
 A yes Sir

I where on Randolph st was it
 (not answered)

I, now said that you assisted in making an inventory of goods on Randolph street when was that and who was with you:

A. Mr Hero.

(Inventory presented to Judge)
 The inventory here shown witness is dated Chicago May 6th 1859 and contains a detailed statement of the number of yards and cost & value of the goods in question in this suit, into a footing amounting to \$9071.76 and is the inventory made by the witness and Hero about the time of its date:

I. Examining this inventory and schedule and say in what handwriting it is

A It is in mine

I By whom was it made?

Ans. It was made by me I done the writing I who assisted you in making that inventory?

A. Mr Hero I doubt some such name.

I was that in the Spring of 1859

A yes Sir I believe it was some time in the first part of April

I. How long were you engaged in making it

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and in what manner did you make that computation

A. I think we were about three days in making the invoice Mr Liero done the computing and measuring and I done the writing

I In whose handwriting is the extension of the figures.

A. Mr. Liero's

I I notice a statement here of different pieces of cloth and number of yards in whose handwriting are these figures.

A. Those are all in mine.

I. Much or no Mr. Liero's

A. The last Column.

I The further Column

A. Yes Sir

I How did you arrive at the number of yards & the price per yard?

A. Mr Liero's measurement.

I But as to the price.

A. They were called off by him

I This Inventory was made up at that time.

A. Yes Sir

I I notice that it purports to be made Chicago May 6th 1859 the word May matters not the word April whose change it is that whose handwriting it is was that about the date it was made

A. It was either one or the other month that change

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is not my handwriting
I The under one is Spue :

A yes Sir

I So that your handwriting :

A yes Sir

Order of Amimation

I I understand you to say that the writing in
the last Column is Herr's handwriting

A yes Sir

I And the name of the Articles before they were
Carried out were all yours :

A yes Sir

I You sat down at the table, he named the goods to
you but you did not examine them yourself,
A. No man drew that I sat at the table the
goods were all on the platform they were brought
out and I saw them measured they called
them out. & I set them down.

I They were not all measured were they :

A They were all measured or the fold Counters

I They were not all measured :

A. They were not all measured by the yard & the

I Can you name any goods that were measured

A I saw not

The Inventory was here Read in evidence

By I Demand for Refuse

I You cannot say that any of the goods were measured

A I saw tell you what I saw

Q I do a catalogue of measurement

A Yes sir

Q How did you measure it

A The way in folds and the folds were measured. to see if they were in yard folds.

Q Who measured them?

A Mr. Harris

Q How did you get the number of pieces you set down. how to the different items

A I know Mr. Harris

Q Did you make a personal examination of each item of goods set down in this schedule?

A I saw each of them

Q Did you make a personal examination of each

A I did not get up from the table

Q Did you sufficiently so to know of your own knowledge that there actually existed the number of yards that you put down there?

A No sir I do many of them

Q You did not know of all of them

A No sir

Q Do you know that any of them to your own knowledge are stolen

A Yes sir

Q Can you state the items

A I cannot.

Q You cannot pick out the correct items?

A No sir

Q Did you examine these goods at the time you

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made the inventory
I examined them.

Q How did you examine them?

A. I got up from the table and examined the goods I think I saw about every article as he omitted them. Whether I got up from the table or not, that is I saw them not to examine them particularly.

Q When it was measured did you see them?

A Yes sir, saw it as much as I could, saw it & then put it down.
Q Have you ever been engaged in the Dry goods business?
A Yes sir.

Q How long?

A For about twenty five years. A portion of the time in Michigan and a portion of the time in New York,
Q How long ago?

A In 1847, 1848 & 1849 when after that engaged in Dry goods more or less till 1856.

Q Did you examine the goods after the inventory was made, not in their quality & description, but as to their value?

A Not after the invoice I looked over the goods as I told you before when I had time.

Q What as to the prices of them what examination did you make, as to the value of them in order to come to an estimate with regard to their value?

A I thought at the time I was a judge as to most articles that were there, some of them I

cannot be quite a mile as to prices I thought
they ranged about as usual

I gave those prices as carried out. I gave fair
prices as you saw them in the custody of the things
those prices as extended,
A. yes sir.

I am not how much up in the general average.
The whole stock together and I think the
was about 20 cents on the dollar.

I off the invoice price

A. yes sir

I taking the invoice price as New York prices

A. yes I wish to be understood that if I was,
buying any one article I made up my mind
that it would be worth so much money but taking
them together having been used on the shelves I
thought there should be 20 per cent off.

Direct Payment.

I do you mean that the 20 per cent should be
taken off the prices on the schedule or that the
schedule is 20 per cent off the prices in New York
A. I should think that from having been used,
in the shop there should be 20 per cent off from that money price.

I am long were you taking that inventory?

A. I should think about a four days I think three days
I have you footed up the columns of that inventory
A. yes sir

I do it in your handwriting is it correct.

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I carried out all the extensions after Mr. Lewis
went over and carried away one out. I happened
to be absent when he did it. I looked up all the
Columns. & made a discrepancy of \$4.70. The
posting is in his handwriting but I wrote over this
and I made the discrepancy I put down the
amount at \$9071.46.

I now state that the goods were worth \$9071.96
less 20 per cent. for duty goods
\$7256.37.

Cross Examination resumed.

Where you in the Dry goods business in May 1859
A No Sir

What business were you in;

A I was on the Post Office Chicago

I in the employ of the Post Office of Chicago
A Yes Sir

I saw long previous to May 6th 1859 were you
last in the dry goods ^{merchandise} business?

A The last. I had an ~~in~~ interest in 1847 1848, & 1849.
I was subsequent to 1849 in the employ of others
in the dry goods business

A Yes Sir

When were you last in that employment as
the employee of another?

A I don't recollect it

I give the time as near as you can remember;

A. I cannot say it must have been a number of years

I gave you list & collection as to the number of
years previous to May 1859.

A. I cannot tell any thing about it the probability
is that it was three or four years after I was in-
terested in the business.

I agree that three or four years you had to do
with the business?

A. No sir, then I cleared it.

I After three or four years subsequent to 1849 you
had nothing to do with the business?

A. Not the Dry goods business

I was a partner in the dry goods business after 1849
for three or four years.

A. Yes sir

I was you acquainted with New York prices of
dry goods in May 1859?

A. No sir

I was you acquainted with wholesale prices
of dry goods in Chicago in May 1859?

A. No more than from observation I had no
business with it

I can you not say you know it can you

A. No more than I have seen bills purchased.

I how many did you see purchased in May 1859

A. Well I did not say May 1859

I can you say in June?

A. No sir

I can you say you saw any in March 1859

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A No sir not in that year.
I not in that year at all?
A No sir

I do not the new year pieces control the price here
to a great extent.

A Suppose it would.

I did not you get some of those pieces of that
inventory from the tickets on the parcels.

A No sir

I Did you not get the number of yards by merely
copying from the tickets.

A No sir I had nothing to do with that.

I did not have take it from the tickets and give it by measure.

A I did not see any doing of the kind.

I How did you get those pieces that you put down

A Mr Harris gave them to me.

I How he got them you don't know?

A Yes sir I do he took them from the tags on the
Cloth.

A Tags instead of tickets.

A I call them tags.

A I understand you to say that before you com-
menced making out this list you examined
the stock.

A As much as to go down to the place & look them
I you did not look all of them through.

A Of course not there was a great many you could not
look at.

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I you took a kind of general survey of the pile:

A yes sir

I And then you commenced putting the pieces:

A yes sir

I And it took three days to go through with it;

A And or more.

A By tags of m mear the little tickets on the cloth,

A yes sir.

I I could a bit of paper or paste boards

A yes sir.

I As far as you examined these lot of goods were not
the cut goods from which pieces had been cut off & sold.

A I cannot tell

I As far as you looked did it not indicate that.

A There was a great many were cut goods &
there was a great many were whole pieces and were
stitching up.

I What portion of them were cut goods as far
as you could judge from the examination you gave
A As to the cloth there might be half, there might
be less, or there might be more but there was a great
many cut goods.

I Were they mostly old goods.

A I could not tell you that they were. I noticed
some of them had been on hand some times & some
looked fresh:

I I counted the pieces called them off & said
how many yards there were.

A yes sir.

I of such a price

A yes sir

I and of such a quality:

A yes sir

I He gave you such a kind of goods, that is the names of the goods. Certain yards. Certain pieces which you put down.:

A yes sir

Direct Answered

I Did you allude then to the market value:

A. I was alluding then to the value taking the lot together

I you are alluding to the market value then

A. The value would be taking as per cent off. taking the lot together

As the further maintenance of the case in the behalf of the Plaintiff Called

George Anderson, sworn & examined by H

St. Hales Counsel for Plaintiff.

I Do you know Philip Conley & Andrew Brown.

A yes sir

I Do you recollect attaching some goods on these units.

A yes sir.

I Where were they

A. They were on the back of the Carriage Road on the back near the stable.

Here the Counsel for Plaintiff closed the testimony in this part & rested the case

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Whereupon the Defendants to maintain
the issue on their behalf. offered in evidence
the attachment & execution records of these
suits. With dated December 17th 1858. with
the return of the Sheriff as executed by the
Sheriff. Judgment in favor of Josephth White et al
per Magistrate docket no. 2. Superior Court of
Chicago folio 13.

Judgment of Josephth White George Brown et
al. as returned in the Superior Court of Chicago
2nd May 1859 for \$2218. ⁰⁰/₁₀₀. Ditto Mel-
mon & Elson & Co 2 May 1859 for \$2113. ⁰⁸/₁₀₀.
Ditto Closter Miller & Co 2 May 1859 for \$2209. ⁰⁰/₁₀₀.

These executions with the returns upon them
show that the goods in question were taken & sold
for a total amount of \$4642 ¹²/₁₀₀ by John Gray
as Sheriff.

Admitted & Computed as read.

Josephth White George Brown
Henry C Davis Joseph P Hamlin
and Rufus C Whitney

^{vs}
Orville Lincoln.

Attachment.

And now at this day again
Comes said Plaintiff by Thompson Bishop
their attorney and default of the said de-
fendant having been taken and return of

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record on the six day of June last past.
and reference due had to the Court to assess
the damages herein and the Court now here after
hearing the allegations and proofs submitted
by the said Plaintiffs and being fully advised
in the premises assesses their damages herein
to the sum of two thousand two hundred and
sixty eight Dollars and ninety six Cents

Therefore it is considered said Plaintiffs do
have and recover of the said defendant their
damages of two thousand two hundred and
sixty eight Dollars and ninety six Cents in
full as awarded by the Court here assessed and
also their costs and charges in this behalf
expended and have execution therefor against
the property attached by virtue of the writ of
attachment issued in this cause.

Arthur William Joshua.
Plaintiff and Special Lawyer

vs Attachment.
Orris Finch

And now again Come the said
Plaintiffs by Thompson & Bishop their attorneys
and demand of the said defendant having
been taken and entered of record on the six day
of June last past. and reference due had
to the Court to assess the damages herein. and

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the Court now here after hearing the allegations
and proofs submitted by the said Plaintiff and
being fully advised in the premises assesses the
damages herein to the sum of two thousand one
hundred and fifteen dollars and eight cents
therefore it is considered said Plaintiff's dollar
and seven of the said defendant due damages
of two thousand one hundred and fifteen dollars
and eight cents in form aforesaid by the Court
here assessed and also due costs and charges
in this behalf expended and here execution
therefor against the property attached by
virtue of the writ of attachment issued in
this Cause.

Horace B. Gleason William C.
Miller Nathaniel G. Miller Daniel
H. Conklin and Henry Stone

vs
Oreel Finch

Attachment,

And now again Come the
said Plaintiff by Smith & Perry their attorneys
and default of the said defendant having
been taken and entered of record against him
on the Eighth day of June last past. and
reference was had to the Court to assess the
damages herein and the Court now here after
hearing the allegations and proofs submitted

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by said Plaintiff and being fully advised in
the premises assess their damages herein to
the sum of two thousand four hundred and nine
dollars and six Cents.

Therefore it is considered said plaintiffs do have
and recover of the said defendant their damages
of two thousand two hundred and ninety dollars
and six Cents in form aforesaid by the Court here
assessed and also their Costs & Charges in this
behalf expended and have execution therefor
against the property attached by virtue
of the Writ issued in this cause.

State of Illinois
County of Cook

The People of the State of
Illinois to the Sheriff of said County greeting
We Command you that of the goods
and Chattels of Charles Lewis Defendant
to wit thirty three boxes said to contain Dry
goods 6 Bolls of Carpeting 3 Bales and 4
body Frames in your County you cause
to be made the sum of twenty two hundred
and fifty eight dollars and ninety six Cents
whereof Joseph White George H Brown &
Henry W Davis Joseph P Hamlin and August H
Whitney Plaintiffs lately in the Superior Court.

of Chicago & said County at a term due of
begin and held at Chicago on said County
on the first Monday of May instant re-
turned against the said Defendant. and which
by the said Court was adjudged to the said
Plaintiff for due damages. And also the
sum of Twenty Six Dollars and
Sixty five cents which were adjudged to
the said Plaintiff for due costs and charges
in that behalf expended whereof the said
Defendant was convicted as appears to us of
Record. And have you these moneys ready
to render to the said Plaintiff for Damages
and Costs aforesaid and make a return of
said writ with an endorsement thereon in
what manner you shall have executed the
same. in twenty days from the date hereof.

Witness Walter Stannball Clerk of our
said Court and the seal due of at the
City of Chicago on said the 2^d day
of May A.D. 1859.

Walter Stannball Clerk

(Endorsement of Sheriff.)

By virtue of the annexed Special Writ of Ex-
ecution No 20172. and one other special
Writ of Execution No 20178, and both of said.

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 from the Superior Court of Chicago, I did
 on the 2^d day of May 1859 Levy upon &
 thirty three boxes of Dry goods, 6 Rolls of Carpeting
 3 Rolls of Bat & 4 body frames The dry goods
 in the boxes consisted in part of cloth casimere
 & other merinoes alpacas Red & white flannels
 Lace Goods velvets Robes collar and ~~short~~ sleeves
 Shawls buttons Robes merino hoes Mollen bottom &
 felt and ~~short~~ & drawn Deep Load huts Lace
 Caps. Suspensors Mat Rugs Carpet bag. Spool
 Thread Parasols Table Spread Table covers curtain
 Buttons & sets thread Paper and ~~short~~ hatching and
 imitations cloths gloves & mitts needles pins milking
 desks Copying Press blocks &c and on
 the 16th day of May 1859 between 10 o'clock
 & one in the morning and the selling of
 the Cn. of the same day at the No 84
 Randolph street in Chicago in Cook County
 (the time and place of sale having been duly
 advertised according to law) I did sell at
 Public Vendue to the highest and best bidder
 at a public sale the property listed upon as above
 paid for the Cn. of Four thousand six hundred
 and forty two Dollars and twelve Cents \$4642.12
 And after deducting my fees in execution \$73.70
 There Remains a Balance
 Freight & insurance \$261 to Charles H. Hays ^{& partner} 261.00
 There paid the balance to Plaintiff Money 1964.00

and applied the balance in execution No 20178, bearing 1817, 18
\$4642.12

and I return the annexed execution satisfied
for nineteen hundred and eighty four dollars &
five cents and being unable to find any
other property to make the balance I return
this writ satisfied for the above amount this
28 June 1859

John Gray Sheriff
By George Anderson Deputy

State of Illinois }
County of Cook }

The People of the State of Illinois
I do certify of said County Greening
The Command of the said of the lands and
Instruments Goods & Chattels of Oliver Lincoln
Defendant to wit thirty three Boxes & said
to contain Dry Goods. 6 Bales of Carpeting 3
Bales & 4 bays Harness Defendant in your
County now came to & made the sum of
Twenty one hundred and thirteen Dollars
and eight cents which Arthur McKimmon
Isaac Hefson and Joseph Sawyer Plaintiffs
lately in the Superior Court of Chicago of
said County at a term thereof begun &
held at Chicago in said County on the
first Monday of May instant last past

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received against the Defendant. and which by
the said Court was adjudged to the said
Plaintiffs for their damages and also the
further sum of Twenty Six Dollars and some
few Cents which were adjudged to the said
Plaintiffs for their costs and charges on their
behalf incurred whereof the Defendant
was Committed as appears by the Record. And
have you these moneys ready to render to the
said Plaintiffs for their damages and
costs. as aforesaid and make a return of said
Writ with and endorsement thereon in what
manner you shall have executed the same
in twenty days from the date hereof.

Witness Myself William C. Clark Clerk of our said
Court and the Seal hereof at the City of Chicago
in said County the 2^d day of May 1859

Seal

1859.

William C. Clark

(Endorsement of Sheriff)

By Virtue of the annexed special Writ of Ex-
ecution No 20178. and one other special Writ
No 20172. both issued from the Superior Court
of Chicago I did on the 2^d day of May
1859 Levy upon Liberty ^{Street} ~~Ward~~ of Day goods
6 Bells of Cupping 3 Bells of Bats & 4 body frames

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The Any Goods in the boxes consigned in part
 of Clocks Cassimere Vestings Merinos alpacas
 Red & White Flannel, Duggell lace goods velvet
 Ribbons laces & amon sleeves shawls cotton wool
 & men's hats. Rolling cotton & silk man shirts
 & Drawers Dup. Load Prints Lace Caps. suspender.
 mats Rugs. Copper Bag spool thread Parasols
 Table Spreads Table. Corns Buttons & silk thread
 Tape man shirts bleached and unbleached shut-
 ting shirts. Glass & milk needles & pins &
 writing Desk. Copying Press. Clocks &c
 and on the 11th day of May 1839 between
 the hours of nine in the morning and the setting
 of the Sun of the same day, at the store N^o 84,
 Randolph Street in Chicago in Cook County
 the time and place of sale having been
 duly advertised according to Law, I did
 at Public Vendue. to the highest and best
 bidder at, paid Cash the property lined up on
 as aforesaid for the sum of Four thousand
 six hundred & forty two Dollars and twelve
 Cents \$4642. 12.

And after deducting my fees re on execution	\$73.70
Storage & Rent of Store	287.79
Freight & Insurance.	261.60
Charges here & there fees	237.80
I have paid the balance to Plaintiff's Money	1817.18.
And applied the balance on execution N ^o 20172.	1964.05.
	<u>\$4642.12</u>

91 And I return the said assigned execution
satisfied for eighteen hundred & seventeen
Dollars and eighteen Cents & being unable to
find any other property to make the balance, I
return this writ satisfied for the above amount
this 28th of June 1859.

John Gray Sheriff
By George Anderson Deputy

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 of the Goods and
Chattels of One Sarah Defendant to wit Thirty
five Boxes said to contain Dry Goods &c.
Rolls of Carpeting and other Bales in your
County you cause to be made the Sum of
Twenty Two hundred and nine Dollars
and six Cents which of or as to Clifton Wm.
H. Mellen Nathaniel H. Miller Daniel F. Hamilton
and Henry Stone Plaintiffs lately in the Superior
Court of Chicago of said County at a term
thereof begun and held at Chicago in said
County on the first Monday of May instant
was entered against the said Defendant
and whereon by the said Court was adjudged
to said Plaintiffs for their damages and

also the further sum of fifteen dollars
and sixty five cents which were adjudged
to the said Plaintiffs for their costs and
charges in that behalf expended which
the said Defendant was compelled to appear
to us of Record, and have you these moneys
ready to render to the said Plaintiffs for
their damages and costs aforesaid and make
a Return of said sum with an endorsement
thereon in what manner you shall have ex-
ecuted the same in thirty days from the
date hereof.

Wm Wm Humboldt Clerk of said
Court and the Seal thereof at the City of
Chicago in said County the 2nd day of
May A.D. 1859

Filed

Wm Wm Humboldt Clerk

Endorsement of Sheriff.

By virtue of the annexed specific writ of
Execution No 20314 and two other special
writs Nos 20172 & 20178 both issued from the
superior Court of Chicago I did on the
2^d day of May 1859. Levy upon and
three Boxes of Dry goods & 2 Rolls of Carpeting
3 Bales of Bales & body frames the dry goods
in the boxes consisted in part of clothes cases
men's kettles minus all packing

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White Laine Dugger Lace Goods. velvet.
 Ribbons Collar & under Slaves Shirts Collar
 Woollen & Merino Hosi. woollen Collar & shirt under
 Shirts & drawers Deep Goods. Prints Lace Caps.
 Suspender Mats Rugs. Carpets Bags Spot Check
 Parade Table Spreads Table Covers Buttons
 & self Thread Tape mawskits Bleached and
 unbleached shirtings shirtings gloves & mitts
 needles & pins milking Dist. Copying press &
 Clocks. & on the 16th day of May
 1859 between the hours of nine in the morning
 & the setting of the sun of the same day
 at the Store N^o 84 Randolph in Chicago in
 Cook County (the time and place of sale &
 having been duly advertised according to law,
 I did sell at Public Vendue to the highest
 and best bidder at said sale the property
 listed upon as aforesaid for the sum of Four
 Thousand six hundred and Forty two dollars
 & twelve Cents \$442.12. And after de-
 ducting my fees &c on execution \$78.70
 Storage & Rent of Store 287⁷/₈ 79
 Freight & Insurance. 961. 60.
 Making for Clerk here & advertising 237. 80.
 So applying on execution N^o 20172020178 3781. 93
 I have paid the balance to Peff attorney \$442.12
 And I return the said annexed execution.
 no part satisfied this 28th of June 1859

John Gray Shuigg
By George Anderson Deputy.

All of the above attachments were against the
Orville Finch and the Plaintiffs therein
obtained judgments as above and no question
was made as to the regularity of the proceed-
ings except that the Plaintiffs therein
took the goods in question to satisfy their
Executions and also the levying the writs
of attachment upon said goods as the goods
of Orville Finch

and the Defendant to further maintain the
issue on his part gave in evidence the
following depositions

Deposition of Jacob Van Haaren.

Interrogatory 1st. What is your name, age, occupation
and place of residence?

Ans. My name is Jacob Van Haaren, age
thirty two, occupation Clerk in a dry goods
store and place of residence City of Albany
and State of New York.

Interrogatory 2nd. Do you know the parties Plaintiffs
and Defendants in the Caption of these
interrogatories mentioned or either of ~~them~~ and
where^{one} of them and how long have you known
them respectively?

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Ques. I know the Off of St John. in the Capt'n
to these interrogatories mentioned and have
known him from about the 18th day of Nov-
ember A.D. 1858.

Ans. I have did of my usual and in whose employment
I was during the latter part of the Autumn and
until the 10th day of Decr. A.D. 1858

Ques. I resided in the City of Albany and was in the
employ of Orville Smith

Ans. I am now acquainted with Orville Smith and
El Jackson and of your State when, where, how and
became acquainted with each of them.

Ans. I am acquainted with Orville Smith and El
Jackson I first became acquainted with Orville
Smith in July A.D. 1857 at the City of Albany State
of New York and with El Jackson at the same
place about the middle of October A.D. 1858.

Ques. Do you know of any goods being taken from
the store of Smith in the City of Albany and shipped
for Milwaukee in the month of Decr. A.D. 1858. If yes
state on what days of the week and months such
goods were taken from the store when and where
were they packed and on what day and what
time of the day the last of said goods were
taken from the store.

Ans. I do know of goods being taken from the store
of Smith in the City of Albany and shipped for
Milwaukee in the month of December A.D. 1858.

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said goods were taken from said store on
 Wednesday, Thursday & Friday December 8th, 9th,
 10th A.D. 1858. said goods were packed in the cellar
 under said store and the last of said goods were
 taken from said store on Sunday the 12th day of
 December A.D. 1858. between seven & eight o'clock a
 m. said goods were packed between Thursday
 December 9th 1858. and Friday December 10th 1858.
 In proof of my answer to the foregoing interrogatory
 you say you know of goods being taken from said
 store and shipped for Milwaukee State on what
 day you saw the first of said goods taken from
 the store and when the same were packed. The
 manner in which said goods as they were packed
 were taken from the shelves and whether any
 instructions were given to you or either of you
 or any other employees in said store as to the manner
 in which said goods should be taken from
 the shelves and other goods not taken from the
 shelves arranged and if you state what instructions
 were given and by whom were they given?
 Ans! The first of said goods that I saw taken
 from said store marked for Milwaukee
 taken on Wednesday December 8th 1858. These
 goods were first selected from the goods of which
 there was the greatest quantity in the store and
 the absence of these so taken would be least
 noticed on Wednesday December 8th 1858

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Olney E. Hudson a Clerk in said store and myself received instructions as to the manner in which said goods not taken should be arranged on Wednesday morning December 8th 1858. When eight o'clock arrived Horch told Olney E. Hudson and myself, it said store that he wanted both of us to be masons and that he didn't want either of us to say anything about what he was going to tell us. He then said that he had sold out all the goods in the store and that he had nothing further to do with it and that we were to work for P. L. Jackson, and that they would commence packing up and sending off the goods that morning, and continue until they were all gone. That he did not know how long it would take to get all the goods off, and that he wanted we should turn up the store and string the goods around so as to make the store look as full as possible. He also told Hudson & myself that when we took the goods out from the shelves we must take such goods as would be the least liable to be missed and then turn the other goods round so that the front of the shelves would appear to be full. On Thursday morning December 9th 1858 Mr. Orville Horch told the clerks in the store that they must string up all the goods in the best way they could, that day so as to make the store look as full as usual.

Q. J. Int 7th State whether or not said store was kept
open for the sale of goods while said goods were
being packed, and whether or not there was any
visible change in the ownership of said goods
previous to their shipment and if yes state what
and state whether there was any change in the
sign or signs of said store:

Ans to 7th The store was kept open for the sale of
goods during the day while said goods were
being packed and up to Thursday night Dec
9th 1858 there was no visible change of owner-
ship of said goods previous to their being shipped
there was no change of the sign of said store

Int 8th What was done with the store after the
last of said goods were shipped: If you say
it was closed, state on what day and at what
time of said day it was closed.

Ans to 8th After the last of said goods were ship-
ped the store was closed it was closed on Friday
morning December 10th 1858 at about 9 o'clock
the goods were all gone before that hour, but my
self and some of the other clerks remained about
the store till about 9 o'clock a.m. when we left
and locked up the store

Int 9th Was Owen Litch in and about said
store usual up to the night before it closed.

Ans to 9th Owen Litch was in and about said store
usual up to the night before it closed.

99 Int. 10th In whose employment were you up to the
 night before the Law closed
 Ans to 10th I was in the employment of Emilio Anen
 from October 3rd 1858. up to the time the said
 Law closed unless I could be said to be in
 the employment of C. L. Jackson from Wednesday
 Dec 8th 1858. when Jackson stated to me that
 Mr Anen had told him that all the Clutter were
 paid up to Saturday following Dec 11th 1858.
 But that he Jackson did not care for that and
 that he was willing to pay us for all we should do
 Int 11th Where were you the night before the last
 of the goods were shipped and who were with you
 and how were you employed during the whole
 night and if you say that you spent the
 night or any part of it in said Law or the cellar
 of said Law. state what you were doing who
 else were there and what if any thing they were
 doing by whom if by any one you were employed
 or requested to work and by whom if by any
 one you were paid for your work.
 Ans to 11th The night before the last of said
 goods were shipped I spent in the cellar of said
 store Philip C. Hudson, J. Linn Seale Palmer
 A. D. Hoagland, J. D. St John and P. L. Jackson
 were with me. I was employed during the
 whole night packing goods P. L. Jackson
 remained up stairs most of the time getting the

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goods in shape to carry down even as did also. I P. Oagland. except that occasionally he carried a few goods down even Hudson & Palmer carried the goods down. until the goods were all down. Then we all packed while all were packed due to 12th. Some of the goods were packed on the morning on which the said store closed they were packed by the same parties and in the same manner. as stated in my answer to the Eleventh Interrogatory. The packing was completed at about two o'clock & on December 10th 1858 from that time until about half past four o'clock & on said day we were occupied in nailing up. Shipping and marking said goods. There were about twenty six boxes of said goods packed during the night and about only two in all. that were shipped to St John Mission. The last load of said goods were taken from the store between seven and eight o'clock on the morning of the 10th of December & P. 1858.

A. B.
This answer to
the interrogatory
is as of
Com.

Int. 12th. Were any goods packed on the morning on which the store closed? If you state how many and by whom they were packed and at what time the last of said goods were taken from the store.

Int 13th. Did you see C. Jackson on or about the store the night before the last goods were shipped

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If you what was he doing and at what hour did he leave the store;

Ans 13th I saw P. Jackson and about the store the night before the last goods were shipped. He was occupied in arranging goods in the store to have them carried down river. to be packed until they were all down and then he did some packing and boxing. He left the store about five o'clock the morning the last of said goods were shipped. Jan. 14th Did you hear P. Jackson give any instructions or directions in regard to employing Carmen to carry said goods to the depot from the store. If you state particularly what was said by said Jackson and when and where said directions were given.

Ans 14th I did not to my recollection hear P. Jackson give any direction or instruction in regard to employing Carmen to convey said goods to the depot from the store;

Jan 15th Did you hear any directions given to the Carmen or either of them as to the route to be taken by them or either of them from the store to the depot. If you state whether the route or routes which they were requested to take were usual and direct or unusual and circuitous.

Ans to 15th I heard directions given to the Carmen as to the route to be taken by him from the store to the depot. The route which he was requested

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to take was not the usual and direct route from the store to the depot. but was unusual. and on account of it. I was requested by any person to keep secret. any matters in regard to the packing removing or sale of said goods. If you state by whom when & where such requests were made. and what was said to you with reference to the matter.

Ans to 16th. I was requested to keep secret matters in regard to the packing moving and sale of said goods on Wednesday December 8th 1858. after the store closed at night. Mr D. L. Jackson called Hudson. Hiers. Parnier. and myself. to him at the store and told us we were all to work for him and he wanted us to keep still and pack a few goods and that all the while we did for him he would see we were paid for. on Wednesday morning December 8th 1858. Mr Swile Litch told Hudson and myself at said store that he wanted both of us to be masons and that he didnt either of us to say any thing about what he was going to be as he then said that he had sold out all the goods in the store and that he had nothing further to do with it and that a grove to wait for D. L. Jackson and that they would commence packing up and sending off the goods that morning and continue until they

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were all gone.

Int. 17th. Do you know William G. Weed? If you
 what is the business of said Weed whether you
 saw said Weed in said store previous to the
 shipment of said goods. or during the time said
 goods were being packed. If you state how
 many times and on what days you saw him.
 how long with whom and in what manner
 he was employed.

Ans to 17th. I know William G. Weed. he is a
 Lawyer and one of the proprietors of the Albany
 Mercantile Agency. I saw said Weed in said
 store previous to the shipment of said goods
 and during the time said goods were being
 packed he was in said store frequently, just
 before the store closed, but on what particular
 day. I cannot say he usually went up stairs
 on private business with Lusk, Smith Jackson
 & St John.

Int. 18th. Do you know of said Weed obtaining
 any goods at said store. If you state what
 amount of goods were obtained whether they
 were paid for by a check to said Weed and
 by whose direction said goods were delivered
 to said Weed and when such directions were
 given and when such goods were obtained
 by said Weed.

Ans 18th. I know of said Weed obtaining goods

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from said store on Thursday afternoon on December 9th 1858. He Jackson told Mr Geo in my hearing that Mr William G Weed was to have one hundred Dollars worth of goods out of the store and that who ever should wait upon him & should sell them at the usual prices. At about six o'clock Thursday evening Dec 9th 1858 said Weed and his wife called at said store and hauled out something over fifty Dollars worth of said goods.

Int. 19th. Do you know of any goods being sent from said store to Lebanon or Shaker Village or Auburn. If you state when and in what manner they were sent, and what quality was sent and whether you know of any one purchasing such goods. If you they were sent, and if you state who was such purchaser or purchasers.

Ans to 19th. I know of goods being sent from the said store to Lebanon. and some to Auburn on or about the 15th of October A.D. 1858. I have commenced sending goods to Auburn. directed to Shaght & Co. Auburn N.Y. I can't tell how many were sent to Auburn. There were two or three boxes sent at a time and goods were sent there a good many times. Some of the goods sent to Lebanon. were packed in boxes Mr Webster of the firm of Webster & Bull. took away from our place at one time it was on the latter

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part of November. Ketchikan took goods at other times
and goods were sent out to Lebanon at other times
by stage. Some were taken to Lumbert and some to
Vander. I do not know of any one purchasing these
goods. before they were sent.

Int I am inquiring how long were Jackson & St John. about
said the previous to arrival here in December and
how were they occupied. Do you know of either or
both of them seeing the bills of the goods or any
portion of said goods. and if yes. whether such
bills indicated that such goods were bought on
credit or were paid for.

Ans to Drth Jackson & St John were about said
time about one or four weeks before the store
finally closed. They did not seem to have any
particular business while about. the first of
December A.D. 1858. I do not know of Jackson
or St John seeing the bills of said goods.

J. Van Hooker

For the further maintenance of the issue in
this behalf. the Defendant, by counsel C. &
Storrs. Read the deposition of

Henry L. Haught.

Int Next What is your name age occupation and
place of residence;

Ans to 1st my name is Henry L. Haught age. thirty
place of residence Crescent. Paragou County. State
of New York.

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Int 2nd. Do you know the Parties Plaintiff and
defendants in the Caption to these interrogatories
mentioned a either and which one of them and
how long have you known them respectively?
Ans to 2^d. I know the Plaintiff, P. St John in the
Caption to these interrogatories mentioned and have
known him of some about the 15th day of November
A.D. 1858.

Int 3^d. Where did you reside and in what employ-
ment were you during the latter part of Autumn
and until the 10th day of December A.D. 1858.

Ans to 3^d. I resided in the City of Albany and was
in the employment of Orville Litch during the
latter part of the Autumn and until the 10th day of
December A.D. 1858.

Int. 4th. Are you acquainted with Orville Litch
and P. Jackson and if you state when and where
you first became acquainted with each of them.
Ans. 4th. I am acquainted with Orville Litch and
P. Jackson I first became acquainted with
Orville Litch in August I think 1858. at the
City of Albany. and with Jackson about the
middle of October 1858. at the City of Albany.

Int 5th. Do you know of any goods being taken
from the Store of Litch in the City of Albany and
shipped to Milwaukee in the month of December
A.D. 1858. If you state on what days of the
week and month such goods were taken from

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when and where they were packed and on what day and at what time of the day the last of said goods were taken from the store, I know of some goods being taken from the store of Louie in the City of Albany and shipped for Milwaukee in the month of December A. D. 1858. Can't state the particular day when they were so shipped they were packed in the cellar of said store.

Int. 6th. If in answer to the foregoing interrogatory you say you know of goods being taken from said store and shipped for Milwaukee, state on what day you ^{saw the} first of said goods taken from the store and when the same were packed the manner in which said goods as they were packed were taken from the shelves and whether any instructions were given to you or either of you or any other employee in said store as to the manner in which said goods be taken from the shelves and other goods not taken from the shelves and if you state what instructions were given & by whom they were given:

Ans to 6th I cannot tell the precise day when the first of said goods were packed. The goods were selected from the shelves in such a manner that their absence would be least noticed. There were no instructions given to me as to the manner of selecting said goods.

Int 7th. State whether or not said store was kept

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open for the sale of goods while said goods were
being packed and whether or not. there was any
visible change in the ownership of said goods
previous to their shipment. and if you state what
and whether there was any change in the sign
or signs of said store.

Ans 6th said store was kept open during the
day said goods were being packed. There was no
visible change of ownership of said goods pre-
vious to their being shipped and there was no change
of the sign of said store.

Int 8th What was done with the store after the
last of said goods were shipped if you say it
was closed state on what day and at what time
it was closed.

Ans 8th I do not know what was done with
the store after the last of said goods were shipped.

Int 9th Was Mr. Litch in and about said
store as usual up to the night it closed?

Ans 10th Mr. Litch was in and about
the said store as usual until the Eighth of
Decr. 1858. at which time left the city I think.

Int 10th In what employment were you
up to the night before the store closed?

Ans 10th I was in the employment of Orono Litch
up to the time I left. He Jackson Agreed to pay
me for a day or two but Litch put it into
the Bill and paid me for my time when I left.

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Int 11th. Where were you the night before the last of said goods were shipped and who were with you. and how were you employed during the whole night. If you say you spent the night or any portion of it in said State or the other said State state what you were doing who else were there and what of any thing they were doing by whom or by any one you were employed or requested to do and by whom or by any one you were paid for your work.

Ans 11th. I was in Crescent Paragon County the night before the last of said goods were shipped.

Int. 12th. Were any goods packed on the morning on which the slave eluded. If yes state how many and by whom they were packed and at what time the last of said goods were taken from the slave.

Ans 12th. I don't know whether there were any goods packed on the morning the slave eluded as I was out of the City of Albany.

Int. 13th. Did you see Ole Jackson in or about the slave the night before the last goods were shipped. If yes what was he doing or what home did he leave the slave.

Ans 13th. I did not see Ole Jackson about said slave the night before he eluded for the reason stated before I was out of the City of Albany and consequently I knew nothing about his proceedings.

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after the 8th of December 1858.

Int 14th. Did you hear P^r Jackson give any directions or instructions in regard to employing Canner to convey said goods to the depot from the store. If you state particularly what was said by said Jackson and when and where such directions were given.

Ans to 14th. I did not hear Mr P^r Jackson give any instructions in regard to employment of Canner to convey said goods from said store.

Int 15th. Did you hear any directions given to the Canner or either of them as to the route to be taken by them or either of them from the store to the depot. If you state whether the route or routes which they were requested to take were usual and direct, unusual and circuitous.

Ans to 15th. I did not hear any instructions of any kind given to the Canner.

Int 16th. Were you requested by any person to keep secret any matters in regard to the packing removal or sale of said goods. If you state by whom when and where such request were made. What was said to you with reference to the matter.

Ans to 16th. I have no recollection that I was requested by any person to keep secret any matters in regard to the packing removal or sale of said goods.

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Sept 17th. Do you know William G Weed. If you state what is the business of said Weed. Whether you saw said Weed in said store previous to the shipment of said goods or during the time, and if so were being packed. If you state how many times and on what days you saw him there how, with whom, and in what manner he was employed.

Ans to 17th. I know William G Weed he is a lawyer and connected with the Albany Mercantile Agency. I saw said Weed in said store occasionally immediately previous to my leaving. I don't recollect the days I saw him in said store. Saw him with Mr Smith & Mr Finch.

Sept 18th. Do you know of said Goods obtained any goods at said store. If you state what amount of goods were obtained whether they were paid for or charged to said Weed and by whose direction were delivered to said Weed and where such directions were given and when said goods were obtained by said Weed;

Ans to 18th. I know of said Goods obtained at said store. I can't state the amount. They were charged to said Weed on Drills Lumber (over). I never knew of any directions being given Weed had an open account there and he came and traded whenever he chose.

Sept 19th. Do you know of any goods being sent

from Sara Shaw to Lebanon. and the Shaker Village
 or Auburn. If you state when and in what
 manner they were sent. and what quantity was
 sent. and whether you knew of any one purchasing
 such goods before they were sent and if you state
 who was such purchaser or purchasers.
 As to 19th I know of goods being sent from Sara
 Shaw to Lebanon and Auburn I think they
 commenced sending goods to Auburn the
 last of September or the first of October 1838.
 They were boxed and shipped there at different
 times I think that between ^{the} five thousand dollars
 worth of said goods were sent to Auburn I
 think they were sent there to be sold on com-
 mission they were marked "Straight to" The
 goods that I knew of being sent to Lebanon were
 sold to Webster & Bull before being sent and
 were sent at different times I think Webster
 took the goods to Lebanon with his team I
 don't recollect the amount. Webster & Bull had
 sent 20th How long were Jackson & St John at
 Sara Shaw previous to the final close in Dec.
 and how were they occupied Do you know
 of either or both of them seeing the Bills of
 the goods or any portion of said goods
 and if you whether such bills indicated
 that such goods were bought on credit or
 were paid for

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Ans to 2nd Jackson and St John were about
paid two or three weeks previous to the killing
did not were not particularly employed at
any thing I do not know of either a lot of them
selling the bills of paid goods the bills would
indicate whether they were bought on time or
for cash.

Henry L. Faight

In the further maintenance of the issue on
these issues the Counsel for the Defendants
J. & St John read the deposition of Pliny
E. Hudson

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

Ans 1st My name is Pliny E. Hudson age
nearly two occupation dealer in a Dry goods
store and place of Residence Valatie Columbia
County State of New York.

Int 2nd Do you know the parties Plaintiffs and
Defendants in the Caption to these interrogatories
mentioned or either one of them and
how long have you known them respectively?

Ans 2nd I know the Plaintiffs J. & St John in the
Caption to these interrogatories mentioned and
have known them from about the middle of
Jan. 1858

Int 3rd Where did you reside and where are

employment were you during the latter part of the
Autumn and until the 15th day of December 1858
Ans 3^d I resided in the City of Albany and
in the employment of Orville Litch.

Ans 4th Am you acquainted with Orville Litch
and D. C. Johnson and if yes state when and where
you first became acquainted with each of them.

Ans 5th I am acquainted with Orville Litch
and D. C. Jackson I first became acquainted
with Orville Litch in July 1856 in the City of
Albany State of New York and with D. C.
Jackson at Albany N. Y about the 15th day of
October 1858.

Ans 6th Do you know of any goods being taken from
the Store of Litch in the City of Albany and
shipped for Milwaukee in the month of Decr
1858. If yes state on what days of the
month and months such goods were taken from
the Store when and where they were packed
and on what day and at what time of the
day the last of said goods were taken from the
Store.

Ans 7th I know of goods being taken from the
Store of Orville Litch in the City of Albany and
shipped to Milwaukee in the month of December
1858 said goods were taken from said
Store on Wednesday Thursday Friday Decem-
ber 8th 9th & 10th 1858. Said goods were packed

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in the cellar of said store and the last goods
such goods were taken from said store on Sunday
morning December 10th A.D. 1858 between seven and
eight o'clock. Said goods were packed between
Thursday December seventh A.D. 1858 and Sunday
December 10th 1858.

Art 6th If in answer to the foregoing interrogatory
you say you know of goods being taken from said
store and shipped for Milwaukee State on what
day you saw the first of said goods taken from
the store and when the same were packed - the
manner in which said goods as they were
packed were taken from the shelves and whether
any instructions were given by you or who if you
or any other employees in said store as to the
manner in which said goods were to be
taken from the shelves and other goods not taken
from the shelves arranged and if yes, state what
instructions were given and by whom they were given?
Ans to 6th The first goods that I collected
of being taken from the said store and shipped
for Milwaukee were taken on Wednesday Dec
8th A.D. 1858. the first selected goods from the
pile of which there was the greater quantity
in the store and their absence from the store
be least noticed on Wednesday December
8th 1858 Jacob Van Nozen a Clerk in said
store and myself received instructions as to the

manner in which said goods should be taken from the shelves and how other goods not taken should be changed on Wednesday morning December 8th 1858. between seven & eight o'clock. A. W. Linch told Jacob Van Hoozen and myself. at said time that he wanted us to be masons and that he didnt want either of us to say anything about what he was going to tell us. He then told us that he had sold out all the goods and that he had nothing further to do with it. and that we were to wait for De Jackson. That they would commence packing up and sending off the goods. that morning and continue till they were all gone. That he couldnt tell how long it would take to get them all off. and that he wanted we should turn up the store and string the goods around so as to make the store appear as full as possible. Mr De Linch also said to Van Hoozen and myself. that when we took goods out from the shelves we must take such goods as would be the least liable to be missed and turn the other goods around on the shelves. so that the front would appear full on Thursday morning Dec 9th 1858. Linch also told the clerk in the store that they must string up all the goods in the best way they could. that day and make the store look as full as usual.

Int. 7th State whether or not. said store was

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Kept open for the sale of goods while said goods
were being packed, and whether or not, there was
any visible change in the ownership of the said
goods - persons to whom shipped, and of your
state what, and state whether there was any
change in the sign or signs of said store?
Ans to 7th. The store was kept open for the sale
of goods during the day while the said goods
were being packed and up to Thursday night
December 9th 1858. There was no visible change
of ownership of said goods previous to them
being shipped, and there was no change of the
sign or signs of said store.

Int 8th. What was done with the store after the
last of said goods were shipped? If you say
it was closed state on what day and at what
time of said day it was closed?

Ans to 8th. After the last of said goods were
shipped the store was closed. It was closed on
Friday morning December 10th 1858, at ap-
prox. 9 o'clock. The goods were taken away be-
fore that time. But I remained with some of
the other clerks until about that time when we
locked up the store and left.

Int 9th. Was Orville French in and about said
store as usual up to the night before it closed?

Ans to 9th. Orville French was in and about said
place up to the night before it closed.

Intro^d. In what employment were you up to the night before the store closed?

Ans to Q^d. I was in the employment of Dr. Luke Rich from June 1st A.D. 1858. up to the time the store closed as I manifested it. On Wednesday Dec^r 8th 1858, D. C. Jackson stated to me that Jacob had stated to him that all the clerks were paid up to Saturday following Dec^r 11th A.D. 1858. but that he Jackson didn't care for that and that he was willing to pay us for all that we should do.

Qnt^d. Where were you the night before the last of said goods were shipped and who were with you and how were you employed during the whole night and if you say you spent the night or any part of it in said store or the cellar would you state what you were doing who else were there and what of anything they were doing. By whom if any one you were employed or requested to work and by whom if any one you were paid for your work?

Ans to Q^d. The night before the last of the ^{said} goods were shipped I spent in the store & cellar. The said store I Locoe. Jacob. Van Goun. Isaac Palmer & D. C. Jackson & J. St John & D. C. Jackson were also there I was employed during the whole night in carrying goods from the store to the cellar where they were packed and unloading

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in buying shipping and mailing said goods
 After they were packed & to Jackson remained up
 stairs in the store most of the time getting goods
 in shape to carry down cellar. as also did J.P.
 Hoagland Hoagland occasionally carried a few
 goods down cellar. Parmer & myself carried
 most all of the goods down. When the goods were
 all down we all packed until all were packed.
 But 12th were any goods packed on the morning
 on which the store closed If you state how
 many and by whom they were packed and
 at what time the last of said goods were
 taken from the store

As to 12th Some of the goods were packed on
 the morning on which the store closed they were
 packed by Van Horn Parmer Jackson &
 John Hoagland Horro. and myself the packing
 was finished about two o'clock a.m. December
 10th 1858. From that time until about half past
 four o'clock a.m. on said day we were oc-
 cupied in nailing up shipping and mailing
 said goods. there were between twenty five and
 thirty boxes of said goods packed during that
 night and from forty to forty five in all that
 were shipped to St John Milwaukee. Wisconsin. The
 last load of said goods were taken from the
 store between seven & eight o'clock on the morn-
 ing of the Tenth of December A.D. 1858.

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Int 13th. Did you see D. C. Jackson in or about the store the night before the last goods were shipped. If yes what was he doing & at what hour did he leave the store.

Ans to 13th. I saw D. C. Jackson in and about the store the night before the last goods were shipped he was occupied in arranging goods in the store to be carried down cellar to be packed, and when they were all down cellar, then he aided in packing boxing & manning he left the store about five o'clock A.M. Dec. 10th 1858

Int 14th. Did you hear D. C. Jackson give any instructions or directions with regard to employing Carmen to convey said goods to the depot, from the store. If yes state particularly what was said by said Jackson and when and where such directions were given.

Ans to 14th. I heard instructions given in regard to employing Carmen to take the goods to the depot from the store but whether said instructions were given by D. C. Jackson or some other person I cannot tell.

Int. 15th. Did you hear any instructions given to the Carmen or either of them as to the route to be taken by them or either of them from the store to the depot. If yes state whether the route or routes which they were requested to take were usual, or a little, or unusual, and cir

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Cautious

Dec to 15th I heard directions given to the Car-men. as to the route to be taken by him, from the store to the depot. The route which he was requested to take, was not the usual and direct route from the store to the depot, but was unusual and circuitous.

Jan 18th Was you requested by any person to keep secret any matter in regard to the packing, removal, a sale of said goods. If yes by whom when and where such requests were made, and what was said to you in reference to the matter.

Dec to 16th I was requested to keep secret a matter in regard to the packing, removal and sale of said goods. On Wednesday December 8th 1858, after the store closed, at night D. C. & Jackson, called Van Fossen, Parmer, I oversaw myself, to him at the store and told us that we were well at work for him. That he wanted us all to keep still and pack a few goods that night and that all the work we did for him he would see we were paid for. On Wednesday morning December 8th 1858, Mr. Orville Finch told Mr. Van Fossen and myself at said store that he wanted both of us to remain and that he didn't want either of us to say anything about what he was going to tell us. He then told

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as that he had sold out all the goods in the store and that he had nothing further to do with it and that we were to wait for Mr De Jackson and that they would commence packing up and sending off the goods that morning and continue until they were all gone.

Int. 17th Do you know William G Reed, if you state what is the business of said Reed, whether you saw said Reed in said store previous to the shipment of said goods. and during the time said goods were being shipped packed. If you state how many times and on what days you saw him there, how, with whom, and on what manner, he was employed.

Ans. to 17th I know William G Reed. he is a Lawyer and conducts the "Albany Mercantile Agency". Reed was on the store previous to the shipment of said goods, and during the time said goods were being packed. He was frequently in view the store closed the particular days. I do not remember he usually went up stairs on Curator's business with Drville Truck Space. Smith, De Jackson & J. D. St John.

Int 18th Do you know of said Reed obtaining any goods at said store if you state what amount were obtained wherein they were paid for. or charged to said Reed, and by whose direction said goods were delivered to said Reed.

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and other such articles were given and other such goods were obtained by said Weed,

Apr. to 18th. Some of said Weed obtaining goods from said store. On Sunday after noon December 9th A.D. 1858. D. B. Jackson told Mr. Lurio in my hearing that Mr. William G. Weed was to have me hundred dollars worth of goods out of the store & that whoever should wait upon him should sell the goods to him at the usual prices. That at 6 o'clock. Monday evening December 9th 1858. said Weed and his wife called at said store and traded out something more than fifty dollars worth of goods.

Int 19th. Do you know of any goods being sent from said store to Lebanon or the Shaker Village or Auburn. If yes. State when and in what manner they were sent. and what quantity was sent. and whether you know of any ones purchasing such goods before they were sent. and if yes. State who was such purchaser or purchasers.

Sub 19th. I know of goods being sent from said store to Lebanon. and some to Auburn. Mr. Lurio commenced sending goods to Auburn on or about the 15th day of October A.D. 1858 said goods were directed to "Shaughnessy & Co. Auburn N.Y." Can't tell how many were so sent. but know nine goods sent thus a good many times. but

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or blue boxes at a time, some of the goods sent to Lebanon were sent in boxes. Mr Webster of the firm of Webster & Bull of Lebanon took away from office cases of said goods at all times in the latter part of November 1858. Webster took goods at other times and goods were also sent out to Lebanon by the stage some were taken in barrels & others in bundles. I do not know of any new purchasing these goods before they were sent. Ant. D^r Jackson & St John. about said the persons told him close in December and how were they occupied. Do you of either a both of them seeing the bills of the goods on any portion of said. And if yes. whether such Bills indicated that such goods were bought on credit or were paid for.

As to D^r Jackson and St John. were about said they about three or four weeks immediately previous to the final closing of the store. They did not appear to have any particular business matter about the first of December A.D. 1858. I do not know whether Jackson or St John. saw the Bills of said goods they had an opportunity to do so.

Pliny E. Hudson
 Court adjourned to 9 A.M. Wednesday
 June 24th

Thursday June 24th 1863

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Council for Defends then read in evidence the
Deposition of Elisha Hayden Collier
Excepting the Exhibit attached which was
referred. and the answer to Interrogatory
Int 1st What is your name age occupation
and place of residence?

Ans to 1st Int. Elisha Hayden Collier forty three
Sales man, Boston.

Int. 2^d Do you know the parties plaintiff and
Defendant on the Captions these interrogatories
mentioned a crime and which of them and how
long have you known them respectively?

Ans to 2^d Int. I am unacquainted with
either of the parties excepting I was once
accidentally introduced to Mr Conley but
had very little conversation with him simply
had an introduction

Int. 3^d Were you in 1856 acquainted with
Orville Lusk and William G Weed of Albany
N.Y. and if yes State when and under what
circumstances you became acquainted &
with them and each of them?

Ans to 3^d Int. About the 1st of October 1858.
I became acquainted with Wm Lusk
of Albany N.Y. Melanson Stearns & Co
had written me on my former that Lusk
a firm agent I am not quite sure which
had been buying goods of them and desired

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me to call upon him, and if I found any
 thing all right to sell him more goods of the
 wares, then, I obtained an introduction to
 Obed from R. C. Davis & Co. of Albany for the
 purpose of assuming of Obed Obed. the res-
 ponsibility of Finch. Mr. Obed said that Finch
 bought out the Dry Goods Stock of Smith
 for merely eight thousand dollars. (\$8000) at
 sixty per cent on the dollar. gave notes at
 two and four years for the amount. had taken
 up the two years notes by paying in stock &
 which he held leaving a balance of about
 \$6000. He paid at the end of four years.
 he is a very honest man. has been in busi-
 ness about ten years. never had his notes pro-
 tested and always paid promptly & the 100 cents
 he spoke very highly of him as integrity &c
 a memo for \$25000. in good office he said
 calling upon Finch, he Finch told me
 that he had good ten thousand dollars capital
 in his business which he thought sufficient
 but if it were not, he had real estate which
 he could convert into cash. I should have
 said Mr. Obed told me also that he had
 fixed this matter up pretty thoroughly & knew
 and nothing but what was perfectly ho-
 nest & satisfactory and thought Finch
 had more capital in his business than

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any dry goods concern in the City in pro-
duction - to also extent

Oct. 4th. Do you know of any goods or merchandise
being obtained by Orville Hinch during the
autumn of 1858. and if you state the amount
of such goods and of whom the same were
obtained and at what time the same were obtained
Ans to 4th Oct. It was upon facts in this representa-
tion that I sold Hinch the goods dated Oct
1st 1858. \$452.63. & Oct. 2^d. \$54.88. the whole I
received by the books of Gutman & Son & Co
that Hinch had indebtedness to them including
the amounts above which I sold him, or twenty
one hundred and thirteen dollars. eight
cents (\$2113.08) I can't say who sold him
the goods. except what I sold my self
for the sales were made during my absence from
home

Ans to 5th Oct. In answer to the foregoing interrogatory
you say that you know of goods being obtained
by said Hinch on credit state by what
means. and on what statements and represen-
tations of any. the said goods were obtained
on credit and if you have any written &
statement of the said facts of said Orville
Hinch or a copy of the same annex it to &
your deposition?

Ans to 5th Oct. I have stated in the foregoing

answer by what means he obtained goods of
Philmson Stebson & Co. I also have a copy of
his statement, dated Sept 1st 1858. which
I annex to this deposition marked "a" through
which statement together with verbal state-
ments of Fred & Lynch Philmson Stebson
& Co sold him Lynch goods. The said
copy I copied from the original.

Int 6th. Do you know of any statements or
representations made in 1858. by William &
Fred or William & Fred & Co with refer-
ence to the property circumstances and
conditions of David Lynch and of great
state such statements & representations.
fully and particularly and state when
& where. and on what circumstances
the same were made?

Ans to 6th Int. I have answered before the cir-
cumstances which induced Philmson Stebson
& Co and myself acting agent to Credit Union
the goods namely. The assurance of his re-
sponsibility together with Lynch's state-
ment. as to Capital in his business &c and
these statements were made to me in Alton
when I sold the goods

Int 7th. Do you know of any other matter or
thing material or important for the
defendants to prove on the trial of the above

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entitled suit of year state the same fully & particularly

Ans. to 7th Int. I am not aware of any thing else. Materially important unless that Dr. Davis of the firm White Brown, Davis & Co told me that James Ottaway gave them to the amount of \$2268.96 at the same or about the same time and under the same circumstances & by means of the same statements,

E. H. Collier

Copy of Exhibit "A"

Statement of Noble James assets Sept. 1st 1858.

Stock

Stock on hand paid for. \$10,000.00

Stock fixtures paid for. 300.00

Debt due store good. 1000.00

House & lot on second st Albany 1600.00

13 1/2 acres of land on Plant Road.

When Albany & Schenectady were 9000.00

In circumstance. 4000. as part of the purchase money, Mortgage has five years to run from June 1857 5000.00.

A mortgage on 15 1/2 acres of land in Brown Co state of New York. Just mortgage 2500.00

A mortgage on house & lot in Albany city just mortgage.

Whole stock insured for. \$20,000 in good companies

500.00
\$20,900.00

The above is a true & correct statement of my assets after deducting all my liabilities up to this date. (Signed) Orville Finch
Albany Sept 1st 1858.

The Defendants Counsel then offered to read in evidence the deposition of Orville Finch duly taken by virtue of a Commission from Mr. J. de Court. Plaintiffs Counsel moved to suppress the first fifteen interrogatories and the answers. The Court sustained the Plaintiffs motion as to the 3^d Int. and answers. 6th and answer. 7th and answer. 8th and answer. 9th and answer. 13th & answer. & 14th & ans. to which ruling of the Court the defendants by their Counsel then and there accepted.

The Plaintiffs also then & there objected to the reading of any portion of said deposition of Finch on the ground of interest in the witness the Court then and there overruled said objection on the ground that it was too late at this time to make such objection the deposition having been on file for several terms and no such objection having previously been made thereto. The Plaintiffs then and there accepted to this ruling of the Court. and The

deposition ~~was read~~ is as follows.

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Deposition of Orville Finch

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

Ans. to 1st Int. My name is Orville Finch age 47 profy form. occupation Clerk and place of residence is New Lebanon. Columbia County State of New York

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

Ans. to 2^d Int. I know the Plaintiffs but not the defendants or either of them in the Caption to these interrogatories mentioned.

Int. Do you know William G. Wood and Daniel C. Jackson and if yes when and where did you become acquainted with each of them

Ans. to 3^d Int. I know Mr G Wood & Daniel C. Jackson. I first became acquainted with William G. Wood at the City of Albany in the fall of 1857. I first became acquainted with Daniel C. Jackson at the City of Albany in the Summer of 1857. at the Store of Isaac Smith

Int 4th Were you engaged in business in the City of Albany for several years previous to December 1857 and if yes state the amount

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of purchases & sales made by you in your
business each year during the four years pre-
vious to January 1st 1858.

Ans to 4th Int. I was engaged in business in the
City of Albany for several years previous to
December 1857. The amount of purchases &
sales made by me in my business each
year during the four years previous to Jan-
uary 1st 1858. was from \$18000, to \$20000.

this includes the purchases and sales
of the firm when I had a partner during
some portion of that time.

Int 5th. Did you purchase one hundred or
thirty acres of land on the Plank Road
between Albany & Schenectady and if you
state when and at whose suggestion and
under what circumstances you made &
such purchases. and whether you visited
and saw the land before purchasing it and
what sort of a title you obtained and whether
you or any person under you ever had
possession of said land?

Ans to 5th Int. I did as I understood through
Mr G. Weed purchase one hundred and thirty
acres of land on the Plank Road between
Albany & Schenectady - this was in the Spring
of 1858. and was at the suggestion of Mr
G. Weed and Isaac Smith for the purpose

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of obtaining credit on the purchase of goods
 I never visited or saw the land before. per-
 chasing it. I had a Deed from William G.
 thought I believe a brother in law of William
 G. Reed. for this land subject to a mortgage
 of John Thompson Pollard as to the Validity
 of the title. I know nothing I never took
 possession of said land and don't know that
 any person under me had possession of it
 I never knew what was paid for it
 Sat 6th Did you ever hold a mortgage on some
 land in Broome County New York and if
 yea. through whom and under what
 circumstances did you obtain it and
 what did you pay for it. did you ever see
 the property mortgaged?
 Ans to 6th Sat. I did hold a mortgage on
 some land in Broome County New York. I
 obtained it through William G. Reed in
 the Spring or Summer of 1858. under
 the same circumstances and for the same
 purpose that the real estate before mentioned
 was obtained I don't know what was paid for
 it and I never saw the property. I did not
 pay anything myself. to the man that
 assigned the mortgage to me
 Sat 7th Did you purchase of John & Van
 Alenburgh a house and lot on 2^d street

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in the City of Albany & if you state whom
and through whom. and in all what circum-
stances you purchased the same what and how
you paid for it. who introduced or advised you
to purchase it who collected and received
the rents, of said property after it was em-
ployed to you. what was Van Hornburgh's
business and with whom. and in whose office
was he engaged in business when you pur-
chased said Lot, and what did you finally
do with said house & Lot?
Ans to 7th Qst. I did through Amos Weed, pur-
chase of Tobias & Van Hornburgh a house
& Lot on 2nd St. in the City of Albany It was
purchased in the Spring of 1858. Isaac Smith
first suggested the purchase. I looked at the
property. and Amos Weed did the business
of negotiating the sale. I don't know who
received and collected the rents of said
property. after it was conveyed to me. I
never got any of it but think Weed said
Van Hornburgh would attend to that I don't
recollect of paying anything myself. for
the property and don't know what Weed
paid for it. Van Hornburgh's business
was that of Clerk in the Office of Weed &
Company when I purchased said Lot.
The said house & Lot was finally conveyed

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to Van Hook by me.

Ans^d 9th During the four years next previous to the fall of 1857 did you own any real estate and if so where was it situated and what was its value?

Ans to 9th Int. I did not during the four years next previous to the fall of 1857 own any real estate, unless in 1854. I owned a house & store in Chatham Columbia County New York State north of the Hudson River. It was built in 1853 or 1854. I did own and sold it.

Int 9th Did you in the fall of 1858 hold a mortgage on a house and lot in Albany for \$500 or thereabouts and if yea through whom did you purchase it & how much did you pay for it and to whom and in what did you pay for it and when to whom through whom and for what did you sell it?

Ans to 9th Int. I did in the fall of 1858 hold a mortgage on a house and lot in Albany for \$500 or thereabouts. I purchased the same in the same way as the other property was purchased by me. I don't remember what became of it.

Int. 10 Who composed the firm of Smith & Co & did they purchase a stock of goods of Isaac

month and I told him how and in what did
they pay for the same, and what became
of any notes given by them,
Ans to 10th Q^y. The firm of Smith & Co was composed
of myself and Hannon Smith. They purchased
a stock of dry goods of Isaac Smith. They
gave them notes for the whole stock. These
notes were taken up by me previous to the fall
of 1838.

Q^y 11th. How long were the firm of Smith & Co in
business what was the amount of their purchase
and sales?

Ans to 11th Q^y. The firm of Smith & Co were in
business about five months till the first part
of April I think of 1838. The firm of Smith
& Co bought only for cash I can't now state
the amount of their purchases and sales
Q^y 12th. Did you go into business alone in
the City of Albany in the Spring of 1838. and
if you state how much you were worth
then and in what it consisted. How much
you were then owing and to whom and
what was the value of the stock of goods
then on hand and owned by you?

Ans to 12th Q^y. I did go into business alone
in the City of Albany in the Spring of 1838.
I was then worth about eight thousand dol-
lars. It consisted of a stock of goods of the

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worth from \$16000. to \$18000. I was then saving
on notes outstanding about \$8000. which
notes were given in taking up the notes of Smith
& Co. and were given on time from six months
to three and four years. I think with such
interest

Int 13th Did you consult with any person
or persons in the latter part of the year 1837
or the early part of the year 1838, as to the
means of obtaining goods on credit and by
so with whom, and under what circum-
stances and did any person or persons during
or about that time suggest or propose,
any way or scheme, by which you might
obtain a quantity of goods on credit
of year plate who was such person or persons
and what was said to you by such person
or persons. and what of any thing was
done to carry out such a scheme or way
Ans to 13th But I did have a consultation in
the Spring of 1838. with certain parties as
to the means of obtaining goods on credit
Isaac Smith first suggested that Wm. G.
Ford would procure credit for me & that
it could be procured through him Isaac
Smith said that the property purchased through
Ford was all genuine and that it could
be used to get goods made on credit "I need

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went with me to New York to procure credit for me
 Sat 14th. The Composed firm of Wood & Mingley
 & Wm. G. Mearls and what was the bus-
 ness of said firms, and did you consult with
 said firms or either member of said firms &
 with reference to obtaining credit on the
 purchase of goods. and did said firms or
 either member of them know of your condition
 and did they or either member recommend
 or advise any course of proceeding and
 if so what. and did either member of said
 firm promise to aid you or to do any thing
 to give you credit and if so what did they
 or he do. and did you pay or compensate
 them in any way for the same. if so how?
 Ans to 14th Q. The firm of Wood & Mingley was
 composed of John W. G. Mearls & Wm. G. Mingley
 The firm of "Wm. G. Mearls & Co." was composed of
 the same parties. The business of the firm of Wood
 & Mingley was the general law business that
 of the firm of Wm. G. Mearls & Co. was of mer-
 cantile agency. I consulted with Wm. G.
 Mearls with reference to obtaining credit
 in the purchase of goods. Wood & Mingley
 my condition and recommended and advised
 the course I should pursue. He went
 with me to certain houses in New York City
 and obtained credit there for me. to certain