

8581


No. _____

Supreme Court of Illinois

Scoville & Thompson

vs.

Spooner

71641  7

At a Circuit Court Commenced and holden at the Court House in
the Town of Nashville of the March Term March 2^d 1838
the Following order was had in the following cause to wit)

Hiram H Scoville vs Appeal

Peter S Thompson on this day come the Plaintiffs by Miller
by the name & style of their Attorney and said Defendant by Hicks
Scoville & Thompson his attorney - Motion by Defendant to dismiss
vs his suit for want of sufficient Affidavit
Edwin A Spooner Motion over ruled & time given Plaintiff
to amend affidavit and now Plaintiff
refusing to amend Affidavit this suit is dismissed at Plaintiffs
costs Judgment rendered in favor of Defd and against the
Plaintiffs for costs of suit & execution is awarded therefor and
now come Plaintiffs and pray an appeal to the Supreme
Court granted upon their entering into Bond before the Clerk
with John A Gunn as security within thirty days from the date
hereof in the penal sum of \$100-00 conditional according to Law
State of Illinois Copy of Transcript of Justice

Washington County

Hiram H Scoville vs Justice Court before the undersigned Attachment
Peter S Thompson issued this 31st day of December 1837 to Const
under the name & style of Luster on a note for \$70,00 Returnable
Scoville & Thompson January 11th 1838 at 10 o'clock A M Attachment
vs Returned served Dec 31st 1837 & a Bay Horse
Edwin A Spooner attached to pay said debt & cost and now on
Attachment this day their being no defense & it appearing
Judgment \$70,00 that notice has been given as is Required by
Justice cost Law & neither Plaintiffs or Defendants
Bond & affidavit 50 appeared - It is ordered that Plaintiff have

Attachment 25
 Docket 12 1/2
 Entering Judgment 25
 Appeal Bond 50
 Transcript & Certificate 50
 Postage 6
 Const Luster Fees
 Serving & Mileage 30
 Returning & Delivery Bond 25
 Const Brewer Fees
 advertising & Returning

\$ 2.18 1/2

Judgment by default against defendant for
 \$40.00 & also cost of suit & It is further ordered
 that the property attached be sold to satisfy said
 debt & cost January 11th 1858

G J Hoke JP Court

I the undersigned a Justice of the Peace in
 and for said County do hereby certify that the
 above transcript is a correct copy from my
 docket Dated at Richmon this 29th day of
 January A.D. 1858 =

G J Hoke JP Court

Attachment 75

Copy of Attachment Bond

Know all men by these presents that we Scoville & Thompson
 & A P Shiple are held and firmly bound unto E. A. Spooner
 in the sum of One Hundred & Forty Dollars for the payment
 of which well and truly to be made we jointly and severally bind
 ourselves our heirs administrators and assigns - the condition
 of the above obligation is such that whereas the above bounden
 Scoville & Thompson hath on the day of the date hereof prayed an
 attachment at the suit of Scoville & Thompson against the
 personal estate of the above named E A Spooner for the sum of
 \$40.00 Dollars and the same being about to be sued out returnable
 on the 11 day of Decem 1858, before G J Hoke Justice of the
 Peace Now if the said Scoville & Thompson shall prosecute their
 suit into effect or in case of failure therein shall well and truly
 pay and satisfy the said E A Spooner all such costs in such
 suit and such damages as the said E A Spooner may sustain
 by reason of wrongfully suing out the said attachment then the

above obligation to be void else to remain in full force
and virtue Witness our hands and seals this 31st day of December
1857 Approved by me at my office this 31st day of Decem 1857
G. J. Hoake J.P. for Mc Ginn atty Scoville & Thompson Seal
A. P. Shipley Seal

State of Illinois }
Washington County }
The Creditors of E. A. Spooner complain on their oath against the said
E. A. Spooner and say that the said E. A. Spooner is indebted to them
the said Scoville & Thompson in the sum of \$70,00 and that said debtor is
about to make away with his property so that civil process will not reach
his property & that they the said Scoville & Thompson ask for an attachment
subscribed and sworn to before me }
this 31st day of December 1857 }
G. J. Hoake J.P. }
Scoville & Thompson Seal
for Mc Ginn atty

Copy of Attachment

State of Illinois }
County }
The People of the State of Illinois to any constable
of said County Greeting whereas Scoville & Thompson by their
atty A. C. Gunn has complained on oath before G. J. Hoake
a Justice of the Peace in and for said County that E. A. Spooner
is justly indebted to them in the amount of Seventy Dollars and
oath having been also made that the said E. A. Spooner is
about to make away with his property so that civil process
will ^{not} reach it and the said Scoville & Thompson having given
bond and security according to the statute in such cases provided
we therefore command you that you attach so much of the
personal estate of the said E. A. Spooner to be found in
your County as shall be of value sufficient to satisfy the said
debt and costs according to the complaint and such personal

estate so attached in your hands to secure or so to provide that the same may be liable to further proceedings thereon according to law before the undersigned - And in case personal property of value sufficient can not be found that you summon all persons whom the plaintiff or their agent shall direct to appear before the said Justice of the peace on the Church day of January at 10 o'clock A.M. next then and thence to answer what may be objected against them. when and where you shall make known how you have executed this writ - Given under my hand and seal this 31 day of December 1837 - G. J. Hoke J.P.

Copy of Return of attachment I served by Reading to the within named Appraiser Defendant Also Paid the same Beginning on one Bay Horse this December 31st John Luster cost returning mileage 30 Levy 25c

Demand \$70.00
 Cost
 Attachment 25 - Bond 25 - Affidavit 25 - Locket 12 1/2
 Total \$70.87
 Entering Judgment \$71.12
 attaching 25

I Returned the within attachment case appealed to Sale this 30th day of Jan 1838 } ss C. A. Breeze const
 Hiram H. Seville & } March Term A.S. 1838
 Peter S. Thompson by the } Washington Circuit Court appeal
 name and style of } from Justice of Peace attachment
 Seville & Thompson } Be it remembered that on Friday the
 } fifth day of said Term comes said
 C. A. Spooner } deft. by his atty Hicks and moves the
 Court to quash and dismiss said Attachment for defect in the
 affidavit on which the same issued and said plffs by S. Miller atty
 come and resist said motion and the Court having heard the

agreement of counsel takes the matter under advisement until
Monday the 29th inst. And on said Monday the counsel for pl^{ff}
and def^{dt} being present the court sustains said motion
and gives pl^{ffs} leave to amend said affidavit. And said
pl^{ffs} refuse to amend said affidavit the court quashes said
attachment and gives said pl^{ffs} leave to take Judgment for the
amount their claim against said def^{dt} as in case of Summers
which pl^{ffs} refuse to do and the court dismisses said suit
and said pl^{ffs} then and there except to the ruling of the Court
as to the ~~entertaining~~ said motion quashing said attachment
and dismissing said suit and prays that this Bill of
exceptions may be signed and sealed by said Court and made
a part of the Record herein and pray an appeal

March 31st 1838

H. W. C. Melvrey

Esq

Judge &c.

Know all men by these presents that we Hermon H. Scoville
and Peter S. Thompson of the County of Jackson and
John C. Gunn of the County of Washington all of the State of
Illinois are held and firmly bound unto Edwin A. Spomer
in the penal sum of one thousand dollars for the pay-
ment of which well and truly to be made and bind
ourselves our heirs executors administrators and assigns firmly
by these presents on the following condition whereas said
Edwin A. Spomer did at the March Term A. D. 1838 of the
Washington County Circuit Court obtain a Judgment for
costs of suit against said Hermon H. Scoville and Peter
S. Thompson a certain attachment there pending in said
Court from which Judgment said Hermon H. Scoville and
Peter S. Thompson have prayed an appeal to the Supreme Court
of said State now if said Hermon H. Scoville and Peter S. Thompson

shall prosecute their said appeal with due diligence and effect and pay whatever Judgment costs interest and damages that may be awarded against them in case said Judgment be affirmed then this Bond to be void else in full force and effect

Witness our hands and seals on this 8th day of April
A.D. 1838

Hiram H. Scoville *Scv*

Peter S. Thompson *Scv*

John C. Gunn *Scv*

Copy of Note

\$70.00

One day after date I promise to pay to Scoville & Thompson
Seventy Dollars Value Received

Richmond Mo November 2nd 1837

C. A. Spooner

Clerks Fees	3 45-
Justice Hoke	2 18
Const Luster	55-
" Breeze	75-
<hr/>	
Paid against Pleffs	\$6.93

State of Illinois } I Harry H Talbot Clerk of the
Washington County } Cir Court Court in and for said
County do hereby certify that the above and foregoing is a
True and correct Copy of the papers and Transcripts as
they are in the above entitled case-

Given under my hand and official
Seal at office in Nashville on this
5th day of November 1838
H. H. Talbot Clk

[1858-1]

16

Scoville Thompson

E. A. Spooner

Copy of Record

Filed Nov. 13, 1858.

N. Johnston Clk

Paid by Mr. Pallasch \$5.00

Fee \$2.50

New York, A.D. 1858,

Seville & Thompson }
vs }
E. A. Squawer }
the first General Session
of the State of Illinois
at Mount Vernon

Appeal from the Circuit Court of
Washington County in the State of Illinois
and name, to wit, Nov. 13th A.D. 1858,
it is stipulated and agreed by and between
the counsel of the respective parties, Appellants
and Appellee, that this cause shall be entered
on the records of the said Supreme Court, with
the same force and effect as an appeal
if the same had been duly entered within
the time prescribed by law and the rules
of Court, and that it be continued for
hearing till the next term of Court,

James M. Dillack
for Appellants
vs
Hicks for
Appellee

Seville & Thompson

vs
J. A. Sawyer

Appeal from Washington Co

Filed Nov. 1859

A. Johnston clk

STATE OF ILLINOIS—IN THE SUPREME COURT—FIRST GRAND DI-
VISION—NOVEMBER TERM 1859.

Appeal from Washington County.

Page of

SCOVILLE & THOMPSON vs. E. A. SPOONER.

Record

1

Original attachment Justice of the Peace on a note for \$70.

1—2

Judgment for Scoville & Thompson before Justice of the Peace for amount of
note and costs.

2—3

Attachment Bond.

3—4

Affidavit and Writ. Return of Constable on Writ.

4—5

Bill of Exceptions.

5—6

Appeal Bond.

1—4—5

Motion to dismiss on 5th day of term not having been made before the Justice of
the Peace came too late.

J. MILLER, Attorney for Plaintiff,

State of Illinois ss. Of the November Term 1859.
Washington County } Supreme Court State of Illinois

Seville & Thompson }

vs.

Edwin A. Spraves }

Appeal from Washington
County Circuit Court -

Before the Justice no motion
was made to dismiss - In the Circuit Court, a motion
was made, for the first time, on the 5th day of the Term, to
dismiss suit, for defect in the affidavit - motion resisted
by ptffs. in Circuit because it came too late - deft. had
waived his right - Circuit Court allowed the motion
ptffs. appealed -

ptffs. insist the motion was a delatory one and came
too late - Dilatory motions must be made at the
first possible opportunity or it is presumed they are
waived - See 5 Gill. Repts. page 565. Robertson et al.
vs County Commissioners -

In the case at bar if the motion to quash the Attachment
had been made before the Justice and overruled the deft.
might have renewed it in the Circuit Court - but it
came too late for the first time on the 5th day of the
Term -

Appellants submit this case on this brief -

J. Miller for
Appt.

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Scott & Thompson

by

Spooner

Filed Nov. 11 - 1859 -

A. Johnston Clerk

Nashville Tenn. Nov. 9. 1859.

Mr. Johnson -

Dear Sir -

I send a brief which
you will file in the case - I sent you a written
abstract to have printed and the money to pay the
printer - I hope you see that it is all done up -
I also sent over but few - I shall not be at
Court - I submit this case as you will see
from the brief -

STATE OF ILLINOIS—IN THE SUPREME COURT—FIRST GRAND DIVISION—NOVEMBER TERM 1859.

Appeal from Washington County.

Page of

SCOVILLE & THOMPSON vs. E. A. SPOONER.

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4—5

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5—6

Appeal Bond.

1—4—5

Motion to dismiss on 5th day of term not having been made before the Justice of the Peace came too late.

J. MILLER, Attorney for Plaintiff.

and for the same purposes.

THE UNITED STATES OF AMERICA

Section 3. That the sum of \$100,000 of the bonds authorized by the act of Congress of the 17th day of March 1877, and the sum of \$100,000 of the bonds authorized by the act of Congress of the 17th day of March 1877, be and the same be

Section 4. That the sum of \$100,000 of the bonds authorized by the act of Congress of the 17th day of March 1877, and the sum of \$100,000 of the bonds authorized by the act of Congress of the 17th day of March 1877, be and the same be

Section 5. That the sum of \$100,000 of the bonds authorized by the act of Congress of the 17th day of March 1877, and the sum of \$100,000 of the bonds authorized by the act of Congress of the 17th day of March 1877, be and the same be

Section 6. That the sum of \$100,000 of the bonds authorized by the act of Congress of the 17th day of March 1877, and the sum of \$100,000 of the bonds authorized by the act of Congress of the 17th day of March 1877, be and the same be

Section 7. That the sum of \$100,000 of the bonds authorized by the act of Congress of the 17th day of March 1877, and the sum of \$100,000 of the bonds authorized by the act of Congress of the 17th day of March 1877, be and the same be

Section 8. That the sum of \$100,000 of the bonds authorized by the act of Congress of the 17th day of March 1877, and the sum of \$100,000 of the bonds authorized by the act of Congress of the 17th day of March 1877, be and the same be

Section 9. That the sum of \$100,000 of the bonds authorized by the act of Congress of the 17th day of March 1877, and the sum of \$100,000 of the bonds authorized by the act of Congress of the 17th day of March 1877, be and the same be

Section 10. That the sum of \$100,000 of the bonds authorized by the act of Congress of the 17th day of March 1877, and the sum of \$100,000 of the bonds authorized by the act of Congress of the 17th day of March 1877, be and the same be

Approved: _____
Secretary of the Treasury

ALBANY—NOVEMBER TWENTY 1877

PRINTED AT THE OFFICE OF THE SENATE CLERK—THIRD GRAND DEPARTMENT

Filed Nov. 17 - 1879 -
N. Johnston M.

16.

Scoville & Thompson

v

Spooner

Appeal from
~~Essex~~ to Washington

No. 16

1859.

Scoville & Thompson

v

Spooner

Appeal from Washington

8581

Dismissed for want of
prosecution

See Name Book "B" Page 75 for
final bill -

entitled on Page 365.