

No. **11898**

Supreme Court of Illinois

Potter.

vs.

Dennison.

71641 7

10003
Op. Ct.
Gaal B. Potter
vs
Leonard Dennison

1849

11898

The People of the State of Illinois, by the
grace of God, free and independent

To all to whom these
presents shall come, or may concern - Greeting:

Know ye, that we having inspected
the records and proceedings remaining in the office
of the Clerk of the Circuit Court of the County of
Lake in the State of Illinois, aforesaid, do find
therein a certain record of a judgment of said Court
in the words and figures following, to wit:

" United States of America

" State of Illinois Lake County } Pleas before the Honorable
" Jesse B. Thomas one of the Justices of the Supreme Court
" of the State of Illinois and presiding Judge of Lake
" County in the Seventh judicial Circuit of said State

" At a special term of Court for said
" County of Lake began and held at Little Fort in
" said County on the twenty third day of August in
" the year of our Lord one thousand eight hun-
" dred and forty seven and of the Independence of the
" United States of America the Seventy second

" Present the Honorable Jesse B. Thomas Judge a-
" fforesaid William A. Boardman States Attorney
" James McKay Sheriff of Lake County
" Attest George Thomson Clerk

" Be it remembered that Leonard Denison by
" Hays & Coates, his attorneys, on the twelfth day of
" July A.D. 1847, filed his receipt with the Clerk
" of the Circuit Court of said County in the words
" and figures following, to wit:

" Lake Ct Court -

" Leonard Denison

" vs

" Isaac B. Potter } Little Fort July 12/47

" The Clerk of the Circuit Court will
" please issue a writ of Replevin in the above entitled
" cause for the property described in the affidavit here
" with filed & oblige

" Yours &c
" Hoys & Co
" Plffs Attys "

" And that on the day last aforesaid at the time
" of filing said process the following two affida-
" vits were filed with the clerk of said Court by
" the said attorneys of said Denison, which are
" in the words and figures following, to wit:

" State of Illinois

" Lake County } W. Elisha C. Denison being duly
" sworn deposes and says that on or about the
" fourteenth day of June A.D. 1847 this affiant
" delivered into the possession of Isaac B. Potter the
" following described property owned by Leonard
" Denison that is to say - Thirty nine Stoves and
" a quantity of hollow ware accompanying the
" same and constituting the furniture thereto - About
" two tons of wrought iron - Six barrells of lime -
" About seven hundred feet of pine lumber - One
" table and book case - One hair mattress -
" Twenty four port barrel - About six hun-
" dred pounds of grind stone - One platypus
" scale - Five round tin boilers - One Copper
" boiler One tin tea Kettle - One half dozen of
" sheet iron pans - One axe one Colt hook -
" About one hundred bushels of oats - Twenty pounds
" of Candles - One due bill for forty barrells of
" lime against James S. Dennis - And about sixty
" pounds of stove pipe - which property or the greater
" part thereof still remains in the possession of the

" said Potter - That the value of said property is as
" this affiant believes about eight hundred and sixty
" dollars -
" Subscribed & sworn to } Colisha E. Dennis "
" this 12th day of July }
" A.D. 1847 before me }
" George Thomson Clerk "

" State of Illinois }
" Leno County } J. Leonard Dennis being
" duly sworn deposes and says that he has heard
" the foregoing affidavit read and knows the
" contents thereof and that the property therein de-
" scribed was the property of this deponent at
" the time the same was delivered to the said Potter
" as in the aforesaid affidavit stated, and that
" the same is still the property of & is owned by this
" affiant and that this affiant is now lawfully
" entitled to the possession of the same, and that
" the possession of the said property is unlawfully
" and unjustly withheld from this affiant by Isaac
" B. Potter in the aforesaid affidavit named -

" This affiant further says that the said
" property has not been taken by virtue of any
" tax assessment or fine levied by virtue of any
" law of this State, nor seized under any Execution
" or attachment against the goods and chattels of
" this affiant, liable to Execution or attachment
" Wherefore this affiant prays that a writ of
" Replevin may issue from the Circuit Court of
" Leno County in his behalf against the said
" Potter and for the Replevy of said goods & property.

" Subscribed and sworn to } Leonard Dennis "
" before me this 10th day of }
" July A.D. 1847 }
" Geo Thomson Clerk "

And that on the said twelfth day of July A.D. 1847, the said plaintiff by his attorneys aforesaid filed in the office of the said Clerk an instrument in writing, which is in the words and figures following, to wit:

"Lake County
" Circuit Court
" Leonard Demissou }
" vs
" Isaac B. Potter }

" We do hereby enter our
" selves security for costs in this cause and ac-
" knowledges ourselves bound to pay or cause to
" be paid all costs which may accrue in this
" action either to the opposite party or to any
" of the officers of this Court in pursuance of
" the laws of this State.

" Dated this 10th day of July A.D. 1847

which was approved by the Clerk in the words and figures following, to wit:

" Approved by me at my office
" at Little Fort this 12 day of July
" A.D. 1847
" Geo Thomson
" Clk Circuit Ct

" C. S. Cary Secy
" D. O. Dickinson Secy

And that afterwards and on the said twelfth day of July A.D. 1847, a writ issued out of and under the seal of said Court which is in the words and figures following, to wit:

" State of Illinois }
" Lake County } p.

" The People of the State of Illinois to
" the Sheriff of said County Greeting:

" If Leonard Denison shall give you bond,
with good and sufficient security, to prosecute
his suit to effect, and without delay, and to
14 make returns of the following described goods
and chattels, the property of him, the said Leon-
ard Denison to wit: Thirty nine stoves and a
quantity of hollow ware accompanying the
same and constituting the furniture thereof -
about two tons of wrought iron - Six barrells
of lime - about seven hundred feet of pine
lumber - One table and book case - One hair
mattress - Twenty four pork barrells - About
15 six hundred pounds of grind stone - One plat-
form scales - Five round tin boilers - One Cop-
per boiler - One tin tea kettle - One half dozen
of sheet iron pans - one axe - one Colt horse
About one hundred bushels of oats - Twenty
pounds of candles - One due bill for forty
barrells of lime against James D. Dennis
and about sixty pounds of stone pipe - being
the same property delivered to Isaac B. Potter
on or about the fourteenth day of June 1847
by Elisha C. Denison - which the said Isaac
16 B. Potter also of said County, took and un-
justly detains against oaths and pledges, as
he saith, if a return thereof shall be award-
ed; and further to save and keep you
harmless in replevying said property, then
you are to cause the said goods and chattels
to be replevied and delivered to the said
17 Leonard Denison without delay; and to
summon the said Isaac B. Potter personally
to be and appear before the Circuit Court of
said County, on the first day of the next term

" thereof, to be holden at the Court House in Little
 " Fort on the fourth Monday of August next
 " to answer to the plaint of the said Leonard De
 " ison for taking and unjustly detaining the
 " goods and Chattels aforesaid, and make due
 " return of the bond to be taken from the said
 " plaintiff as aforesaid, to the Clerk of our said
 " Court, together with this writ, with an endorse
 " ment thereon, as to the manner in which you
 " may execute the same - Witness, the Hon. Jess
 " B. Thomas, Judge of our said Court, and the
 " seal thereof at Little Fort this twelfth day of
 " July AD 1847
 " Geo Thomas Clerk

14 On the back of which said writ is an
 endorsement by James McKay, then Sheriff
 of said County, which is in the words and
 figures following, to wit:

" Bond annexed to writ for Return see other
 " side "at McKay's office"

" By virtue of the within writ I have received
 " the following property to wit;

- " 34 stoves 60 lb stoves pipe 3 Round tin boilers
- " 2822 lb wrought Iron 417 lb Grind stones
- " 1 Patent Scales 1 sheet Iron saw 304 ft. Pine lumber
- " 1 hair Mattress; and delivered the same to Leonard
 " Deinson, the other described articles in this writ
 " not found -

" July 14th 1847 I also executed this writ by read
 " ing in the hearing of Isaac B. Potter
 " Fees 1 sen - - 50

"	app. Bond	" 50	
"	1 mile	" 06 1/4	
"	Return	" 2 1/2	1. 18 3/4
"	Cash Paid for	2 50	2. 50
"	Fearing		

" One day services

" attending to Property $\frac{5.00}{8.68\frac{3}{4}}$ James McKay Sheriff"

And that said writ was returned by said Sheriff to the Clerk of said Court on the seventeenth day of August A.D. 1847, as appears by an endorsement thereon by said Clerk in the words and figures following, to wit:

" Filed 17 Augt 1847

" Geo Thomson Clerk"

And that attached to said writ is a bond which is in the words and figures following, to wit:

" Know all men by these presents that we Leonard Demison of the State of New York and Charles S. Cary and Daniel C. Dickerson of Lake County Illinois are held and firmly bound unto James McKay Sheriff of Lake County aforesaid in the penal sum of two thousand dollars lawful money of the United States - which payment well and truly to be made we bind ourselves our heirs Executors and administrators jointly and severally, firmly by these presents - Sealed with our seals and dated this twelfth day of July A.D. 1847 -

" The Condition of the above obligation is such that whereas the above bounden Leonard Demison has this day sued out of the Circuit Court of Lake County aforesaid a writ of Replevin against Isaac B. Potter directed to the Sheriff of Lake County commanding him to replevy from said Potter and deliver into the hands of said Demison certain property in the said writ named and which the said Demison claims to be unlawfully withheld from him by said Potter. Now therefore, if

25 " the said Dennisons shall prosecute such
" suit with effect, and without delay, and
" make returns of the property if returned thereof
" shall be awarded and saved and keep
" harmless the Sheriff aforesaid in replevying
" such property, then this obligation to be void
" otherwise to remain in full force and vir-
" tute -

" signed sealed &
" delivered in presence
" of Eld Hays
" "
" "

Leonard Dennison *Esq*

C. S. Cary *Esq*

D. O. Dickinson *Esq*

" approved before me this
" 14th day of July 1847
" James M. Hays Sheriff "

26 And that afterwards, to wit; on the twelfth
day of August A.D. 1847, the said Dennison,
by Hays & Cotes, his attorneys, filed with the
Clerk of said Court, his declarations in the
words and figures following, to wit;

" of August Special Term
" Lake County Circuit Court } in the year of our Lord
" and thousands eight hun-
" dred and forty seven -

27 " Lake County, to wit; I said B. Potter, the dependant
" in this suit, was summoned to answer Leonard
" Dennison, the plaintiff in this suit, of a plea, where-
" fore he took the goods and chattels of the said
" plaintiff and unjustly detained the same against
" securities and pledges, until, &c. and thereupon the
" said plaintiff, by Hays and Cotes, his attorneys,
" complains - How that the said dependant, on the

28
fourteenth day of June A.D. 1847 in Little Fort
in the County of LaSalle and State of Illinois
took the goods and Chattels, to wit: thirty nine
stoves and a quantity of hollow ware accor-
-panying the same and Constituting the furniture
there - about two tons of wrought iron - six
barrels of lime, about seven hundred feet of
pine lumber - one table and book-case, one hair
mattress - twenty four pork-barrels - about six
hundred pounds of grind-stone - one platform
29 scales - five round tin boilers - one Copper boiler
- one tin tea kettle - one half dozen of sheet
iron pans - one axe - one Cult-hoe - about one
hundred bushels of oats - twenty pounds of can-
dles - one gun-bill for forty barrels of lime a-
gainst James S. Dennis, and about fifty pounds
of stove pipe, of the said plaintiff, of great value,
to wit, of the value of eight hundred and
sixty dollars, and unjustly detained the same,
against securities and pledges, until, &c.

30
And for that also the said defendant on
the ninth day of July A.D. 1847, in Little Fort
aforesaid took other goods and Chattels, of the
like number, quantity, quality, description and
value, as those in the said first Count mentioned
of the said plaintiff, and unjustly detained the
same against securities and pledges, until, &c.

31
And for that also the said defendant
on the tenth day of July A.D. at the place afore-
said wrongfully detained other goods and chattels
of the like number, quantity, quality, description
and value, as those in the said first Count
mentioned, of the said plaintiff and unjustly
detained the same, against securities and pledges, until, &c.

32 " And for that also the said defendant on
" the twelfth day of July A.D. at the place aforesaid,
" wrongfully detained other goods and chattels
" of the like number, quantity, quality, description
" and value, as those in the said first Count mentioned,
" of the said plaintiff, against securities and pledges, until, &c.

" Wherefore the said plaintiff saith, that he is injured,
" and hath sustained damage to the amount of two thousand dollars,
" and therefore he brings his suit, &c.

" Hoys & Coles
" Atty's for plff."

33 " And that afterwards, to wit, on the thirtieth day
" of August, said A.D. 1847, said last mentioned
" being one of the days of said August special term
" A.D. 1847 of said Court, said Potter, by Ferris,
" Boardman & Blodgett, his attorneys, filed his
" pleas to said declaration of the said plaintiff, ^{with the clerk of said Court} which are in the words
" and figures following, to wit;

34 " Lake Co. Court August Special Term A.D. 1847
" Isaac B. Potter } Replevin
" ad
" Leonard Demison }

" And the said defendant by Ferris Boardman & Blodgett his attorneys comes and
" defends the wrong and injury when &c. and says
" that he did not take and detain the goods and
" Chattels of the said plaintiff in the first and second
" Counts of his said declaration mentioned or
" any or either of them or any part thereof in
" manner and form as the said plaintiff hath

" above thereof Complain'd against him.

35 " And of this the Said defendant puts himself upon
" the Country &c.

" And for a further plea in this behalf the said
" defendant says that he did not detain the goods
" and Chattels of the said Plaintiff as the said
" Plaintiff hath above in the third and fourth
" Counts of his said declaration Complain'd a-
" gainst him - And of this he puts himself upon
" the Country &c.

36 " And for a further plea in this behalf the said
" defendant says actis now because he says that
" the goods and Chattels in the said Plaintiffs dec-
" laration mentioned at the said time when &c.
" were the property of the said defendant and
" not of the said Plaintiff as by the said
" declaration is above supposed And this he
" the said defendant is ready to verify; where-
" fore he prays judgement if the said plain-
" tiff ought to have and maintain his aforesaid
" action thereof against him - And he also
37 " prays a return of the said goods and Chattels
" together with his costs in this behalf accord-
" ing to the form of the Statute in such case
" made and provided, to be adjudget to him
" &c.

" Jerry Boardman W Blodgett
" Atty for Deft."

38 " And that afterwards, and on the day last
" aforesaid, said Pleinow, by Hoyt & Brown,
" his Attorneys, added his Similitur to the said
" first plea of the said defendant, in the words

following to wit;

"And plff doth the like by Hoyt & Brown his Atty^s—"
And to the said second plea of said defendant
in the words following, to wit;

"And plff doth likewise Hoyt & Brown his Atty^s,
And replies to the said third plea of the said
defendant in the words and figures following, to wit

"And said plff by Hoyt & Brown his Atty^s
comes and says he ought not to be precluded from
his action or maintaining thereof by virtue of
any thing pleaded in his plea 3^{dly} above
pleaded because he says the property recited in
said declaration was not the property of said
defendant at the said time when &c. of the
said defendant but that of said plff. and
this plff prays may be required of by the
Country

by Hoyt & Brown his Atty^s"

And that thereupon on said last mentioned
day said defendant ~~added~~ by Porter & Blodgett,
his attorneys added to said replication
the words following, to wit;

"And said def^t doth likewise by
Porter & Blodgett
his attys"

"United States of America }
"State of Illinois } Lake County } ss

Pleas before the Honorable
Jesse B Thomas one of the Justices of the Supreme
Court of the State of Illinois and presiding Judge
of the Seventh Judicial Circuit of said State—

At a Circuit Court begun and held

"at Little Fort in said County on the sixth day of
" September in the year of our Lord one thousand
" eight hundred and forty seven and of the Inde-
" pendence of the United States of America the seventy
" second

" Present the Honorable Jesse B. Thomas Judge
" William A Boardman State Attorney James M. Hay
" Sheriff of Lake County
" Attest George Thomson Clerk"

And that afterwards, to wit; on the seventh day
of September A.D. 1847, said last mentioned day
being one of the days of said September term
A.D. 1847, the following, among other proceedings,
were had in said Court, as appears by an entry
upon the records thereof, in the words and figures
following, to wit;

" 30 }
" Edward Demison vs Replevin
" Isaac B. Potter }

" 31 }
" Edward Demison vs Trover
" Isaac B. Potter }

" And now comes the defendant
" by Blodgett his attorney and on his motion leave
" 43 } is given to file additional pleas in each of said
" Causes within twenty days from this date"

" United States of America }
" State of Illinois Lake County } of Pleas before the Honorable
" Jesse B. Thomas Associate Justice of the Supreme Court
" of the State of Illinois, and presiding Judge of the
" Seventh Judicial Circuit of said State

44 " A Special Court began and held in
" and for the County of Lake in said seventh Ju-
" dicial Circuit at Little Fort on the Twentieth day
" of March in the year of our Lord one thousand
" eight hundred and Forty eight, and of the In-
" dependence of the United States the Seventy second
" Said term of Court being held pursuant to
" a Special order of the Honorable Jesse B. Thomas
" one of the associate Justices of the Supreme Court
" of said State and presiding Judge of the Circuit
45 " Court of said County of Lake, bearing date the
" first day of February A.D. 1848 and Calling said
" Special Term to Commence on said twentieth day
" of March for the transaction of all Civil, Crimi-
" nal and Chancery business pending in said Court

" Due notice of said Special term having been
" given by the Sheriff of said County according to
46 " the Statute in such case made and provided -
" Present William A Boardman States Attorney,
" Henry W Dorsett Sheriff of Lake County
" Attest George Thomson Clerk

" The Honorable Jesse B. Thomas
" Judge aforesaid not being present the Sheriff
" adjourned the Court at Four O'clock to meet
" tomorrow morning at nine O'clock.

" Tuesday the Twenty first day of March
" one thousand eight hundred and Forty eight.

" This day the Court met at nine O'clock
47 " in the morning the hour to which it was adjourned.
" Present William A Boardman States Attorney,
" Henry W Dorsett Sheriff of Lake County
" Attest George Thomson Clerk

" The Honorable Jesse B. Thomas not having
" arrived in consequence of severe indispositions in
" his family, The Sheriff at four o'clock in the
" afternoon adjourned the Court till term in
" Course "

⁶⁶
" United States of America }
" State of Illinois, Lake County } P.

" Pleas before the Honorable
48 " Jesse B. Thomas one of the Justices of the Su-
" preme Court of the State of Illinois and pre-
" siding Judge of Lake County in the Seventh
" Judicial Circuit in said State,

" At a Circuit Court for said County
" of Lake began and held at Little Fort in said
" County on the Twenty seventh day of March in
" the year of our Lord one thousand eight hun-
" dred and Forty eight and of the Independence
" of the United States the Seventy Second.

49 " Present the Honorable Jesse B. Thomas Judge aforesaid
" William A. Boardman States Attorney, Henry W.
" Parsett Sheriff of Lake County
" Attest George Thomson Clerk "

50 And that afterwards, to wit, on the twenty ninth
day of March A.D. 1848, said last mentioned
day being one of the days of said March
Term A.D. 1848, the following proceedings, among
others, were had in said Court, as appears from
an entry upon the records thereof, in the words
and figures following, to wit:

Edward Dennisow }
" 19 vs } Replevin
" Isaac B. Potter }

" And now comes the said plaintiff
" by Brown and Hoy & his Attorneys and the
" said defendant by Blodgett his attorney and
" by agreement this suit is submitted to the Court
" without the intervention of a Jury, and the
" Court having heard the testimony and arguments
" of Counsel takes the same under advisement"

And that afterwards, to wit; on the thirtieth
day of March A.D. 1848, said last mentioned
day being also one of the days of the aforesaid
March term, the following, among other proced-
ings were had in said Court, as appears by an
entry upon the records thereof, in the words and
figures following, to wit:

Edward Dennisow }
" 19 vs } Replevin
" Isaac B. Potter }

" And now comes the parties
" by their respective Attorneys and the Court being
" fully advised herein finds the issue for the
" plaintiff, whereupon the defendant by his at-
" torney moves the Court for a new trial."

53 And that afterwards, to wit; on the first day
of April A.D. 1848, said last mentioned day
being also one of the days of the aforesaid
March term, the following, among other proced-
ings were had in said Court, as appears by an
entry upon the records thereof, which is in the

words and figures following, to wit:

119 " Bernard Danison }
" vs } Replevin
" Isaac B. Potter }

11. And now come the parties by
12. their respective attorneys and the Court being
13. fully advised as to the motion for a new trial
14. formerly entered herein overrules the same,
54 " It is therefore ordered that the said plaintiff
15. have and recover of the said defendant the
16. property by his said writ replevied and also
17. his damages for the detention of the same, and
18. thereupon come the plaintiff by his attorney
19. and says that he freely remits the said
20. damages to the nominal sum of one cent
21. It is therefore ordered by the Court that the
22. said Plaintiff recover of the said defendant
55 " \$1.01 23. the said sum of one cent damages together
24. with his costs and charges in this behalf
25. expended and that he have Execution there-
26. for, and thereupon the said defendant
27. prays an appeal to the Supreme Court which is
28. granted on condition that the said defendant
29. enter into bond before the Clerk of this Court
30. within forty days in the penal sum of one
31. thousand Dollars, with Ira Porter and William
32. M. Case as sureties."


11 Lake Co Circuit Court

11 Same
4 vs
11 Same

Replevin

We hereby stipulate that
Edward R. Lyon may be substituted in the place
of Geo Porter as Surety in the appeal Bond
to be filed in the above entitled suits and that
the Bond may be filed as of this date

And that afterwards, a bill of exceptions,
signed and sealed by the said Hon. Jesse B.
Thomas, Judge aforesaid, was filed with the Clerk
of said Circuit Court, by the said H W Blodgett,
attorney as aforesaid of said Porter, which is in
the words and figures following, to wit;

<p>66 " Lake Co Cir Court " Isaac B. Potter " No 14 ads " Leonard Demison</p>		<p>Replevin</p>		<p>Lake Cir Court Isaac B Potter No 20 ads - Grover Leonard Demison</p>
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" Be it remembered that at the March
 Term of said Court A. D. 1848 both the above
 " causes were submitted to the Court without
 " a Jury at one time for trial by agreement of
 " parties - That the plaintiff then read in
 " 57 evidence the deposition of ^{previous} Elisha C. Demison
 " as evidence in both cases pursuant to ^{an} agreement of
 " parties (~~the said deposition in full~~) the

"Same having been taken returned in accordance
" The following deposition with the laws of this state
" upon Commission duly issued and sworn Circuit Court
" (has insert deposition)"

The deposition of Elisha E. Denison of the County
of Jefferson and State of New York a witness of lawful
age produced and examined upon his corporal
oath on the 28th day of February - in the year of our
Lord one thousand, eight hundred and forty eight
at the office of Isaac Van Vleet in the village of
Sackett's Harbor in the town of Hounsfield in the
County of Jefferson and State aforesaid by us
Isaac Phelps and Isaac Van Vleet commissioners
duly appointed by a Decree Protestation or Com-
mission issued out of the chief office of the Circuit
Court of Lake County in the State of Illinois
bearing teste in the name of George Thomson Esq
Clerk of the said Circuit Court with the Seal of
said Court affixed thereto and to us directed as
such commissioners for the examination of the said
Elisha E. Denison a witness in a certain suit and
matter in controversy now pending and undetermined
in the said Circuit Court wherein Leonard Denison
is plaintiff and Isaac B. Potter is defendant
in behalf of the said Leonard Denison as well upon
the Cross Interrogatories of the said Isaac B. Potter
as on the Interrogatories of the said Leonard Denison
which were attached to a inclosed with the said com-
mission, and upon more others. The said Elisha E.
Denison being first duly sworn by Isaac Van Vleet
one of the said Commissioners as a witness in the said
Cause previous to his examination to testify the
truth as well on the part of the plaintiff as the defen-
dant in relation to the matter in controversy between
the said plaintiff and defendant so far as he should
be interrogated testified and deposed as follows

Interrogatory First

What is your age and
place of residence?

Answer to First Interrogatory: My age is twenty five years: my place of residence is LaSalle's Harbor

Interrogatory Second "Do you know the parties plaintiff and defendant in the title of these interrogatories named a either, and which of them and how long have you known them respectively"

62

Answer to the second interrogatory

I know the parties plaintiff and defendant in the title of these interrogatories named - I know both of them - I have known the plaintiff Leonard Demisen from childhood, have known the defendant Isaac B Potter since about the 12th of June last

Interrogatory third

"Did you reside in Little Fort in the county of LaSalle and State of Illinois in the year Eighteen hundred and forty six and Eighteen hundred and forty seven"

63

Answer to ^{the} third Interrogatory

I did reside in "Little Fort in the county of LaSalle and State of Illinois in the year Eighteen hundred and forty six and Eighteen hundred and forty seven"

Interrogatory fourth

"State when you went to Little Fort aforesaid to reside, and when you left there"

Answer to fourth Interrogatory

"I went to Little Fort aforesaid to reside about the tenth of April Eighteen hundred and forty six and left there about the tenth of September Eighteen hundred and forty seven"

Interrogatory fifth

"Were you during those years engaged in the hardware iron and stove business in Little Fort aforesaid? If you state whether you were so engaged and doing business on your own account?"

65 #

" Answer to the fifth interrogatory, I was during those years engaged in the hard ware iron and stove business in Little Fort aforesaid? I was not so engaged and doing business on my own account, I was acting as the agent of Leonard Demison the plaintiff "

Interrogatory the Sixth

" If you were acting only as the agent for another in the management of said business State whose agent you were, and to whom the goods entrusted to your management belonged "

66

Answer to the sixth Interrogatory

I was the agent of Leonard Demison the plaintiff in this case, and the goods entrusted to my management belonged to him "

Interrogatory Seventh

State the time when you first entered upon said business, and when the first stock of goods or merchandise, about the sale of which you was employed as aforesaid was purchased "

Answer to the seventh Interrogatory

67

I first entered upon said business about the twentieth of August eighteen hundred and forty six -

68

The first stock of goods or merchandise, about the sale of which I was employed as aforesaid was purchased at Albany Water town and Buffalo in the State of New York: The knowledge I have that they were so purchased at those places, I have derived from the plaintiff Leonard Demison and from the bills of the goods which were shown me by the plaintiff Leonard Demison, and which bills I copied in a Book kept for the purpose of entering the purchases made by the plaintiff Leonard Demison, the plaintiff purchased some goods also at Oswego in the State of New York at Cleveland in the State of Ohio at Chicago in the State of Ill-
inois

4
Interrogatory eighth

"State by whom and in whose name the said goods were purchased and with whose money they were paid for"

69

Answer to the Eighth Interrogatory
"The goods were purchased by the Plaintiff Leonard Denison, and in his name and were paid for with his money"

Interrogatory Ninth

"Did the Plaintiff come from New York to Little Fort aforesaid, with the goods so as above stated to have been purchased by him or in advance of their arrival?"

Answer to the ninth Interrogatory

70 "The Plaintiff came from New York to Little Fort aforesaid with a part of the goods so as above stated to have been purchased by him and a part arrived after he left"

Interrogatory Tenth

"Was the Plaintiff at Little Fort at the time of the arrival of said goods?"

Answer to the tenth interrogatory

"The Plaintiff was at Little Fort at the time of the arrival of the greatest part of said goods came with them"

Interrogatory Eleventh

71 "Did the Plaintiff assist in any way in the arrangement and management of said goods after their arrival at Little Fort? and if yes how? State fully and particularly?"

Answer to the Eleventh Interrogatory

"The Plaintiff did assist in the arrangement and management of said goods after their arrival at Little Fort; he superintended the unloading

of them from the vessel - and about the arrangements of them in the stow - and in weighing some of them "

Interrogatory 12th
72 " Who paid the freight and charges on said goods to Little Fort, and with whose money was such freight & charges paid ? "

Answer to the 12th Interrogatory
The plaintiff Leonard Devison paid the freight on said goods to Little Fort, and I paid the other charges - the charges and freight were paid with the money of Leonard Devison "

Interrogatory 13th
73 " State whether you ever became the purchaser from the plaintiff or any other person, of said goods or any part or portion of them, or any interest therein ? "

Answer to the 13th Interrogatory
I never did become the purchaser from the plaintiff or any other person, of said goods or any part or portion of them, or any interest therein "

Interrogatory 14th
74 " State whether you have ever had any interest in said goods, as owner, part owner, partner or otherwise, either by gift or purchase ? "

Answer to the 14th Interrogatory
I have never had any interest in said goods as owner, part owner, ^{partner} or otherwise, neither by gift or purchase "

Interrogatory 15th
" Did the plaintiff return to the State of New York after the said goods were received at Little Fort as aforesaid, and if yes, about how long after ? "

Answer to the 15th Interrogatory
75 " The plaintiff did return to the State of New York after the greater portion of the said goods were

6
received at Little Fort as aforesaid he left on the
14th of September 1846, about a month after the
arrival of the greater part of said goods.

Interrogatory 16th

76 State whether prior to the return of the Plaintiff
to the State of New York - any part of said goods
were sold for cash? If Yes? State what disposition
was made of the money constituting the proceeds
of such sale?

Answer to the 16th Interrogatory

A part of said goods were sold for cash prior to
the return of the Plaintiff to the State of New York -
a part of the money was paid out for my board &
personal expenses and charges on said goods, and
the remainder was paid to the Plaintiff Leonard Jensen

Interrogatory 17th

77 State how many times prior to the Plaintiff's return
to the State of New York - you paid over to him
money which you had received in the course of
business for sales of said goods?

Answer to the 17th Interrogatory

I paid over to the Plaintiff prior to his return to the
State of New York money which I had received in
the course of business for sales of said goods at
three different times.

Interrogatory 18th

78 State the amount paid the Plaintiff at each
of the times referred to in your answer to the seven-
teenth interrogatory?

Answer to the 18th Interrogatory

I paid the Plaintiff the first time referred to in
my answer to the seventeenth interrogatory four
dollars. The second time twenty dollars, the third time
ninety dollars.

Interrogatory 19th

79 "State whether there was any agreement with the Plaintiff, or promise made by you to him prior to his return, to New York as aforesaid, that you would from time to time remit the money which you should receive from sales of said goods to any person in said State, and if Yea, state to whom the same was to be remitted

Answer to the 19th Interrogatory

80 There was a promise made between the Plaintiff and myself prior to his return to the State of New York as aforesaid that I would from time to time remit the money I should receive from sales of said goods to some person in said State. The money was to be remitted to the Plaintiff Leonard Demison

Interrogatory 20th

81 "State whether the two letters deposited by the Plaintiff with Heyt, & Coates his Attorneys in this cause one dated April 14th 1846, and the other dated July 25th 1846, were sent by you to the Plaintiff by mail at the time when they purport to have been written

Answer to the 20th Interrogatory

82 The two letters deposited by the Plaintiff with Heyt & Coates his Attorneys in this cause one dated April 14th 1846, and the other dated July 25th 1846 were sent by me to the Plaintiff by mail at the time when they purport to have been written

Interrogatory 21st

"Were said letters deposited by you in the Post Office

Answer to the 21st Interrogatory

83 The said letters were deposited by me in the Post Office at Little Fort one dated April 14th 1846 and the other dated July 25th 1846 directed

8
to the plaintiff and which letters are now in
the possession of said Hoop & Coles plaintiffs
attorneys, that is, I saw them in their possession
last

Interrogatory 22nd

"Did you see said letters after they were so depos-
ited and before you saw them in the plaintiffs
possession?"

Answer to the 22nd Interrogatory

84
I did not see said letters after they were so depos-
ited and before I saw them in the plaintiffs
possession."

Interrogatory 23rd

State whether prior to your employment in the
aforesaid business you were living at Little Fort
on your own expenses, or that of some other person
and of whom?

Answer to the 23rd Interrogatory

85
Prior to my employment in the aforesaid business
I was living at Little Fort, not on my own expenses
but at the expense of some other person, to wit the
plaintiff Leonard Dennis, independent of whom
I had no means of support

Interrogatory 24th

"Who paid or furnished the means of paying your
travelling expenses to Little Fort aforesaid, and also
your personal expenses while there?"

Answer to the 24th Interrogatory

Leonard Dennis the plaintiff furnished me
the means of paying my travelling expenses
to Little Fort aforesaid, and also paid my personal
expenses while there

Interrogatory 25th

86
"Did the plaintiff authorize you to transact the aforesaid
business in your own name?"

Answer to the 25th Interrogatory

"The plaintiff did not authorize me to trans-
the aforesaid business in my own name

Interrogatory 26th

Was it so transacted with his knowledge?

Answer to the 26th Interrogatory

I do not know whether the plaintiff knew that
the business was transacted in my name or
not - he did not that I know of

Interrogatory 27th

67 Did you add to the stock of stores so as aforesaid
purchased by the plaintiff by purchasing other
stores or hardware in Little Fort or elsewhere
after the plaintiff's return to New York?

Answer to 27th Interrogatory

I did add to the stock of stores so as aforesaid
purchased by the plaintiff by purchasing stores
and store furniture in Little Fort after the
plaintiff's return to New York

Interrogatory 28th

From whom were such purchases made?

88

Answer to 28th Interrogatory

Such purchases were made from David Ballentine

Interrogatory 29th

How and with whose money and effects was
the property purchased from Ballentine paid for

Answer to the 29th Interrogatory

The property purchased from Ballentine was
paid for by two notes, which were subsequently
paid by the money or effects of the plaintiff

Interrogatory 30th

89 State at what times and how the payments to
Ballentine were made & whether the money or
effects so paid to him or any part of it belonged
to yourself?

11
Answer to the 20th Interrogatory
The payments to Ballentine were made
the 23^d day of March 1847 by two notes one
signed by New & Swastwood for one hundred dollars
due in two months & which I had received from
them for goods sold them belonging to the plain-
90 tiff, and by another note signed by myself for
one hundred and fifty one dollars and thirty
cents due in four months - I afterwards bought
back the note of New & Swastwood with the money
and effects of the plaintiff: the money and effects
paid to Ballentine or any part of it, did not
belong to me but to the plaintiff "

Interrogatory 31st
" For whom did you purchase said goods
purchased from Ballentine for the plaintiff?
+ to whom did they belong at the time of their
91 sale to the defendant

Answer to 31st Interrogatory
I purchased said goods purchased from Ballentine
for the plaintiff: at the time of their sale to the
defendant they belonged to the plaintiff Leonard
Denison

Interrogatory 32^d
State the motive which induced you to make
said purchase from Ballentine

Answer to the 32nd Interrogatory
92 The motive which induced me to make said
purchase from Ballentine was to rid the plain-
tiff of the competition of Ballentine in the busi-
ness I was doing for the plaintiff. Said Ballentine
promis^{ing} me if I would purchase his stores, that
he would go out of the Store business

Interrogatory 33rd

How long did you continue to manage the
aforesaid business as before stated by you?

Answer to the 33rd Interrogatory

93 I continued to manage the aforesaid business
as before stated by me about ten months

Interrogatory 34th

Did you at any time sell the balance or any
portion of the said stock of stoves and other
goods to the defendant

Answer to the 34th Interrogatory

I did sell the balance of said stock of stoves
and other goods to the defendant

Interrogatory 35th

At what time was such sale made

Answer to the 35th Interrogatory

94 Such sale was made in or about the 14th day
of June 1847.

Interrogatory 36th

State particularly the amount of goods so
sold by you to the defendant, the quantity of
each kind and the value thereof

Answer to the 36th Interrogatory

95 The following is a Schedule of the balance of said
stock of goods sold by me to the defendant in or about
the 14th day of June 1847 = The balance of the stock
of goods sold the defendant by me, were valued by us
to be worth Eight hundred and sixty nine dollars

96 The price or value at which each separate item is
carried out in this Schedule may differ from the bill
given to the defendant but the aggregate amount is
the same, also there are some small articles in this
Schedule which were not in the defendant's ^{bill} ~~work~~, one
was one Colt hook & six sheet Iron pans which
he received at the same time

"Schedule"

	value	
8 Largest size elevated oven Cook Stoves	@ \$17.50	\$140.00
5 Second size elevated " " "	@ \$15=	75.00
4 No 5 Rathben & Co Cook Stoves	@ \$14=	56.00
97 2 No 4 ditto " " "	@ \$12.50	25.00
1 No 2 ditto " " "	@ \$10	10.00
4 No 5 Arcoli Foundry Cook Stoves	@ \$12.50	50.00
5 No 4 ditto " " "	@ \$10=	50.00
3 No 2 ditto " " "	@ \$6-	18.00
1 No 3 Erie Cook stove	\$ 7.50	7.50
98 1 Parlor Stove	@ \$6=	6.00
3 large Box stoves	@ \$12.50	37.50
4 small ditto "	@ \$4-	16.00
3 tons of Iron at 100.00 per ton		300.00
6 Barrels of lime A. S. Dennis bill for 40 barrels 46 @ 75¢		34.50
99 708 feet of pine lumber at \$12 per thousand		85.00
600. lb Sand Stoves @ 1¢		6.00
100 bush Oats @ 3¢		3.00
Amount brought up		\$765.10
1 Book case & table		5.00
one hair mattress		3.00
1 large platform scale		40.00
100 24 Pork Barrels at 8¢		24.00
60 lb stove pipe at 1¢		7.50
5 round tin boilers @ \$3		15.00
1 second hand copper boiler \$2		2.00
1 Tin teakettle		1.25
20 lb Candles @ 1¢		2.50
one axe, 6¢ 1 Coll hook 6¢		1.50
101 Six shut Iron pants @ 3¢		2.25
		\$869.00

Interrogatory 3rd 1/2

Designate the particular portions of the goods sold to the defendant which were purchased from David Ballantine and the portion purchased by

the plaintiff in the State of New York?

Answer to the 37th Interrogatory

102
The portion of goods so sold to the defendant which were purchased from David Ballantine were the 14 stoves designated in my answer to the 36th interrogatory as Rathbone & Co. Cook stoves and Arcoli foundry cast stoves, and the portion purchased by the plaintiff in the State of New York were the 13 stoves mentioned as elevated oven cook stoves in my answer to the 36th interrogatory the 2 large Boy stoves the 4 smaller ones the iron the grind stoves the stove pipes, the five round tin boilers tea kettle sheet iron pans they were also bought by the plaintiff in the State of New York. The Parlor stove the fire cook stoves the ovens the due bill for lime and all the other articles mentioned in the Schedule in my answer to the 36th Interrogatory were purchased by me at Little Fort with the plaintiffs money and effects.

Interrogatory 38th

What was the consideration paid by the defendant for said goods?

Answer to the 38th Interrogatory

104
The consideration paid by the defendant for said goods, was a conveyance of two hundred and forty acres of land in the State of Michigan in Lapeer County.

Interrogatory 39th

To whom was the land which you agreed to exchange for said goods conveyed by the defendant?

Answer to the 39th Interrogatory

105
The land which I agreed to receive in exchange for said goods was conveyed by the defendant to the plaintiff.

Interrogatory 40th

By whose direction was the same conveyed to the Plaintiff?

Answer to the 40th Interrogatory
The same was conveyed to the Plaintiff by my direction as his agent

Interrogatory 41st

To whom was the deed therefor delivered?

Answer to the 41st Interrogatory
The deed therefor was delivered to me as the agent of the Plaintiff

Interrogatory 42nd

766 What afterwards became of said deed?

Answer to the 42nd Interrogatory
Said deed was afterwards given up by me to the defendant to be destroyed

Interrogatory 43rd

If the said deed was destroyed state particularly the circumstances - state by whom it was destroyed and the reason thereof

Answer to the 43rd Interrogatory

767 The defendant stated to me that he had destroyed the deed. I did not see him destroy it, and his reason was as I suppose that he considered that sale at an end

Interrogatory 44th

Did you subsequently to the execution and delivery of said deed to you for the Plaintiff agree to exchange said land with defendant for copper Stock, money or other effects? If Yes, state fully and particularly the consideration received from defendant in such exchange

Answer to the 44th Interrogatory

768 I did subsequently to the execution and delivery of said deed to me for the Plaintiff agree to exchange

Said land, with defendant's Copper Stock =
The consideration received from defendant in such
Exchange was the delivery to me of certificates of
twelve thousand of stock in the Mineral Creek Copper
Mining Company

Interrogatory 45th
Was it in pursuance of said ^{such} agreement that
said deed was destroyed

Answer to the 45th Interrogatory
It was in pursuance of said agreement that
109 said deed was given up and I suppose dis-
troyed

Interrogatory 46th
Describe the said land particularly if you can
and according to the Government survey.

Answer to the 46th Interrogatory
I cannot describe the land particularly according
to the Government survey

Interrogatory 47th
What representations were made to you by the defen-
dant at the time of the sale of said goods to
him in exchange for said lands, as to the location
and value thereof?

Answer to the 47th Interrogatory
The representation made by the defendant to me
at the time of the sale of said goods ^{to him} in exchange
for said lands were as follows; He the defendant
said that it was first rate land of first rate
quality of unimproved land but the country around
it ^{was} improved, that it was in the county of Lapeer
in the State of Michigan, that it was sold to him
by Walter Stubbels of Canadagua in the State
of New York and that he first surveyed it and
111 picked it out for himself as a choice piece of
land, and that it was near a good market

16
in a fine healthy country and but three quarters
of a mile from Lapeer the county seat of Lapeer
112 county in said State of Michigan, that it
was now worth five dollars per acre and would
see in value as the country was fast settling
Interrogatory 48th

Were such representations made prior or sub-
sequent to the execution of said deed?

Answer to the 48th interrogatory.

Such representations were made prior to the
execution of said deed

Interrogatory 49th

Did you rely upon such representations being
true?

113 Answer to ^{the} Interrogatory 49th Interrogatory

I did rely upon such representations being
true

Interrogatory 50th

Did those representations constitute any part
of the inducement moving you to make such
exchange

Answer to the 50th Interrogatory

Those representations constitute the whole and
only inducement moving me to make such
exchange

Interrogatory 51st

114 Describe particularly the certificates of stock
which you received in exchange for said land
as stated in your answer to the forty fourth
interrogatory

Answer to the 51st Interrogatory

"The certificates of stock which I received in
exchange for said land was of the Mineral Creek
Copper Mining Company." They were signed by
Isaac C. Brown as President and George C. Gibbs

Secretary and the name of Daniel Munger was
written on the Backs of them in whose name
and as D Munger they were also drawn certifying
that D Munger is the proprietor of one share, in
115 the Mineral Creek Copper Mining Company
and that the holder hereof is entitled to an undivided
~~two~~ ^{five} thousandth part of the Capital stock and of the
net earnings and profits which may accrue from
the business thereof. The rights and interests of the
holder hereof being in all respects subject to the
provisions and stipulations contained in the
articles of agreement of the association made on
116 the first day of November 1845 and to any
modifications of the same which may hereafter
be made by vote of the association which shall
be adopted in conformity with the said provis-
ions and stipulations - This certificate is trans-
ferable, in the books of the association by en-
dorsement on the back hereof, on the surrender of
this certificate and the execution by the signee
of the said articles of agreement and association
Dated Marshall April 4, 1846 The other cer-
117 tificates are similar as the one above described
with the exception that one of them was given for
two shares instead of one

Interrogatory 52^d

How many shares or certificates of shares of
stock did the defendant deliver to you in
exchange for said land

Answer to the 52^d Interrogatory

The defendant delivered to me in exchange
for said land certificates for twelve shares of stock
118 in said Mineral Creek Copper Mining Company

Interrogatory 53rd

State whether the certificates or scrips were the same subsequently deposited by you with Messrs Keoyt & Cotes attorneys for the Plaintiff in this cause & now in their possession?

Answer to the 53rd interrogatory

They were the same certificates or scrips subsequently deposited by me with Messrs Keoyt & Cotes attorneys for the Plaintiff in this cause and now in their possession with the exception of one No 413 which is now in the hands of the Commissioners marked "Chilbit A"

Interrogatory 54th

What representations were made to you by the defendant as to the value of said stock at the time of the said second exchange?

Answer to the 54th Interrogatory

The representation made to me by the defendant as to the value of said stock at the time of the said second exchange, was that they were worth at that time one hundred dollars per share that the original price of each share was fifty dollars. He stated that the company was doing a great business in mining, and made a dividend but the year before of thirty three per cent. He stated that he had some copper stock which was not very good, and semi quite worthless, but this was one of the companies, which had done the best of any of the copper mining companies as he had been informed personally by General Croxy the President of the company. He also stated that the company had an office in Detroit and asked me to take some shares in an other company and ascertain their value for him, when I went to Detroit as he did not know what they might be worth, but the shares

of the company he gave me in Ex change
in the deed he knew to be first rate and worth
a hundred dollars per share

Interrogatory 55th

Were such representations made before
or subsequently to the Ex Change

Answer to the 55th Interrogatory

Such representations were made before the Ex-
Change

Interrogatory 56th

Did You rely upon those representations
as true

Answer to the 56th Interrogatory

I did rely upon those representations
as true

Interrogatory 57th

Were You in any degree induced by them
to make such Ex Change

Answer to the 57th Interrogatory

I was induced by them to make such
Exchange

Interrogatory 58th

State what Efforts You have made to ascertain
the value of said Stock & the result of Your
investigations

Answer to the 58th Interrogatory

About three weeks after the Ex Change I went
from Little Fort to Marshall Michigan to
ascertain from the officers of the company who
resided there, what the shares of the stock of
the company were worth, The President Isaac E.
Crary informed me that there had nothing been
done by the company in the way of business
except to make a survey of the land on which
their premises was located

20 125

that it was doubtful whether they would ever do any thing in the mining business that they had never made any dividend and only twenty five cents had been paid in on any of the shares. that the shares were of no fixed value, and he had never known them to be sold for cash, that they had been sold for ^{by} some kinds of trades from three to five dollars per share which was the highest he had known them to sell - the secretary of the company George C. Gibbs gave me the same information; I came back to Little Fort and informed the defendant what the President & Secretary of the company said about the value of the certificates of stock which he had let me have, he then admitted that he knew that the certificates of stock or shares were worth little or nothing. I then asked him why he represented to me that the stock was worth one hundred dollars per share; to which he made no reply.

126

127

Interrogatory 59th

State all you know about the value of said stock at the time of said second exchange.

Answer to the 59th Interrogatory

At the time of said second exchange I did not know anything about the value of said stock except from the defendants representations.

128

Interrogatory 60th

was said stock ever forfeited to the company and if yes, when and for what reason was it so forfeited?

Certificate of Share No 1447 No 413

Mineral Creek Copper Mining Company
This certifies that I Mungu is the proprietor
of One Share in the Mineral Creek Copper
Mining Company and that the holder hereof
is entitled to one undivided Five thousandth
part of the capital stock and of the net earnings
and profits which may accrue from the business thereof
the rights and interests of the holder hereof being in
all respects subject to the provisions and stipulations
contained in the articles of agreement
of this association made on the first day of November
1845 and to any modifications of the same which
may hereafter be made by votes of the
association which shall be adopted in
conformity with the said provisions
and stipulations

133



134

This Certificate is transferable on the books
of the association by endorsement on the back hereof on the
summit of this certificate and the execution by the assignee of the
said articles of agreement and association.

Dated Marshall April 4th 1846

George C Gibbs Secretary Isaac Ebrary President

"Lake County Circuit Court"

"Leonard Penison" 3

vs
Isaac B. Potter 3

The 28th day of February 1848 at the
execution of a commission for the examination
of Elsha & Penison a witness in this
cause the paper a certificate was pre-
pared and shown to Elsha & Penison
and they read and examined and by
him deposited into at the time of his
examination as a witness under such com-
mission Isaac Van Neeck

"Jason Phelps" } Commissioners

James Munger

Filed 30th March 1848

"Shannon & R"

"Attest" A. H. Jones to
in the 68^o Subscribing on the
Sporn of 1848

Answer to the 60th Interrogatory

The said stock was forfeited to the company as the Secretary informed me after he had looked at the books of the company

George C. Gibbs at my request - It had been forfeited a long time before I received them from the defendant - It was forfeited for the reason that an assessment had been made on the shares and such assessment had not been paid on these shares by the holder of them and that was the reason why they were forfeited

Interrogatory 61st

State the time when the exchange of said land for said coffee stock or certificates, as aforesaid was made by you with said defendant

Answer to the 61st Interrogatory

130 The Exchange of said land for said coffee stock or certificates as aforesaid was made by me with said defendant about the 17th day of June 1847

Interrogatory 62nd

Look upon the paper now shown to you & marked Exhibit "A" and state whether it is one of the certificates of stock received from the defendant by you in exchange for said land

Answer to the 62nd Interrogatory

131 The paper now shown me marked Exhibit "A" is one of the certificates of stock received from the defendant by me in exchange for said land

Interrogatory 63rd

State whether the other certificates received by you from him were certificates of shares in the same company and of the same character as that now shown you

Answer to the 63rd Interrogatory

132 The other certificates received by me from him

two certificates of shares in the same Company and of the same character as that now shown you me

Interrogatory 64th

"What part or portion if any, of the property delivered by you to the defendant in exchange for said land, was replevied and delivered to the plaintiff by virtue of the writ issued in this cause?"

Answer to the 64th Interrogatory

"Property to the value of six hundred and twenty dollars and a number of the property delivered by me to the defendant in exchange for said land was replevied and delivered to the plaintiff by virtue of the writ issued in this cause."



Interrogatory 65th

Describe particularly that portion of the property replevied and the value thereof at Little Fort of or said at the time when the same was replevied

Answer to the 65th Interrogatory

That portion of the property replevied and the value thereof at Little Fort of or said at the time when the same was replevied is as follows

7 largest size elevated oven cook stoves	Value \$1750 apiece	\$122,50
3 second size " " " "	Value \$15,00 apiece	45,00
4 No 5 Rathbone & Co cook stoves	Value \$14,00 apiece	56,00
2 No 4 Rathbone & Co cook stoves	Value \$12,50 apiece	25,00
1 no 2 Rathbone & Co Cook Stove	Value \$10,00	10,00
4 No 5 Arcoli Laundry Cook stoves	Value \$12,50 apiece	50,00
5 No 4 ditto ditto ditto ditto ditto	ditto \$10,00 do	50,00
2 No 2 ditto ditto ditto ditto	ditto \$6,00 ditto	12,00
2 large Box Stoves	ditto \$12,50 ditto	25,00
4 small Box ditto	ditto \$4,00 ditto	16,00
2822 pounds of Iron	ditto five cents per pound	141,10
240 feet Lumber	Value 12,00 per thousand	3,88
482 pounds Grind Stones	Value one cent per pound	4,82
1 hair mattress	Value \$5,00	5,00
1 large platform scale	Value \$10,00	10,00
		410,90

1. Hair mattress Value 1/ per lb	3.00
1 Large Platform scale Value \$20.00	40.00
60 lbs stove pipe Value 1/ per lb	7.50
3 round tin Boilers Value \$3. apiece	9.00
142 one sheet Iron pan Value	27
	<u>\$620.17</u>

The value of the articles above mentioned are carried out in gross in the last column of figures in the above schedule and are their true value, and amount to six hundred and twenty dollars and seventeen cents

Interrogatory 6th

Describe particularly that portion of the property delivered to the defendant in exchange for said land which was not replaced, and the value thereof at Little Fort, aforesaid at the time of the commencement of this suit, of each article not replaced.

Answer to the 6th Interrogatory

That portion of the property delivered to the defendant in exchange for said land which was not replaced, and the value at Little Fort aforesaid at the time of the commencement of this suit of each article not replaced is as follows

144 1 Largest size elevator over cook stove value \$17.50	\$ 17.50
2 Second size ditto ditto ditto ditto ditto \$15.00 apiece	30.00
1 No 2 Arcoli foundry cook stove	ditto \$ 6.00 6.00
1 No 3 Erie cook stove	ditto \$ 7.50 7.50
1 Parlor stove	ditto \$ 6.00 6.00
145 1178 lbs Iron value 8 cents per lb	58.40
6 Barrels Lime and due bill on J. Dennis } for 40 Barrels value 67 per barrel	34.50
118 lbs grind stones at one cent per lb	1.18
100 Bushels Oats value 37 per bushel	37.50
1 Book case and Table Value	5.00
146 24 port barrels value 1.00 per barrel	24.00

562 feet pine lumber Value \$12,00 per thousand	5,62
3 Round tin Boilers Value \$2,00 per boiler	6,00
20 lbs candles Value 1/4 per pound	2,50
1 copper Boiler Value	2,00
1 Tin tea Kettle Value	1,25
Case Value of 1 coll Hook Value of	1,50
5 shut iron pans Value	1,88
	<u>\$248,83</u>

The Value of the articles above mentioned are carried out in gross in the last column of figures in the above schedule, and are their true Value, and amount to two hundred and forty eight dollars, and Eighty three cents - there are other articles delivered to the defendant by me and not replied which I do not ^{now} recollect

Interrogatory 67th

State if you know the reason why the same was not replied?

Answer to the 67th Interrogatory

The reason why the same was not replied was because they could not be found

Interrogatory 68th

Has the defendant ever informed you that he had sold a part of said property? If Yes! State what part and when it was sold

Answer to the 68th Interrogatory

The defendant has informed me that he had sold a part of said property previous to the writ of replevin being issued in this cause, to wit, one No 3 Erie Cook stove, one Parlor stove, and some Grindstones after the said writ was issued he informed me that he had sold eight hundred pounds of iron to one man, and that two large bars of iron were left at his house & the six Bands of lime and the due

bill of S. S. Dennis for forty barrels of lime = before
the said writ was issued I saw him sell two of
the second size elevators over coalt stoves, and saw
him exchange one of the largest sized elevators over
coalt stoves for another coalt stove

Interrogatory Lastly

151 " Do you know any other matter or thing touching
the matter in question that may tend to the benefit
or advantage of the plaintiff? If you declare the same
as fully and at large as if you had been particularly
interrogated therein?"

Answer to Lastly Interrogatory

152 I was not acquainted with the defendant until
two days before the trade for the land was made he then
came to the store when I was doing business and
first proposed to exchange with me, the land for the
goods = and when I gave up to the defendant the deed
for said land I received no other or further con-
sideration for doing so than the twelve shares of copper
stock of aforesaid = The plaintiff never promised nor
intended to my knowledge, to set me up in busi-
ness on my own account either previous or subsequently
to the arrival of said goods. He purchased; at Little
Fort aforesaid. I came to Little Fort with the
153 expectation of being employed as a clerk by John
Ely, of Massalon, Ohio, who contemplated doing
business at Little Fort; but finding that he had
left and given up the idea of doing business there,
I, by the advice of Crouch, D. Ely, wrote to the plaintiff
to send me on some goods to sell for him

154 I do not know any other matter or thing
touching the matter in question that may tend to
the benefit or advantage of the plaintiff

"Alshu, C. Dennis"

Cross Interrogatories and answers
thereto by the witness in the part of the defendant

Interrogatory the first

" Did You keep or keep any book or books or memorandums of account at any time in the business you were doing in Little Fort, And if you: at what time were such book or books or memorandums opened and did the same purport to be books of account in the business or memorandums of your own transactions, or the transactions and business of any other person or persons "

Answer to the first Interrogatory

I did open and keep Books of account in the business I was doing in Little Fort. opened them at the time I commenced the business and continued them until the sale.

I entered the invoices of goods purchased by Leonard Devison in the day Book: then kept the books in the usual manner by double entry they did not in any other manner or way purport to be the Books of any other person or persons - The Books were a day book Journal & Ledger

Interrogatory 2nd

" Did You at any time while doing business in Little Fort If any book or books or memorandums of accounts were kept by you in your business in Little Fort when or the same now

Answer to the 2nd Interrogatory

The Books of accounts kept by me in the business in Little Fort are at Saclitts Harbor in the State of New York

Interrogatory 3rd

" Did You at any time while doing business in Little Fort, draft bills for settlement with any Customers in the business you were doing

And if so to whom were those customers indebted to, yourself or any other person?"

158
Answer to 3rd Interrogatory
I did while at Little Fort doing business draft bills for settlement with customers in the business I was doing: those customers in the bills were indebted to myself

Interrogatory 4th
"Was the business done by you while in Little Fort carried on in your name?"

Answer to the 4th Interrogatory
The business done by me while in Little Fort was carried on in my own name

Interrogatory 5th
"Is the Plaintiff a relative of yours by consanguinity and if so what is that relation?"

159
Answer to the 5th Interrogatory
The plaintiff is a relative of mine by consanguinity he is my father

Interrogatory 6th
"Are you acquainted with the Plaintiff's pecuniary circumstances? and if so how much do you estimate him worth?"

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Answer to the 6th Interrogatory
I am somewhat acquainted with the Plaintiff's pecuniary circumstances: The bulk of the Plaintiff's property consists of real estate the value of the which I do not know: from my knowledge of his circumstances, I would estimate him to be worth five or six thousand dollars

Interrogatory 7th
"Do you know when the Plaintiff has resided for the two years last past?"

Answers to the 7th Interrogatory
I do know when the plaintiff has resided for the two

years last past - He resided at Sacre Harbor
in the State of New York

Interrogatory 8th

161 "Do You know what has been the business or occu-
pation of the said plaintiff at his residence or place of
doing business for the ten years last past? and if
you state what the same has been "

Answer to the 8th Interrogatory

I know what has been the business of the plaintiff
at his residence for the ten years last past - He
has been in the iron foundry business, has held
various offices and engaged in farming

Interrogatory 9th

162 "Did you while residing at Little Fort send per
mail or leave at the Post Office in Little Fort any
newspaper or newspapers which had been published
in said Little Fort during the time you were doing
business then directed to the plaintiff, and if you
state what was the name or names of said newspapers
or newspapers

Answer to the 9th Interrogatory

163 I did while residing at Little Fort leave at the Post
Office at Little Fort occasionally papers which
had been published at Little Fort directed to the
plaintiff or some members of his family - The name
or names of said newspapers were the "Little Fort Pevengim"
"The Lake County Herald" and "Lake County Visitor"

Interrogatory 10th

"Did you make a written offer in your name to
sell the goods in question to the defendant for lands
in Michigan; and if so did the defendant accept
such offer

Answer to the 10th Interrogatory

164 The defendant on the day the Ex Change was made
came to the place where I was doing business

and I recollect of writing on a slip of paper that I would trade him the goods in the store for the land, - such paper was not intended by me as a written proposition nor delivered to him as such = "the defendant did accept of the offer so made by me to him"

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Interrogatory 11th

" Did you the defendant state to you at the time you were negotiating with him to sell the goods in question and before the sale was completed that he had never seen the land which he conveyed in payment for said goods and that he (the defendant) had no knowledge of the location of said land or its quality except what he derived from the representations of others "

Answer to the 11th Interrogatory

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At the time I was negotiating with the defendant to sell the goods in question and before the sale was completed he said that he had never seen the land, which he conveyed in payment for said goods he did not state that he had no knowledge of the location of said land or its quality except what he had derived from ^{the representations of} others

Interrogatory 12th

167. " What compensation were you to have for attending to said business in Little Fort "

Answer to the 12th Interrogatory

There was no agreement between the Plaintiff and myself as to what compensation I should have for attending to the business in Little Fort

Interrogatory 13th

At what time did the Plaintiff leave Little Fort to return to the State of New York after having started you in business as aforesaid in Little Fort? If you cannot recollect the precise time when he left

State the time, according to your best impression"

Answer to the 13th Interrogatory

The Plaintiff left Little Fort to return to the State of New York on the 14th day of September 1846 about a month after the arrival of the greater portion of the goods he left me to sell.

Interrogatory 14th

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"Did the plaintiff ever give you any express directions to conduct said business in his name and not your own?"

Answer to the 14th Interrogatory

The Plaintiff did not give me any express directions to conduct said business in his name and not my own

Interrogatory 15th

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"Was there any written agreement or memorandum between yourself and the Plaintiff in regard to the business which you were conducting at Little Fort; and if you please annex the said agreement or memorandum to your deposition?"

Answer to the 15th Interrogatory

There was no written agreement or memorandum between myself and the Plaintiff in regard to the business which I was conducting at Little Fort.

Interrogatory 16th

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"Did you ever receive from the Plaintiff at any time, prior to his first bringing said stores hardware &c to Little Fort, any letters or written communications in regard to the business in which you say you were subsequently engaged in at Little Fort. and if you please annex those letters or communications to your deposition"

Answer to the 16th Interrogatory

I did receive from the Plaintiff prior to his bringing said stores hardware &c to Little Fort and to

"Dear Elisha."

I am glad to hear that you are well and that you are pleased with the place where you are, but are somewhat disappointed in Mr John Eli's altering his mind and leaving so soon after commencing business and the flattering account he gave me of the prospect of doing a good and profitable business. I intend to get the stores at Watertown or Brownville if they can be obtained as low as at Troy or Albany the other goods I must get at Albany or New York and will go down in about a week and send them or as soon as possible a more general assortment of hardware I should think ought to be kept if there is not an already established at that place. You must write me more particular about the business of the place, and the country about it and the society and improvements &c - Your mother has written all about the family your Uncle Samuel is at Mr Bloods his health is poor he wishes to be remembered to you your Father, &c "

"S. Demison"

P.S. perhaps I may conclude to visit you in a few weeks if I can leave the family and other affairs here. I will write you again in a few days.

You ought to write of this. What you have = what was the cause of the delay. I wrote you two letters directed to St Louis which you have not got but it is of no consequence now.

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11
Lake County Circuit Court The 28th day of
Leonard Demison of February 1848, at the
Isaac B. Potter } execution of a commis-
of Elisha, E. Demison a witness in this cause this }
paper or letter was produced and shown to Elisha, E. }
Demison a witness sworn and examined and by him }
deposed unto at the time of his examination as a }
witness under such Commission " }
"Jason Phelps" }
Isaac Van Hook } Commis. in

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Mr Elisha, E. Demison
"Little Fort"
Lake County Illinois

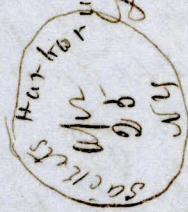


Exhibit B Return to
in the 16th January
in the book of the defendant

172 Only one letter or written communication in regard to the business in which I was subsequently engaged in at Little Fort and which is annexed marked "Exhibit B"

" Interrogatory 17th
Do you know any other matter or thing touching the matters in question that may tend to the benefit or advantage of the Defendant? If you declare the same as fully and at large as if you had been particularly interrogated there to "

173 Answer to the 17th Interrogatory
I do not know any other matter or thing touching the matters in question that may tend to the benefit or advantage of the defendant except the following:
The value of the articles given in my answers to the 65th & 66th Interrogatories of the plaintiff are estimated at retail prices if sold at wholesale a deduction of from fifteen to twenty per cent should be made.
"Elisha C. Denison"

174 We Jason Phelps and Isaac Van Nock of the County of Jefferson and State of New York Commissioners duly appointed to take the deposition of the said Elisha C. Denison a witness whose name is subscribed to the foregoing deposition, do hereby certify that previous to the commencement of the examination of the said Elisha C. Denison as a witness in the said suit between the said Leonard Denison plaintiff and the said Isaac B. Potter defendant he was duly sworn by Isaac Van Nock one of said Commissioners to testify to the truth in relation to the matters in controversy between the said Leonard Denison plaintiff and the said Isaac B. Potter defendant so far as he should be interrogated concerning the

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same, that the said deposition was taken
 at the office of Isaac Van Vleet one of the
 said Commissioners in the village of Sacketts
 Harbor in the county of Jefferson and State
 of New York on the 28th day of February A.D. 1848
 and that after said deposition was taken by us as
 aforesaid the interrogatories and answers thereto as
 written down, were read over to the said witness, and
 that thereupon the same was signed and sworn to, by
 the said deponent - Elisha C. Denison before us, the
 oath being administered by Isaac Van Vleet one
 of said ^{and} Commissioners, at the place and on the day
 and year last aforesaid.

"Jason Phelps" }
 "Isaac Van Vleet" } Commissioners

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" Which was read subject however to the objections
" which the defendant filed to Interrogatories &
" answers Nos 3-5-19-20-21-22-23-24-25-26
" for the reason that said interrogatories are leading & to
" interrogatories & answers Nos 42-43-44-45-46-47-48
" - 49-50-51-52-53-54-55-56-57-58-59-60-61-62- &
" 63- for the reason that the subject matter of said in-
" terrogatories & answers is irrelevant to the matters
" in issue - The plaintiff then called C. W. Hoy as a
" witness who was sworn and testified as follows "

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" Mr Denison came to Little Fort on
" Saturday previous to the commencement of this
" suit & requested me to call with him and see
" Mr Potter. I did so & we found him at his house
" He went in his wife and some one else was there
" Mr Denison said to Mr Potter that he understood
" he had been buying a quantity of stoves, iron & other
" goods from his son - Mr Potter said he had
" Mr Denison added that he understood he had first
" deeded to himself a quantity of land in Michigan as
" in payment for this property. but that the deed
" had afterwards been given up and destroyed.
" Mr Potter replied that it was so, that he afterwards
" took up the deed, and let his son have some copper
" stock in exchange. Mr Denison then told him
" that the stoves & other articles which he had obtained
" from his son belonged to him - That his son was
" doing business in Little Fort for him and had an
" authority to make such an exchange, or do business
" in that way. The plaintiff then proposed, to
" reconvey the land to the defendant if he should
" deem it necessary to perfect his title thereto
" & that his son (who was present) would reconvey
" him the copper stock, and request Mr Potter to

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receive the property to him. Mr Potter at first
decline to do any thing about it, but finally
agree he would call at my office before night
and see further about it. This he did do but was
not prepared to do any thing or make any further
propositions - He wanted further time & until
Monday morning to see what he would do - on
Monday morning I called with the Plff again to
see Mr Potter. Some little conversation occurred at
his house & he again promised to come down to the
Village again & see about it. He came down & several
propositions were made for a settlement. It was
finally agreed that Mr Potter should furnish me
with a description of the location of the land & that
I should write to the Recorder of Lapeer County
Michigan & ascertain the value with a view to a
settlement. I soon after called with Mr Demson
& saw the defendant at his house & requested him
to furnish me with a description of the land.
He went into his house & looked for the deed a long
time & came out saying he could not find it that
it must be lost. Said he was somewhere down on the
Illinois river a few days before & his hat blew off
into the water & he thought it must have been in his
hat at the time & lost. - He said he could not from
memory give an exact ^{description of the} location but there was 240^{ac}
adjoining, but lying in three different sections. He be-
lieved a part laid in section 9 Township 8, north Range
10 East in Lapeer County & marked out on the
ground how he thought the rest was situated
around it. Thought it made an ell, but ^{he} could
not be positive as to the exact location with reference
to the Government survey & from memory, that his
deed embraced tracts of land in several Counties
in Michigan & had been Recorded in Lapeer

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County & in the other Counties where the land
was situated. The parties conversed about it some
time & plaintiff again requested him to give up
the property which he had received from his son
C. C. Denison thus he declined doing. The plain-
tiff asked defendant if he did not know, that
his son was acting as his agent. Defendant replied
that he did not know anything of or about it till
he was requested to make out the deed to Leonard
Denison that he had never heard the name of
Leonard Denison mentioned till the time he
was requested to make the deed to him.

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Plaintiff then proved by the introduction
of certified copies of the laws of Michigan, and
of the report of Commissioners acting in pursuance
thereof that the seat of Justice of Lapeer County
Michigan is situated upon the N.E. quarter of
section five in Township seven North of Range two
East. The plaintiff then offered to read in evidence
a certificate from the Register of deeds of said County of
Lapeer that said Potter had no title to land in said
County of record in his office which evidence was
ruled out by the Court. It was then admitted that the
Certificates of Copper stock referred to in the deposition
of C. C. Denison & received by him from Defendant were
in deposit in the hands of Hoyt & Coates as stated in
said deposition and that they correspond with the one
attached to said deposition.

Plaintiff then read the following letters in Evidence
after having first proved that they were the same
written to by C. C. Denison in interrogatories &
answer to 202, 21, 22 of his deposition.

"Little Fort April 14th 1846"

"Dear Father"

197 I arrived here 2 days since in the Stage from Peru
which is at the head of S. B. Navigating on the
Illinois & is to be the termination of the Illinois
Canal a splendid work of the kind, and which
will be in full operation in less than 2 years
198 Peoria is a beautifully situated place the river
enlarging there into a fine lake 5 or 6 miles long
and there is some handsome scenery on the Illinois
but yet I am not pleased with that part of the
199 Country nor with any of it between there and
Chicago. It is low flat & rather unhealthy. In
some places on each side of the road I could see
boundless prairies as far as the eye could reach
perfectly level but uncultivated black & dreary
having been burnt over to clear off the old grass
so that new pasturage should spring up. The road
was very bad there having been several days of steady
200 rain & we could see the City of Chicago so far ^{off} over
the level country it seemed as if we were forever
getting to it & when there it looked with its raised
wooden pavements, and its navigable streets like
a picture of Venice. I am much pleased with
Little Fort it is situated on a high hill or ridge
which extends several miles parallel with the lake
It falls very suddenly towards the Lake shore which
is a low sandy beach from which I long piers
resting on stilts, but without any stone in them
are run out by which Steam Boats or vessels haul
up The country around Little Fort looks very flourish-
ing with better buildings and cultivation than any
part of Illinois I have passed through It is ^{too} near
Chicago (less than 40 miles) ever to be a very large place
But it bids fair to be a place 3 or 4 thousand in-
habitants and that in a short time. And it
is so much higher than the surrounding country

I think it must be healthy. Mr Enoch D. Ely
 keeps a store here, he came here last fall & has
 done very good business, the firm is called Ely &
 Brother he being in partnership with Yebulon Ely
 who keeps another store in Mississippi he informed
 me that Mr John Ely returned to Mapleton
 about 2 months since. Aunt Lord, and his
 wife, are opposed to his making Little Fort a
 residence - since Mr Andrews has offered to set
 him up in Heubenville, so that it is possible
 he may have given up going into business here.
 I wrote to Mr Ely at Mapleton as soon as I
 heard this I requested him to write you and
 myself immediately on the subject as I wished
 to know what to depend upon. Enoch tells me
 there are some articles of merchandise which will
 sell well here and advises me to write you to send
 them on immediately whether Mr Ely consents
 or not. And that he will make room for me
 in his store (which is large) for to sell them in. He
 expects new goods himself in a few days but
 these are articles which he has not ordered. A hardware
 store he says would do well here (also sugar
 & molasses which can be obtained from N. Orleans,
 or St. Louis cheaper than ^{from} New York (on the other side
 is a copy of a list he made out of them. —
 50 Cooking Stoves of various patterns & sizes 5 parlour
 Stoves 10 Air tight do, 20 doz wooden pails 10 doz wash
 tubs Common size, 5 doz large size 10 doz Rubbers
 5 doz Churns large size 5 doz common size 10 doz
 Zinc wash boards 5 doz wooden bowls 2 different sizes
 & 5 doz wooden butter spoons
 15 Kegs C^d nails 10 Bundles $\frac{1}{2}$ in Round iron
 15 " 4 do 2 do $\frac{1}{4}$ do do &
 15 " 3 do 5 do $\frac{3}{4}$ do do do

all these articles
 stores - if
 all the better
 made to be
 soon sold
 than in the west

(1899-09)

30 " 8 " do " 200 lbs " 1 do do
 15 " 10 " do 100 lbs " 1/4 " do do
 10 " 12 " do 1000 lbs Horse Shoe iron
 5 " 20 " do 200 lbs Hoop Iron 3/4 x 1

207 " Unmentioned in one of your letters that you ^{can} get stoves in Jefferson County they are an article much wanted, then being now here for
 208 " American blistered steel a small quantity
 " English do do a small quantity
 " 1 Box Hemming Run's cast steel
 " You had best to send sheet iron with the stoves to be made into pipe here as in the form of stove pipe it is inconvenient to ship. and for the same reason send the tin and copper to ham the boilers and furnitur of the
 209 " Stoves made here He also says that glass is an article wanted here and also stoneware of all kinds which can be obtained at factories of stoneware in Cleveland

If you cannot conveniently obtain send a part of them but especially if you can get them in commission Mr. Cely considers the list he has but a small quantity & could be He has not put any ship board =

For a great part of this Iron you will have to send to Albany or New York the Iron from there is nearly all of a better quality and will command a higher price than those obtained from Pittsburg J^o Deussen
 This letter was directed upon the outside to
 " Leonard Deussen Esqr
 " Sacketts Head on N York
 " and Postmaster with the office stamp of the
 " Little Fort P.O. office 11 Apr 14th
 " Little Fort July 25/46

Dear Mother
 " I received your late^{letter} with Amelia's & the news of Augustas having gone south, I will answer both before long. But I am in

212 "Waste to have the following letter reach father
I have sent one copy of it to Portersville to the
Care of Belg but for fear that should not reach
him You must send this on to him whenever he is
"Gives to "E. C. Deussen"

"Dear Father"

"A letter just received from another
informing me that you are in Connecticut I hoping
that this will reach you. I would say in regard
to what you wrote another about Iron & Stoves falling
213 prices as soon as the tariff is altered that I think
it probable such might be the case. Through Mr.
E. P. Ely thinks the price of iron would not fall
here in some time & all you would gain in waiting
might not more than equal your expenses in
delaying and mine which are about ten dollars a
month here Business is quite dull at present the
farmers being engaged in harvesting do not come
214 in to trade. But about the middle or last of next
month they commence fetching in their wheat which
is a very busy time from then till winter. If you think
it best to wait before buying the Iron do not delay sending
on the salt, wood & Stoves war immediately. Mr Ely
had an additional spot on his store as purpose to make
room for the articles I ordered & which he is not to
keep himself & he expects they would have been
sent on some time since and sold so that
you could buy a larger lot in the fall for me
to sell. But it is so late you had best to buy all
215 together. Therefore he advises me to write you to threefold
at least double the quantity of all the orders I sent
before - Send 100 Stoves 300 bbls of salt. Every kind & variety
shape size shape & quality of iron Every size of steel
All sizes of Iron Axes every variety of wooden ware

216 I stow was a good Apartment of both and also
the following not ordered ^{but you} City of Hanow teeth
Iron wedges elliptical springs $\frac{1}{2}$ in to $1\frac{1}{4}$ in at 8 89^{cts}
Five or six thousand dollars worth of the articles I
have enumerated in all is about the quantity
needed to meet the demand of trade here. So Ely
says & there is no use in a place when you can
sell goods like this of getting on a small stock when
217 a larger can be sold to more profit and advantage
I wish to do a good business for you & as I have
no interest separate from yours & that of the rest of
the family I never intend to leave I hope that you
will move on here so that we can be together in it. I
hope you will hurry on these things so as to have them
218 on here by the middle or last of next month. I am
tired of being on expense with little to do when I
might just as well be making money.
Mr Ely says considerable time has been lost already
by not having those articles on before now & that if
you do not send them on in time for the demand
he must order them on his own account. This I should
219 regret as it would force me to get another store
instead of being with him which I think is more
for my interest. It is customary for my agents to
get their goods insured to their destination, as
I suppose you know though I did not till lately
because the bad execution of this letter my hand
is unusually scribbled or nervous. Your affectionate son
220 " E. C. Deussen

" This letter was directed upon the outside
" to Leonard Deussen Esq
" Sacketts Harbor
" N York "

" And post marked with the Office stamp of
" the Little Fort P.O. 25th July 1846

" The plaintiff here rested his case and the
" defendant proceeded to call

" Lorenzo

" Keimstrom - who having been duly sworn testified
" that in the latter part of Sept 1846 Plff rode
" to Chicago with me & on our return home we
" were talking about iron & he said he had then
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" Cross Examination

" Plff did not say whether he was
" going to establish his son in business on his own
" account or on account of someone else. I have
" stated the conversation as it occurred to the
" best of my recollection

" Deft then called N. C. Dowst who having been
" duly sworn testified that he was engaged in the
" publication of a weekly newspaper called the "Lake
" County Herald" at Little Fort Lake County Illinois
" during the year 1846, that a business card of which
" the following is a copy was published in said paper
" from the 28th of August to the 9th of Sept 1846

" "C. L. Denison" Dealer in stoves Iron nails grind stones
" stone and wood ware - will keep a supply of the above articles
" constantly on hand at the middle store in Dewey's
" Block Little Fort Illinois." defendant then called

" H. W. Blodgett

" who having been duly sworn testified that he
" was engaged in the publication of a weekly news-
" paper at Little Fort in said County called the
" Lake County Visitor during the Spring and Summer

of the year 1847. That a card of which the following
is a true copy
E. C. Devison Dealer in Stoves Iron nails Grindstones
and wood-ware - will keep a supply of the above
articles constantly on hand at the New Store on Genesee
Street 2 doors north of the Eagle Hotel Little Fort
Illinois was published in said paper from the twenty-
²²⁵ sixth day of April 1847, three months thereafter
that during such time, a copy of said paper
was regularly mailed each week from the office
of publication to said plaintiff at Sacketts Harbor
New York

Crook, D. C. called as a witness by the defendants and
being duly sworn testified as follows
²²⁶ Witness is a merchant in Little Fort - Is acquainted
with the parties and Elisha Devison. The stock
of goods and merchandise in question was at first
arranged for sale in the back part of witnesses
Store. Has frequently seen the books kept by Elisha
Devison in relation to such business. Does not
know that they were opened in the name of any person
Knows of Elisha C. Devison sometimes making out
bills of goods sold, in his own name

Crop Examined - Know that Elisha C. Devison wrote to his
father the plaintiff in relation to sending in goods
to sell. Don't know whose goods they were understood
the plaintiff purchased and paid for them
Plaintiff came on to Little Fort before the goods were
taken from the warehouse. Assisted to load them at
warehouse and in unloading and arranging them
at Store don't know who paid all the freight
²²⁸ Know plaintiff paid part of freight on the goods
Plaintiff stayed at Little Fort some weeks before
returning East and assisted about the goods &

22
" Sales. Heard him tell Elisha not to sell on
" Credit Requested me to render such assistance
" and advice as I reasonably could. I know of
" money arising from sales being paid over on one
" or two occasions to plaintiff before his return least
" understood money was afterwards sent ^{to} him but
" don't know this of my own knowledge

23
" This being all the evidence the Court after
" argument by counsel found the issues in both cases
" and gave judgment in favor of the plaintiff for the sum of two hundred and twenty nine and 1/2
" for the plaintiff, whereupon the defendant moved the
" Court for a new trial and filed the following reasons
" to wit:

1st The said defendant has since said
" trial discovered new and material testimony in said
" causes

2nd The finding of the Court in said causes was
" against law!

3rd The finding was against evidence

4th The said finding was against Law, & Evidence

" The defendant also filed affidavits in regard
" to the newly discovered evidence of which the following
" are copies

24
" Taken in Court
" Isaac B. Potter
" ad
" Leonard Deussen



March Term 1848
Replevin & Trover

25
" Isaac B. Potter having been duly
" sworn doth depose and say that he is the defen-
" dant in the above entitled suit - That since
" the trial of said cause this deponent has learned
" that he can successfully establish by the testimony of
" Edward A. Gilbert & J. M. Flinn that at the time
" this deponent bought of the said E. Deussen

272

The stores hardware &c in the said Plffs declaration
 mentioned in the said C. C. Denison expressly states
 that he was the owner of the said property & sold this
 deponent. And also that this said deponent can
 prove by the said Gilbert, that the said plaintiff
 told him the said Gilbert that he the said plaintiff
 would have been satisfied with the trade which the
 said C. C. Denison made with the said defendant
 for the land in Michigan but that the said plaintiff
 expressed his chief dissatisfaction at the subsequent
 trade of said C. C. Denison of said land for copper
 and this deponent further says that he was not favored
 with stock - And this deponent further says that
 he verily believes he shall be able if a writal is
 granted in said cause to prove that said C. C. Denison
 was the real owner of said stores hardware &c and
 not the agent or factor of the said plaintiff

273

But this deponent says that the witnesses by whom he
 expects to prove the ownership of said property are
 not now accessible to this deponent and that he can-
 not for that reason obtain their affidavits or state their
 names at this time - And this deponent further
 asks leave to refer to the affidavits accompanying
 this of said Gilbert, Gilman; & J. H. Fraden for a
 more full and particular statement of the matter
 which he expects to prove by said witnesses Gilman
 & Gilbert

Sworn to & Subscribed before
 me this 31st day of March
 1848
 "George Thomson clk"

"J. B. Potter"

* Numerous other trial pleadings &c that said
 fact could be proved by said witnesses or
 any other witness but that he has discovered
 the same since the original trial

274

275

276

" Lake Cir Court

" Isaac B Potter

" and
" Leonard Denison

March Term 1848

Replevin & Trover

"
" E A Gilbert having been duly
" sworn doth depose and say that he knows the
" parties to the above entitled cause, that about the
" time of the commencement of said suits this
" deponent heard the said plaintiff say, that
" he would have been satisfied with the trade
" made by the said E. C. Denison with the said defen-
" dant of the stock of hardware &c for land in Michigan
" and this deponent also saith that he has been told
" in substance frequently by the said E. C. Denison
" that the said E. C. was the owner of the stores hardware
" &c sold by him to said deft and that although this
" deponent has had several conversations with the
" said Plff in regard to the said stock of stores &c &c
" the trading of the same by said E. C. Denison and
" that the said plaintiff did not at any time
" claim to have any interest in ^{the} said property
" except as a friend of the said E. C. Denison

" That about the time of trading off said
" stores this deponent heard the said E. C. Denison say
" that he was sick of the business in which he was then
" engaged and wanted to sell out his stock of
" hardware &c for other property

" Sworn to and subscribed before Edward A Gilbert
" on this 1st day of April 1848

" George Thomson Clerk

Isaac B Potter
vs
Leonard Demison

Lake County Circuit Court



at the above house occupied by Demison in Little Fort of property and that in that connection the said Elisha C Demison said that the same is

240
Saul H. Flinn being duly sworn deposes and saith that he is a resident of the town of Little Fort County of Lake Illinois that he is acquainted with Elisha C Demison who was dealing in stoves hardware &c in the village of Little Fort during the winter and spring of the year eighteen hundred and forty seven that some time in May or June of that year (the precise time not being recollected by said affiant)

241
he had a conversation with the said Elisha C Demison and said that the hardware and other goods which he had at Little Fort (referring to the stoves iron and other property in which he was then and had been dealing in) was his own property

Sworn to and subscribed "S. H. Flinn"
this 31 day of March
A. D. 1848

George Thomson clk

Leonard Demison

Lake Cir Court

March Term A. D. 1848



vs
Isaac B Potter

Replevin & Trover

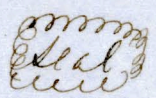
242
James H. Trader being duly sworn deposes and says that he saw the plaintiff in the above entitled cause in Chicago at the ^{time of the} Harbor River convention in the summer of 1847 that said plaintiff made enquiry of this deponent in relation to the trade which E. C. Demison ~~that he~~ his son had made with one Isaac B. Potter of Little Fort of a quantity of stoves for land in the State of

Replevin suit & on cert damages, said plaintiff remitting the same pursuant to a previous agreement of the parties

Michigan that this deponent stated to said plaintiff what he knew in relation to the tract that plaintiff stated to this deponent that he had learned from his son E. C. Denison that he had traded the land for copper stock and that said plaintiff upon enquiry had ascertained that the copper stock was worthless and that he intended to prosecute said Potter for fraud for trading with his son E. C. Denison when he was not in his right mind that he was subject to derangement at times that he had started his son in business at Little Fort and had hoped that he would succeed and that ought to have taken some one with him in business who was acquainted with business and the world and that said plaintiff enquired of this deponent the value of the land which E. C. Denison had got of Potter in exchange for the stores and that he regretted that E. C. Denison should exchange the land for worthless copper stock. And this deponent further says that said plaintiff never stated or intimated to this deponent that he was the owner of said stores, at the frequent interviews & conversations had between said plaintiff and this deponent, and further this deponent has sworn to & subscribed
 J. H. "Trader"
 before me this 1st April 1848
 Geo. Thomson clk.

Which said motion was overruled by the Court and judgment rendered in favor of the plaintiff for the costs in the Replevin suit & judgment to the amount of \$200.00 and in the action of Torts for the sum of two hundred

And seven dollars, ^{Twenty nine cents} & costs. Whereupon the said
defendant excepts to the decision of the court in
finding said issues for the plaintiff and also in
overruling the said motion for a new trial and
prays the court to sign & seal this Bill of Exceptions
which is done

" J B Thomas "  "

And that ~~afterwards, to wit~~, on the seventh day of May A.D. 1848, a Stipulation was filed in the office of the Clerk of said Court, which is in the words and figures following, to wit:

247
" Lake Co Ct Court
" Leonard Denison }
" vs }
" Isaac B. Potter } Trover

" Lake Co Circuit Court
" Same }
" vs } Replevin
" Same }

" We hereby stipulate that
" Isaac B. Lyon may be substituted in the place
" of Ira Porter as Surety in the appeal Bonds to
" be filed in the above entitled suits and that the
248
" Bonds may be filed as of this date with
" the same effect as if filed within the time
" limited by the Court

" May 11. 1848
" Hoyt & Coes
" Plffs attys"

And that afterwards, and on the said eleventh day of May A.D. 1848, a bond was filed in the office of the Clerk above said which is in the words and figures following, to wit:

249
" Know all men by these presents that we
" Isaac B. Potter, Isaac B. Lyon & William M.
" head of the County of Lake and State of Ill.
" linois are held and firmly bound unto
" Leonard Denison in the penal sum of one

250
" thousand dollars lawful money for the pur-
" suits of which well and truly to be made
" us jointly severally and firmly bind our-
" selves our heirs Executors or administrators
" by these presents Witness our hands and seals
" this fifth day of July A.D. 1848.

" The Condition of the above obliga-
" tion is such that whereas the above named
" Leonard Deussen did at the March Term
" of the Circuit Court of said ^{Salem} County receive
" a judgment against the above bounden Isaac
" B. Potter in a certain action of Replevin pen-
" ding in said Court wherein the said Deussen
" was plaintiff and the said Isaac B. Potter
" defendant from which said judgment the
" said Potter has taken an appeal to the Su-
" preme Court of said State of Illinois

251
" Now if the said Isaac B. Potter shall
" duly prosecute his said appeal and in
" case the judgment of said Circuit Court
" shall be affirmed shall well and truly pay
" and satisfy said judgment together with
" the costs interest and damages then the
" above obligation shall be void otherwise
" to remain in full force

252
" In presence of
" H. W. Blodgett
" "
" "

I B Potter Seal
I R Lyon Seal
Wm Case Seal

State of Illinois }
Lake County } J. J. Augustus B. Cotes, Clerk
of the Circuit Court in and for said County of
Lake, do hereby certify the foregoing to be a
true transcript from the records of my office
and the papers on file therein, in a certain action
of replevin in said Court lately pending where
in Leonard Demson was plaintiff and Isaac
B. Potter was defendant.

In witness whereof I have hereunto
set my hand and the seal of said Court at
Waukegan, formerly called Little Fort,
in said County of Lake, this 28th
day of May A.D. 1849
A. B. Cotes, Clerk

50
Isaac B. Potter
Leonard Jenison

Ricard

Filed June 21. 1849.
L. Seland Clk.

Is. J. Clk.

The People of the State of Illinois, by the grace
of God, free and independent

To all to whom these
presents shall come, or may concern - Greeting:

Know ye, that we having inspected
the records and proceedings remaining in the office
of the Clerk of the Circuit Court of the County of
Lake in the State of Illinois aforesaid, do find
therein a certain record of a judgment of said
Court in the words and figures following, to wit;

" United States of America }
" State of Illinois Lake County } J. Pleas before the Honorable Jesso
" B. Thomas one of the Justices of the Supreme Court of
" the State of Illinois and presiding Judge of Lake County
" in the seventh judicial Circuit of said State
" At a special term of Court for said coun-
" ty of Lake began and held at Little Fort in said County
" on the twenty third day of August in the year of our
" Lord one thousand eight hundred and Forty Seven
" and of the Independence of the United States of A-
" merica the seventy second
" Present the Honorable Jesso B. Thomas Judge aforesaid
" William A. Boardman States Attorney, James McKay
" Sheriff of Lake County
" Attest, George Thomson Clerk "

Be it remembered that Leonard Demison by Hoyt
Hotes, his attorney, on the fifteenth day of July
A.D. 1847, filed his process with the Clerk of the
Circuit Court of said County in the words and
figures following, to wit:

" Lake County Circuit Court
" Leonard Demison }
" vs } July 15th 1847
" Isaac B. Potter }

Will the Clerk of the Circuit Court

" please approve & file the above instrument in writ-
 " ting in the above entitled Cause & issue summons
 4 " in favor of the above named plaintiff against the
 " above named defendant in an action of trespass
 " on the case - Damages \$600.00 & oblige
 " Yours &c.
 " Geo Thomson Esq. Hoyt & Coles
Clerk &c. Plff's Atty's

And that afterwards, and on the said fifteenth
 day of July A.D. 1847, the said Clerk filed in
 5 ^{the office of the Clerk of said Court} ^{signed by D. O. Dickinson} an instrument in writing, which is
 in the words and figures following, to wit:

" Leonard Demisow }
 " vs } Lake County Circuit Court
 " Isaac B. Potter }

" 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
 6 " this Court, in pursuance of the laws of this State.
 " Dated July 15th 1847 -

" D. O. Dickinson "
 " which instrument was approved by the Clerk in the words & figures following
 " Approved by me at my office
 " this 15th July 1847
 " G. Thomson Clerk

And that afterwards, and on the said fifteenth
 7 day of July, a summons issued out of said Court
 in the words and figures following, to wit:

" State of Illinois }
 " Lake County } ss

The People of the State of Il-
 linois to the Sheriff of said County - Greeting:
 We command you, that you summon
 Isaac B. Potter if he shall be found in your

11 County, personally to be and appear before the
 12 Circuit Court of said County, on the first day
 of the next term thereof, to beholden at the
 Court house in said County, on the fourth
 Monday in August next, to answer unto Seon-
 ard Denison in a plea of trespass on the case to
 the damage of the said plaintiff as he says in
 the sum of six Hundred Dollars. And have
 you then and there this writ, with an endorse-
 ment thereon, in what manner you executed
 the same.



Witness Geo Thomson Clerk of said
 Court, and the seal thereof at Little
 Fort in said County, this 15th day
 of July A. D. 1847

Geo Thomson Clerk

10 on the back of which said summons is an endorsement made by the Sheriff
 of said County which is in the words and figures following, to wit:
 Executed by reading in the hearing of Isaac B. Potter July 22nd A. D. 1847
 James McFalls Sheriff

And thereafter and on the twelfth day
 of August A. D. 1847, the said Denison by
 his attorneys of or said filed in the office of
 said Clerk, his declaration which is in the
 words and figures following, to wit:

11 Lake County Circuit Court } Of August Special term in
 the year of our Lord one thous-
 and eight hundred and forty
 seven

12 Lake County, to wit: Seonard Denison, plaintiff, in
 this suit, by Hoyt & Cotes, his attorneys, complains of
 Isaac B. Potter, defendant in this suit, who has
 been summoned to answer the said plaintiff in
 a plea of trespass on the case - For that whereas
 the said plaintiff heretofore, to wit, on the twelfth
 day of June in the year of our Lord one thous-
 and eight hundred and forty seven at Little
 Fort in the County of Lake in the State of Illinois,
 was lawfully possessed, as of his own property,

11 of Certain goods and Chattels, to wit; five Stoves
11 and the furniture thereof, one ton of wrought
11 iron, six barrels of lime, five hundred feet of
11 pine lumber, one table, one bureau-case, twenty
13 11 four park-barrels, four hundred pounds of
11 grindstones, two round tin boilers, one Coffee boil-
11 er, one tin tea kettle, five sheet-iron pans, one
11 axe, one Colt hook, one hundred bushels of oats,
11 twenty pounds of candles, and a certain instrument
11 in writing purporting to be a due bill for forty
11 barrels of lime, executed by one James S. Dennis
11 to one E. E. Denison, of great value, to wit, of
14 11 the value of six hundred dollars of lawful
11 money of the United States of America - And being
11 so possessed, the said plaintiff afterwards, to wit;
11 on the day and year first above mentioned at
11 Little Fort aforesaid, Casually lost the said goods
11 and Chattels, out of his possession; and the
11 same afterwards, to wit, on the day and year aforesaid,
11 at Little Fort aforesaid, came to the possession
11 of the said defendant by finding, & yet the said
15 11 defendant well knowing the said goods and
11 Chattels to be the property of the said plaintiff,
11 and of right to belong and appertain to him,
11 but contriving and fraudulently intending, craft-
11 ily and subtly, to deceive and defraud the said
11 Plaintiff in his behalf, hath not as yet delivered
11 the said goods and Chattels, or any or either of
11 them, or any part thereof to the said plaintiff, al-
16 11 though often requested so to do, and hath hitherto
11 wholly refused so to; and afterwards, to wit;
11 on the day and year last aforesaid, at the place
11 aforesaid, converted and disposed of the said
11 goods and Chattels, to his own use;
11 And whereas also the said plaintiff, afterwards,

17 to wit, on the fourteenth day of July in the year
of our Lord one thousand eight hundred and
forty seven, at Littleport aforesaid was law-
fully possessed, as of his own property of certain
other goods and Chattels, of the like number, quan-
tity, quality, description, and value, as those in
the said first Count mentioned, and being so
possessed, the said plaintiff afterwards, to wit; on the
day and year last above mentioned, at the place
aforesaid carnally lost the said goods and Chat-
tels, out of his possession; and the same afterwards
18 to wit, on the day and year last aforesaid at the
place aforesaid, came to the possession of the
said defendant by finding - And the said
defendant, well knowing the said goods and
Chattels to be the property of the said plaintiff,
and of right to belong and appertain to him,
but contriving and fraudulently intending, craftily
and subtly, to deceive and defraud the said plain-
tiff in this behalf, hath not as yet delivered the
19 said goods and Chattels, or any or either of
them, or any part thereof, to the said plaintiff,
although often requested so to do, and hath
hitherto wholly refused so to do; and afterwards,
to wit; on the day and year last aforesaid at
the place aforesaid, converted and disposed of
the said goods and Chattels, to his own use - To the
damage of the said plaintiff of six hundred
dollars, and therefore he brings his suit &c.

20
Hout & Coles
Atty's for Plff

And that afterwards to wit; on the thirtieth
day of August A.D. 1847, said last mentioned
being one of the days of said August special
term A.D. 1847, of said Court, the said Isaac
B. Potter, defendant, by Boardman & Blodgett, his

Attorneys, filed with the clerk of said Circuit Court
21 his plea, which is in the words and figures following
to wit:

"Sake Circuit Court August Special Term
"Isaac B. Potter }
" ad. } Trower
" Leonard Demmon }

And the said defendant by
" Boardman & Blodgett his attorneys comes and
" defends the wrong and injury when he, and says
" that he is not guilty of the said supposed griev-
" ances in the said plaintiffs declaration laid to
" his charge, or any or either of them or any part
22 " thereof in manner and form as the said plain-
" tiff hath above thereof complained against him.
" And of this the said defendant puts himself
" upon the Country &c.

Boardman & Blodgett
Atty for Deft."

And thus afterwards, and on the day last aforesaid
said said plaintiffs by Hoyt H Brown, his
Attorney, added thereto ^{his} similar to the aforesaid
plea of the said Potter in the words and fig-
ures following, to wit:

23 " And said pleff doth the like
" by Hoyt H Brown his Atty."

"United States of America }
"State of Illinois Sake County } &c.

" Pleas before the Honorable
" Jesse B. Thomas one of the Justices of the Supreme
" Court of the State of Illinois and presiding Judge
" of the Seventh Judicial Circuit of said State.
" At a Circuit Court began and held

24 " at Little Fort in said County on the sixth day of
September in the year of our Lord one thousand
eight hundred and forty seven and of the Inde-
pendence of the United States of America the Seventy
second

" Present the Honorable Jesse B. Thomas Judge
" William A. Boardman State Attorney, James M. Ray
" Sheriff of Lake County
" Attest George Thomas Clerk"

25 And that afterwards, to wit, on the seventh
day of September A.D. 1847, said last mentioned
being one of the days of said September term,
A.D. 1847, the following, among other proced-
ings, were had in said Court, as appears by an
entry upon the records thereof, in the words and
figures following, to wit:

" Leonard Demison }
" 30 vs } Replevin
" Isaac B. Potter }

" Leonard Demison }
" 31 vs } Trover
" Isaac B. Potter }

26 " And now comes the defendant
" by Blodgett his attorney and on his motion leave
" is given to file additional files in each of said
" Causes within twenty days from this date"

26 " United States of America }
" State of Illinois Lake County } P Pleas before the Honorable
" Jesse B. Thomas associate Justice of the Supreme Court
" of the State of Illinois, and presiding Judge of the
" Seventh Judicial Circuit of said State
" And for the County of Lake in said Seventh Ju-

27 y dicial Circuit at Little Fort on the Twentieth day
y of March in the year of our Lord one thousand
y eight hundred and Forty eight, and of the State
y of the United States the Seven & Second -

11 Said term of Court being held pursuant to
11 a Special order of the Honorable Jesse B. Thomas
y one of the associate Justices of the Supreme Court
y of said State and presiding Judge of the Circuit
29 y Court of said County of Lake, bearing date the
y first day of February A.D. 1848 and Calling
y said Special Term to Commence on said twentieth
y day of March for the transaction of all civil Crimi-
y nal and Chancery business pending in said Court

11 Due notice of said Special term having been
11 given by the Sheriff of said County according to
y the Statute in such case made and provided -

29 y Present William A. Boardman State Attorney,
y Henry W. Dorsett Sheriff of Lake County
11 Attest George Thomson Clerk

11 The Honorable Jesse B. Thomas
y Judge of aforesaid not being present the Sheriff
y adjourned the Court at Four o'clock to meet
y to morrow morning at nine o'clock

11 Tuesday the Twenty first day of March
y one thousand eight hundred and Forty eight

11 This day the Court met at nine o'clock
y in the morning the hour to which it was adjourned

30 y Present William A. Boardman State Attorney,
y Henry W. Dorsett Sheriff of Lake County
11 Attest George Thomson Clerk

11 The Honorable Jesse B. Thomas not having
y arrived in consequence of severe Indisposition in
y his family, the Sheriff at four o'clock in the

" afternoon adjourned the Court till term in
" course "

" United States of America }
" State of Illinois, Lake County } P

31 " Pleas before the Honorable
" Jesse B. Thomas one of the Justices of the Su-
" preme Court of the State of Illinois and presi-
" ding Judge of Lake County in the Seventh Ju-
" dicial Circuit in said State,

32 " At a Circuit Court for said
" County of Lake began and held at Little Fort in said
" County on the Twenty seventh day of March in
" the year of our Lord one thousand eight hun-
" dred and Forty eight and of the Independence
" of the United States the Seventy second
" Present the Honorable Jesse B. Thomas Judge
" of said William A. Boardman State Attorney, Here-
" by W. Dorsett Sheriff of Lake County
" Attest George Thomson Clerk "

33 And that afterwards, to wit, on the twenty
ninth day of March A.D. 1848, said day being
one of the days of said March Term A.D.
1848, a stipulation was filed in the office
of the Clerk of said Court, which is in the
words and figures following, to wit;

" Lake County Circuit Court
" Leonard Pearson }
" vs } Prover
" Isaac B. Potter }

" We hereby stipulate that the testimony of Co-
" lisha E. Pearson to be taken by Commission
" in a certain action of Replevin now depends

34 " ing in the Circuit Court of Lake County wherein
 " the above named Leonard Demison is plaintiff,
 " and the said Isaac B. Potter is defendant may
 " be read as evidence on the trial of the above
 " entitled cause & shall have the same force and
 " effect as if such testimony had been taken
 " by virtue of a Commission issued in this cause
 " Little Rock January 27 1848
 " Boardman & Blodgett
 " Atty for Isaac B. Potter"

35 And that afterwards and on the said last
 mentioned day, the following proceedings, among
 others, were had in said Court, as appears from
 an entry upon the Records thereof in the words
 and figures following, to wit;

35 " Leonard Demison }
 " vs } Brown
 " Isaac B. Potter }

35 " And now comes the said
 " Plaintiff by Brown and Hoyt his attorneys and
 " the said defendant by Blodgett his attorney,
 " also comes, and by their agreement this cause is
 " submitted to the Court for trial without the
 " intervention of a Jury, and the Court having
 " heard the evidence and arguments of counsel
 " takes the same under advisement."

36 And that afterwards, to wit, on the thirtieth
 day of March A.D. 1848, said last mentioned
 day being also one of the days of said March
 term of said Court, the following, among other
 proceedings, were had therein, as appears by ^{an entry upon} the
 records thereof in the following words and figures

to wit;

120 " Leonard Demison }
vs } Groves
" Isaac B. Potter }

37 " And now come the parties by
" their respective attorneys, and the Court being
" fully advised herein finds the issues for the
" plaintiff and assess his damages in the sum
" of Two hundred and seven dollars & thirty nine
" cents, whereupon the defendant by Blodgett
" his attorney moves the Court for a new trial.

38 " And that afterwards, to wit; on the first day
" of April A.D. 1848, said last mentioned being
" also one of the days of the said March term
" A.D. 1848, the following, among other proceed-
" ings were had in said Court, as appears by an
" entry upon the records thereof which is in the
" words and figures following, to wit:

120 " Leonard Demison }
vs } Groves
" Isaac B. Potter }

39 " And now come the parties by
" their respective attorneys and the Court being ful-
" ly advised as to the motions formerly entered
" herein for a new trial overrules the same, It
" is therefore ordered that the said Plaintiff have
" and recover of the said Defendant the sum
" 207, 39 Two hundred and seven Dollars and thirty nine cents
" for his damages together with his costs and
" charges in this behalf expended, and that he
" have execution thereon - and thereupon the said
" defendant prays an appeal to the Supreme Court
" which is granted on condition that the said

" defendant enter into bond before the Clerk of
 " his Court within Forty days in the sum of
 " Four hundred Dollars, with Ira Porter and
 " William M. Cass as sureties."

And that afterwards, ~~to wit~~ a bill of Ex-
 ceptions, signed and sealed by the said Hon. Jesse
 S. Thomas, Judge aforesaid, was filed with the
 Clerk of said Circuit Court, by the said Potter's
 attorney, H. W. Blodgett, which is in the words and
 figures following, to wit:

41

Lake Co. Cir. Court Isaac B. Potter No. 19 ads Leonard Denison	}	Replevin	}	Lake Co. Cir. Court Isaac B. Potter No. 20 ads Leonard Denison
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42

" Be it remembered that at the March
 " Term of said Court A. D. 1848 both the above Causes
 " were submitted to the Court without a Jury at our
 " time for trial, by agreement of parties; That the
 " plaintiff then read in evidence the depositions of
 " Elisha C. Denison as evidence in both Cases pursuant
 " to previous agreement of parties, the same having
 " been taken & returned in accordance with the laws
 " of the State upon Commission duly issued out
 " of said Circuit Court (here insert depositions)"

"1 Oath to the Deposition

43 The Deposition of Elisha E. Devison of the County
of Jefferson and State of New York a witness of
lawful age produced sworn and Examined upon his
corporal oath on the 28th day of February in the
year of our Lord one thousand eight hundred and
forty eight, at the office of Isaac Vanpleck in the
Village of Sackets Harbor in the town of Hamersville
in the County of Jefferson and State aforesaid by us
Sason Phelps and Isaac Vanpleck Commissioners duly
appointed by a Decree of Protestation or Commis-
sion issued out of the Clerks office of the Circuit
Court of Lake County in the State of Illinois, bearing
Teste in the name of George Thomson Esqr Clerk of
the said Circuit Court with the Seal of said Court
affixed thereto; and to us directed as such Com-
missioners for the Examination of the said Elisha
E. Devison a witness in a certain Suit and mat-
ter in Controversy now pending and undetermined
in the said Circuit Court wherein Leonard Devison
is plaintiff and Isaac B. Potter is defendant
in behalf of the said Leonard Devison as well
upon the Cross Interrogatories of the said Isaac
B. Potter as on the Interrogatories of the said
Leonard Devison which were attached to or
inclosed with the said Commission, and upon
now others. The said Elisha E. Devison being
first duly sworn by Isaac Vanpleck one of the
said Commissioners as a witness in the said
Cause previous to the Commencement of his Exami-
nation to testify the truth as well on the part
of the plaintiff as the defendant in relation to
the matters in Controversy between the said plain-
tiff and defendant so far as he should be
interrogated, testified and deposed as follows

Interrogatory First

"What is your age and place of residence?"

47 Answer to First Interrogatory; My age is twenty five years; my place of residence is Sack-ets Harbor.

Interrogatory Second.

"Do you know the parties plaintiff and defendant in the title of these interrogatories named, or either, and which of them, and how long have you known them respectively?"

Answer to the second interrogatory.

48 I know the parties plaintiff and defendant in the title of these interrogatories named - I know both of them - I have the plaintiff Leonard Devison from Childhood, have known the defendant Isaac B. Potter since about the 12th of June last.

Interrogatory Third

"Did you reside in Little Fort in the County of Lake and State of Illinois, in the year eighteen hundred and forty six and eighteen hundred and forty seven?"

Answer to the third Interrogatory

49 I did reside in Little Fort in the County of Lake and State of Illinois in the year eighteen hundred and forty six and eighteen hundred and forty seven

Interrogatory Fourth

"State when you went to Little Fort aforesaid to reside, and when you left there"

Answer to the Fourth Interrogatory;

I went to Little Fort aforesaid to reside about the tenth of April eighteen hundred and forty six and left there about the tenth of September eigh-

teen hundred and forty seven

Interrogatory Fifth

50

"Were you during those years engaged in the hardware iron and stove business in Little Fort aforesaid? If yes, state whether you were so engaged and doing business on your own account?"

Answer to the Fifth Interrogatory

I was during those years engaged in the hardware iron and stove business in Little Fort aforesaid? I was not so engaged and doing business on my own account; I was acting as the agent of Seaward Devison the plaintiff -

Interrogatory Sixth

51

"If you were acting only as the agent for another in the management of said business, state whose agent you were, and to whom the goods entrusted to your management belonged."

Answer to the Sixth Interrogatory

I was the agent of Seaward Devison the plaintiff in this cause and the goods entrusted to my management belonged to him.

Interrogatory Seventh -

52

"State the time when you first entered upon said business, and where the first stock of goods or merchandise, about the sale of which you was employed as aforesaid was purchased?"

Answer to the Seventh Interrogatory

I first entered upon said business about the twentieth of August eighteen hundred and forty six; The first stock of goods or merchandise about the sale of which I was employed as aforesaid was purchased at Albany Watertown and Buffalo in the State of New York. The knowledge I have that they were so purchased

at those places, I have derived from the plaintiff and from the bills of the goods which were shown me by the plaintiff Leonard Perrison and which bills I copied in a Book kept for the purpose of entering the purchases made by the plaintiff Leonard Perrison the plaintiff purchased some goods also at Oswego in the State of New York at Cleveland in the State of Ohio at Chicago in the State of Illinois

54

Interrogatory eighth

"State by whom and in whose name the said goods were purchased and with whose money they were paid for"

Answer to the eighth interrogatory

The goods were purchased by the plaintiff Leonard Perrison and in his name and were paid for with his money

Interrogatory ninth

"Did the plaintiff come on from New York to Little Fort aforesaid with the goods so as above stated to have been purchased by him, or in advance of their arrival?"

55

Answer to the ninth Interrogatory

The plaintiff came on from New York to Little Fort aforesaid with a part of the goods so as above stated to have been purchased by him and a part arrived after he left

Interrogatory Tenth

"Was the plaintiff at Little Fort at the time of the arrival of said goods?"

Answer to the Tenth Interrogatory

The plaintiff was at Little Fort at the time of the arrival of the greatest part of said goods came with them

56

Interrogatory eleventh

"Did the plaintiff assist in any way in the arrangement and management of said goods after their arrival at Little Fort, and if yea, how? State fully and particularly?"

Answer to the eleventh interrogatory

57

The plaintiff did assist in the arrangement and management of said goods after their arrival at Little Fort; he superintended the unloading of them from the vessel - and about the arrangement of them in the store - and in weighing some of them -

Interrogatory 12th

"Who paid the freight and charges on said goods to Little Fort, and with whose money was such freight & charges paid?"

Answer to the 12th Interrogatory

58

The plaintiff Leonard Denison paid the freight on said goods to Little Fort and I paid the other charges - The charges & freight were paid with the money of Leonard Denison -

Interrogatory 13th

"State whether you ever became the purchaser from the plaintiff or any other person, of said goods or any part or portion of them, or any interest therein"

Answer to the 13th Interrogatory

59

I never did become the purchaser from the plaintiff or any other person, of said goods or any part or portion of them, or any interest therein -

Interrogatory 14th

"State whether you have ever had any interest in said goods, as owner, part owner, part owner or other wise, either by gift or purchase?"

Answer to the 14th Interrogatory

I have never had any interest in said goods as

owner, part owner, partner, or otherwise, neither by gift or purchase

Interrogatory 15th

60 "Did the plaintiff return to the State of New York after the said goods were received at Little Fort as aforesaid, and if yes, about how long after?"

Answer to the 15th Interrogatory -

61 The plaintiff did return to the State of New York after the greatest portion of the said goods were received at Little Fort as aforesaid he left on the 14th of September 1846, about a month after the arrival of the greater part of said goods

Interrogatory 16th

"State whether prior to the return of the plaintiff to the State of New York - any part of said goods were sold for cash? If yes state what disposition was made of the money constituting the proceeds of such sale?"

Answer to the 16th Interrogatory

62 A part of said goods were sold for cash prior to the return of the plaintiff to the State of New York a part of the money was paid out for my board & personal expenses and charges on said goods, and the remainder was paid to the plaintiff Leonard Devison

Interrogatory 17th

63 "State how many times prior to the plaintiff's return to the State of New York you paid over to him money which you had received in the course of business for sales of said goods?"

Answer to the 17th Interrogatory

I paid over to the plaintiff prior to his return to the State of New York money which I had received in the course of business for sales of said goods at three different times

Interrogatory 18th.

"State the amount paid the plaintiff at each of the times referred to in your answer to the seventeenth interrogatory?"

Answer to the 18th interrogatory

64 I paid the plaintiff the first time referred to in my answer to the seventeenth interrogatory four dollars. The second time twenty dollars, the third time nineteen dollars.

Interrogatory 19th

65 "State whether there was any agreement with the plaintiff, or promise made by you to him prior to his return, to New York as aforesaid that ^{you} ~~it~~ would from time to time remit the ^{which you} money ~~it~~ should receive from sales of said goods to any person in said State, and if yes, state to whom the same was to be remitted?"

Answer to the 19th Interrogatory

66 There was a promise made between the plaintiff and myself prior to his return to the State of New York as aforesaid that I would from time to time remit the money I should receive from sales of said goods to some person in said State. The money was to be remitted to the plaintiff Leonard Devison.

Interrogatory 20th

67 "State whether the two letters deposited by the plaintiff with Hoyt & Coles, his attorneys in this cause, one dated April 14th 1846, and the other dated July 25th 1846, were sent by you to the plaintiff by mail at the time when they purport to have been written?"

Answer to the 20th Interrogatory

The two letters deposited by the plaintiff with Hoyt & Coles his attorneys in this cause one dated April 14th 1846, and the other dated July 25th 1846 were sent by me to the plaintiff by mail at the time when they purport to have been written.

Interrogatory 21st

"Were said letters deposited by you in the Post office?"

68

Answer to the 21st Interrogatory

The said letters were deposited by me in the Post office at Little Fort one dated April 14th 1846 and the other dated July 25th 1846 directed to the plaintiff and which letters are now in the possession of said Hoys & Coes plaintiffs Attorneys, that is, I saw them in their possession last

Interrogatory 22nd

69

"Did you see said letters after they were so deposited and before you saw them in the plaintiffs possession?"

Answer to the 22^d Interrogatory

I did not see said letters after they were so deposited, and before I saw them in the plaintiffs possession?

Interrogatory 23^d

70

"State whether prior to your employment in the aforesaid business you were living at Little Fort on your own Expenses, or that of some other person and of whom?"

Answer to the 23^d Interrogatory

Prior to my employment in the aforesaid business I was living at Little Fort, not on my own Expenses but on the Expenses of some other person, to wit; the plaintiff Leonard Denison, independent of whom I had no means of support

Interrogatory 24th

71

"Who paid or furnished the means of paying your travelling Expenses to Little Fort aforesaid, and your personal Expenses while there?"

Answer to the 24th Interrogatory

"Leonard Devison the plaintiff furnished me the means of paying my travelling Expenses to Little Fort aforesaid, and also paid my personal Expenses while there

Interrogatory 25th

"Did the plaintiff authorize you to transact the aforesaid business in your own name?"

Answer to the 25th Interrogatory

The plaintiff did not authorize me to transact the aforesaid business in my own name.

Interrogatory 26th

"Was it so transacted with his knowledge?"

Answer to the 26th Interrogatory

I do not know whether the plaintiff knew that the business was transacted in my name or not - he did not that I know of.

Interrogatory 27th

"Did you add to the stock of stoves so as aforesaid purchased by the plaintiff by purchasing other stoves or hardware in Little Fort or elsewhere after the plaintiff's return to New York."

Answer to 27th Interrogatory

I did add to the stock of stoves so as aforesaid purchased by the plaintiff by purchasing stoves and stove furniture in Little Fort after the plaintiff's return to New York

Interrogatory 28th

"From whom were such purchases made?"

Answer to 28th Interrogatory

Such purchases were made from David Ballentine

Interrogatory 29th

"How and with whose money or effects was the property purchased from Ballentine paid for"

Answer to the 29th Interrogatory

The property purchased from Ballentine was paid for by two notes, which were subsequently paid by the

money or effects of the plaintiff

Interrogatory 30th

"State at what times and how the payments to Ballentine were made & whether the money or effects so paid to him or any part of it belonged to yourself?"

75 Answer to the 30th Interrogatory

The payments to Ballentine were made the 22nd day of March 1847 by two notes ^{one} ~~two~~ signed by New & Swartwout for one hundred dollars due in two months & which I had received from them for goods sold them belonging to the plaintiff - and by another note signed by myself for one hundred and fifty one dollars and thirty cents due in four months - I afterwards bought back the notes of New & Swartwout with the money and effects of the plaintiff; the money and effects paid to Ballentine or any part of it, did not belong to me but to the plaintiff

76 Interrogatory 31st

"For whom did you purchase said goods purchased from Ballentine & to whom did they belong at the time of their sale to the defendant?"

77 Answer to 31st Interrogatory

I purchased said goods purchased from Ballentine for the plaintiff; at the time of their sale to the defendant they belonged to the plaintiff Leonard Devison -

Interrogatory 32^d

"State the motive which induced you to make said purchase from Ballentine"

78 Answer to the 32nd Interrogatory

The motive which induced me to make said purchase from Ballentine was to rid the plaintiff of the competition of Ballentine in the busi-

ness I was doing for the plaintiff. Said Ball-
tim promising me if I would purchase his stores,
that he would go out of the store business -

Interrogatory 33rd

"How long did you continue to manage the a-
foresaid business as before stated by you?"

Answer to the 33rd Interrogatory

I continued to manage the aforesaid business as
before stated by me about ten months

Interrogatory 34th

79 "Did you at any time sell the balance or any
portion of the said stock of stores and other goods
to the defendant"

Answer to the 34th Interrogatory

I did sell the balance of said stock of stores
and other goods to the defendant -

Interrogatory 35th

"At what time was such sale made"

Answer to the 35th Interrogatory

80 Such sale was made on or about the 14th day
of June 1847

Interrogatory 36th

"State particularly the amount of goods so
sold by you to the defendant, the quantity of
each kind and the value thereof"

Answer to the 36th Interrogatory

81 The following is a schedule of the balance of said
stock of goods sold by me to the defendant on
or about the 14th day of June 1847 - The balance
of the stock of goods sold the defendant by me
, were valued by us to be worth Eight hundred
and sixty nine dollars - the price or value at
which each separate item is carried out in
this schedule may differ from the bill given to
the defendant but the aggregate amount is the
sum, also there are some small articles in the

82 Schedule which were not in the defendants bill
to wit, one axe one Colt Hook & six shut iron
pans which he received at the same time

Schedule

	value	
8 Largest size elevated oven cook stoves	2 @ \$17.50	\$ 140.00
5 second size elevated " " "	2 @ \$15.00	75.00
4 No 5 Washburn & Co cook stoves	2 @ \$14.00	56.00
2 No 4 ditto " " " " "	2 @ \$12.50	25.00
83 1 No 3 ditto " " " " "	2 @ \$10.00	10.00
4 No 5 Arcoli foundry cook stoves	2 @ \$12.50	50.00
5 No 4 ditto " " " " "	2 @ \$10.00	50.00
2 No 2 ditto " " " " "	2 @ \$9.00	18.00
1 No 3 Erie Cook stove	\$ 7.50	7.50
1 Parlor stove	\$ 6.00	6.00
84 2 large Box stoves	2 @ \$12.50	25.00
4 small ditto " " " " "	2 @ \$4.00	16.00
2 tons of Iron at \$100.00 per ton		200.00
6 Bands of line II, Dennis ^{bill} for 40 bands 466 @ 75¢		34.50
708 feet of pine lumber at \$12 per thousand		8.50
85 600 lb Grind stons 2 @ 1		6.00
1100 bush Oats 2 @ 3¢		37.50
Amount Brought up		\$ 765.00
1 Book case & table		5.00
one hair mattress		3.00
1 large platform scales		40.00
214 port Barrels 2 @ 8¢		34.00
10 lbs stove pipe at 1¢		7.50
86 5 round tin Boilers 2 @ 3		15.00
1 second hand copper boiler @ 2		2.00
1 Tin tea Kettle		1.25
20 lbs candles 2 @ 1¢		2.50
one axe of one colt hook of		1.50
Six shut Iron pans 2 @ 3¢		2.25
		<u>\$ 869.00</u>

Interrogatory 37th

87 "Designate the particular portion of the goods so sold to the defendant which were purchased from David Ballantine; and the portions purchased by the plaintiff in the State of New York"

Answer to the 37th Interrogatory

88 The portions of goods so sold to the defendant which were purchased from David Ballantine were the 19 stoves designated in my answer to the 36th interrogatory as Rathboun & Co cook stoves and Arcade foundry Cook stoves - and the portions purchased by the plaintiff in the State of New York were the 13 stoves mentioned as elevated iron Cook stoves in my answer to the 36th interrogatory the two large Box stoves the 4 smaller ones the four the Grind stones, the stove pipes, the five round tin boilers, ten Kettle & Sheet Iron pans they were also bought by the plaintiff in the State of New York the Paila stove, the Erie Cook stoves, the Oats the one Bill for lime and all the other articles mentioned in the Schedule in my answer to the 36th interrogatory were purchased by me at Little Fort with the plaintiffs money and effects

Interrogatory 38th

89 "What was the consideration paid by the defendant for said goods"

Answer to the 38th Interrogatory

90 The consideration paid by the defendant for said goods, was a conveyance of two hundred and forty acres of land in the State of Michigan in Lapeer County

Interrogatory 39th

"To whom was the land which you agreed to receive in exchange for said goods conveyed by the defendant"

Ans^r to Interrogatory 39th

The land which I agreed to receive in Exchange for said goods, was conveyed by the defendant to the plaintiff

91 Interrogatory 40th
"By whose direction was the same conveyed to the plaintiff?"

Answer to the 40th Interrogatory
The same was conveyed to the plaintiff by my direction as his agent

Interrogatory 41st
"To whom was the deed therefor delivered"

Answer to the 41st Interrogatory
The deed therefor was delivered to me as the agent for the plaintiff

Interrogatory 42^o
"What afterwards became of said deed"

92 Answer to the 42^o Interrogatory
Said deed was afterwards given up by me to the defendant to be destroyed

Interrogatory 43rd
"If the said deed was destroyed state particularly the circumstances - state by whom it was destroyed and the reason thereof"

Answer to the 43rd interrogatory
The defendant stated to me that he had destroyed the deed, I did not see him destroy it and his reason was as I suppose that he considered that safe as an end

93 Interrogatory 44th
"Did you subsequently to the execution and delivery of said deed to you for the plaintiff agree to exchange said land with defendant for Copper Stock, money or other effects"

If You, State fully and particularly the consideration received from the defendant in such Exchange

Answer to the 44th Interrogatory

94 I did subsequently to the execution and delivery of said deed to me for the plaintiff agree to exchange said land with defendant for copper stock - The consideration received from defendant in such Exchange was the delivery to me of certificates of twelve Shares of stock in the Mineral Creek ^{Copper} Mining Company

Interrogatory 45th

"Was it in pursuance of such agreement that said deed was destroyed"

Answer to the 45th Interrogatory

It was in pursuance of the said agreement that said deed was given up and I suppose destroyed

Interrogatory 46th

95 "Describe the said land particularly if you can, and according to the Government Survey"

Answer to the 46th Interrogatory

I can not describe the land particularly according to the government survey

Interrogatory 47th

"What representations were made to you by the defendant at the time of the sale of said goods to him in exchange for said lands as to the location and value thereof"

Answer to the 47th Interrogatory

No representation made by the defendant to me at the time of the sale of said goods

to him in Exchange for said lands were as follows. He the defendant said that it was first rate land of first rate quality of unimproved land, but the country around it was improved that it was in the County of Lapeer in the State of Michigan, that it was sold to him by Walter Kubbell, of Canandaigua in the State of New York, and that he first surveyed it and picked it out for himself as a choice piece of land, and that, it was near a good market in a fine healthy country and but three quarters of a mile from Lapeer ^{the} County Seat of Lapeer County in said State of Michigan that it was now worth five dollars per acre, and would rise in value as the country was fast settling

97

98

Interrogatory 48th

"Were such representations made prior or subsequent to the Execution of said deed?"

Answer to the 48th Interrogatory

Such representations were made prior to the Execution of said deed

Interrogatory 49th

"Did you rely upon such representations being true?"

Answer to the 49th Interrogatory

I did rely upon such representations being true?

Interrogatory 50th

"Did those representations constitute any part of the inducement moving you to make such Exchange?"

Answer to the 50th Interrogatory

Those representations constituted the whole and only inducement moving me to make such Exchange

99

Interrogatory 5th

"Describe particularly the certificates of stock which you received in exchange for said lands as stated in your answer to the forty fourth interrogatory"

Answer to the 5th Interrogatory

100 The Certificate of stock which I received in exchange for said lands was of the "Mineral Creek Copper Mining Company". They were signed by Isaac C. Gray as President and George Pitts Secretary and the name of Daniel Munger was written on the backs of them in whose name and as D. Munger they were also drawn certifying that D. Munger is the proprietor of one share in the Mineral Creek Copper Mining Company and that the holder hereof is entitled to an undivided Five Thousandth part of the capital stock and of the net earnings and profits which may accrue from the business thereof. The rights and interests of the holder hereof, being in all respects subject to the provisions and stipulations contained in the articles of agreement of the association made on the first day of November 1845, and to any modifications of the same which may hereafter be made by votes of the association which shall be adopted in conformity with the said provisions and stipulations - This Certificate is transferable on the books of the association by endorsement on the back hereof or the surrender of this Certificate and the Execution by the Officer of the said articles of agreement and association. Dated Marshall April 4th 1846

101
102
103 The other certificates are similar as the one above described, with the exception that one of them was given for two shares instead of one

Interrogatory 2nd
"How many shares or certificates of shares of
Stock did the defendant deliver to you in
Exchange for said land?"

104
Answer to the 2nd Interrogatory
The defendant delivered to me in Exchange
for said land Certificates for twelve shares
of stock in said Mineral Creek Copper Mining
Company

Interrogatory 3rd
"State whether the certificates or scrip were the
same subsequently deposited by you with
Messrs Hoyt & Coles Attorneys for the Plaintiff
in this cause and now in their possession?"

105
Answer to the 3rd Interrogatory
They were the same certificates or scrip subsequent
ly deposited by me with Messrs Hoyt & Coles
Attorneys for the Plaintiff in this cause and now in
their possession with the exception of one No. 413,
which is now in the hands of the Commissioners
marked "Exhibit A"

Interrogatory 4th
"What representations were made to you by the defen-
dant as to the value of said stock at the time of the
said second exchange?"

106
Answer to the 4th Interrogatory
The representation made to me by the defendant
as to the value of said stock at the time of the
said second exchange: were that they were worth
at that time one hundred dollars per share
that the Original price of each share was fifty
dollars. He stated that the company was doing
a great business in mining and made a dividend
but the year before of thirty three percent he stated
that he had some copper stock which was not

107 very good & and some quite worthless; but this was
one of the companies which had done the best of any
of the copper mining companies as he had been
informed personally by General Gray the President
of the company - he also stated that the company
had an office in Detroit, and asked me to take
some shares on an other company and ascertain
their value for him when I went to Detroit as he
did not know what they might be worth; but the
108 shares of the company he gave me in exchange
for the debt he knew to be first rate and worth
a hundred dollars per share

Interrogatory 55th

"Where such representations made before or subsequent
ly to the Exchange?"

Answer to the 55th Interrogatory

Such representations were made before the Exchange

Interrogatory 56th

"Did you rely upon those representations as true?"

Answer to the 56th Interrogatory

109 I did rely upon those representations as true!

Interrogatory 57th

"Were you in any degree induced by them to make
such Exchange?"

Answer to the 57th Interrogatory

I was induced by them to make such Exchange

Interrogatory 58th

"State what efforts you have made to ascertain
the value of said stock & the result of your investigations

Answer to the 58th Interrogatory

110 About three weeks after the Exchange, I went from Little
Fort to Marshall Michigan to ascertain from the
officers of the company who resided there what the
shares of the stock of the company were worth the
President Isaac C. Gray informed me that there had

111

nothing been done by the company in the way of business except to make a survey of the land on which their permit was located that it was doubtful whether they would ever do any thing in the mining business, that they had never made any dividend and only twenty five cents had been paid in on any of the shares that the shares were of no fixed value and he had never known them to be sold for cash; that they had been sold in some kinds of trades from three to five dollars per share which was the highest he had ever known them to sell = the secretary of the company George Gibbs gave me the same information. I came back to Little Fort and informed the defendant what the President & Secretary of the company said about the value of the certificates of stock which he had let me have; he then admitted that he knew that the certificates of stock or shares were worth little or nothing; then asked him why he represented to me that the stock was worth one hundred dollars per share; to which he made no reply

112

113

Interrogatory 29th

"State all you know about the value of said stock at the time of said second Exchange?"

Answer to the 29th Interrogatory

At the time of said second Exchange I did not know any thing about the value of said stock except from the defendants representations

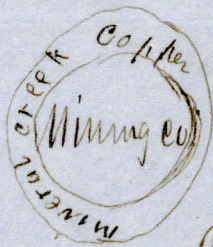
114

Interrogatory 30th

"Was said stock ever forfeited to the company and if Yes, when and for what reason was it so forfeited?"

"Certificate of Share No 1447 No. 413

Mineral Creek Copper Mining Company
This Certifies that D. Mudge is the proprietor
of One Share in the Mineral Creek Copper Mining
Company and that the holder hereof is entitled to an
undivided Five Thousandth part of the capital stock
and of the net earnings and profits which may accrue
from the business thereof. the rights and interests of the holder
hereof being in all respects subject to the provisions and
Stipulations contained in the articles of agreement of this
Association made on the first day of November 1843
and to any modifications of the same which
may hereafter be made by vote of the Association
which shall be adopted in conformity with
the said provisions and stipulations.



This Certificate is transferable on the books of the Association by endorsement on the back hereof on the surrender of this Certificate and the execution by the assignee of the said articles of agreement and association."

Dated Marshall April 4. 1846

"George C. Libb" Secretary "Gaac Ebrary" President

119

124

[1898-53]

Answer to the 1st Interrogatory

115 The said stock was forfeited to the company as the Secretary informed me after he had looked at the books of the company, ^{Genl. & Co's} at my request. It had been forfeited a long time before I received them from the defendant; it was forfeited for the reason that an assessment had been made on the shares and such assessment had not been paid in on those shares by the holder of them and that was therefore why they were forfeited.

Interrogatory 1st

116 "State the time when the Exchange of said land for said Copper Stock or Certificates of stock, as aforesaid was made by you with said defendant."

Answer to the 1st Interrogatory

The Exchange of said land for said Copper Stock or Certificates as aforesaid was made by me with said defendant about the 17th day of June 1847

Interrogatory 2nd

117 "Look upon the paper now shown to you and marked Exhibit A and State whether it is one of the Certificates of stock received from the defendant by you in Exchange for said land."

Answer to the 2nd Interrogatory

The paper now shown one marked "Exhibit A" is one of the certificates of stock received from the defendant by me in Exchange for said land

Interrogatory 3rd

"State whether the other Certificates received by you from him were Certificates of shares in the same Company and of the same character as that now shown you."

Answer to the 3rd Interrogatory

118 The other Certificates received by me from him were Certificates of shares in the same Company and of

The same character as that now shown me
 Interrogatory 64th

"What part or portion of any of the property delivered by you to the defendant in Exchange for said land was replevied and delivered to the plaintiff by virtue of the writ issued in this cause?"

123

Answer to the 64th Interrogatory

Property to the value of six hundred and twenty dollars and seventeen cents of the property delivered by me to the defendant in Exchange for said land was replevied and delivered to the plaintiff by virtue of the writ issued in this cause

Interrogatory 65th

"Describe particularly that portion of the property replevied and the value thereof at Little Fort aforesaid at the time when the same was replevied?"

Answer to the 65th Interrogatory

That portion of the property replevied and the value thereof at Little Fort aforesaid at the time when the same was replevied is as follows

125

7 largest size elevated over cast Iron	valued \$17.50 apiece	\$122.50
3 second size	" " " " Value \$15.00 apiece	45.00
4 No 5 Rathbone & Co. Cook Stoves	Value \$14.00 apiece	56.00
2 No 4 Rathbone & Co. Cook Stoves	Value \$17.50 apiece	35.00
1 No 2 Rathbone & Co. Cook Stove	Value \$10.00	10.00
4 No 5 Apple Laundry Cook Stoves	Value \$12.50 apiece	50.00
3 No 4 ditto ditto ditto ditto	ditto \$10.00	30.00
2 No 2 ditto ditto ditto ditto	ditto \$6.00	12.00
2 Large Box Stoves	ditto \$12.50	25.00
4 Small Box ditto	ditto \$4.00 ditto	16.00
2823 pounds of Iron	ditto five cents per pound	141.10
240 feet Lumber	valued \$12.00 per thousand	2.88
482 pounds Ground Stones	Value ^{one} cent per pound	4.82
1 hair mattress	Value 1/2 per lb	3.40
1 Large platform scales	Value \$10.00	10.00

127

128

60 lbs stove pipes Value 4 per lb	4,50
3 round tin Boilers Value \$3 a piece	9,00
One Sheet Iron pan Value	37
	<u>\$ 620,17</u>

The Value of the articles above mentioned are carried out in gross in the last column of figures in the above schedule and are their true Value; and amount to six hundred and twenty dollars and seventeen cents.

Interrogatory 66th

129

" Describe particularly that portion of the property delivered to the defendant in Exchange for said land which was not replevied and the Value at Littleport of said at the time of the commencement of this suit of each article not replevied

Answer to the 66th Interrogatory

That portion of the property delivered to the defendant in Exchange for said land which was not replevied and the Value at Littleport of said at the time of the commencement of this suit of each article not replevied is as follows

130

1 Largest size elevator over Cook's Store Value \$17,50	17,50
2 Second size ditto ditto ditto ditto ditto \$15,00 apiece	30,00
1 No 2 Arcole Laundry Cook's Store ditto	6,00
1 No 3 Erie cook stove ditto	7,50
1 Parlor Stove ditto	6,00
1178 lbs Iron Value 50 per cent per pound	58,90
6 Barrels lime and due bill on S. J. Dennis for 40 Barrels value 67 per Barrel	34,50
118 lbs sand stones at one cent per lb	1,18
100 Bushels Oats Value 37 per bushel	37,50
1 Book case and Table Value	5,00
34 Pork Barrels Value one dollar per barrel	34,00
5,63 feet pine lumber value \$12,00 per thousand	5,62
2 Round tin Boilers Value \$3,00 per boiler	6,00

131

132

20 lbs Candles Value 1/4 per Pound	2,50
1 Copper Boiler Value	2,00
1 Tin tea Kettle Value	1,25
1 axe Value & 1 bolt & Hook Value &c	1,50
5 Sheet Iron pans Value	1,88
	<u>\$248,83</u>

The Value of the articles above mentioned are carried out in gross in the last column of figures in the above Schedule and are their true Value, and amount to two hundred and forty eight dollars and eighty three cents. There are other articles delivered to the defendant by me and not replied which I do not now recollect

Interrogatory 68th

135 " Has the defendant ever informed you that he had sold a part of said property? If you state what part and when it was sold

Answer to the 68th Interrogatory

The defendant has informed me that he had sold a part of said property previous to the writ of Replevin being issued in this cause, to wit, one No 3 Cook stove, one Parlor stove, and some Grind stones, after the said writ was issued he informed me that he had sold eight hundred pounds of Iron to one man and that two large bars of Iron were left at his house & the six barrels of lime and the due Bill of J. Dennis for forty barrels of lime - before the said writ was issued I saw him sell two of the second size elevated oven cook stoves and ~~also~~ saw him exchange one of the largest sized elevated, oven cook stoves for another cook stove

133 Interrogatory 67 of the
 " State, if you know the reason why the same were not replied?"
 134 Answer to the 67th Interrogatory
 " The reason why the same was not replied was because they could not be found"

Interrogatory Lastly

137

"Do you know any other matter or thing touching the matter in question that may tend to the benefit or advantage of the Plaintiff? If you declare the same as fully and at large as if you had been particularly interrogated thereto?"

Answer to the Lastly Interrogatory

138

I was not acquainted with the defendant until two days before the trade for the land was made. He then came to the store where I was doing business and first proposed to exchange with me the land for the goods - And when I gave up to the defendant the defendants land I received no other or further consideration for doing so than the twelve shares of copper stock aforesaid - The plaintiff never promised nor intended to my knowledge to set me up in business on my own account either, previous or subsequently to the arrival of the said goods for purchase; at Little Fort aforesaid

139

I came to Little Fort with the expectation of being employed as a clerk by John Ely of Massilon Ohio, who contemplated doing business at Little Fort; but finding that he had left and given up the idea of doing business there, by the advice of Crock, I. Ely wrote to the plaintiff to send me on some goods to sell for him.

140

I do not know any other matter or thing touching the matters in question that may tend to the benefit or advantage of the Plaintiff.

"Elisha C. Denison"

Cross Interrogatories and answers thereto by the witness on the part of the Defendant

Interrogatory First

"Did you open or keep any book or books or memorandum of account at any time in the business

141

You were doing in Little Fort And If you! at what time weel such book or books, ^{or memorandums} opened and did the same purport to be books of account or memorandums of your own transactions, or the transactions and business of any other person or persons

Answer to the first Interrogatory.

I did open and keep books of account in the business I was doing in Little Fort! opened them at the time I commenced the business and continued them untill the sale

142

I entered the Invoices as goods purchased by Leonard Devisors in the day book & then kept the Books in the usual manner by double entry

They did not in any other manner or way purport to be the books of any other person or persons - The Books were a day book Journal & Ledger.

Interrogatory 3^d

143

If any book or books or memorandums of accounts were kept by you in your business in Little Fort where are the same now

Answer to the 2nd Interrogatory

The Books of accounts kept by me in the business in Little Fort, are at Sacketts Harbor in the State of New York

Interrogatory 3rd

144

Did you at any time while doing business in Little Fort, draft bills for settlement with any customers in the business you were doing, and if so to whom were those customers debited to yourself or any other person

Answer to the 3^d Interrogatory

I did while at Little Fort doing business, draft bills for settlement with customers in the business I was doing - those customers in the bills were debited to myself

Interrogatory 4th

"Was the business done by you while in Littleport carried on in your own name?"

Answer to the 4th Interrogatory

145

The business done by me while in Littleport was carried on in my own name.

Interrogatory 5th

"Is the Plaintiff a relative of yours by consanguinity and if so what is that relation?"

Answer to the 5th Interrogatory

The Plaintiff is a relative of mine by consanguinity. He is my Father.

Interrogatory 6th

"Are you acquainted with the Plaintiff pecuniary circumstances; and if so how much do you estimate him worth?"

Answer to the 6th Interrogatory

146

I am somewhat acquainted with the Plaintiff's pecuniary circumstances. The bulk of the Plaintiff's property consists of real estate, the value of which I do not know; from my knowledge of his circumstances I should estimate him to be worth five or six thousand dollars.

Interrogatory 7th

"Do you know when the Plaintiff has resided for the ten years last past?"

Answer to the 7th Interrogatory

147

I do know when the Plaintiff has resided for the ten years last past - He resides at Sackett Harbor in the State of New York.

Interrogatory 8th

"Do you know what has been the business of the or occupation of the said Plaintiff at his residence or place of doing business for the ten years last past, and if you state what the same has been."

148

Answer to the 8th Interrogatory
I know what has been the business of the Plaintiff at his residence for the ten years last past. - He has been in the iron foundry business & has held various offices and engaged in Farming

Interrogatory 9th

"Did you while residing in Little Fort, send per mail or leave at the Post Office in Little Fort any newspaper, or newspapers which had been published in ^{said} Little Fort during the time you were so doing business there directed to the Plaintiff and if yes! State what was the name or names of said newspaper or newspapers?"

149

Answer to the 9th Interrogatory

I did while residing at Little Fort leave ^{at} the Post Office at Little Fort occasionally papers which had been published at Little Fort directed to the Plaintiff or some members of his family - The name or names of said newspapers were the "Little Fort Porcupine" "The Little County Herald" and "Lake County Visitor"

150

Interrogatory 10th

"Did you make a written offer in your name to sell the goods in question to the defendant for lands in Michigan? And if so did the defendant accept such offer?"

Answer to the 10th Interrogatory

The defendant on the day of the exchange, was made came to the place where I was doing business, and I recollect of writing on a slip of paper that I would trade him the goods in the store for the land - Such paper was not intended by me as a written proposition nor delivered to him as such

151

The defendant did accept of the offer so made by me to him

Interrogatory 11th

152 " Did the defendant state to you, at the time you were negotiating with him to sell the goods in question and before the sale was completed that he had never seen the land, which he conveyed in payment for said goods; and that he (the defendant) had no knowledge of the location of said land or its quality except what he derived from the representation of others?"

Answer to the 11th Interrogatory

153 At the time I was negotiating with the defendant to sell the goods in question and before the sale was completed he said that he had never seen the land which he conveyed in payment for said goods. He did not state that he had no knowledge of the location of said land or its quality except what he had derived from the representations of others.

Interrogatory 12th

"What compensation were you to have for attending to said business in Little Fort?"

Answer to the 12th Interrogatory

154 There was no agreement between the plaintiff and myself as to what compensation I should have for attending to the business in Little Fort.

Interrogatory 13th

At what time did the plaintiff leave Little Fort to return to the State of New York after having started you in business as aforesaid in Little Fort? If you cannot recollect the precise time when he left

State the time according to your best ^{impression} recollection.

Answer to the 13th Interrogatory

155 The plaintiff left Little Fort to return to the State of New York on the 14th day of September, 1846,

about a month after the arrival of the greater portion
of the goods he left me to sell

Interrogatory 14th

"Did the plaintiff ever give you any express
distinction directing to conduct said business in
his name and not your own.

Answer to the 14th Interrogatory

156

The plaintiff did not give me any express
directions to conduct said business in his name
and not in my own

Interrogatory 15th

"Was there any written agreement or memorandum
between yourself and the plaintiff in regard to the
business which you were conducting at Little Fort?
And if yes, please annex the said agreement
or memorandum or a true copy thereof to your dep-
osition

Answer to the 15th Interrogatory

157

There was no written agreement or
memorandum between myself and the plaintiff
in regard to the business which I was conducting
at Little Fort - Interrogatory 16th

"Did you ever receive from the plaintiff
at any time prior to his first bringing said Stoves
Hardware &c to Little Fort any letters or written
communications in regard to the business in which
you say you were subsequently engaged in at
Little Fort, and if yes, please annex those
letters or communications to your deposition

158

Answer to the 16th Interrogatory

I did receive from the plaintiff prior to his
bringing said Stoves hardware &c to Little Fort only
one letter or written communications in regard to the
business in which I was subsequently engaged
in at Little Fort and which is annexed marked "Exhibit B"

X

159
160
161
162
[MS-A-11-98-5]
You ought to write often than you have - what was the cause of the delay of my letter with the draft of \$50 - I wrote you two letters directed to St Louis which you have not got but it is of no consequence now.

"Dear Eliza"

I am glad to hear that you are well and that you are pleased with the place where you are but ~~am~~ sorry ~~was~~ somewhat disappointed in Mr John Ely, altering his mind and having so soon after commencing business and the flattering account he gave me of the prospect of doing a good and profitable business. I intended to get the Stoves at Watertown or Brownsville if they can be obtained as low as at Troy or Albany - the other goods I must get at Albany or New York and will go down in about a week and and then on as soon as possible. a more general assortment of hardware I should think ought to be kept if there is not one already established at that place. You must write me more particularly about the business of the place and the country about it and the society and improvements &c - Your mother has written all about the family your Uncle Samuel is at Mr Bloods his health is poor he wishes to be remembered to you.

Your Father &c "

"P. P. Benson"

P.S. perhaps I may conclude to visit you in a few weeks, if I can leave the family and other affairs here, I will write you ^{again} in a few days.

163

Lake County Circuit Court }
 Lemuel Denison }
 vs }
 Isaac B. Patten }
 at the }
 trial of Elsha, E. Denison a witness in this cause }
 this paper or letter was produced and shown to Elsha, E. }
 Denison a witness sworn and examined and by him }
 deposed unto at the time of his examination }
 as a witness under such "Corruption" }
 "Jason Phelps" }
 "Isaac Van Fleet" }

164

10

"Mr Elsha, E. Denison"
 "Littleport"
 "Lake County Illinois"

Recd
 14th
 25
 NY

"Isaac B. Patten"
 in the 16th Antislogy
 on the part of the defendant

Interrogatory 14th

"Do you know any other matter or thing touching the matters & issue in question that may tend to the benefit or advantage of the defendant? If you declare the same as fully and as large, as if you had been particularly interrogated thereto."

Answer to the 14th Interrogatory

165 I do not know any other matter thing touching the matters in question that may tend to the benefit or advantage of the defendant except the following. The value of the articles given in my answers to the 65th & 66th Interrogatories of the plaintiff are estimated at retail prices. If sold at wholesale a deduction of from fifteen to twenty per cent should be made.

"Elisha C. Denison"

166
167
"We Jason Phelps, and Isaac Van Vleet of the County of Jefferson and State of New York Commissioners duly appointed to take the deposition of the said Elisha C. Denison a witness whose name is subscribed to the foregoing deposition do hereby certify that previous to the commencement of the examination of the said Elisha C. Denison as a witness in the said suit between the said Leonard Denison plaintiff and the said Isaac B. Potter defendant he was duly sworn by Isaac Van Vleet one of said Commissioners to testify the truth in relation to the matters in controversy between the said Leonard Denison plaintiff and the said Isaac B. Potter defendant so far as he should be interrogated concerning the same that the said deposition was taken at the office of Isaac Van Vleet one of said Commissioners in the Village of Sackett Harbor in the County of Jefferson and State of New York

168

on the 28th day of February A.D. 1848, and that
after said deposition was taken by us as aforesaid
the Interrogatories and answers thereto as written
down were read, over to the said witness and that
~~thereupon~~ thereupon the same was signed and drawn
to by the said deponent Elisha C. Denison before
the oath being administered by Isaac VanNestle as
of said Commissioners as such Commissioner at the
place and on the day and year last aforesaid

169

"Jason Phelps" }
"Isaac VanNestle" } Commissioners

170

"Which was read subject however to the objections
 " which the defendant filed to interrogatories and an-
 " swers Nos. 3, 5, 19, 20, 21, 23, 23, 24, 25 & 26 for
 " the reason that said interrogatories ~~xxx~~ ^{were} leading
 " and to interrogatories and answers Nos 42, 43,
 " 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55,
 " 56, 57, 58, 59, 60, 61, 62 & 63 for the reason
 " that the subject matter of said interrogatories &
 " answers is irrelevant to the matters in issue. The
 " plaintiff then called E. W. Hoyt as a witness
 " who was sworn and testified as follows."

172

Mr. Denison came to Little Fort on
 Saturday previous to the commencement of this
 suit and requested me to call with him and
 see Mr. Potter. I did so and we found him at
 his house. He went in, his wife and some one
 else was there. Mr. Denison said to Mr. Potter
 that he understood he had been buying a quan-
 tity of Stoves iron and other goods from his son.

173

Mr. Potter said ~~that~~ he had. Mr. Denison added
 that he understood he had first deeded to him-
 self a quantity of land in Michigan in pay-
 ment for this property but that the deed had
 afterwards been given ^{up} and destroyed. Mr. Potter
 replied that it was so, that he afterwards took
 up the deed and let his son have some copper
 stock in Exchange.

174

Mr. Denison then told him
 that the Stoves and other articles which he had ob-
 tained from his son belonged to him. That his son
 was doing business in Little Fort for him & had no
 authority to make such ^{an} exchange or do business in
 that way. The plaintiff then proposed to read

21199-60

175

the land to the defendant if he should deem it necessary to perfect his title thereto, and that his son (who was present) would redeliver him the copper stock and requested Mr. Potter to redeliver the property to him. Mr. Potter at first declined to do any thing about it, but finally agreed he would call at my office before night and see further about it.

176

This he did do, but was not prepared to do any thing or make any further proposition - He wanted further time and until Monday morning to see what he would do. On Monday morning I called with the plaintiff again to see Mr. Potter. Some little conversation occurred at his house & he again promised to come down to the village again and see about it. He came down and several propositions were made for a settlement. It was finally agreed that Mr. Potter should furnish me with a description of the location of the land and that I should write to the Recorder of Lapeer County Michigan & ascertain the value with a view to a settlement.

177

I soon after called with Mr. Denison and saw the defendant at his house & requested him to furnish me with a description of the land. He went into his house and looked for the deed a long time and came out saying he could not find it - that it must be lost - said he was somewhere down on the Illinois river a few days before & his hat blew off into the water and he thought it must have been in his hat at the time and lost. He said he could not from memory give an exact description of its location but there was 240 acres adjoining but lying in three different sections. He believed a part laid in section 5, Township 8, Range 10 East in Lapeer County & marked out on the ground how he

178

marked out on the ground how he

179

thought the rest was situated around it. Thought
 it made an Ell. but ^{he} could not be positive as to
 the exact location with reference to the Government
 Survey and from memory that his deed embraced
 ed tracts of land in several Counties in Michigan
 and had been Recorded in Lapeer County & in the
 other Counties where the land was situated. The
 parties counsel about it some time & plaintiff
 again requested him to give up the property which
 he had received from his son E. E. Demison, this
 he declined doing. The Plaintiff asked defendant
 if he did not know that his son was acting as his
 agent. Deft replied that he did not know any
 thing of or about it till he was requested to
 make out the deed to Leonard Demison that he
 had never heard the name of Leonard Demison
 mentioned till the time he was requested to make
 the deed to him

180

181

Plaintiff then proved by the introduction
 of certified copies of the Laws of Michigan and of the
 Report of the Commissioners acting in pursuance thereof
 that the seat of Justice of Lapeer County Michigan
 is situated upon the N. E. corner quarter of section
 five in Township seven North of Range two East. The
 plaintiff then offered to read in evidence a Certificate
 from the Register of deeds of said County of Lapeer that
 said Pollu had no title to land in said County of
 record in his office. Which evidence was ruled out
 by the Court. It was then admitted that the certifi-
 cates of Copper Sticks referred to in the deposition of E.
 E. Demison and received by him from defendant were
 in deposit in the hands of Hoyt & Coles as stated in
 said deposition and that they ^{correspond} ~~corresponded~~ with the

182

one attached to said deposition.

Plaintiff then read the following letters in evidence after having first proved that they were the same referred to by E. E. Demmon in interrogatories & answers No 20, 21 & 22 of his deposition.

Little Fort April 14~~th~~ 1846

"Dear Father

184 I arrived here 2 days since in the Stage from Peoria which is at the head of S. B. Navigation on the Illinois & is to be the termination of the Illinois Canal a splendid work of the kind and which will be in full operation in less than 2 years. Peoria is a beautifully situated place the river enlarging there into a ^{fine} lake 5 or 6 miles long and there is some handsome scenery on the Illinois, but yet I am not pleased with that part of the Country nor with any of it between there and Chicago. It is low flat and rather unhealthy. In some places on each side of the road I could see bound up prairies as far as the eye could reach perfectly level but uncultivated black & dreary having been burnt over to clear off the old grass so that new pasturage should spring up. The road was very bad there having been several days of steady rain & we could see the City of Chicago so far off over the level country, it seemed as if we were forever getting to it & when there it looked with its raised wooden pavements and its navigable streets like a picture of Venice. I am much pleased with Little Fort. It is situated on a high hill or ridge which extends several miles parallel with the lake. It falls very suddenly towards the Lake shore which is a low sandy beach from which 2 long piers resting on piles but without any stow in them are run out

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by which Steamboats or vessels haul up. The
Country around Little Port looks very flourishing
with better buildings and cultivation than any
part of Illinois I have passed through. It is near
Chicago (less than 40 miles) ^{with} ^{two} to be a large place. But
it bids fair to be a place ^{of} 3 or 4 thousand inhab-
itants and that in a short time. And it is so
much higher than the surrounding country I
think it must be healthy. Mr. Enoch G. Ely
keeps a store here, he came here last fall & has
done very good business the firm is called Ely &
Brother he being in partnership with Lebulon Ely
who keeps another store in Mississippi he informed
me that ^{Mr} John Ely returned to Mapleton about 2 months
since. Aunt Lord and his wife are opposed to his
making Little Port a residence. and Mr. Andrews
has offered to set him up in Stubenville. So that
it is possible he may have given up going into
business here. I wrote to Mr. Ely at Mapleton
as soon as I heard this. I requested him to write
you and myself immediately on the subject as
I wished to know what to depend upon. Enoch tells
me there are some articles of merchandise which will
sell well here and advises me to write you to send
them immediately whether ^{Mr} Ely comes here or not.
and that he will make room for me in his store
(which is large) for to sell them in he expects new
goods himself in a few days but there are articles
which he has not ordered. A hard ware store he
says would do well here (also sugar and molasses
which can be obtained from N. Orleans or St. Louis
cheaper than from New York (on the other side is a
copy of a list he made out of them.

50 cooking stoves of various patterns & sizes

- 192 " 5 parlor stoves 10 air tight do 20 doz wooden paint
- " 10 doz wash tubs common size 5 doz large size
- " 10 doz Reels 5 doz Churns large size 3 doz common
- " size 10 doz zinc wash boards 5 doz wooden boards
- " assorted sizes & 5 doz wooden butter spoons
- " 15 keys 6" nails 10 bundles $\frac{1}{2}$ in round iron
- 193 " 15 " 4 do 2 do $\frac{1}{4}$ do do do
- " 15 " 3 do 5 do $\frac{3}{4}$ do do do
- " 30 " 8 do 200 lbs " 1 do do
- " 15 " 10 do 100 lbs " $1\frac{1}{2}$ do do
- " 10 " 12 do 1000 lbs Horse shoe iron
- " 5 " 20 do 200 lbs Hoop Iron $\frac{3}{4}$ & 1 in

- 194 " You mentioned 300 lbs $\frac{3}{4}$ in Square bar iron
- " in one of your 500 lbs 1 in do do
- " letters that you 100 lbs $\frac{1}{2}$ in do do
- " ~~sent~~ ^{sent} get stoves 500 lbs 6 in Spring steel
- " on Commission in 500 lbs 3 in do do
- " Jefferson County 500 lbs 13 & 14 in do do
- " They are an arti

- 195 " do much wanted American blistered steel a small quantity
- 196 " there being none English do do a small quantity
- " here for sale 1 Box Hemming & son's cast steel

" Ely says you had best to send sheet iron with the stoves to be made into pipe here as in the form of stove pipe it is inconvenient to ship and for the same reason send the tin and copper to have the boilers and furniture of the stoves made here. He

197 " also says that glass is an article wanted here and also stone ware of all kinds which can be obtained at factories of stone ware in Cleveland.

" For a great part of this Iron you will have to send to Albany or New York the Iron from there and nails are of a better quality and will

If you cannot conveniently obtain all these articles send a part of them but especially articles if you can get them on Commission. Tell the better Mr. Ely considers the best he has ever made to be but a small quantity & could be sold. He has not sent any help here - even in the last case to begin with.

198
" command a higher price than those obtained
" from Pittsburgh / E. E. Denison.

" This letter was directed upon the outside
" to "Leonard Denison Esq"
" Sackett Harbor N. York and
" post mailed with the office stamp of the Little
" Port P. O. office 23rd Apr 14th

" Little Port July 25, /46

" Dear Mother

" I received your late letter with
" Aurelius & the news of Augustas having gone south
" I will answer both before long But I am in
" haste to have the following letter reach father, I
" have sent one copy of it to Portsville to the care of
" Peliz, but for fear that should not reach him you
" must send this on to him whenever he is
" Yours &c "E. E. Denison"

" Dear Father

" A letter just received from mother
" &c informs me that you are in Connecticut & hoping
" that this will reach you. I would say in regard
" to what you wrote mother about Iron and Stoves fall
" ing ⁱⁿ price as soon as the tariff is ~~altered~~ that
" I think it probable such might be the case. Though
" Mr. E. D. Ely thinks the price of iron would not
" fall here in some time & all you would gain in
" waiting ^{wishes} ~~would~~ not more than equal your expenses
" in delaying and ruin which are about ten dollars
" a month here Business is quite dull at present
" the farmers being engaged in harvesting do not come
" in to trade But about the middle or last of next
" month they commence fetching in their wheat

which is a very busy time from then till winter if
you think it best to wait before buying the iron
do not delay sending on the salt wood and stone
ware immediately. Mr Ely had an addition put
on ~~to~~ his store on purpose to make room for the
articles I ordered & which he is not to keep
himself & he expected they would have been
sent on some time since and sold so that you
could buy a larger lot in the fall for me to
sell. But it is so late you had best to buy all
together. Therefore he advises ^{me} to write you to trouble
or at least double the quantity of all the orders
I sent before. Send 100 stoves 300 bbls of salt
every kind variety size shape & quality of Iron
every size of steel. All sizes of Iron & steels every
variety of wooden ware & stone ware a good assort
ment of both send also the following not ordered
I do; set of Harrow teeth Iron wedges Elliptic Springs
 $\frac{1}{2}$ in $\frac{3}{4}$ in at 8 & gets five or six thousand dollars
worth of the articles I have enumerated in all is
about the quantity needed to meet the demand
of trade here. So Ely says & there is no use in a
place where you cannot sell goods like this of get
ting on a small stock when a larger can be sold
to more profit and advantage. I wish to do a good
business for you & as I have no interest separate
from yours & that of the rest of the family & never
intend to leave I hope that you will move on here
so that we can be together in it I hope you will
hurry on these things so as to have them on here by
the middle or last of next month. I am tired
of being an expence with little to do when I
might just as well be making money

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247 Mr. Ely says considerable time has been lost already by not having those articles on before now & that if you do not send them on in time for the demand he must order them on his own account. This I should regret as it would force me to get another store instead of being with him which I think is more for my interest. It is customary for merchants to get their goods insured to their destination as I suppose you know though I did not till lately. Excuse the bad execution of this letter my hand is unusually scabberish or nervous. Your affectionate son
"E. E. Demson"

This letter was directed upon the outside to "Leonard Demson Esq"
Sacketts Harbor
N. York.

248 And postmarked with the Office Stamp of the Little Fort P.O. Ill. July 25th.

The Plaintiff here rested his case and the Defendant proceeded to call Lorenzo Hinckston, who having been duly sworn testified that in the latter part of Sept 1846 Plff rode to Chicago with me & on our return home we were talking about Iron & he said he had then got a quantity of Iron and his son had been to Little Fort and liked the people well and the location well they were principally Eastern people and he thought he should establish him in business there.

249 Cross Examination Plff did not say whether he was going to establish his son in business on his own account or on the account of some one else

" I have stated the conversation as it occurred
" to the best of my recollection.

210 " Deft then called N.P. Coust who having
" been duly sworn testified that he was engaged in
" the publication of a weekly newspaper called the
" "Lake County Herald" at Little Fort Lake County
" Illinois during the year 1846, that a business
" card of which the following is a copy was published
" in said said paper from the 28th of August to the
" 9th of Sept 1846.

" "E. E. Demson" Dealer in Stores Iron nails
211 " grind stones, stone and wood wear. will keep a
" supply of the above articles constantly on hand
" at the middle store in Demps Block Little Fort
" Illinois defendant then called

" H. W. Blodgett who having been duly sworn testified
" that he was engaged in the publication of the
" weekly newspaper at Little Fort in said coun-
" ty called the Lake County Visitor during the
" spring and summer of the year 1847. That a
" card of which the following is a true copy

" "E. E. Demson" Dealer in Stores Iron nails
212 " grindstones ^{stone} and wood wear will keep a supply
" of the above articles constantly on hand at the
" New Store on Genesee Street 2 doors North of the
" Eagle Hotel Little Fort Illinois was published in
" said paper from the twentieth day of April 1847
" three months thereafter that during such time
" a copy of said paper was regularly mailed con-
" veyed from the office of publication to said plain-
" tiff at Sacketts Harbor New York.

213, Enoch D. Ely - Called as a witness by the defendant
 " and being duly sworn testified as follows:
 " Witness is a Merchant ⁱⁿ Little Fort
 " acquainted ~~acquainted~~ with the parties and
 " Elisha E. Denison. The stock of goods and mer-
 " chandize in question was at first arranged for sale
 " in the back part of witness's store Has frequently
 " seen the books kept by Elisha E. Denison in relation
 " to such business Does not know that they were ~~ever~~
 " opened in the name of any other person. Knows
 " of Elisha E. Denison sometimes making out bills
 " of goods sold in his own name.

214

Cross Examined Know that Elisha E. Denison wrote to
 " his father the plaintiff in relation to sending on
 " goods to sell. Dont know whose goods they were
 " understood the plaintiff purchased and paid for
 " them. Plaintiff came on to Little Fort before the
 " goods were taken from the ware house Assisted
 " to load them at the ware house and in unloading
 " and arranging ^{them} at store dont know who paid ^{all} the
 " freight Know plaintiff paid part of freight on
 " the goods Plaintiff staid at Little Fort some weeks
 " before returning East and assisted about the goods
 " & sales. Heard him tell Elisha not to sell on credit
 " Requested me to render such assistance and ad-
 " vice as I reasonably could I know of money
 " arising from sales being paid over on one or two
 " occasions to plaintiff before his return East un-
 " derstood money was afterwards sent ^{to} him but
 " dont know this of my own knowledge

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216

This being all the evidence the Court
 " after ~~the evidence~~ ^{argument} by Counsel found the issues
 " and assessed the plaintiffs damages for the actions of Croves at Two hundred ~~and~~ \$
 " in both cases for the plaintiffs. Whereupon the Cl-

Seven dollars and thirty nine cents

91898-63

217

1st defendant moved the Court for a new trial and filed the following reasons to wit

1st The said defendant has since said trial discovered new and material testimony in said Cause.

2nd The finding of the Court in said ^{Cause} was against law.

3rd The finding was against evidence

4th The said finding was against Law & Evidence

The defendant also filed affidavits in regard to the newly discovered evidence of which the following are copies.

218
The Cir. Court
Isaac B. Potter
ads
Leonard Demison

March Term 1818
Replevin and Trover

Isaac B. Potter having been duly sworn doth depose and say that he is the defendant in the above entitled suit. That since the trial of said Cause this deponent has learned that he can successfully establish by the testimony of Edward A. Gilbert & S. H. ²¹⁹ ~~Stim~~ ^{Stim} that at the time this deponent bought of the said E. E. Demison the stores hardware &c in the said P^l's declaration mentioned he the said E. E. Demison expressly stated that he was the owner of the said property so sold this deponent and also that this ~~said~~ deponent can ²²⁰ prove by the said Gilbert that the said Plaintiff would have been satisfied with the trade which the said E. E. Demison made with the said de-

to the trial of said cause that said facts
could be proved by said witnesses or any
other persons, but that he has discovered
the same since the said trial

" findant for the land in Michigan but that
" the said Plaintiff expressed his chief dissatisfaction
" at the subsequent trade of the said
" E. E. Demison of said land for Copper Stock.
" And this deponent further saith that he was not aware previous
" And this deponent further saith that he verily
" believes he shall be able if a new trial is granted
" is granted to prove that said E. E. Demison
" was the real owner of said stores hardware &c
" and not the agent or factor of ^{the} said plaintiff.
" But this deponent says that the witnesses by
" whom he expects to prove the ownership of said
" property are not now accessible to this deponent
" and that he cannot for that reason obtain their
" affidavits or state their names at this time.
" And this deponent further asks leave to refer to
" the affidavits accompanying this of said Gilbert
" Plinn & A. H. Gader for a more full and particular
" Statement of the matters which he expects
" to prove by said witnesses Plinn & Gilbert.

222

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223

" Sworn to & subscribed }
" before me this 31st day of } J. B. Potter.
" March 1848
" George Thompson Clerk

" Lake Cir Court
" Isaac B. Potter
" ad
" Leonard Demison

" March Term 1848
" Replevin & Trover

" E. A. Gilbert, having
" depose and say that he knows the parties
" to the above entitled cause. That about the
" time of the commencement of said suits this
" deponent heard the said plaintiff say that
" he would have been satisfied with the trade

224

11898-65

225 " Made by the said E. E. Demison with the said
" defendant of the stock of hardware &c for land
" in Michigan and this deponent also saith that
" he has been told in substance frequently by the
" said E. E. Demison that the said E. E. was the
" owner of the stores hardware &c sold by him to
" said def^t and that although this deponent
" has had several conversations with the said
" Pl^{ff} in regard to the said stock of stores &c &c
" the trading of the same by said E. E. Demison and
" that the said plaintiff did not at any time
" claim to have any interest in ^{the} said property
" except as a friend of the said E. E. Demison

226 " That about the time of trading off
" said stores this deponent heard the said E. E.
" Demison say that he was sick of the business in
" which he was then engaged and wanted to sell
" out his stock of hardware &c for other property
" Given to and subscribed before
" me this 1st day of April 1848

George Thompson Clk

Inaac B. Potter
at
Leonard Demison

Lake County Circuit Court

227 " David H. Hunt being duly sworn
" deponent and saith that he is a resident of
" the town of Little Port County of Lake Illinois
" that he is acquainted with Elisha C. Demison
" who was dealing in stores hardware &c in the
" village of Little Port during the winter and spring
" of the year Eighteen hundred and forty seven
" that sometime in May or June of that year (the
" precise time not being recollected by said affiant

above stores were occupied by
Denison in Little Port of said
and that in that country above
the said Elisha E. Denison

228, he had a conversation with the said Elisha E. Denison
" said that the hardware and other goods
" which he had at Little Port (referring to the stores
" Iron and other property in which he was then and
" had been ^{dealing} ~~engaged~~ in) was his own property
" known to and subscribed.

229 " this 31 day of March J. H. Thwin
" A. D. 1848.
" Geo Thompson Clerk

Leonard Denison } Lake Creek Court
vs } March Term A. D. 1848.
Isaac B. Potter } Replevin and Trover.

230 " James H. Truitt being duly sworn de-
" poses and says that he saw the plaintiff in the
" above entitled cause in Chicago at the ^{time of the} Harbor &
" River Convention in the summer of 1847 that said
" plaintiff made inquiry of ^{this} Sarah deponent in rela-
" tion to the trade which E. E. Denison his son had
" made with one Isaac B. Potter of Little Port of
" a quantity of stores for land in the State of
" Michigan that this deponent stated to said
" plaintiff what he knew in relation to ^{the} said
" trade that plaintiff stated to this deponent that
" he had learned from his son E. E. Denison that
" he had traded the land for Copper Stock and
" that said plaintiff upon inquiry ~~had~~ ascertain-
" ed that the Copper stock was worthless and that
" he intended to prosecute said Potter for fraud
" for trading with his son E. E. Denison whom he
" was not in his right ^{mind} that he was subject to
" derangement at times that he had started

* and his costs in the Replevin suit and one Cent damages, said plaintiff's
* remitting the Excess pursuant to a previous agreement of the parties

232 " his son in business at Little Fort and had
" hoped that he would succeed and that he ought
" to have taken some one ^{with him} into business who was ac-
" quainted with business and the world And that
" said plaintiff inquired of this deponent the value
" of the land which E. C. Demison had got of Potter
" in Exchange for the stores and that he regretted
" that E. C. Demison should exchange the land for
" worthless Copper stock And this deponent fur-
233 " ther says that said plaintiff never stated or in-
" timated to this deponent that he was the own-
" er of said stores at the frequent interviews &
" ~~and~~ conversations had between said plaintiff and
" this deponent and further this deponent saith
" not

" sworn to and subscribed } J. H. Trader
" before me this 1st Apt 1848 }
" Geo. Thompson Clk }

" Which said motion was overruled by the
" Court and Judgment rendered in favor of the
234 " ~~that he have and recover the property by his said writ of Replevin &~~
" Plaintiff ~~for the costs in the Replevin suit~~
" ~~pursuant to stipulation of parties damages being~~
" waived and in the action of Trover for the sum
" of two hundred and ^{thirty nine} dollars and costs
" Whereupon the said Defendant excepts to the de-
" cision of the Court in finding said issues for the
235 " plaintiff and also in overruling the said motion
" for a new trial and prays the Court to sign and
" seal this Bill of exceptions which is done.

" J. B. Thomas [Seal] "

And that ~~after~~ on the eleventh day of May A.D. 1848, a bond was filed in the office of the Clerk aforesaid, which is in the words and figures following, to wit:

236

"I know all men by these presents that we
" Isaac B. Potter, Isaac R. Lyon and William M.
" Cass of the County of Saks and State of Illinois
" are held and firmly bound unto Leonard Den-
" ison in the penal sum of four hundred dollars
" lawful money for the payment of which well
" and truly to be made we bind ourselves our heirs
" Executors or administrators jointly severally & firmly
" by these presents. Witness our hands and seals
" this fifth day of May A.D. 1848.

237

"The Condition of the above obligation is such
" that whereas the above named Leonard Denison
" did at the March Term of the Circuit Court
" of said County of Saks recover in said Court
" a judgment in a certain action of trover in
" which the said Denison was plaintiff and the
" said Isaac B. Potter was defendant for the
" sum of two hundred and seven dollars and
" eighty five cents damages together with his
" costs in said suit Expended from which
" judgment the said Isaac B. Potter has ta-
" ken an appeal to the Supreme Court of said
" State; Now if the said Isaac B. Potter
" shall duly prosecute his said appeal
" and pay said judgment cost interest
" and damages in case the judgment of
" said Circuit Court shall be affirmed then the above

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239

" obligation to be void otherwise to remain in full force
" In presence of
" A W Blodgett
" Isaac B. Potter Seal
" I. R. Lyon Seal
" W M Cass Seal

On the back of which said bond so as
aforesaid filed with said Clerk is an in-
dorsement in the words and figures following,
to wit:

" Lake Co Ct Court

" Lemard Devison }
" vs } Grover
" Isaac B. Potter }

" Lake Co. Circuit Court

" Same }
" vs } Replevin
" Same }

240

" We hereby stipulate that
" Isaac B. Lyon may be substituted in the place of
" Bro Porter as surety in the appeal Bonds to be
" filed in the above entitled suits and that the
" Bonds may be filed as of this date with the
" same effect as if filed within the time limited
" by the Court
" May 11. 1848

Hoyt & Cotes
Plffs Attys "

241

State of Illinois }
Lake County } P. D. Augustus B. Cotes, Clerk
of the Circuit Court in and for said County of
Lake, do hereby certify the foregoing to be a true
transcript from the records of my office and the
papers on file therein, in a certain action of
trover lately pending in said Court, wherein
Leonard Demison was plaintiff and Isaac B.
Potter was defendant -

In witness whereof, I have hereunto
set my hand and the seal of said
Court, at Waukegan, formerly called
Little Fort, in said County of Lake
this 28th day of May A.D. 1849
A. B. Cotes, Clerk

53

Isaac B. Potter

and

Leonard J. J. J. J.

Reverend

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Filed June 21, 1849.

L. Island Ch.

J. W. J. Clerk.

Supreme Court

Isaac B. Potter Plff. in Error

vs.

Leonard Demingon Deft. in Error

Third Grand Division of the State
of Illinois - Term Term 1849
Error to Lake Circuit Court

And the said Isaac B. Potter, Plaintiff in error by
James H. Collins his attorney comes and says that in
the record proceedings, and in the giving of Judgment
in the case there is manifest error in the Court;

First; That the said Lake Circuit Court erred in finding
the fact of issue for the said Defendant in error, and also
in rendering Judgment thereon: -

Second, That the said Court erred in overruling the
motion for a new trial therein: -

Therefore the said Plaintiff in error prays
that the said Judgment may be reversed, set aside
and wholly for nothing steamed

J. H. Collins

Atty for Plff. in Error

And now comes the said Leonard Demingon appellee
by Hoyt & Arnold his attorneys and says that
there is no error in the record proceedings
aforesaid or in the giving the judgment
aforesaid and ~~they~~ he prays the Supreme Court
now here may please to examine as well
the record & proceedings aforesaid as the matters
aforesaid above assigned for error and that
the judgment aforesaid in form aforesaid
given may be in all things affirmed &c

Hoyt & Arnold

Atty for Appellee

Supreme Court

James B. Potter

vs.

Leonard Demingo

Assignment of Easement

James H. Collins

Rep. Atty.

Filed June 27. 1849.

L. Nelson Clk.

4.51 ¹ / ₄	123	
5.81 ¹ / ₄	16	
3.70	738	
1.30	123	
	1968	27
	144	18
	528	276
	504	27
	24	486

Supreme Court

Edward Devison

Respondent

vs.
J. P. Poller

Appeal from State Ct Court

James

Prover

vs.
James

Appeal from State Circuit Court

The evidence shows the following state of facts.

- 1st That E. Devison the plaintiff owned the property in question.
- 2nd That E. C. Devison was a general agent of the plaintiff in the business about which he was employed - a factor clothed with only the ordinary powers of such an agency.
- 3rd That Deft purchased the property in question - an entire stock of merchandize - from E. C. Devison & for lands, making the deed therefor to the plaintiff but delivering it to E. C. Devison. That two days thereafter & before any delivery thereof to the plaintiff, the deed was re-delivered to the defendant and by him destroyed and copper stock substituted in its place.
- 4th There is evidence tending to show that deft had no title to the land. It is shown that the stock was worthless and known to be so at the time by defendant, yet he represented it to be worth \$100. per share.
- 5th Notice of plaintiff's having some interest in

the property before the trade was consummated.
6th Demand refused to deliver up the property.

The errors assigned are

First That the said Lake Circuit Court erred in finding the issues for the said defendants in error, and also in rendering judgment thereon.

Second The Court erred in overruling the motion for a new trial therein.

The Appellee makes the following points.

II The sale not being in any of the modes recognizing by law as within the scope of a factors power, and it not being shown to have been sanctioned or authorized by the custom usage of the place, and no special authority which would sanction & support the sale in this extraordinary and unusual manner having been shown, the sale was void & null thereby passing to the purchaser. "It is a conversion and trover will lie against the vendor."

Storys Agency § 126-225-6-229

Quilaps Palys Agency 218^A 212-213

2 Hents Com 621. 623

"A factor is a bailee of goods or money to merchandize (or buy and sell) for the profit, of the principal & render him an account thereof"

American Leading Cases Vol 1. 478.

2^d Hents Com 622 b

Storys Agency § 33 & (23)

Ignorance of the fact that the vendor is an agent, will not take the case out of the rule, that such unauthorized sale is void.

Storys Agency § 225-227

2nd Shuts Com 625

Amblaps Palsys Agency 218 to 220

There is only one ex-
ception to this principal and that is, where the purchaser has a set off, and deals with the agent as principal in ignorance of his true character - This is manifestly an exception

2nd Shuts Com 632

Nor will the fact of the agents conducting the business in his own name take the case out of the general rule which pronounces the unauthorized sale void - This is a power or right incident to the relation - Sanctioned & recognized by law - Not dependent upon the express authority or sanction of the principal

Storys Agency § 34, 110, 112, 401st

Exceptions to the rule

There are only two ex-
ceptions to the rule first stated.

1st "Sales in market overt."

2nd "Where the agent is clothed by his principal with all the apparent muniments of an absolute title."

Amblaps Palsys Agency 212

Storys Agency - § 227

It is said that in no other way ~~the~~

than by clothing the agent with these "muniments of title" can the principal bring himself into wrong.

Dunlap's Paley Agency 219.

"Muniments of title" By Muniments of title is meant "title deeds" "invoices" "bills of purchase"

See authority last cited 215 note (g) & 219 or, possession of negotiable instruments which is evidence of title. "But even here there must be a bona fide consideration paid to support the purchase"

Dunlap's Paley Agency 233 & note A

Stony Agency § 228 also 227

D. Hunts Com 626 (marginal)

III

The sale was void on the ground of want of Authority coupled with notice that the plaintiff was in some way interested in the property prior to the completion of the purchase.

The request & direction to defendant to make the deed to the plaintiff, was sufficient to put def^t upon enquiry as to whether C.C. D was the true owner.

IIII

The sale was void for the frauds.

1st There were fraudulent representations as to value of the Copper stock

2nd The evidence tends to show that def^t had no title to the land.

3rd It was an entire transaction, commenced by evidence of intention from the beginning, to get the property without the

payment of value therefor and by fraud.

The deed was never delivered to the
plff. It was delivered to his general agent
in the particular business; but there is no
evidence to show that he had authority to
bind plaintiff by and acceptance of a deed
from him.

The deed was re-delivered to deft
& by him destroyed, showing that it was
not regarded as a delivery such as would
make the deed operative to vest the title in the
plaintiff.

Whom assent will be presumed in case
of delivery to a stranger or 3^d person

15 Wend R 656

12 do " 1056

9th Cowd 617

Hale v. Scovell 4th Gill R 159

The question of delivery is a question
of fact, & if the Court sitting in place of a
jury was satisfied there was no delivery,
then all the evidence relating to copper stock,
its value & the fraud was material

U.S. Digest Supplement Vol 1 page 522

Sec 60 - Cites 11th Vermont 621 14 Conn R

271. & see 1st U.S.D. Sup page 550 Sec 664

IV Demand & refusal to deliver up the property
was proved though unnecessary.

V The motion for new trial was properly
denied

1st If the above positions are correct

the finding on the issues was authorized by the evidence

2nd As to newly discovered evidence

"It must be material" 2^o Tidds Pr 906

"It must not be merely cumulative"

1st Sec R 491

3^o Courts will not grant a new trial unless the rules of law & purposes of Justice require it. Gillman's Digest 538-9 Tidds Pr 906

Sup Court

J. A. B. Bollen

14.

J. A. B. Bollen

Appellate points & authorities

W. H. Hays
Atty Gen
Appellate

Filed June 30. 1869.
J. A. B. Bollen

Supreme Court

Isaac B. Potter Plff. in Error

vs.

Leonard Dennison Deft. in Error

Third Grand Division of the
State of Illinois June term
A.D. 1849.

Error to Lake Circuit Court

And the said Isaac B. Potter plaintiff in error by
James H. Collins his Attorney comes & says that in the
record proceedings, and in the giving of Judgment in this
cause there is manifest error in the trial;

First, that the said Lake Circuit ^{Court} erred in finding the
issues in this cause for the said defendant in error; and
also in rendering Judgment thereon: -

Second, That the said Court erred in overruling the
motion for a new trial therein: -

Therefore the said plaintiff in error prays that
that the said Judgment may be reversed, set aside
and wholly for nothing esteemed.

J. A. H. Collins

Atty for Plff. in error

And now comes the said Leonard Dennison Appellee by
Koyt & Arnold his Attorneys & says that there is
no error in the record & proceedings aforesaid
or in the giving the judgment aforesaid and
he prays the Supreme Court now here may
proceed to examine ^{the record & proceedings aforesaid as} well as the matter aforesaid
said above assigned for error and that the
judgment aforesaid in form aforesaid given
may be in all things affirmed &c.

Koyt & Arnold Atty
for Appellee

Supreme Court

Waac B. Potter

vs.

Leonard Dennison

Allegiant & Envs

Amos H. Collins
Opp. Atty

Filed June 27. 1849.
S. Seland Clk.

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