

Thomas Simons & Son (Block 1 Lot 7)

On November 6, 1851, Collatinus Ballard sold Lot 7 in Block 1 to Captain Thomas Simons and his son, Maurice, who were merchants in the coastal town of Texana and Indianola. The corner lot fronted on Second and Front Streets and was bounded on the east by a lot on which the Masonic Hall was erected. The lot was located across from the Hicks Hotel and Dr. M.B. Bennett's drug store stand. The Simons erected a building and named their business Simons & Son.

The store remained in business at this location until death of Thomas Simons in June 1852.

On April 5, 1854, in the District Court of Jackson County in the town of Texana, Judge Fielding Jones heard the case of Maurice K. Simons surviving partner of Simons & Son vs. Judith Ann Simons executrix of Thomas Simons decd. It was ordered by the court that the town lots in plaintiffs petition, Lot 46 in the town of Texana and Lot 7 in Block 1 in the town of Hallettsville were decreed to be the property of the late firm of Simons & Son and liable to the payment of the debts of said firm and that the plaintiff, the surviving partner of said firm, sell said town lots at public sale and proceeds will be applied to the payment of debts of the said firm.

On February 7, 1855, the lot in Hallettsville was sold to B.B. Walker. The sale was filed on the 17 day of February. On the 27th of February, Walker sold the lot back to Maurice Simons.

On March 1, 1855, Maurice Simons rented to Isaac Ephraim and Augustus Gerson residents of the County of Harris in said state by his agent C.C. Dibrell the store house in the town of Hallettsville located on Lot 7 in Block 1 in said County of Lavaca for the term of one year at the rate of \$200.00

On June 25, 1855, Dibrell, as Simons agent, appeared before J.J. Foster JP and stated that the said Gerson & Ephraim were indebted to him as the agent of Simons the sum of \$200 and he had reason to believe Gerson & Ephraim were preparing to abandon the storehouse and move their goods and chattel out of the rented premises.

Foster issued a writ of distress, on July 5th, levied upon certain goods and inventory of Gerson & Ephraim for the rent. The paperwork that was filed stated that the move was simply to obtain the rent due and was not sent out for the purpose of vexing or harassing the defendants. In the document, C.C. and W.C. Dibrell promised to pay Gerson & Ephraim for any damages that they may sustain if the distress warrant in this case was found to be illegally and unjustly issued.

The same day, Isaac Ephraim, Thomas Hawks and A.W. Hicks executed a replevy bond. A replevy bond is generally a procedure used by a court to protect against the loss of property sought to be returned to a petitioner. Replevin is an action or a writ issued to recover any personal property wrongfully taken. It also means that the Ephraim had a right to the return of the property in an undamaged condition should he prevail in the suit. Basically, Ephraim wanted to make sure that the property that had been seized under the writ of distress would be returned to him if he prevailed in court.

In the District Court of Lavaca County on October 12, 1855 Civil Case # 286 was filed by Dibrell, as the agent of Simons, against the Isaac Ephraim and Augustus Gerson doing business as the firm of Gerson & Ephraim. On that same day, Gerson & Ephraim filed a motion to have the distress warrant declared invalid by the judge.

The petition that was filed reiterated that Simons had rented his storehouse on Block 1 to Gerson & Ephraim on March 1, 1855 for the term of one year at the rate of \$200. The petition also stated that on or around the 25 of June of 1855, the firm abandoned the storehouse and proceeded to move their inventory.

However, Gerson and Ephraim filed a petition in court, on October 17, 1855, explaining their side of the story. Gerson and Ephraim said that at the special request of said Dibrell that agreed to become tenants of the storehouse owned by Simons. They had agreed to rent at the rate of \$200 a year with the option to continue the lease as long as they wanted.

However the storehouse was in a dilapidated state and Dibrell promised the partners that he would repair the walls and roof and install several glass windows that were missing. According to Gerson and Ephraim, Dibrell did not do the necessary repairs and they had on hand a large stock of valuable goods that were damaged during the rainy weather by the lack of promised repairs. The partners were compelled to sell a great many of their goods as damaged at less than cost.

The partners also maintained that this action was personal. That Dibrell, being desirous to ruin the defendants was not satisfied with the damage inflicted on their store stock, then wrongfully and maliciously made an affidavit before JP Foster that Gerson and Ephraim also owned him \$200 rent. They also maintained that the writ of distress that was levied on the stock of the store was valued at \$500 much more than the \$200 rent. The inventory was held by Dibrell depriving Gerson and Ephraim from any profit for the sale of said goods.

In closing, Gerson & Ephraim told the court that they had already paid \$33.33 to Dibrell before the legal action before them had commenced and they had brought to court that very day the money that they have always been willing and ready to pay to honor their contract with the plaintiff and offered to do so before the legal action was taken.

Gerson and Ephraim were asking the Court for a judgment against Dibrell in the amount of \$1,000.

The case of Dibrell vs. Gerson & Ephraim was called to court on September 12, 1856. The plaintiff, through their legal counsel, asked the court to instruct the jury that if they believe from the evidence that Gerson & Ephraim failed to furnish the glass for the windows, then the jury should find for the plaintiff.

But, if the jury believe that from the evidence that the Dibrell, as the agent of Simons, promised and contracted with the defendants to put in glass and failed in reasonable time to do so, that Gerson & Ephraim were not bound to remain in the store house. Also if the jury believed from the evidence that the defendant rented the hours of the plaintiff for the term of one year for a simple sum than the defendant was entitled to move for the whole time.

The cause being called came the parties by their attorneys and ready for trial, where upon came a jury of twelve good and lawful men who being regularly impounded, tried and swore after hearing the evidence and argument of counsel and charge of the court, retired to consider their and returned into court the following verdict to wit "We the jury find for the plaintiff (Dibrell) \$175.00. It is therefore ordered, adjudged and decreed by the court that Dibrell do and have recourse of and from Gerson & Ephraim the sum of \$175.00 debt with interest of 8% from date and all court costs.

References:

**Free State of Lavaca p. 163*

**Lavaca County Deed A/635*

**Hallettsville Tribune Jan. 11, 1974*

**Free State of Lavaca p.163*

**Lavaca County Deed C/327*

**Lavaca County Deed C/381*

**Lavaca County Civil Case #286 C.C. Dibrell agent for M.K. Simons vs. Gerson & Ephraim*

**Lavaca County District Court Records Vol. A p. 480*