

12198

No. _____

Supreme Court of Illinois

Wade

vs.

Halligan

71641  7

State of Illinois 3 Pleas before the Honorable
Ladalle County for 3 Edwin S. Laird Presiding
Judge of the ninth Judicial Circuit
of the State of Illinois at a term of the Circuit Court
in and for said Ladalle County commenced and
held at the Court house in Ottawa on Monday the
fourteenth day of November 1833 the same being
the second Monday in said month of November
the twenty eighth year of American Independence
Present

The Honorable Edwin S. Laird Presiding Judge
John Lindley Clerk
W. H. L. Walker State Attorney
Richard Thorne Sheriff

Among the papers in the office of the Clerk of
the Circuit Court is one in the words & figures
following viz;

Agreement

"It is agreed between P Halligan
or Thomas J Wade as follows viz In full settlement
of all claims and demands for repairs which said
Wade claims that Halligan should make on the
city Hotel said Halligan agrees that said Wade shall
retain sixty dollars from the rent now due from
said Wade to said Halligan. Said Wade agrees
to pay the ballance of said rent on demand and
it is agreed that said Wade shall have the priv-
ilege of terminating the lease executed by said
Halligan to Lowensburg or Brown or by them sold
to said Wade at the expiration of one year
from this date by giving to said Halligan

three months notice of his intention so to terminate
said lease said Wade to pay Rent for said house
during the time he shall occupy it at the rate
and in the manner prescribed by the terms of said
Halligans lease to said Lounsbury & Brown
January 19, 1853.

Thos A Wade

J. Halligan "

" Thomas A Wade Esq
Sir

Having received a notice
from you dated the 21st inst stating that you will
withhold the rent which may become due thereafter
from the premises leased by me to you and known
as the City Hotel situate in the City of Peru and
further that you intend to claim damages for the
lopes which you pretend to have sustained by
my leasing the rooms formerly rented for stores
and other uses and purposes And furthermore
for damages caused by my taking a part of said
premises and thereby destroying your barn.

Now therefore I make answer and hereby
notify you that upon your refusal and non pay-
ment of the quarters rent which will become
due on the 1st day of July next according to
contract I shall take proceedings against you for
forcible detainer and will hold you liable for
double rent as long as you shall occupy said
premises thereafter

2nd that I have not rented those rooms formerly
occupied as stores for any other uses or purposes
and that if I had it is at my option to do
so having no contract with you to the contrary

3^d And furthermore that I have not taken any part of the aforesaid premises and if any person or persons have it is your duty to claim damages from them

And moreover you will hereby take notice that I will hold you liable for a certain oven demolished by you and which was upon said premises also for a certain counter cut up, shelves removed and destroyed by you the bill of particulars of which you will be furnished in due time

Peru June 23^d 1853

P. Halligan

By Tho Halligan agt "

A distrip warrant was issued in the ends and begins following to wit:
State of Illinois } To the Sheriff of said county or
La Salle County } any of his deputies or to any
constable of said county greeting;

Distrain the goods and chattels of Thomas S. Wade and which are liable to be distrained which you may find in the county of La Salle for two hundred dollars being the amount of a quarters rent due to me on the first day of July 1853, for the premises in the city of Peru in said county formerly known as the United States Hotel and now known as the City Hotel (excepting three rooms for store) which were demolished by me and for your so doing this shall be your sufficient warrant and authority Dated at Peru this 21st day of July A.D. 1853

P. Halligan "

And on the back of said distrip warrant the constable made the following return to wit:

"An inventory of

the several goods and chattels of Thomas J Wade dis-
trained by me J. B. Gay Constable on the 22^d day of
July 1853, in the County of LaSalle where the said Thomas
J Wade resides by virtue of the within warrant and au-
thority and in behalf of Patrick Halligan the landlord
for the sum of two hundred (\$200) dollars being one quarters
rent due to the said Land Lord on the first day of July
/53. for the premises in the warrant mentioned to wit:
Two Black horses one set of two horse harness one omnibus
twenty two arm chairs fifty common chairs one coal
stove one reading room table and settee one lounge
one looking glass one wash stand one shandless
with two globes one Bureau with looking glass one sofa
one centre table one aretite stove ^{one} and card table
one looking glass ten cane bottom chairs
By Josiah B. Gay Constable for \$3.00"

" Filed July 26, 1853.

T. Lindley lkr "

Peru Aug 18th 1853.

" Patrick Halligan - Sir -

You are hereby notified that
I shall quit the premises known as the City Hotel
or buildings belonging thereto now occupied by me on
the 18th of September A.D. 1853.

The reasons which impel me to do
this are as follows to wit: When I leased said premises
of you you covenanted under your hand & seal to make
certain repairs and improvements thereon among which
you were to pull down the old out building used
as a privy which was at the time an intolerable
nuisance and to erect good and sufficient building
for that purpose. You covenanted to keep me in
quiet and peaceable possession of the premises during

the continuance of my lease, you agreed (and that was also my right without any agreement) not to rent the contiguous rooms for any purpose that might interfere with or injure my business as a Hotel keeper. You have forfeited each and every of these covenants my possession has been disturbed by the taking away a part of the stables you have made a pretence of building a privy in order to keep within the letter of your covenant but without making any essential or beneficial change. You have established or maintained drinking shops and groceries in the rooms especially reserved by you for stons in which during all hours of the day and night certain people carouse or make loud & riotous noises to my great annoyance & the injury of my business. These are some of the reasons which have induced me to abandon said premises and to seek legal redress for the damages I have sustained thereby Yours &c J. S. Wade "

Peru Aug 22nd 1853

"Thomas S. Wade Esq
Sir

(Your favour of the 18th inst is before me and I find by its terms that you still intend to be refractory. All I have to say in answering you is that while intending to perform what I agreed to do according to the terms of your lease yet I also intend to hold you responsible for the performance of your covenants therein specified. I have kept within the letter of my covenants and now I intend by legal means to have you do the same giving me nothing more than what is justly due to me. Yours Truly

Petrick Halligan "

By S. P. Halligan agt

(Lease)

"This Indenture made this 1st day of October in the year of our Lord 1850 by and between Patrick Halligan and Samuel Brown and Richard Lounsbury withtheth that the said party of the first part do hereby lease and demise unto the said parties of the second part all of the house usually known as the United States Hotel and otherise outhouses with the exception of three stores and the room now occupied by the Free Masons and sons of Temperance and priviledge of the yard for the three stores for five years payments to be made in the following manner viz: Six hundred and fifty dollars each year for the two first years and seven hundred and fifty dollars each year for the three last years rent to be paid quarterly in advance and if not paid in advance the parties of the second part to give up to the party of the first part the possession of the premises the parties of the second part to pay all the taxes thereon of their furnition that they will not assign this lease to any person whatsoever and at the termination of the term aforesaid they will deliver up quietly the premises to the said lesor in as good order or condition as the same now are or may be hereafter put into necessary ware excepted after the termination of the lease of the Ball Room held now by the Freemasons and Sons of Temperance it shall be returned into the hands of Brown and Lounsbury they paying fifty dollars a year payable as the above rent until the expiration of their own lease

In Testimony whereof the said parties have set their hands and seal on the 1st day of October 1850
Peru La Salle Co Ill

P. Halligan (Seal)

S. A. Brown (Seal)

R. Lounsbury (Seal)"

And Afterwards to wit; on the 26th day of July
1853 a summons issued out of and under
the seal of the office of the Clerk of the Circuit
Court in the words and signs following to wit;

" State of Illinois

County of LaSalle ss } The people of the state of Illinois
To the Sheriff of said county greeting. We command
you that you summon Thomas J. Wade if he shall
be found in your county 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
Ottawa in said county on the 14. day of November
next to answer unto Patrick Halligan in an action of
distress for rent by virtue of a Land Lords warrant
issued by said Halligan on the 21st day of July 1853
and executed the 22^d day of July 1853 by levying
on two Black horses one set of two horse harness one
Omniibus twenty two arm chairs fifty common chairs
one coal stove or reading room table one settee one
lounge one looking glass one wash stand one chandelier
with two globes one bureau with looking glass one
sofa or centre table one air tight stove one card table
one looking glass ten or eleven bottom chairs to the damage
of the said plaintiff as he pays in the sum of two hundred
dollars And have you then and there this writ with
an endorsement thereon in what manner you shall
have executed the same

Seal

Witness my hand Philo Lindley Clerk of said
Court and the seal thereof at Ottawa in said
County this 26th day of July A.D. 1853
P. Lindley Clerk

And on the back of said summons the Sheriff made the following return to wit:

Executed this writ by reading the same to the within named Thomas J Wade Aug 11th 1853 R. A. Thorne Sheriff Sherkit 60 16 Mile 80 740⁰⁰

Filed August 6/53

R. Lindley Clerk

~~On Monday December 5th 1833 the same being one of the days of said murder term of said Court the following order was made and entered of record viz:~~

~~"Patrick Halligan
vs Distrep for rent
Thomas J Wade
by Chas. Rogers & Taylor his Attornies comes & discontinues his suit herein at plaintiffs costs to be taxed"~~

December 21st 1833 the following affidavit was filed to wit:

"Patrick Halligan
vs Distrep for rent
Thomas J. Wade

Thomas J. Wade deposes in this suit sworn on oath that he can not safely try this suit without the testimony of Theron D. Brewster who resides in this county who has been duly subpoenaed to attend this court as a witness for affiant in this suit that he expects to prove by said witness that a portion of the premises known as the city hotel

in Peru were taken and occupied by the Chicago
& N.W. Rail Road company by the agent and license
of the plaintiff from about the 20th day of February
A.D. 1853, ^{with} ~~the~~ ^{the} He further saith that prior to that
time that he expects that it will appear by the
testimony of other witnesses that said premises had
been rented by said Halligan to said Wade and were
in the occupancy of said Wade when such entry
was made by said R.R. company that this suit is
brought to recover rent for said premises that the
rent of said premises was worth less by the sum of
one hundred dollars than it would have been
had that portion of said premises not been taken
by said Rail Road

Subscribed & sworn to before me this 28th Feb. J. Wade
Dec 1853 T Lindly Clerk

"Affiant further states that Richard Downs
berry, Zimri Lewis & John Hoffman are material
witnesses for defendant on the trial of this cause
who each reside in La Salle County Illinois
& have been duly subpoenaed to attend this court
as witnesses in this case for defendant affiant
expects to prove by each of said witnesses that
the City Hotel premises in Peru to recover rent
for which this suit was brought was occupied
when the term of defendant commenced as a hotel
& for store that during the term of affiant who
rented said premises to be occupied as a hotel
that the affiant was disturbed in the quiet
enjoyment of said premises so rented by him
from the fact that said plaintiff after the
term of defendant commenced rented the
stores in the hotel building for dram shops

by means whereof the use of the premises rented
to affiant and used by him as a hotel were
depreciated in value and travellers & other
customers prevented from stopping at said hotel
& defendant prevented from using said building
as a hotel to the best advantage & was thereby
damaged to the amount of at least two hundred
& fifty dollars

Thos J. Wade

Subscribed & sworn to before
me this 21st Dec 1853.

P. Lindley Clerk "

And afterwards on the same day the following
order was entered of record viz:

"Patrick Halligan 2
173 " 2 Distrop for rent
Thomas J. Wade 3

This day the defendants
of above clerk his attorney were the court for
a continuance "

And afterwards to wit on the 29th day of May 1854,
the same being one of the days of the May term
of said La Salle County Circuit Court an
affidavit was filed in the records and figures
following to wit:

"Patrick Halligan
Vs } La Salle County Circuit Court
Thomas J. Wade } May Term
Thomas J. Wade being first duly
sworn saith on oath that Conrad Birtell J.D. ¹⁸⁵⁴

of said Circuit Court the following judgment
order was made and entered of record in
said Court viz;

" Patrick Halligan }

49 vs Distref for Rent
Thomas J. Wade }

This day comes the plaintiff
by Diekey & Wallace and Eastman and Chamasero
& Taylor his attorneys and the defendant by Glover
& Cook his attorneys and the motion heretofore made
for a continuance by defendant is overruled by
the court whereupon defendants counsel move the
court to dismiss this suit for want of a narrative
which motion is overruled by the court "

And finally on Saturday June 3^d 1854 the same
being an of the day of said May term the following
judicial order was entered of record in said Court
to wit;

" Patrick Halligan }

49 vs Distref for rent
Thomas J. Wade }

This day again came the defen-
dant by Glover & Cook his attorneys and pray an
appeal to the Supreme Court which is granted
upon condition that said defendant file an
appeal bond herein payable to the plaintiff
in the penal sum of four hundred dollars with
Gimri Lewis and Richard Thorne as his securities
within forty days from this date "

The defendants Bill of Exceptions was filed May
31st 1834 in the words and figures following viz

"Patrick Halligan
vs
Thomas J. Wade } Distrep for rent

This day came the said parties by their
atty and the defendant by his atty (moved the court
to dismiss this suit for want of a declaration this
being the second term of the court since the com-
mencement of this suit the court decided that no
declaration was necessary in this cause and over-
ruled said motion to which decision of the court
the defendant then & there excepted and thereupon
the defendant moved to continue this cause to the
next term of this court and in support of said motion
read the following affidavit (see affidavit before
copied herein) and while said motion was pending
and undetermined J. D. Brewster one of the witnesses
named in said affidavit made his appearance
in court and the court thereupon overruled said
motion for a continuance and the defendant then
& there excepted to the decision the court then
proceeded to hear and determine said cause a jury
being waived and thereupon the plaintiff introduced
Thomas Halligan as a witness a lease the same
hereinafter mentioned was here handed to the
witness and he testified as follows

Mr Wade has seen this lease often and I think
he has a copy of it he saw it while he was in the City
Hotel in Tenn. The signature of Plaintiff to the lease
is genuine I am acquainted with it

I have collected
rent from Wade we have conversed together about
this lease he spoke of it as if he held under Brown

r Sownoberry said he came in under them (here the agreement hereinafter mentioned between plaintiff & defendant was shown to the witness) I was present when this paper was executed plaintiff & defendant signed it Wade has paid rent on this lease paid some after the agreement was signed The lease was present when the agreement was signed the said lease which is in the words & figures following to wit (see lease before copied) was offered in evidence the defendant objected thereto The court overruled said objection & permitted said lease to be read in evidence to which decision the defendant then & there excepted the plaintiff then offered in evidence the said agreement which was in the words & figures following (see agreement before copied) and the defendant objected thereto The court overruled said objection & permitted said agreement to be read in evidence to which decision the defendant then & there excepted said witness then testified further as follows The premises occupied by Wade in 1836, were known as the ~~City~~ United States Hotel he changed the name to City Hotel Wade occupied the premises for more than a quarter before the 1st July 1853, and also after that time I was agent for my father to collect rent from Wade In April 1853, a quarters rent fell due Mr Wade paid part of it to me I ^{collected} ~~calculated~~ rent for part of 3. different quarters I know the room mentioned in the lease as held by the Free Masons & Sons of Temperance I think Wade got possession of that room by 1st October 1852 I know he did by 1st January A.D. 1853, on the 1st July 1853 I demanded the rent from Wade he said he wanted to see his lawyers before he paid it this was Friday or Saturday he told me to come again

Monday or Tuesday following I saw him he declined to pay the rent: Crop Examined
The reason he assigned for not paying the rent was that the Rail Road company had taken part of the barn. he said a part of the premises had been taken away from him he said he would not pay the rent until his claim for damages was satisfied I know the fact that in April or March A.D. 1853 a part of the premises had been taken by the Chicago & Rock Island Rail Road Company They took off a corner of the barn that was done by the agent of the plaintiff one double stall was taken entirely out they can use the rest of the stalls but that one The three stores excepted from the lease were under the City Hotel on the front side or 1st floor of same building after Wade went into the Hotel one of those store rooms was occupied by one Birckel as a grocery store one store kept a tin & sheet iron manufactory in one of those store rooms ^{Owen} ~~Allen~~ Judge occupied the other as a store to sell groceries & bread his oven was on another lot I think Judge was there when Wade went in I am not certain when Wade went in there Norton occupied the room afterwards occupied by Story Norton was a grain buyer and at that time one Sharp kept a grocery store in the room afterwards occupied by Birckel he Sharp did not retail liquor Wade kept left the premises 17th Sept 1853. I think he was in possession of the premises from the winter of 1851-2, till September 1853. The Rail Road Company were about two weeks in making their road on the premises and taking away the barn They occupied permanently the part of the premises they took They took off 8 feet

from the end of the barn ran out on the side on an angle 15 feet from the corner it is a stone barn & is attached to the Hotel building. The stalls in the barn that were out were set back so that they could be used all but one after that however if a carriage was put on the barn floor a horse could not pass on each side of it a horse might pass on one side however. Direct examination resumed. The Stables was one story high had a loft made by the slope of the roof the corner cut off the loft was low under the roof. The barn was stone 80 feet long east & west by 34 feet wide north & south it had a passage running through the barn from east to west what I mean by saying that the Rail Road Company took possession of part of the premises & altered the barn with the consent of plaintiff is that plaintiff received a sum of money from the company as a compensation for his damages. I heard plaintiff say he was going to remove the barn for the Rail Road company and afterwards went down with men to do it & went down shortly after & in presence of Wade my father told me he could not move the barn as Wade would not permit it. My father received from the rail road company four hundred dollars for damage to his reversionary interest as a compensation for the rail road taking that portion of the premises he received the money in March or April 1853. The plaintiff then asked the witness the following question did your father at the time he received the money spoken of profess to receive it as the amount of an ^{award} made by commissioners on behalf of the Rockland Rail Road company to which question the defendant objected the

court overruled the objection & directed the witness to answer the question to which decision of the court the defendant then & there excepted the witness then answered the question as follows he did profess to receive it as such. Witness then testified as follows the Hotel property then occupied by Wade is now rented for the same rent Wade was to pay.

Cross Examination resumed: I think rents have generally risen in Peru since July 1853. The defendant's counsel then asked the witness the following question You say your father professed to receive the \$400 as the amount of an award of commissioners what did he say on that subject Answer he told Mr Brewster the agent of the Trail Road company that he was perfectly satisfied at receiving that amount when he first heard what the award was he did not think of accepting it but he thought he might as well rather than go to law about it he said about the same time that he would himself remove the barn. The plaintiff then asked the witness the following question did plaintiff assign as a reason for removing the barn himself that he could do it with more care and less injury to the building than the employees of the Trail Road company or anything to that effect if so what was it. To which question the defendant objected directed the witness. The court overruled the objection directed the witness to answer the question to which decision of the court the defendant then & there excepted. The witness answered the question as follows he said he could do it with less damage to the building than the men of the rail road would. The cross examination resumed: I am a son of the plaintiff have no feeling

of course against the plaintiff & would prefer
that he should recover. The Plaintiff then called
William Chummasero as a witness who testified
the agreement between plaintiff & defendant was
drawn by myself on a note of forcible detainer
had been ~~drawn~~^{commenced} by Halligan against Wade and
a settlement was effected this paper was drawn
up a lease was presented I think this lease is the
one but am not certain. The lease referred to
in the agreement had been in my possession
as attorney for plaintiff or I think was then
there was no apportionment on the back of it that
was the reason why I used the word sale
instead of apportionment in the agreement (the
lease & agreement show the witness & the lease
and agreement above recited) I am acquainted
with Richard Lounsberry the signature to
the lease is his. I don't know Brown's hand
writing I have but little doubt that this
lease was the one present when this agreement
was executed it was in the hand writing of Halli-
gan I was acquainted with Brown he occupied
these premises with Lounsberry before Wade went
into them here the plaintiff rested his case reser-
ving the right with the permission of the court after-
wards to call the witness Hardin who was out
of the court room. The defendant then called
Ginsel Lewis as a witness who testified as follows
I know the premises mentioned in the lease
and occupied by Wade was acquainted with
them when the rail road company run their
road through and took off part of the barn I
think the barn was almost entirely spoiled for
six months after they began to alter it because

the barn had a ground floor which was lower than the earth outside and when they cut the barn the water ran in & made the barn a perfect mud hole the cutting of the barn took out 3 or 4 stalls & spoiled several others the cut began 12 feet from the corner of the barn and ran out 35 feet on the side the shingles were cut for 40 feet I know that a good many teams were taken away from them on that account I took mine away my best judgement is that the rent of the premises occupied by Wade was worth \$200. less for six months commencing from the time the barn was cut than it would have been as it was before that time I so examined I measured the part of the barn cut off last summer the shingles of the barn projected about 4 inches over the roof I measured the outside of the wall by pacing the barn is 80 feet long I think 26 feet wide door in the center of the end eight feet wide I think the cut came up to the door I cant tell how long they were fixing the barn might have been a month the property is rented now for \$800 I understand I dont know how much more the premises would have rented for if the barn had ^{been} whole it would have rented for more of course I should think it could have been rented to a responsible man for \$2 or 300 dollars more. By this I dont mean that I think the premises would have rented for 10 or 1200 dollars if the barn would have been whole

The plaintiff called S W Hardin as a witness who was shown the lease aforesaid & testified as follows: I am acquainted with the land

writing of Samuel Brown think the name
signed to this lease is his genuine signature
this was all the evidence in the case
And thereupon the court found and assessed the
amount due from the said Thomas Wade to
the said Patrick Halligan for rent claimed
by the distress warrant in this case at two
hundred dollars and interest on the same at
ten dollars ~~per~~ ^{per} hundred ^{per} ninety ^{per} ninety cents
amounting in all to the sum of two
hundred ^{or} ten dollars ^{or} ninety cents and
ordered that that a certificate issued to
Josiah C. Gay by whom as a constable the
distress was made of the ^{so for all due together with the amount} amount of the costs of
court to each of which findings assessments and
orders of the court the defendant excepted at
the ^{second} ~~second~~ times when the same was made & upon
this his bill of exceptions to be signed sealed & made
part of the record which is done

E. J. Judge (Seal)
Judge or "

On the 11th day of July 1834 the defendants filed
his bond in the bonds and gives following bonds
"Know all men by these presents that ^{we} Thomas Wade
as principal and Lemmi Lewis and Richard Thorne
as sureties are held and jointly bound unto Patrick
Halligan in the penal sum of four hundred doll-
ars (lawful) money of the United States for the
payment of which well and truly to be made
we bind ourselves our heirs executors and admin-
istrators jointly severally and firmly by these
presents sealed with our seals and dated this

11th day of July A.D. 1854 the condition of this obligation is such that whereas at the May term of the La Salle County Circuit A.D. 1854 on the 3^d day of May A.D. 1854, in a case in which said Patrick Halligan was plaintiff and said Thomas J. Wade was defendant then depending in said Circuit court which was a distref for rent the said circuit court found and adjudged the amount due from the said Thomas J. Wade to the said Patrick Halligan for the rent claimed in the distref warrant in the said case at the sum of two hundred dollars and interest on the same at ten dollars and ninety cents amounting in all to the sum of two hundred and ten dollars and ninety cents and it was thereupon ordered and adjudged by said court that a certificate issued to Brian C. Gay by whom as a constable the distref was made of the amount so found due together with the amount of the costs of this court from which judgement of the said Circuit court the said Thomas J. Wade has prayed for and obtained an appeal to the Supreme Court of said State of Illinois. Now if the said Thomas J. Wade shall prosecute said appeal with effect and shall pay the said judgement and all the interest costs and damages which have been or may be adjudged against him in case said judgement shall be affirmed then this obligation to be void otherwise in force

Thos J. Wade (Seal)

Br. Thorne (Seal)

James Lewis (Seal)

State of Illinois & I John F. Nash Clerk of the
LaSalle County & 3 Circuit Court in and for said
County do hereby certify that
the above and foregoing comprises a full perfect
true and complete record in the case of Patrick
Hedleyan vs Thomas J. Wade - a distress for rent
as the same appears on record in my office
In Witness Whereof I have hereunto set
my hand and the Seal of said County
at Ottawa this 13th day of June A.D.
1835
J. F. Nash Clerk

And now comes the said appellant of Gorn & Cook his attys and says that in the record and proceedings aforesaid and in the rendition of the Judgment aforesaid there is manifest error in this writ

The court erred in overruling the defendants motion to dismiss this proceeding for want of a declaration, and deciding that no declaration was necessary

- 2^d The court erred in ~~refusing~~^{overruling} the motion of the defendant for a continuance of the case
- 3^d The court erred in admitting in evidence the lease from Halligan to Lounsbury & another
- 4th The court erred in admitting the agreement between Wade & Halligan to be read in evidence
- 5th The court erred in admitting improper evidence being the evidence of the witness Halligan which was objected to by the defendant
- 6th The court erred in allowing improper questions to be asked of witness Halligan by plaintiff being the questions objected to & in permitting said questions to be put in an improper form
- 7th The court erred in the finding of the case as aforesaid

7th The Court erred in the assessment made
by the Court as aforesaid

8th The Court erred in the order made by
the Court as aforesaid

For which error and others in said record
manifest - he prays said Judgment may
be reversed &c

Gloom gloom

atty for appellee

And now comes the said defendant in Error &
Appellee, & saith that in the Record and proceedings
aforesaid there is no error.

J. C. Champion

atty for appellee

90
Thos. J. Wade

Puttick Hedges

Reind

~~Thos. J. Wade~~

34
7
238.00

Filed June 13. 1855.

L. Island Ck.

Evans filed July 11. 1855.

L. Island Ck.

less \$7.35

Wade vs Halligan

The affidavit for a continuance showed that the lessor had been guilty of such a disturbance of the tenants enjoyment of the premises as amounted to an eviction

Taylor Landlord & Tenant Sec 377, 378, 379
380

8 Crown 728

38 Eng CLR 162

16 Eng CLR 271

1 Eccles 75

1 Sandford Superior CLR 260

25 Wend 443.

4 Leigh 484

In New York affidavit is required by statute for the purpose of fixing amount & time
Hill 562,

No argument that witnesses are not in court
one of the witnesses was in court

Butcher the affidavit

The mere fact of selling beer & liquor
in a quiet manner

Court will not decide that Grocery is
necessarily a branch of quiet enjoyment

No argument that they were ^{not} properly
carried on;

- 1 selling good liquor
- 1 selling.

Show that Halligan expressly assented
to Walter Superior right

Not sufficient to show that the premises
was taken in any other way than as mere
trespassers.

If the Rock Island R.R. Co were trespassers
then Walter had the right to recover from
them

Ans=

Halligan had agreed that they
might take it

The Record shows that the R.I.R.R. entered
under an agreement with Halligan that
was Halligan's entry

objection that the question was leading
can not be assigned for error

Answer given by the witness immediate

The affidavit shows that Wade lost \$200 per
quarter from these businesses

Is this answered by saying that the emp
loyments were lawful & satisfactory

was it necessary that the affidavit should
show that the manner in which the
Grocery the Shop & the Spoz were kept
was disorderly

May it not be possible from
the situation of the business that these
accusations were necessarily suspicious

Must there be an explanation

⁹⁰
T. J. Wade
as
Pet. Halligan

90

1855

12198