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Hear to a Term of the Circuit Court, begun and held at the Court House in the City of Pekin, in and for the County of Tazewell, in the State of Illinois, on the first Monday of the Month of April in the Year of Our Lord one thousand eight hundred and fifty eight, it being the fifth day of said Month of April. Present Hon James Harriott Judge of the Twenty first Judicial Circuit, in the State of Illinois, composed of Mason, Tazewell &c

Be it remembered that on the 15th day of January A.D. 1858 a Praecipe was filed, in the words and figures following, to wit:

"Tazewell Circuit Court April Term 1858

" Joseph Syford	"	
" Horace Hancock	"	
"	"	
" Thomas Dobbins	"	
" James Speer &	"	
" William Reeder	"	
	}	Trespass on the
	}	Case
	}	Damages \$500.00
	}	The clerk will

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issue summons in this case to the
Sheriffs of Tazewell & Peoria Counties
date Jan 7 1858

to Davidson & Parker Pffs atty.
McSperry by clerk

And afterwards
on the 18th day of January AD 1858.
Summons issued in the words
and figures following, to wit.

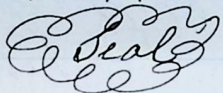
State of Illinois } ss.

Tazewell County }

The People of the
State of Illinois to the Sheriff of
Tazewell County, Greeting:

We Command
you to summon Thomas Dobbins
James Speer & William Reeder
if found in your County personally
to 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
the City of Pekin on the 1st Mon-
day in the Month of April next
to answer unto Joseph Syford &
Horace Hancock in a Plea
of Trespass on the Case to the
damage of the said Plaintiffs
as they say in the sum of Five
hundred dollars, and have
you then & there this writ

" and make return thereon in
 " what manner you execute
 " the same

" Witness Merrill C. Young
 " Clerk of the said Circuit Court
 " and the Seal thereof hereto affixed
 " at Pekin this 18th day of January
 " A.D. 1858 Merrill C. Young, clerk
 "  By W. Don Maud S.C.

Which said summons was afterwards
 returned on the 17 day of March
 A.D. 1858 with the following
 endorsement thereon, to wit:

" Served on James Spens
 " by reading this writ to him Feb. 16
 " 1858. Rest of the within named
 " defendants are not found in
 " my County.

" L. Williamson S.C.
 " By J. B. Baker Deputy

" And now afterwards to wit,
 " on the 19th day of March A.D.
 " 1858 a Declaration was filed
 " in the words & figures following
 " to wit:

" State of Illinois } S. Tazewell Circuit
 " Tazewell County } Court to April
 " Term A.D. 1858

" Joseph Lyford & Horace Hancock

Plaintiffs in this suit complain
 of Thomas Dobbins, James Speers
 & William Reeder defendants
 of a plea of Trespass on the
 Case for that Whereas heretofore
 to wit on the first day of December
 1854 in said County the said
 Plaintiffs were possessed of
 forty hogs as their own proper
 goods & Chattels of great value,
 to wit, of the value of five hun-
 dred dollars, and being so thereof
 possessed, they the said plain-
 tiffs casually there and then
 lost the same, & the said Hogs
 goods & Chattels came to the
 possession of the said defend-
 ants by finding on the same day
 and year, and at the same County
 and place last aforesaid.

Yet the said defendants well
 knowing the said Hogs goods &
^{to be the property goods & chattels}
 Chattels of the said plaintiffs,
 but contriving and intending to
 injure & aggrieve the Plaintiffs
 in this behalf, did not, nor
 would deliver the said Hogs
 goods & Chattels to the Plaintiff
 although requested so to do,
 but on the contrary, there
 afterwards, to wit, on the day
 and year, & at the County aforesaid
 said Converted the same to

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" their own use.

" And also for that
" whereas the said Plaintiffs after-
" wards, to wit, on the day & Year
" aforesaid, at the County aforesaid,
" were possessed of certain other
" goods & chattels, to wit, Thirty
" hogs, Ten Shoats, & Ten Pigs; of
" great value, to wit, of the value
" of five hundred dollars and
" being so thereof possessed, the
" said plaintiffs afterwards,
" to wit, on the same day, & at
" the County aforesaid, casually
" lost the same, and the said
" goods & chattels, afterwards,
" to wit, on the same day &
" Year, last aforesaid at the
" County aforesaid, came to
" the hands of the said defendant
" by finding. Yet the said
" defendants, well knowing
" the said last mentioned
" goods & chattels to be the
" property of the said plaintiffs,
" but contriving and intending
" to injure the said plaintiffs
" in this behalf, have not,
" nor would, deliver the same
" to the said plaintiffs, although
" thereto requested, but on the
" contrary thereof, on the day
" & Year last aforesaid sold,
" disposed and converted

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" the last mentioned goods &
" Chattels, to their own use.

" To the damage of the plain-
" tiffs of Five hundred dollars,
" and therefore he brings suit
" &c

" By Davison & Parker
" attys.

" And now afterwards, to wit,
" on Monday the 5th day of April,
" A.D. 1858, it being the first day of
" said Term, of said Circuit Court,
" a plea ~~was~~ was filed in the
" words & figures following to wit;

" Lyford & Hancock } Circuit Court
" v } Taxwell County
" Thomas Robbins } April Term
" James G. Speers } A.D. 1858
" et al }

" And now comes the
" said James G. Speers by H B
" Hopkins his attorney and
" defends the wrong & injury
" when & and says, that he
" is not guilty in manner &
" form as the said plaintiffs
" have heretofore alleged
" against him, and of this
" he puts himself upon the Country
" &c

" H. B. Hopkins atty
" Whereupon this cause is contin-
" ued. to next Term, with alias

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process to said defendants
 Thos S. Dobbins & Wm Reeder

Held at a Term of the
 Circuit Court begun and held
 at the Court House in the City
 of Pekin, in, & for the County of Tazewell,
 in the State of Illinois, on
 the ~~first~~ ~~Monday~~ Second Monday
 of the Month of October in
 the Year of Our Lord One thou-
 sand eight hundred & fifty
 eight, it being the 11th day of
 said month of October, Present
 Hon James Harriott Judge of the
 21st Judicial circuit, in the
 State of Illinois, composed of
 Mason Tazewell &c

Be it remembered that
 on the 24th day of July AD 1858
 an alias Summons issued
 in the words & figures following
 to wit:

State of Illinois
 Tazewell County
 The People of the
 State of Illinois to the Sheriff of
 Peoria County ——— Greeting:
 We command
 You, as we have before commanded

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you, that you Summon Thomas
Dobbins and William Reeder
impleaded with James Speer
if found in your county to be appear
before the Circuit Court of said County
on the first day of the next Term thereof
to be held at the Court House in
the City of Pekin in said County
on the Second Monday of October
next to answer unto Joseph
Lyford & Horace Hancock in
a plea of Trespass on the
case to the damage of the
said Plaintiffs as they say
in the sum of Five hundred
dollars. \$500.

and have you then
and there this writ with
an endorsement thereon
in what manner you shall
execute the same.

Witness my hand & the seal
thereof at Pekin, in said County
this 24th day of July A.D. 1858

Seal

Merrill C. Young
By W. Don Maud D.C.

Which said summons
was afterwards returned on the 13th
day of October A.D. 1858 with the
following endorsement thereon
to wit:

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" I have saved the within writ on
 " Thomas Dobbins, by reading to
 " him the same, Sept 28th 1858.
 " William Reeder is not in my
 " County.

J. W. Smith Sheriff

And now afterwards to wit on
 Friday the 22^d day of said month
 of October it being the 11th day of
 of said Term of said Circuit Court
 a Plea was filed in the words
 and figures following to wit:

" Syford et al	3	Circuit Court
" v	3	Fazewell County
" James G. Speer	3	October Term
" Thomas S. Dobbins	3	A. D. 1858
" et al	3	

" And now
 " comes the said Thomas S
 " Dobbins one of said Defendants
 " by Hopkins his atty and denies
 " the force & injury when v
 " And says that he is not guilty
 " in manner of form as the said
 " plaintiffs have heretofore above
 " charged against him him,
 " and of this he puts himself
 " upon the Country &
 " H. B. Hopkins
 " atty

Thereupon, on motion this cause is continued to the next term of this Court.

Read at a Term of the Circuit Court begun & held at the Court House in the City of Pekin, in, & for the County of Tazewell in the State of Illinois on the first Monday of the Month of February in the Year of our Lord eighteen hundred & fifty nine it being the 7th day of Said Month of February, Present the Hon James Harriott Judge of the Twenty first Judicial Circuit in the State of Illinois. Hugh Fullerton States attorney - Thomas C. Reeves Sheriff and Merrill C. Young clerk.

Twit. of
Friday February 11th A.D. 1859
Lyford & Hancock

" v Trespass on
" Thomas S. Dobbins the Case
" James G. Speers &
" William Reeder

" And now on this day
" come as well the Plaintiffs by their attor-
" nies, Davison Parker, as the Defendants by their
" atty H. B. Hopkins and the

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" defendants for Plea, say they are not
" guilty in manner and form in
" the Declaration charged.

" Whereupon came a jury
" of twelve good and lawful men
" to wit: George Bennett - S. B. Case - Wm
" Holmes - C. W. Graves - Jesse Fisher - Isaac
" Jones - J. C. Drake - A. Sperry - Theron Symon
" - Samuel Peterbaugh - Caleb Harding &
" C. N. Goulding, duly elected tried &
" sworn, who having heard the proofs
" & allegations of the parties, and
" the argument of counsel thereon,
" for verdict say: "We the jury find
" the defendants guilty and assess
" the damages to the sum of one
" hundred and twenty dollars (\$120.)

" It is therefore ordered and
" adjudged by the Court, that the
" Plaintiffs recover of said defendants
" the damages aforesaid, in form
" aforesaid found, and likewise
" the costs and charges by them
" about their suit expended, and
" that execution issue, therefor.

" Whereupon, the defend-
" ants enter their motion for a new
" trial: And the Court, having heard
" the argument of counsel thereon, &
" being fully advised in the premises,
" is of opinion that ^{said} motion be overruled.

" Thereupon the said defendants
" pray an appeal, which is allowed.
" Bond to be filed in thirty days.

" with George Spurck Security in the
 " sum Five hundred dollars (\$500.)

And now afterwards to wit,
 on the 18th day of February A.D. 1859
 a Bill of exceptions was filed in
 the Words & figures following to wit:

" State of Illinois } of Circuit Court
 " Tazewell County } Tazewell County
 February Term
 A.D. 1859

" Joseph Syford

" Horace Hancock

" Thomas S. Dobbins

" James G. Speers et al

Re: it remembered

" that on the trial of this cause the
 " Plaintiffs to maintain the issues on
 " their part, produced as a witness one
 " Cleveland, who being sworn, said
 " that defendant Dobbins lives at
 " Peoria and owns a distillery, that
 " defendant Speer also resides at
 " Peoria and is employed about the
 " same distillery, but in what capacity
 " witness does not know, whether he
 " is a partner, or not, witness does not
 " know.

" Witness further said, Sometime
 " in the Spring of 1857. I sold the Plaintiffs
 " about 15 Hogs. I delivered them at

" at Westley City, and put them in a
 " yard of the Plaintiffs. There were other
 " hogs in the yard, about as many as
 " I put in, as nearly as I can remember.

" Westley City is in said Sagewell County,
 " and about a mile below said Dobbin's
 " Distillery.

" Some time in October 1857, I went with
 " Syford and Hancock to said Dobbin's
 " distillery to enquire about the hogs
 " of Plaintiffs. Speer was there, but
 " Dobbin was not. Syford asked Speer
 " if they had got any hogs from the other
 " side of the river. Speer replied, one
 " of our men brought in seven or eight
 " hogs which he said he bought of Syford
 " and Hancock, and brought them over,
 " and that Syford & Hancock were to
 " come over & settle with us for them.

" Syford remarked to Speer that he
 " had never sold any hogs to any one.
 " Speer asked them to go to the pen &
 " point out their hogs, and said that
 " he could himself point 3 or 4 of
 " them. They went to one of the pens,
 " and Speer said there were two white
 " Shoats in the pen, which he pointed
 " out as I got from across the river
 " as Syford & Hancock by our man,
 " as aforesaid. That they weighed about
 " 150 pounds each, and said there was
 " one black sow there, that he could
 " identify any where, as brought by
 " our man aforesaid. Plaintiffs Speer

and Speer then went into the office to look at the books of records of hogs, for the purpose of identifying hogs.

I could not identify any of the hogs which I saw as being the Plaintiffs' hogs. The plaintiffs did not identify any of the hogs as theirs to my knowledge. Could not find Dobbins that day.

Sometime about a week afterwards, I went with plaintiffs to Georgia and saw Defendant Dobbins in his buggy in the street, and had some conversation about the hogs. Dobbins said that a man by the name of Reeder put some hogs into his pen, which he said belonged to plaintiffs, about 30 or 40 of them, that he Dobbins learned that there was likely to be some trouble or controversy about the hogs, and he therefore turned the hogs out of his pens. That he, Dobbins, had authorized said Reeder to purchase hogs for him, if he could get them so that they would not cost over four cents per pound. That said Reeder had put the hogs in the pen, that the hogs would weigh about 150 lbs each.

This was all the evidence on part of the Plaintiffs, and Plaintiffs here rested their case.

The Defendants then moved the Court instruct

the jury, to find a verdict of not guilty, as to the Defendant James S. Speer with a view of using him as a witness for Defendant Dobbins.

The Court overruled said Motion, to which ruling the defendants then and there objected and excepted.

Defendants then introduced Charles Patzman, who being sworn said that in the fall of 1857 the Illinois River was very low and hogs frequently swam across the River from Wesley City to the other side.

That Dobbins run the slop from his distillery into the river, and hogs often followed the slop up to the said distillery, which is a mile above Wesley City on the opposite side of the river. Witness found some of his hogs at Dobbins' distillery in his pens, seven or eight of them. In the fall of 1857. Plaintiffs moved three or four loads of hogs from Wesley City to Groveland, hauled them in Wagons covered with boards, the Wagons would hold 20 shoats, don't know how many were put in, nor their size. This was all the evidence in the case.

The Court then gave the jury the following instructions on part of plaintiffs, to wit:
1st. If the jury believe from the evidence, that the Defendants wrongfully took the Plaintiffs hogs

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it is an actual conversion of them to the defendants, and no request to redeliver them need be proved.

2^d The Jury are further instructed that the disposition of the Plaintiffs property by the Defendants, is a conversion of it, for which the Defendants are liable in an action of Trover, though the defendants acted under unavoidable ignorance, and not for their own benefit. and if the defendants in ~~their~~ opinion of the Jury from the evidence, were so guilty of such conversion they will find for the Plaintiffs the value of the Property so converted as proven.

3rd The Court instructs the Jury that ~~a~~ demand and refusal are not necessary, where the defendants receives the property in question from a third person, after notice of the Plaintiffs till, or when the defendants dispose of the property in any way, and if the Jury believe from the evidence that the defendants are guilty of so receiving the Property or disposing of it, they will find for the Plaintiffs

4th If the Jury believe from the

evidence that the Plaintiffs demanded payment for their hogs, that defendants had in their possession - and the defendants refused it, that their demand of the payment, is a good demand to support this action, and if they so further believe said defendants, had Plaintiffs hogs, they will find for Plaintiffs the value of the hogs, as proved to have been in the defendants' possession.

To the giving of which Defendants then and there excepted &c.

The Court then gave the Jury the following instructions on part of the defendants. to wit:

No 1. If admissions of the defendants are given in evidence by the Plaintiffs the admission must be taken altogether. The Jury have no right to receive the admissions of the defendants which make against them, and not those which are in their favor, if they are all made at the same time and in relation to the same matter.

No 2. If defendants come in possession of the hogs in controversy under a contract with Plaintiffs, such possession was lawful

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and the defendants are not liable in this action, unless the contract was mutually abandoned & defendants refused to give up the hogs on demand, or converted the same to their own use.

No 3. If Dobbins ascertained that the hogs were wrongfully put in his possession & was the party to the wrong, his turning the hogs out of his possession, is not a conversion to his own use, unless there was a demand & refusal before the turning of them out.

No 4. If the jury believe from the evidence, that the hogs in question strayed into the premises of defendants they will find for the defendants, unless there was a demand and a refusal to deliver

No 5. If the jury believe from the evidence that the hogs were brought to defendants premises without the consent or authority of the defendants, they will find for the defendants, unless there was a demand & refusal.

No 6. ~~If~~ The jury believe are instructed

that if Reeder was sent out as the agent of Dobbins, to buy hogs, and he, without the consent or authority of Dobbins or Speers, took hogs without buying them, and put them into defendants premises, unless there was a demand and refusal, they will find for the defendants.

N^o 7. Unless the Jury believe from the evidence that the Plaintiffs were joint owners of the Hogs, they will find for Defendants.

N^o 8. That no admission made by one of the defendants is to have any weight against the other defendants.

The Jury then returned a Verdict for the Plaintiffs, as follows to wit:

"We the Jury find the Defendants Guilty and assess the damages to the sum of One hundred and twenty dollars." (\$120.)

To all of which rulings of the Court aforesaid, and the finding of the Jury, the defendants then and there objected & excepted.

The defendants then moved to set aside said Verdict and for a new

trial for the following reasons.

1st The Court gave improper instructions on part of Plaintiff

2nd The Court erred in not instructing the jury to find a verdict of not Guilty as to Defendant Speer upon Defendants motion.

3rd The Verdict was contrary to Law & evidence

4th The damages found by the jury are excessive.

Which motion the Court overruled and the the defendants then & there objected & excepted.

The defendants then prayed an appeal which is allowed, and pray that this their Bill of Exceptions may be signed and sealed, which is done.

James Harriott *Seal*

And now afterwards to wit on the 5th day of March A D 1859 an Appeal Bond was filed in the words and figures following, to wit:

Know all men by these presents that we Thomas S. Dobbins and James G. Speer as principals, and

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George Shurck as security are held
and firmly bound unto Joseph
Syford and Horace Hancock
in the Real sum of Five hundred
dollars to the payment of which
we jointly & severally and firmly
bind ourselves, our heirs executors
and administrators by these pres-
ents. Given under our hands & seals
the 25th day of February A.D. 1859

The condition
of the above obligation is such
that whereas the said Syford &
Hancock did at the February Term
of the Circuit Court in & for the
County of Tazewell & State of
Illinois, recover a judgement
against said Dobbins & Speer,
in a suit therein pending, wherein
said Syford & Hancock were plain-
tiffs, and said Dobbins & Speers and
William Reeder were Defendants,
for the sum of one hundred and
twenty dollars and costs of
suit, from which judgement
said Dobbins and Speer prayed
an appeal, which was allowed

Now if the said Dobbins & Speer
shall duly prosecute their said
appeal according to law and
pay the judgement, all costs,
interest and damages in case
the said judgement shall be

own

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affirmed, then these presents to
be void, otherwise in force.

J. S. Dobbins

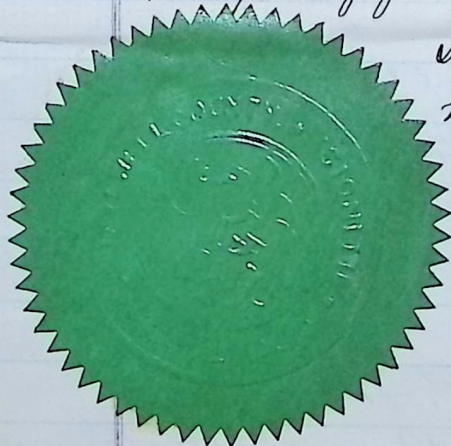
Jas. G. Speer

George Spurck



State of Illinois } ss
Tazewell County }

I Merrill C. Young
Clerk of the Circuit Court within
and for said County do certify
that the foregoing 21 pages contain
a true perfect and complete
copy of the Record of the proceedings
had in ^{the} Cause therein named as
the same appears of record in
my Office



In witness whereof I have
hereunto set my hand
and affixed the Seal
of said Court at Pekin
this 18th day of November
A.D. 1859

Merrill C. Young clk

Supersedeas refused

J. D. Carson

Assignment of Errors

- 1 The evidence discloses no cause of action against the defendants below
- 2 There was no sufficient evidence to support or justify the verdict
- 3 The verdict ~~is~~ contrary to evidence
- 4 Verdict ~~was~~ is contrary to law
- 5 No evidence was given tending to show a cause of action against Spier Judgment is against Both Spier & Dobson must be reversed
- 6 There is no sufficient evidence to sustain the verdict against Spier judgment is against both & must be reversed
- 7 The Court erred in not instructing the jury to find a verdict of not guilty as to Defendant Spier
- 8 Court below gave improper instructions for the Plaintiffs below
- 9 Court below erred in refusing to set aside verdict & in refusing a new trial
- 10 The Court below erred in rendering judgment upon the verdict

W. B. Hoopes
Atty for Plffs in Error

157 179 45
Lyford & Hancock
v

Thos S. Dobbins etals

Transcript
v asy^h of Enos

Filed April 12 1860
L. Leland
clerk

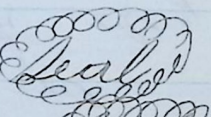
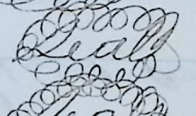
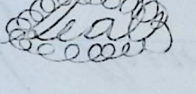
Know all men by these presents that
we Thomas S Dobbin and James
G Spier as principals and George
Spurck are held and firmly bound
unto Joseph Lyford & Horace Har-
cock in the period sum of five
hundred dollars. lawful money of
the United States. to the payment of
which well & truly to be made we
hereby jointly & severally & firmly by these
presents bind ourselves our heirs ex-
ecutors administrators & assigns
Signed & sealed by us this sixth day
of ~~December~~^{December} AD 1859

The consideration of the above obligation
is such that whereas the said Lyford
& Harcock did at the February term
of the Circuit Court in and for the
County of Tozeville and State of Illinois
recover a judgment against said
Dobbin and Spier in a suit then
pending wherein said Lyford & Harcock
were Plaintiffs. And said Dobbin &
Spier and one William Beaman de-
fendants for the sum of One hun-
dred and twenty dollars and costs of
suit.

And whereas said Defendants against
whom said judgment was rendered

are about to remove the said cause
to the Supreme Court of said State
by writ of error, praying that the same
may be made a supersedeas of the
said judgment.

Now in case of the issuing of said writ
of error, in case the same shall be duly
allowed as a supersedeas of said judg-
ment, then in case the said Dob-
bins & Spier shall prosecute their said
suit with effect, and shall pay
the said judgment of the said Circuit
Court, in case the same shall be
affirmed with all costs, interest
and damages, then this obligation
to be void, otherwise to remain
in full force and effect.

J. I. Dobbins 
Jos. G. Spier 
George Spierck 

15 ~~174~~ 43

Dobbin

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Lyford

Bond

Filed April 27. 1880
L. Leland
Clerk