

No. 14633

Supreme Court of Illinois

Lee

vs.

Cooper

71641  7

14633

STATE OF ILLINOIS,
SUPREME COURT,
THIRD GRAND DIVISION.

No. 70

J. W. Middleton & Co., Stationers, 196 Lake St.

1864

Lee
vs
Cooper

Page 1. United States of America } ss.
State of Illinois, Boone County }

Plas at a regular Term of
the Circuit Court of said Boone
County, begun and held at the Court
House, in Geneva in said County
of Boone, on Monday the second day
of February in the year of our Lord
One thousand Eight Hundred and
Sixty Three, being the first Monday
of said Month.

Present Isaac G. Wilson Judge
Joseph A. Whipple Sheriff
Charles J. Metzner States Attorney.

Attest

Thomas L. Moore
Clerk.

Be it remembered that heretofore to wit
On the first day of September A.D.
1862, the following Papers were filed in the
Office of the Clerk of said Court to wit:

State of Illinois vs.
Hau County

Hau County Circuit Court
In Chancery

To the Hon Isaac G. Wilson
Judge of the 218th Judicial Circuit
and presiding Judge of Hau
County Circuit Court in Chancery setting.

Your
Orator Joseph M. Cooper a resident of the
City and State of New York, respectfully
shows unto your Honor that on or about the
17th day of December A.D. 1860, Luther C. Lee
and Chauncey M. Lee became and were in-
debted to Mess Cooper and Fellows (a mercantile
firm doing business in the City of New York,
and of which said firm your Orator is a
partner and member) in the sum of Four
thousand and seventy one dollars and ninety
six cents, and being so indebted, in consideration
thereof the said Luther C. Lee & Chauncey M.
Lee (under the respective names and style of
L. C. Lee and C. M. Lee) on the day and year
aforesaid, made and Executed under their hands,
their certain twenty eight promissory notes all
bearing date the 17th day of December A.D. 1860,
and due and for the amounts respectfully
as follows, to wit—

One note for the sum of \$135.48th due one month after date
 Page 3^d " " " " \$136.57 " " Two months " "
 " " " " \$137.35 " " Three " " "
 " " " " 138.14 " " four " " "
 One Note for the sum of \$138.93 due five months after date
 " " " " \$139.73 " six " " "
 " " " " \$140.51 " seven " " "
 " " " " \$141.30 " Eight " " "
 " " " " \$142.08 " nine " " "
 " " " " \$142.87 " Ten " " "
 " " " " \$143.66 " Eleven " " "
 " " " " \$144.44 " Twelve " " "
 " " " " \$145.24 " thirteen " " "
 " " " " \$146.02 " fourteen " " "
 " " " " \$146.82 " fifteen " " "
 " " " " \$147.59 " sixteen " " "
 " " " " \$148.38 " seventeen " " "
 " " " " \$149.17 " Eighteen " " "
 " " " " \$149.96 " Nineteen " " "
 " " " " \$150.76 " Twenty " " "
 " " " " \$151.53 " twenty one " " "
 " " " " \$152.32 " twenty two " " "
 " " " " \$153.11 " twenty three " " "
 " " " " \$153.90 " twenty four " " "
 " " " " \$154.68 " twenty five " " "
 " " " " \$155.47 " twenty six " " "
 " " " " \$156.26 " twenty seven " " "
 " " " " \$157.05 " twenty eight " " "
 And Your Orator further shows unto your Honors

that the said Luther C. Lee and Martha
C. Lee his wife on the 17th day of December
A.D. 1860 to secure the payment of the principal
and interest mentioned in said promissory notes
made and Executed under their hands and seals
and delivered to your Orator, a mortgage con-
ditioned for the payment of said sum of
Four Thousand seventy one & 1/100 Dollars, ac-
cording to the conditions of the said notes, by which
said mortgage the said mortgagor mortgaged
to your Orator in fee certain lands and Real
Estate situated in the City of Aurora, County
of Kane & State of Illinois and described in
the said mortgage as follows to wit:

Lot No Eight in Block No Ninety (19) in
the Town of Aurora reference being had to a
plat of said Town on Record in the Recorder's
Office of the County and State, aforesaid. The
same being the homestead of the party of the
first part, all right and benefit of the Statute
Exempting the same from sale or conveyance is
hereby waived and released and is intended
to be conveyed. Which said mortgage was duly
acknowledged and afterwards recorded in the
Recorder's Office of Deeds of the County of Kane
and State of Illinois on the 12th day of January
A.D. 1861, at 3 1/2 O'clock P. M. in Book 66 Page
251 as by said mortgage and the certificates of

Page 5th acknowledgment and recording endorsed thereon and ready to be produced in Court, and to which your Orator prays leave to refer will more fully appear.

And your Orator further shews unto your Honor that it was provided in ^{the} bypaid Mortgage that if default should be made in the payment of any three of the above mentioned notes, as they consecutively fell due and payable the whole of said principal secured by said notes in the Mortgage mentioned, should thereupon become immediately due and payable, and the said mortgage in that event might be immediately foreclosed to pay the same.

Your Orator further shews that default has been made in the payment of twelve of the said promissory notes secured by said mortgage ^{and} due, and for the amounts following, to wit:

One Note for	\$ 139.73	^{and}	due six months after date
"	"	"	\$ 141.30 " " Eight " " "
"	"	"	\$ 142.87 " " Ten " " "
"	"	"	\$ 143.66 " " Eleven " " "
"	"	"	\$ 145.24 " " thirteen " " "
"	"	"	\$ 146.02 " " fourteen " " "
"	"	"	\$ 146.82 " " fifteen " " "
"	"	"	\$ 147.59 " " sixteen " " "
"	"	"	\$ 148.38 " " seventeen " " "
"	"	"	\$ 149.17 " " Eighteen " " "
"	"	"	\$ 149.96 " " nineteen " " "
"	"	"	\$ 150.76 " " Twenty " " "

All of which remain fully unpaid & unsatisfied

Page 6th

And Your Orator further states ^{and} believes that there is now due upon the notes matured as aforesaid the sum of \$1751⁵⁰/₁₀₀ principal and the sum of \$52³⁰/₁₀₀ for accumulated interest on the said twelve notes reckoned ^{AD. 1862 together with interest upon the same notes from said 17th day of August} up to the 17th of August, at six per cent per annum. That there is also due Your Orator upon the other notes described in the said mortgage ^{and} his Bill of Complaint and which said last mentioned notes are now matured and due according to the terms and conditions of said mortgage, in consequence of the aforesaid default in the payment of the said twelve notes, the further sum of Twelve hundred and six dollars and sixty-six cents for the principal of said notes making in all the sum of Three ~~thousand~~ thousand ten Dollars & fifty one cents, now justly due ^{and} owing Your Orator upon the said mortgage ^{and} the notes above mentioned and described and secured thereby.

And Your Orator further shows that the premises described in said mortgage are meagre and scant security for the said sum secured thereon by said mortgage and are not worth as Your Orator believes ^{and} charges to be expended the sum of Ten hundred Dollars (\$1000.⁰⁰) and that said defendants

Page 3^d are insolvent & pecuniarily irresponsible.

And your Orator further shows that it was covenanted and agreed, in and by said mortgage that in case the same was foreclosed that then the said party of the first part, would pay or cause to be paid to your Orator, his attorneys or solicitors fees to be ascertained in the Court wherein the same should be foreclosed.

And your Orator therefore asks the aid of this Court in the premises, and that the above named Luther C. Lee, and Martha E. Lee the defendants in this suit may appear before the Judge of the Kane County Circuit Court sitting in Chancery and answer this your Orators Bill according to the rules & practice of said Court without oath, their answer on oath being hereby waived and that the said defendants may be declared tenants of your Orator, from the date of filing this your Orators Bill of Complaint, and decreed to pay to your Orator a fair and reasonable rent for the same and ^{that} a Receiver may be appointed by this Court to receive the rents of said premises & that he may be decreed & ordered to pay the same to your Orator. And also that the usual decree may be made for the sale of mortgaged premises aforesaid under an order of strict foreclosure, and for the payment of the amount due, your Orator prays

principal and interest in the said notes and mortgage and his costs of suit by a short day to be appointed by the Court, or in default thereof, that the said defendants and all persons claiming under them subsequent to the commencement of this suit, and all other persons although not parties to this suit who have any liens by judgment or decree upon upon the mortgaged premises subsequent to the said mortgage of your Orators, or any liens or claims thereon by or under any such subsequent judgment ^{either as purchaser, encumbrancer or otherwise} or decree may be forever barred and foreclosed of all equity of redemption in said premises, and your Orators title thereto be declared absolute & complete, and that your Orators may have such other and further relief as the nature of this case may require & as this Court shall seem agreeable to Equity and good Conscience).

And may it please your Honor to grant unto your Orator the Peoples writ of Subpoena issuing out of and under the seal of this Honorable Court to be directed to the said Defendants Luther W. Lee & Martha G. Lee therein and thereby commanding them and each of them on a certain day and under a certain penalty to be therein stated, that they personally be ^{and} appear

Page 9 "before the Judge of the Kane County
Circuit Court at the Court Room in
Geneva Ill and there to answer all and
singular the premises and to stand to and
abide by and perform such orders and
decrees therein as shall seem agreeable to
equity and good conscience. And your

J. D. Narvey
Sols for Compl. 3
Oretor will ever pray &c.

Joseph M. Cooper
By J. D. Narvey
his atty &c.

On which is the following endorse-
ment to wit:

Filed Sept. 1st 1862.

D. C. Moore

Clerk

And afterwards to wit: On the second
day of September A.D. 1862. the following sum-
mons was issued out of the office of the Clerk
of said Court to wit:

State of Illinois vs
Kane County

The People of the State of Illinois
to the Sheriff of said County. Greeting:
We command you that you summon Luther
C. Lee and Martha C. Lee if they shall

Page 10th shall be found in your County, personally to
be and appear before the Circuit Court of
said Boone County, on the first day of the
next Term thereof, to be holden at the Court
House, in Geneva, in said ^{Boone} County, on the first
Monday of October next, to answer unto the
Bill of Complaint of Joseph M. Cooper
Complainant, filed in said Court on the
Chancery side thereof. And have you then ^{and}
there this writ, with and endorsement thereon, in
what manner you shall ^{have} executed the same,

E. J. D.
C. C. C.

Witness Thomas W. Moore, Clerk
of our said Court, and the seal
thereof, at Geneva in said County,
this second day of September
A.D. 1862.

Thomas W. Moore
Clerk

On which is the following endorsement
to wit:

Executed this writ, this 4th day of
September 1862, by leaving a true copy of the same
with Martha E. Lee, & also by leaving a true copy of
the same at the residence of Luther C. Lee
with the wife of ^{said} Luther C. Lee, a white person
of the family ^{over} ten years of age, for the said
Luther C. Lee, and at the same time informed

Page 11th her of the contents thereof.

Demarcus Blank.
Sheriff. Kane County.

Tiled Sep. 6th 1862

J. B. Moore Clerk.

And on the same day and year last
aforesaid the following papers were filed
in the office of the clerk of said Court
to wit

Joseph M. Cooper }
Luther W. Lee ^{vs} }
Martha G. Lee and }

Kane County,
Circuit Court,
In Chancery.

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
acome 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 1st day of }
September A.D. 1862 }

J. D. Varney

On which is the following endorsement, to wit:
Filed and approved the 1st day of September A.D. 1862
D. C. Moore Clerk

Joseph M. Cooper }
 v
 Lutho. W. Lee and }
 Martha G. Lee }

House Div. Court
 In Chancery

State of Illinois } ss.
 Kane County }

asa A. Dexter being first
 duly sworn on oath deposes and says that he is a
 resident in the City of Aurora, owns Real Estate there-
 in, and is acquainted with the value of Real prop-
 erty in said City. That this affiant is acquainted
 with the premises known and described as Lot N^o
 Eight (8) in Block N^o Triniten (19) original Town of East
 Aurora - that said premises are not worth in cash,
 to exceed the sum of Ten Hundred Dollars at the
 present time.

That in the opinion of this affiant, said prem-
 ises are not worth a cash rent of to exceed the
 sum of Seven Dollars per month - and further
 deponent saith not -

Subscribed & sworn to
 before me this 1st day of
 Sept A D 1862.

J. D. Varney
 Notary Public

A. A. Dexter

On which is the following

Page 15 Endorsement to wit:

Dated Sept. 1st 1862,

J. C. Moore

Clk

This Endenture, made this Seventeenth day of December AD. 1860. Between Luther W. Lee and Martha E. Lee his wife, of the City of Aurora, and State of Illinois, party of the first part, and Joseph M. Cooper of the firm of Cooper and Fellows of the City of New York, party of the second part: Whereas, the said party of the first part, is justly indebted to the said party of the second part, in the sum of Four Thousand and Seventy one Dollars and ninety six cents, secured to be paid by Twenty Eight certain promissory notes, Each bearing even date herewith, and each for the following sums in the order in which they mature \$135.78-136.57-137.35-138.14-138.93-139.73-140.51-141.30-142.08-142.87-143.66-144.44-145.24-146.02-146.82-147.59-148.38-149.17-149.96-150.76-151.53-152.32-153.11-153.90-154.68-155.47-156.26-129.39- and each note in the above order maturing one month after the other, The first note due one month after date, the second, and the last note twenty eight months after date, given by L. W. Lee to Cooper and Fellows.

Now Therefore this Endenture Witnesseth, that the said party of the first part for the better securing

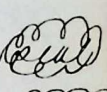
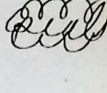
the payment of the money aforesaid, according to the tenor and effect of the said promissory notes above mentioned; and also in the further consideration of one dollar to them in hand paid by the ~~the~~ said party of the second part, at the delivery of these presents, the receipt whereof is hereby acknowledged, have granted, bargained, sold and conveyed, and by these presents do grant, bargain, sell and convey unto the said party of the second part, his heirs and assigns forever all the following described lot of land, situated in the City of Aurora, County of Kane, and State of Illinois, to wit: Lot number Eight (8) in Block number nineteen (19) in the Town of Aurora, reference being had to a plat of said Town on Record in the Recorder's Office at Geneva, in said County. The same being the Homestead of the said party of the first part, all right and benefit of the Statute exempting the same from sale or conveyance is hereby waived and released, and is intended to be conveyed.

Do Have and Do Hold the same together with all and singular, the Tenements, Hereditaments Privileges and appurtenances therunto belonging, or in any way appertaining; And also all the Estate, interest and Claim whatsoever, in law as well as in Equity which the party of the first part has in or to the premises hereby conveyed to the party of the second part. his

Page 17th heirs and assigns, and to their only proper
use, benefit and behoof. Provided Always,
and these presents are upon this express con-
dition, that if the said party of the first part,
their heirs, executors or administrators, shall
well and truly pay or cause to be paid to the
said party of the second part, his heirs, Execu-
tors or administrators, or assigns the aforesaid
sum of money at the time and in the manner
specified in the said promissory notes, according
to the true intent and meaning thereof. then and
in that case, these presents and everything
herein contained shall ~~cease~~ be absolutely null
and void, But it is further provided and
agreed, that if default be made in the pay-
ment of any ^{three} of the above mentioned Notes as
they consecutively fall due and payable, the
whole of said Principal secured by the said
notes in this Mortgage mentioned, shall there-
upon become immediately due and payable,
and this Mortgage may ^{in that event immediately} be foreclosed to pay
the same, and the said party of the first part,
do covenant and agree to pay or cause to be
paid to the party of the second part his Attorney
fee for the foreclosure of this Mortgage to be
assessed by the Court wherein the same shall
be foreclosed as part of the costs of foreclosure
and satisfied out of the above mortgaged
Premises

In Witness Whereof, the said party of the first part have hereunto set their hands ^{and} seals the day and year first above written,

Witness J. G. Barr }

Luther L. See 
Martha L. See 

State of Illinois } ss.
Hauw County }

J. G. Barr a
Justice of the Peace
in and for said County, in the State aforesaid
do hereby certify that Luther L. See and
Martha L. See his wife who are personally
known to me as the real persons whose names
are subscribed to the annexed Mortgaged appears
before me this day in person, and acknowledged
that they executed and delivered the said Mort-
gage, as their free and voluntary act for the
use and purposes therein set forth. And the
said Martha L. See wife of the said Luther
L. See, having been by me examined, separate
and apart, and out of the hearing of her
husband, and the contents and meaning of
the said Mortgage having been by me made
known and fully explained to her, including
her rights and privileges as a Homestead in
the premises therein described, she acknowledged
that she had freely and voluntarily executed
the same, and relinquished her dower and

Page 19 "waived & released all her right in and to the homestead, in the lands and tenements therein mentioned, without compulsion of her husband and that she did not wish to retract the same.

Given under my hand & seal this 11th day of January A.D. 1861.

James L. Barr J.P. ~~Clk~~

On Which is the following endorsement, to wit:
State of Illinois }
Kane County }

Filed for Record this 12th day of Jan. A.D. 1861. at 3 1/2 P.M. and recorded in Book 66, Page 251.

J. W. Moore
Recorder

Page 21st

And afterwards tuit on the sixth day of October A D 1862, the same being one of the ^{of the} days of said Court, the following amongst other proceedings was had and entered of record in said Court. tuit.

8177. Joseph M Cooper }
Luther L Lee, and } Bill to foreclose
Martha H Lee } Mortgage

This day comes the complainant by J D Hawley his solicitor and on his motion the defendants are then times solemnly called but come not nor any one for them but having made default, and it appearing by the return to the summons issued to the defendants having that they had been duly served with process ten days before the present term of this Court, their default is entered of record, and the bill of Complaint filed having is taken as confessed against them; And on the further motion of Complainant's solicitor this Cause is referred to James H Barr Esq, who is hereby appointed special Master, to take and report the proofs having.

And afterwards, tint on the seventh day of October aforesaid, the same being one of the days of said Term of said Court, the following amongst other proceedings were had and entered of Record in said Court. tint:

8177 Joseph M Cooper
Luther C Lee and } Bill to foreclose mortg.
Martha Y Lee } agr.

This cause coming on this day to be heard upon the bill of complaint filed herein for as confessed by the said Luther C Lee and Martha Y Lee, upon the proofs and exhibits produced and heard in open Court and upon the report of James Y Barr Esq, special Master in this cause, appointed by order of this Court to take and report the proofs in the case; which report bears date the seventh day of October A D 1862. On reading and filing said report; from which it appears that there was due to the said complainant at the date of said report for the principal and interest secured by said Mortgage, the sum of Three Thousand twenty five 69/100 dollars and that the Mortgage premises in said Mortgage and bill

Page 23rd of Complaint, described, are worth at the present time, from two, to eleven hundred dollars; it is on motion of Complainant solicitor ordered and decreed that the said report, and all things therein contained do stand ratified and confirmed - And it further appearing to the Court from the proof aforesaid, that the said defendants in and by the said mortgage did release and waived all their rights and privileges to the said mortgage premises as a homestead - that the said defendants also covenanted and agreed in and by the said mortgage, that in case default should be made in the payment of any three of the notes secured thereby or they should consensually ~~become~~ due, that then, and in that case, the whole of the notes remaining unpaid and secured by said mortgage shall become immediately due and payable and the said mortgage foreclosed to pay the same. And it further appearing to the Court that default had been made in the payment of eight of the said promissory notes at the time of filing said bill of complaint, secured by the said mortgage, consensually as they fell due and that the said defendants are insolvent and

Page 4 Unnecessarily impossible, it is therefore,
in motion of Complainant's petition, here-
by further ordered, adjudged and decreed
And the Court by virtue of the authority
therein vested, doth order, adjudge and de-
cree, that the whole of the principal and interest
secured by the said Mortgage, which remained
unpaid at the ^{time} filing said bill of complaint, and
which was not then due according to the terms
of said promissory notes, has become due and
justly owing to the said complainant, in con-
sequence of the defendants' ^{aforsaid} default in paying
the matured notes in the bill of complaint
described.

And it is further ordered adjudged
and decreed, that upon the defendants,
or either of them paying to the said com-
plainant the said sum of three thous-
and twenty five and ~~8/10~~ 10/100 dollars
due for principal and interest as afo-
said together with the complainant's costs
of suit to be taxed by the Clerk of this Court
within sixty days after service of a copy of
this decree, then that said complainant
do execute a proper instrument of conveyance
of the said premises to said defendants and
do cancel and satisfy said Mortgage of
record if required, But in default of
said defendants or some one in their

1 0 1 1 1 0 1

Page 25

behalf, paying to the said complainant or his solicitor the aforesaid sum due for principal and interest and costs within the time aforesaid, then it is further ordered, adjudged and decreed that the said defendants and all persons claiming by through or under them by title or conveyance derived subsequent to the mortgage of the complainant, do stand absolutely debared and foreclosed of and from all equity of redemption, and also all rights, claims and benefits as a ~~Homestead~~ of in and to the said premises included in the mortgaged mentioned in the bill of complaint and that James A. Barr Esq be appointed a special Commissioner and vested with all the power of Master in Chancery in such cases, to make sale of all and singular the said mortgaged premises mentioned in the bill of complaint in this cause and then in described as follows to wit Lot ^{No.} Eight in Block No nineteen (19), in the Town of Aurora reference being had to a plat of said Town, on record in the recorder office of said Hard County, State of Illinois. that the same be sold at public auction in said County of Hard, where the premises are situated; that the Commissioner give public notice of the time and place of such sale according to the course

Page 26¹⁵ And practice of this Court, and that the complainant or any of the parties in this cause may become the purchaser of said mortgaged premises on the said sale and that the said Commissioner pay the complainant or his solicitor out of the proceeds of such sale, his costs in this suit to be taxed and also the aforesaid sum of three thousand, twenty five and 69/100 dollars, being the amount secured by the said notes and mortgage and unpaid as reported as aforesaid, together with the legal interest thereon from the date of each report, or so much thereof as the purchase money of the mortgaged premises will pay of the same, and the Commissioner take his receipt for the amount so paid, and file the same with his report, and that he bring the surplus monies arising from such sale, if any there shall be, into Court without delay to abide the further orders of the Court herein, And it is further ordered that the said Commissioner execute to the purchaser or purchasers of ^{said} premises, a Deed for the same, executed and acknowledged in due form of law, And it is further ordered ^{and} decreed that if the monies arising from such sale are insufficient to pay the amount so reported as actually due the said Complainant with the interest and costs aforesaid.

Page 23

that ^{says} the Commissioners specify the amount of such deficiency in his report of the sale, and that on the coming in, and confirmation of said report, the Defendant Luther B. Su, who is personally liable for the payment of the debt secured by the mortgage, pay to the Complainant the amount of such deficiency, with interest thereon from the date of said last named report, and that the Complainant have execution therefor. And it is further ^{ordered} and decreed that the Sheriff of said Hancock County, on failure of said payment within aforesaid period, put the said Complainant in full and complete possession of said premises, and that any of the parties in this cause, who may be in possession of the said premises, or any part thereof, and any person, who, since the commencement of this suit has come into possession under them or either of them, deliver possession thereof, to such Sheriff, on production of a certified copy of this decree.

And afterwards, to wit: On the seventh day of October ^{following}, the paper was filed in the Office of the Clerk of said Court, to wit:

Page 28
Joseph M. Cooper }
vs. }
Luther Lee, Jr }
Martha G. Lee }

Case No. Circuit Court
October Term 1862. In Chancery

To the Honorable G. Wilson Judge
of said Court.

The undersigned appointed
at the Present Term of said Court, special
Master in said Cause to compute the amount
due to Complainant upon the notes & mortgage
mentioned in the Bill filed, in said Cause.

And also to report to the Court from proofs
taken the present value of the premises described
in said Mortgage. Would respectfully certify
and report.

That I have computed the amount due
upon said notes by the terms of said notes and mort-
gage and find due to said Complainant thereon
the sum of Three thousand & twenty five & 69/100
Dollars (\$3025.69)

I have also taken the testimony of Edward
R. Allen & A. A. Dexter witnesses produced before
me as to the value ^{of the premises described in said mortgage} and it appears therefrom that
said premises are worth at the present time from
ten to Eleven hundred Dollars.

Oct. 7th, 1862.

Respectfully submitted
J. L. Barr
Spec. Master &c

Page 29 On which is the following indorse-
ment, to wit,

Filed Oct 7th 1862
J B Moore
clerk

And afterwards to wit on the 7th day
of February A D 1863, the same be-
ing one of the days of the February
Term of said Court. the following
amongst other proceedings, was had and
entered of Record in said Court to wit:

Joseph M Cooper
v
Luther C Lee and
Martha M Lee } Bill to foreclose
mortgage

This day comes the com-
plainant by J D Harvey his solicitor
or and presents to the Court, the Report of
James M Barr Esq special Commissioner
in huius, and on motion of complain-
ant's solicitor it is ordered that said
Report be filed and approved; and
that the proceedings of the said Com-
missioner as set forth in said Report
be and the same are hereby ratified
and confirmed

And on the same day and year last
aforesaid, the following paper was filed
in the office of the clerk of said Court.

State of Illinois }
Hennepin County }
Joseph M. Cooper }
Luther C. Lee }
Martha G. Lee }

Bill to foreclose mortgage.
Hennepin County Circuit
J. Court February Term
A D 1863. In Chancery

To the presiding judge of said Court.
The undersigned, appointed
special Master of said Court in the
cause entered in the above entitled case
to make ^{sale} of the property described

therein, and ordered to be sold, respectfully reports to the Court:

That defaults having been made in the payment of the money due to said Complainant under said decree, interest and costs for upwards of sixty days after the service of a copy of said decree upon the said defendants, as will more particularly appear from the affidavits of J D Harry and Asa A Dexter hereto attached. I did advertise the premises described in said decree for sale on the 24th day of January A D 1863 at 11 ope A M at the front door of the Post office in the city of Aurora in said County, in the manner required of Sheriffs on Executions &c by posting up written and printed notices thereof in three of the most public places in said County; which notices contained the names of the parties, complainant and defendants to this suit, and a description of the property to be sold, and title of the Court, and by causing a similar notice to be published in three successive issues, once in each issue in the Aurora Beacon, a newspaper, printed in said County of Kane

Page 33^a And I further Report, that on said 24th day of January A.D. 1863, I did attend at the time and place specified in said notices, and I then and there offered the said premises described in said deed unto,

Lot No Eight (8) in Block No nineteen (19), in the Town of Aurora, reference being had to a plat of said Town recorded in the Recorder's office of said Kane County, State of Illinois, for sale to the highest and best bidder for cash, at which sale the said Joseph M. Cooper bid for said property the sum of One Thousand Dollars, and that being the highest ^{and} best bid, and he the highest and best bidder for said property, the same was struck off and sold to said Joseph M. Cooper, complainant before the hour of 4 o'clock P.M. And thereupon I executed a deed to the said Joseph M. Cooper for the said premises, And I further Report that I have paid the costs, disbursements and commissions, upon said sale, amounting to the sum of \$27.75 and herewith presents receipts therefor. Also to said complainant his costs of said amounting to the sum

Page 34 of 13⁵⁰ and taking his receipt therefor
and for the remainder, until of \$958.75-
to apply upon the money due him
under said deed, which receipts are
herewith presented to the Court.

I further Report that on
the day of said sale January 24, 1863
there was due to the complainant for
principal and interest on said deed
the sum of \$3079.¹² from which de-
duct said sum of \$958.75 made
therein, leaves a balance due the Com-
plainant at said date of \$2120.³⁷/₁₀₀
Dollars.

All of which is respectfully
submitted

James Y. Barr.
Special Commissioner
February 20 1863

State of Illinois, Hancock County Circuit Court
Hancock County, In Chancery.

Joseph M. Cooper
v
Luther C. Lee, and
Martha M. Lee. } Bills to foreclose
Mortgage

As a Deftn of said County
being first duly sworn on oath deposes

Page 35 And says that on the 23rd day of October A.D. 1862. he delivered to Martha G. Lee one of said defendants a certified copy, of the decree of sale &c. in the above entitled cause And at the same time this deponent left with said Martha G. Lee, who is the wife of said Luther G. Lee, and at his house a certified copy of said decree for the said Luther G. Lee. who was then absent from the State but has since returned, and further deponent saith not.

A A Dexter

Subscribed and sworn to before me this 30th day of December A.D. 1862.
J. H. Barr J.P.

State of Illinois }
Kane County } Kane County Circuit Court.
Decem Oct. Term 1862. In Chancery.

Joseph M. Cooper
v
Luther G. Lee
Martha G. Lee } Bill to foreclose mortgage

State of Illinois }
Kane County } J. D. Harvey being first duly

Page 36 sworn on oath deposes and says that he is
the Solicitor for Complainant in the above
entitled cause that said Complainant is
not a resident of the State of Illinois as
this affiant is informed and believes, but
resides in the City ^{and} State of New York -
That said defendants, nor either of them
have paid to this affiant the amount of
the decree in the above cause, nor any
part thereof, nor deposited the same in said
Court nor elsewhere for said Complainant to
the knowledge of this affiant nor paid
the same, or any part thereof, to said Com-
plainant, as this affiant is informed
and believes, but that the same remains wholly
due ^{and} unpaid by said defendants to said
Complainant.

Subscribed and Sworn to before } J. D. Harvey
on this 30. day of December A.D. 1862 }
J. G. Barr J.P.

Joseph M. Cooper } Kane County Circuit
vs. } Court, In Chancery
Luther C. See ^{and} } Oct. Term 1862
Martha G. See } Bill to foreclose mortgage

Received of James G. Barr special
Commissioner &c. appointed to make sale

Page 37 of the property described in the decree
 Entered in said cause Complainants Costs
 of suit, Do Mt. \$ 13⁵⁰ and the further
 sum of Nine hundred & fifty Eight
 & 75/100 Dollars to apply on amount due
 under said Decree by Debt of the prem-
 ises therein described. Expected by Him
 as special Commissioner &c.

Joseph M. Cooper
 Compt. by J. D. Harvey
 his Sals
 January 24th 1863.

Costs &c on sale
 J. A. Barr Com^r advertising 215
 2 prct on \$200. 6.00
 1/2 " " " 8.00 12.00
 Report & Debt 5.00
 Baygo & Knickerbocker Printers fee 4.50
 Recd Payment \$27.75
 J. A. Barr
 Spec^l Com^r

On which is the following endorsement
 to wit.

Filed July 7th 63

D. C. Moore
 Clk.

And afterwady, to wit: on the 7th day of Feby, A.D. 1863
~~And on the same day and year last aforesaid,~~
the following Notes were ^{filed} in the office of the Clerk
of said Court to wit:

C \$139⁷³/₁₀₀ New York Dec 17 1860.
Six months after date we promise to pay to the order
of Cooper & Wellows at Aurora Ill. One
hundred & thirty nine ⁷³/₁₀₀ Dollars. Value received.
A. - Due June 7th 20th / 61
L. C. Lee
C. H. Lee
48016
ch 2 Jan 29

Page 40

21964

\$ 141 ³⁰/₁₀₀ 494 New York Decr 17th 1860.
Eight months after date we promise to pay to the order
of Cooper & Fellows at Aurora Ill. One hun-
dred & forty one ³⁰/₁₀₀ Dollars. Value Received,

L. W. See
C. W. See

No. Due Augst 17/20th/61

Ch. & Co. 31st

\$ 142. ⁸⁷/₁₀₀ 953 New York Decr 17th 1860.
Ten Months after date we promise to pay to the order
of Cooper & Fellows at Aurora Ill. one hundred
& forty two ⁸⁷/₁₀₀ Dollars. Value Received.

L. W. See
C. W. See

No. Due Oct 17/20th/61

Ch. & Co. 28th

\$ 143 ⁶⁶/₁₀₀ New York Decr 17th 1860.
Eleven Months after date we promise to pay to
the order of Cooper & Fellows. at Aurora Ill.
One hundred & forty three ⁶⁶/₁₀₀ Dollars. Value received,

L. W. See
C. W. See

No. - Due Nov. 17/20th/61

Ch. & Co. Nov 30

\$ 145 ²⁴/₁₀₀ 1423 New York Decr 17th 1860.
Thirteen Months after date we promise to pay to the order of
Cooper & Fellows. at Aurora Ill. One hundred & forty five ²⁴/₁₀₀ Dollars
Value received

L. W. See
C. W. See

No. Due Jan 17/20th/62

Page 41

\$146⁰²/₁₀₀ 1772 New York Dec 17th 1860
Fifteen months after date we promise to pay to
the order of Cooper & Fellows at Aurora Ill.
One hundred & forty six ⁰²/₁₀₀ Dollars. value received
S. K. Lee
Co. - Due Feb'y 17th 20th / 62
C. H. Lee

\$146⁸²/₁₀₀ 2012 New York Dec 17th 1860
Fifteen months after date we promise to pay to the
order of Cooper & Fellows at Aurora Ill. One
hundred & forty six ⁸²/₁₀₀ Dollars value received
S. K. Lee
Co. - Due March 17th 20th / 62
C. H. Lee

\$147⁵⁹/₁₀₀ 2201 New York Dec 17th 1860.
Sixteen months after date we promise to pay to the
order of Cooper & Fellows at Aurora, Ill. One hun-
dred & forty seven ⁵⁹/₁₀₀ Dollars. value received,
S. K. Lee
Co. - Due April 17th 20th / 62.
C. H. Lee

\$148³⁸/₁₀₀ 23469 New York Dec 17th 1860
Seventeen months after date we promise to pay to the order of Cooper &
Fellows at Aurora Ill. one hundred & forty eight ³⁸/₁₀₀ Dollars value
received.
S. K. Lee
Co. - Due May 17th 20th / 62
C. H. Lee

Page 42 \$149 ⁷/₁₀₀ C 2585. New York Dec 17th 1860.
Eighteen Months after date We promise to pay to the
order of Cooper & Fellows at Aurora Ill. one
hundred & forty nine ⁷/₁₀₀ Dollars. Value received.
S. C. Lee
Co. H. Lee
No. Due June 17th 1862.

\$149 ⁹⁶/₁₀₀ New York Dec 17th 1860.
Nineteen Months after date We promise to pay to the
order of Cooper & Fellows, at Aurora Ill. One
hundred & forty nine ⁹⁶/₁₀₀ Dollars. Value received.
S. C. Lee
Co. H. Lee
No. Due July 17th 1862.

\$150 ⁷⁶/₁₀₀ New York Dec 17th 1860.
Twenty Months after date We promise to pay to the
order of Cooper & Fellows, at Aurora Ill. One
hundred & forty nine ⁹⁶/₁₀₀ Dollars. Value received.
S. C. Lee
Co. H. Lee
No. Due Aug 17th 1862.

\$151 ⁵³/₁₀₀ New York Dec 17th 1860.
Twenty one Months after date We promise to pay to the order
of Cooper & Fellows at Aurora Ill. One hundred & fifty
one ⁵³/₁₀₀ Dollars. Value received.
S. C. Lee
Co. H. Lee
No. Due Sept. 17th 1862.

Page 43

~~\$152³²/₁₀₀~~

New York Dec 17th 1860.
Twenty two months after date We promise to pay
to the order of Cooper & Fellows, at Aurora
Ill. One hundred & fifty two ³²/₁₀₀ Dollars.
Value received

No. Due Oct^r 17/20th/62

L. C. See
C. H. See

~~\$153¹⁴/₁₀₀~~

New York Dec 17th 1860.
Twenty three months after date We promise to pay
to the order of Cooper & Fellows, at Aurora
Ill. One hundred & fifty three ¹⁴/₁₀₀ Dollars
Value received.

No. Due Nov^r 17/20th/62

L. C. See
C. H. See

~~\$153⁹⁰/₁₀₀~~

New York Dec 17th 1860.
Twenty four months after date We promise to
pay to the order of Cooper & Fellows
of Aurora Ill. One hundred & fifty
three ⁹⁰/₁₀₀ Dollars value received.

No. Due Dec 17/20th/62

L. C. See
C. H. See

Page 44 \$154⁶⁸/₁₀₀ New York Dec 17th 1860.
Twenty five months after date We promise to
pay to the order of Cooper & Fellows at Aurora
Ill. One hundred & fifty four ⁶⁸/₁₀₀ Dollars
value received.

No. Due Jan'y 17th/20/63
L. W. See
W. H. See

\$155⁴⁷/₁₀₀ New York Dec 17th 1860.
Twenty six months after date We promise to pay
to the order of Cooper & Fellows. at Aurora
Ill. One hundred & fifty five ⁴⁷/₁₀₀ Dollars.
value received.

No. Due July 17th/20th/63
L. W. See
W. H. See

\$156²⁶/₁₀₀ New York Dec 17th 1860.
Twenty seven months after date We promise
to pay to the order of Cooper & Fellows at
Aurora Ill. One hundred & fifty six ²⁶/₁₀₀
Dollars. Value received.

No. Due Mch 7th/20/63
L. W. See
W. H. See

Page 45 ^{\$129.39} New York Dec 17th 1860.
Twenty Eight months after date We promise to
pay to the order of Cooper & Fellows at Aurora
Ill. One hundred & twenty nine \$100 Dollars
value received.

No. Due April 17/20/63
L. W. See
W. W. See

On each of the foregoing Notes is
an endorsement, as follows, to wit:

Filed July 7/63
D. W. Moore
clerk.

Page 46 State of Illinois
Kane County J. A. Thomas & Moore
Clerk of the Circuit, within and for
the County of Kane in the State of
Illinois Certify the foregoing to be a
complete transcript of all orders and
proceedings made and entered of re-
cord, and also true copies of all papers
filed in a certain cause lately de-
termined in said Court, wherein
Joseph M. Cooper was complainant
and Luther C. Lee & Martha C.
Lee were Defendants, in the Chan-
cery side of said Court



Witness Thomas C. Moore
Clerk. of said Court and
the seal thereof at Gena
in said County this 18th
day of April 1863

E. C. Moore
Clerk

Clerk for prison

~~247~~ 70

Luther C. Lee et al

vs

Joseph M. Cooper

Receiv

Filed April 22, 1883
L. Leland
Clerk

For \$40.00
Paid 6 15
Over \$3.95

Supreme Court
State of Illinois

Third Grand Division
April Term A.D. 1864

Luther C. Lee &
Martha C. Lee

Plaintiffs in Error

vs

Joseph M. Cooper
Defendant in Error

Error to Remo

State of Illinois
County of Remo } ss
City of Aurora

Luther C. Lee of the
City of Aurora in said County of Remo
and State aforesaid first being duly sworn
on oath says that he is one of the plaintiffs
in Error in the above entitled suit, And
further says that the said Joseph M. Cooper
Defendant in Error in the above entitled
suit has been for a long time hitherto and
now is a non resident of the State of
Illinois and a resident of the State of
New York and further this affiant
says not

Luther C. Lee

State of Illinois
County of Kane } ss
City of Aurora }

I Charles P. Johnston
Clerk of the Court of Common Pleas of the City
of Aurora in said County and State aforesaid
do hereby certify that the said Luther C. Lee
did on the 13th day of May A D 1863 at my
office in said City subscribe and swear to
the foregoing affidavit in due form of
law

Witness my hand and official
seal this 13th day of May A D
1863 at my office in said
City of Aurora

Chas. P. Johnston
Clerk

Filed May 20, 1863,
Attest
Chas.

70
Luther C. Lee et al.
vs
Joseph M. Cooper
Affidavit of non-residence

State of Illinois p.

Supreme Court in and for
the third Grant division, April term 1864

Elisha C. Lee ^{Att}
Marion G. Lee
Plaintiffs in Error

vs
Joseph M. Cooper
defendant in Error

Error to Kaw County
Circuit Court.

It is hereby stipulated
between the parties to this suit that the decree
below shall be affirmed in all things by this
Court - Each party paying their own costs
in Supreme Court -

Aurora Ill April }
22nd 1864 {

R. G. Montgomery
atty for Plffs in Error
J. D. Hancey for
Def't in Error

Luther C Seedorf
vs
J. Mc. Cooper

Stipulation

Filed April 28, 1864
J. L. Caud MR