

1
State of Illinois } Phas before the Honorable Madison E.
LaSalle County } Hollister Judge of the ninth judicial
district of the State of Illinois and the
presiding Judge of the LaSalle County Circuit Court at a term
of said Court commenced and held at the Court House in
Alton in said County in the second Monday in November
the same being the tenth day of November in the year of
our Lord one thousand eight hundred and fifty six, and of the
Independence of the United States of America the eighty first.
Present the Honorable Madison E. Hollister Presiding Judge
John F. Stark Clerk
William H. S. Wallace State Attorney
Francis Warner Sheriff

"Be it remembered that on Saturday November 27th 1856 the
same being one of the days of the November term of said Court
for the year 1856 an order was entered of record in the records
and signed following viz:

"David S. Hough
Richard Ledy } Ejectment
This day the plaintiff comes and by leave
of the Court files his declaration, and
moves for a rule upon the defendant to plead to said
declaration in twenty days, which motion is sustained
by the Court."

Said declaration is in the records and signed following
to wit:

"State of Illinois LaSalle County ss. LaSalle County
Circuit Court November term AD 1856 - David S. Hough
Complainer of Richard Ledy for that whereas on the 28th day
of November AD 1856 the said David S. Hough was
possessed of Lot five (5) in Block one hundred & nineteen

(119) in the City of LaSalle, in the County of LaSalle & State of Illinois & was sequestrated thereof with a full simple title thereto, and being sequestrated thereof, the said Richard Lord afterwards to wit: on the 29th day of November AD 1836 entered into and took possession of said premises & unlawfully withheld possession thereof from the said David L. Hough, to his damage one hundred dollars & therefore he sues &c David L. Hough Plaintiff

"Richard Lord Esq
You will please take notice that the above declaration in ejectment will be filed with the Clerk of the Court of the Circuit Court for the County of LaSalle & State of Illinois on the 18th day of the present term of said Court, that upon filing the same, a rule will be entered requiring you to appear & plead to said declaration within twenty days after the entry of such rule & that if you fail or neglect so to appear & plead, a judgment of default will be entered against you & the Plaintiff in said declaration mentioned will recover possession of the premises in said declaration mentioned, now occupied by you.
LaSalle November 29, 1836 David L. Hough"

"State of Illinois By John St. Bedard King, just duly sworn
I do hereby certify on oath deposed & says that on the 29th day of November AD 1836 he served a true copy of the within declaration in ejectment & notice on Richard Lord of delivering the same to him personally. Subscribed & sworn to before me By J. St. Bedard
this 29th day of November AD 1836
Nicholas Duncan J.P."

And afterwards to wit: on Monday February 9th 1837 the said King one of the Clerks of the February special term of said Court for the year 1837 another order was entered of record

in due course in the words and figures following to wit:

"David L. Hough

Richard Lord ^{Ejectment} This day the plaintiff comes in his own proper person and the defendants of W. H. L. Wallace his attorney and of consent of parties it is ordered by the Court that the said heretofore entered hearing be read & amended until the tenth day of February instant.

The defendant filed his plea on the 9th day of February 1857 in the words and figures following viz:

"LaSalle County Circuit Court February Special Term 1857 - David L. Hough vs Richard Lord = Ejectment
I am comes the said defendant by John Clark & Wallace his attorneys and defends the same and avers wherefore & says that he is not guilty of the said supposed trespasses upon said to his charge & of this he puts himself upon the Country &c.
John Clark
& W. H. L. Wallace for Defn."

On the sixth day of December 1857 the same being one of the days of the November Term 1857 of said Court the plaintiff filed an affidavit in the words and figures following to wit:

"David L. Hough vs Richard Lord - LaSalle County Circuit Court November Term A.D. 1857 - State of Illinois
LaSalle County ss - David L. Hough being first duly sworn according to law, on oath deposes and says that he is plaintiff in the above entitled cause, that the said cause is an action of ejectment & the property in controversy is set fire in Block one hundred & nineteen in the

City of LaSalle in said County & State - That affiant
 claims title to said property by virtue of a judgment in
 favor of the People of the State of Illinois against one Isaac
 Cook rendered by the aforesaid Circuit Court & a sale
 of said property to affiant upon an Execution legally
 issued upon said judgment & a Sheriff's deed to
 affiant of the property thus sold. And affiant further
 says that at the time of said judgment & of said sale
 said Cook was the owner of said property by virtue of a
 patent for the same issued in his favor by the State
 of Illinois, which said patent is recorded in the office
 of the recorder of deeds for the County aforesaid in
 Book of deeds No 12 page 531. And affiant further
 says that said Cook claims title to said property by virtue
 of a deed from said Cook bearing date August 29, 1854
 & recorded in the office of the recorder of deeds for said
 County in Book 41 pages 676 & 677. And affiant
 further says that said Cook is the real defendant
 in said suit, & that the attorneys of record for the defense
 in said suit are employed by said Cook. And affiant
 further says that said patent is not in his possession
 nor under his control nor within his power nor
 has it ever been at any time in the possession of affiant
 or under his control or within his power.
 Subscribed sworn to before me David L. Hough
 this 1st day of December A.D. 1857.

J. F. Stark Clerk

And afterwards to wit: on said first day of December last
 aforesaid the same being one of the days of the November
 Term of said Court for the year 1857 the following further
 proceedings were entered of record in said cause to wit:

5 David L. Mough

Reuben Lodge

Ejectment

This day the plaintiff comes by Subpoena
Subpoena his attorneys and the defendant by
Sherr, Leach & Wallace his attorneys, and therefore come
the following jurors of a jury to wit: William F. Dwyer, Thomas
J. Wade, D. A. Nicholson, George B. Mearns, Donald Nicholson
Delphus Clark, John Schuler, Ephraim Beaudry, James
Ball, James Perkins, M. M. Dierck, and David R.
Sims who on duly sworn and sworn to well and
lawfully try the issues herein according to the evidence; and
after hearing the testimony and arguments of counsel, the
jury retire to consider of their verdict; and after due
deliberation thereon had return into court the following
verdict to wit: "We the jury find the defendant guilty of
wrongfully withholding from the plaintiff the premises in
the declaration mentioned to wit: Lot five in Block
one hundred and nineteen in the city of LaSalle in the
County of LaSalle and State of Illinois in manner and
form as alleged in said declaration and that the said
plaintiff is seized of an estate in fee simple to said
premises", defendants counsel move now move the Court for a
new trial which motion is overruled by the Court.

It is therefore considered by the Court that the plaintiff
have and possess of the defendant the possession of the premises
as set forth in plaintiff's declaration according to said verdict
that is to say: Lot five in Block one hundred and
nineteen in the city of LaSalle in the County of LaSalle
and State of Illinois, and that a writ of possession issue
therefor, also that the plaintiff have and recover of the defendant
his costs and charges herein expended and that he
have execution therefor.

Defendants attorneys pray an appeal herein to the
Supreme Court, which is granted upon condition that
the defendant file with the Clerk of this Court within

6
July days from and after the adjournment of this Court, an
affidavit be paid payable to the plaintiff in the penal sum of
One hundred and fifty dollars with Isaac Cook as his
Security."

On the second day of December AD 1857 the
Court being one of the days of the Summer Term of said
Court for the year 1857 the defendant filed his bill of
exceptions in the words and figures following viz

" State of Illinois In said County & Circuit Court thereof
Summer Term AD 1857 - David S. Hough vs Richard
Cook - Ejectment - It is remembered that on the
first day of December AD 1857 the Court being one of the
days of the Summer Term AD 1857 of said Court this
cause came on to be tried upon a jury - and on said
trial to maintain the issues on his part the plaintiff
offered in evidence to the Court
First - an affidavit of plaintiff in the words and figures
following that is to say (See Houghs affidavit above)
The defendant by his counsel objected to the sufficiency
of said affidavit to enable plaintiff to introduce
secondary evidence of the contents of the patent described in
said affidavit - But the Court overruled defendants
objection and decided that said affidavit was sufficient
to enable plaintiff to give secondary evidence of the contents
of said patent, to which decision of the Court the defendant
by his counsel then and there excepted - It was conceded
that plaintiff's counsel had served upon defendants
counsel on the evening of the day before the commencement
of the trial a written notice to produce said patent and
it was also conceded that Isaac Cook the patentee
named in said patent resided in Chicago eighty
miles distant from the place of trial, and was not
present at the trial - and that this cause was suffered

7 trial on this day more than three days before the day
of trial

Second - The plaintiff there offered in evidence to the jury
a record Book (bearing first from that the same
was one of the books of records of deeds kept in the
recorder's office of Adams County) containing what
purported to be a record of a patent from the Governor
of the State of Illinois to Isaac Clark for the lot
described in the plaintiff's declaration, which record
was in the words and figures following;

"I, James Ford Governor of the State of Illinois do all
to whom these presents shall come Greeting;

Whereas it appears by the final certificate of Jacob Fay late
acting Commissioner of the Illinois and Michigan
Canal, and now Justice on the part of the State, that in
pursuance of the second section of an act entitled "An act
for the relief of James Ryan of Wild County and others"
approved March 1st 1845 Joshua Pucker did on the
21st day of May 1845, sell at public sale (5) in
which number one hundred and nineteen (119) in
the town of Adams, the said lot having been formerly
appraised at the sum of one hundred and twenty five
dollars and forfeited to the State by non-payment
of installment and interest and which said lot was
admitted to be sold on the 21st day of May 1845
and redeemed by him up to that time. And whereas
the said Joshua Pucker has assigned the said lot to
Isaac Clark.

Now know ye that under and by virtue of the power and
authorities contained in the several acts of the General
assembly of the State of Illinois, there is granted to the
said Isaac Clark his heirs and assigns the lot of
land above described to have and to hold the same
with the appurtenances unto him the said Isaac

Look his heirs and assigns forever.

On Testimony Whereof I have caused these letters to be made patent and the seal of state to be affixed, Done at Springfield this third day of December in the year of our Lord one thousand eight hundred and forty five and of the Independence of the United States the Seventeenth - By the Governor Thomas Ford Thompson Comptroller Secretary of State.

The defendant by his counsel objected to the introduction of said record in evidence but the Court overruled the objection and permitted said record to be read in evidence, to which decision of the Court in overruling defendants objections and in permitting said record to be read in evidence the defendant by his counsel then and there excepted.

Third - The plaintiff then offered in evidence the record of a judgment of the Circuit Court of DuSalle County at the November term of said Court AD 1833 (having first shown that the book containing said record of judgments was one of the books of record of the judgments and proceedings of said Court) which record of judgments was in the words and figures following:

"Friday December 16th"

The People of the State of Illinois

vs. John D. Wallace their
Sole and lawful Attorney
attorney who claims service of notice herein
and enters the appearance of the said defendant. And it appearing to the Court that a execution was issued out of the DuSalle County Circuit Court on the fourth day of June AD 1830 on a judgment obtained therein by the People of the State of Illinois against Matthias App for the sum of sixteen dollars and twenty eight and a half cents directed

to the Sheriff of Cook County to execute, and that said Execution was received by Grace Cook the Sheriff of said County of Cook by John C. Miller his deputy on the 6th day of June A.D. 1830 at 9 o'clock am of that day, and it further appearing to the Court that another Execution for the sum of fourteen ⁴ $\frac{1}{2}$ per dollars was issued out of said Court on the same day on another judgment obtained by the same plaintiffs against the same defendant and directed to the same Sheriff to execute and that the same was received by him by his said deputy John C. Miller on the same 6th day of June A.D. 1830 at 9 o'clock am. And it also appearing to the Court that on the 29th day of July A.D. 1830 the said Grace Cook who was Sheriff of said County of Cook on that day by the hand of his said deputy John C. Miller received from the defendant therein the sum of ten dollars on said Executions, or one of them in part thereof. And it also appearing that on the 19th day of August A.D. 1830 the said Grace Cook who was Sheriff of said County of Cook on that day by the hand of his said deputy John C. Miller received from the defendant the further sum of ten dollars on said Executions or one of them in part thereof, and it further appearing that said Executions have been returned by the said Sheriff by his said deputy to the office of the Clerk of this Court without any endorsement thereon of the receipt of said sums of money and that neither the amount thereof nor any part thereof has been paid over to the said People of the State of Illinois, the plaintiffs therein and that the same has been returned by the said Sheriff Grace Cook in the hands of his said deputy John C. Miller.

And it appearing to the Court that the interest on the aforesaid sums from the time the same were collected unto this date at the rate of twenty per cent per annum amounts to the sum of thirteen dollars and forty one cents which said sums of principal & interest being computed

together amount to the sum of thirty three dollars and forty one cents.

It is therefore considered by the Court that the People of the State of Illinois have and recover of said Bruce both the said sum of thirty three dollars and forty one cents, and their costs and charges by them herein expended & that they have execution therefor.

The defendant by his Counsel then and there objected to the introduction of said record of judgment in evidence but the Court overruled defendants objections and admitted said record of judgment in evidence to which decision of the Court in overruling defendants objections to said record of judgment & in admitting said record of judgment in evidence the defendant by his Counsel then and there excepted.

Fifth - The plaintiff then offered in evidence to the jury a fee book (having just duly from the same to him one of the fee books kept by the Clerk of said Circuit Court) containing the record of a fee bill and bill of costs which fee bill and bill of costs run in the words and figures following

" The People vs
 3 Rock to pay our money
 Bruce Clerk. Expenses costs
 Plaintiff's - Apprais 15, Judge for dcs 20, for costs 20 55
 And for by 20, bill of costs 30, City 20, City of Judge 30 1.00
 Court & Seal 35. Salary 15 50
 Clerk's fee - Serving Exec 40, fid & sh 15, Shiffs over 10 65
 Amount \$ 2.05
 Amount \$ 2.70

The defendant by his Counsel objected to the introduction of said fee book but the Court overruled said objections and admitted said fee book in evidence to which

decision of the Court in annulling defendants objections to said per book and in admitting the same in evidence the defendant of his counsel there and there excepted.

Such - The plaintiff there offered in evidence to the jury an execution and the return thereon which said execution was in the words and figures following

"State of Illinois The People of the State of Illinois to the said County of 3 Sheriff of said County Greeting:
Command you that of the lands and personal goods and chattels of Isaac Cook defendants in said County you cause to be made the sum of thirty three dollars and forty one cents which the People of the State of Illinois plaintiffs satisfy in the Circuit Court of said County at a term thereof begun and hold at Ottawa in said County on the 14th day of November last past record against the said defendant and which by the said Court was adjudged to the said plaintiffs for their damages. And also the further sum of two dollars and seventy cents which was adjudged to said the plaintiffs for their costs and charges in that behalf expended whereby the said defendant is convicted as appears to us of record. And bear you these moneys ready to render to the said plaintiffs for their damages and costs aforesaid and make return of this writ with an endorsement thereon in what manner you shall bear execute the same in ninety days from the date hereof. Witness this Sealed Clerk of said Court and the Seal of said County at Ottawa this 27th day of February AD 1854

(Seal)

P. Lindley Clerk"

(The Clerk made an endorsement on the back of said execution in the words and figures following viz)

"The People vs Isaac Cook - Execution Damages \$33.41

Bill of costs 2.70 = \$ 36.11 = Collected interest from Dec
16th 1833.

The return endorsed on said Execution was in the words
and figures following

" Served on Sub four and five in
Block one hundred & nineteen City of St Louis Aug 28th
1834 R. Thomas Sheriff.

and on the 27th day of April 1834 I served upon the East
pastoral South East quarter of Sec. 6. 33. 41 - R. Thomas Sheriff.
and on the 18th day of May AD 1834 I sold Lot 5. Block 119
in City of St Louis to David L. Hough for twenty dollars and
Lot 4 Block 119 City of St Louis to John L. Mack for ten
dollars and 6 for SE 1/4 Sec. 6. T. 33. R. 41 to Thos. Simley
for thirteen 1/100 dollars which satisfies this execution
R. Thomas Sheriff"

The defendant objected to the introduction of said Execution
and return in evidence - The Court overruled said
objection and admitted said Execution and return in
evidence to which decision of the Court in overruling
defendants objection to said Execution and return and
in admitting the same in evidence the defendant
of his counsel then and there excepted.

Search of the sheriff's office showed in evidence to the jury a
dual from Francis Warren to the plaintiff which did
not in the words and figures following

" Whereas the People of the State of Illinois did at the November
Term AD Eighteen hundred and fifty three (1853) of the
Circuit Court for the County of St Louis render a judgment
against Isaac Cook for the sum of thirty three dollars &
forty one cents & cents of said sum which judgment an
Execution was issued dated on the 27th day of February AD 1854.

directed to the Sheriff of said County of LaSalle to execute &
 by virtue of said Execution Richard Thorne who was then
 the said Sheriff of said County of LaSalle received from the
 hands hereinafter described & on the 18th day of May AD 1837
 the same was struck off & sold to David S. Hough for
 the sum of twenty dollars he being the highest & best
 bidder therefor & the terms the place of the sale thereof
 being & duly advertised according to law
 I am therefore now all of this due that I Francis Warner
 Sheriff of the said County of LaSalle & the successor in office
 of the said Richard Thorne late Sheriff of the said County
 of LaSalle in and consideration of the premises have
 granted bargained & sold & do hereby convey to the said
 David S. Hough his heirs & assigns the following described
 tract of land to wit: Lot five in block one hundred &
 nineteen in the City of LaSalle County of LaSalle and
 State of Illinois To Have and to hold the said described
 premises with all the appurtenances thereto belonging
 to the said David S. Hough his heirs & assigns forever.
 Witness my hand and seal this 28th (Twenty Eighth) day of
 November in the year of our Lord one thousand eight
 hundred and thirty six Francis Warner
 Sheriff of the County of LaSalle

State of Illinois It is known that on the day of the date
 LaSalle County Illinois personally appeared before me John
 F. Schuch Clerk of the Circuit Court within and
 for said County Francis Warner Sheriff of the County aforesaid
 personally known to me to be the said person whose name
 appears subscribed in the foregoing deed of conveyance as having
 executed the same in the capacity of Sheriff of said County and
 acknowledged the execution thereof to be his free act and deed
 for the uses and purposes therein expressed. In Witness Whereof
 I have hereunto set my hand and the seal of said Court at Illinois
 this 28th day of November AD 1836 J. F. Schuch Clerk of Circuit Court
 Secd

On connection with the offering of said deed plaintiff called John F. Stark as a witness and offered to prove by him that Francis Warner was the Successor in office of Sheriff of LaSalle County of Richard Thorne - defendant objected to the competency of the proof and the Court overruled the objection to which decision of the Court the defendant by his counsel then and there excepted - The witness Stark being sworn then testified that Francis Warner was the Successor in office of Richard Thorne as Sheriff of said County and that he (Warner) was acting Sheriff of said County on the day said deed was date and on the day of the acknowledgment thereof - The plaintiff then offered said deed in evidence - the defendant objected - the Court overruled the objection and admitted said deed in evidence to which decision of the Court in overruling said objection and admitting said deed in evidence the defendant by his counsel then and there excepted.

Eighth - The plaintiff then called on E. J. Bull as a witness who being sworn stated that he knew the Lot in Controversy (Lot 5 Block 119 LaSalle) all he knew about the occupancy of said Lot was that prior to Summer 1886 & since that time the fence enclosing said Lot taken in the house in which defendant then and still lives - The house is on an adjoining Lot (Lot 6 Block 119 LaSalle) and the same connects with the Lot in Controversy, except the front of the house which is on to Street - The fence commences at the corner of the house & runs round ten rods to the Lot 10 & 11 - is attached to the house at opposite corners thereof -

On cross examination the witness Bull testified that he did not know who put up the fence spoken of that he never saw defendant exercise any acts of ownership over the Lot in Controversy - that there was no division fence between the Lot in Controversy and Lot 6 on which defendant resides

The case was all the evidence given or offered in the case
The plaintiff asked the Court to instruct the jury as follows

"State of Illinois vs. Sallie Ann - Circuit Court thereof
Nov. 1 1837 - David S. Hough vs. Richard Lloyd
With the Court instructed the jury that the patent from
the State to Cook the judgment execution for work &
things and which had been given in evidence make
a prima facie case in the plaintiff and he is entitled
to recover unless." Which the Court gave to the jury
and in giving of said instruction the defendant
gave his counsel there and there excepted.

The defendant then asked the Court to instruct
the jury as follows

"Before the jury can find a verdict
for the plaintiff in this cause they must believe from the
evidence that the defendant was in possession of the lot
named in plaintiff's declaration at the time of the commence-
ment of this suit. Which instruction the Court
refused to give to the jury, to which decision of the
Court in refusing to give said instruction the
defendant gave his counsel there and there excepted.

The jury found the defendant guilty
as charged in the declaration, and that plaintiff was
seized of a fee simple title to the lot in controversy.

The defendant moved the Court for a
writ of error and the Court granted the motion and gave
the jury on the verdict to which decision of the Court
in granting said motion for a new trial & in
rendering judgment on said verdict the defendant
gave his counsel there and there excepted and says the
Court that this his bill of exceptions may be signed sealed
and made a part of the record which is done in
open Court

M. E. Hollister
Judge of said Court

On the 30th day of December AD 1837 the defendants
filed his appeal bond in the words and figures following
that is to say

"I bind all men by these presents that we Richard Cady
of Audubon County Illinois and Isaac Cook of Cook County
Illinois be and jointly bound with David L.
Hough of LaSalle County Illinois in the penal sum of
One thousand and fifty dollars lawful money of the
United States for the payment of which said & duty to be
made we do hereby bind ourselves our heirs executors
& administrators jointly & severally jointly by these
presents.

Witness our hands & seals this 28th day of December
AD 1837.

The condition of the above obligation is such
that whereas the above named David L. Hough died
at the November term AD 1837 of the LaSalle County Circuit
Court in said State to wit; on the 1st day of December 1837
verdict a judgment against the above named Richard
Cady in an action of Ejectment for Lot 5 in Block
119 in the City of Ash Grove in said LaSalle County
and in the County of said LaSalle from which said
Cady has appealed to the Supreme Court of said State
said Richard Cady shall prosecute his said
appeal with effect without delay and shall pay the said
judgment together with all the interest and costs that
shall accrue or shall accrue thereon and all such
damages as may be awarded against the said Cady in
said LaSalle when the above obligation is made
whenever in full force & interest. Richard Cady Esq
Isaac Cook Esq

By B. C. Cook his atty in fact

19
State of Illinois of J. F. Mark Clerk of the
Said County of Cook Circuit Court in and for said
County and State do hereby certify
that the above and foregoing Comprises a true
and correct copy of the record in the case of
David L. King's Petition and as the same
appears on record and on file in my office

In Testimony Whereof I have hereunto set my hand
and the Seal of said Court at Chicago this 20th
day of January AD 1838

J. F. Mark Clerk

- 18 And now comes the said Appellant by Glover & Look & Wallace his attorneys & says that in the record & proceedings aforesaid & in the rendition of the judgment aforesaid in this writ
- 1st The court erred in admitting in evidence the record of the patent from the state to Isaac Look for the Lot in controversy
 - 2nd The court erred in admitting in evidence the record of the patent against Isaac Look in the Saballe les
 - 3rd The court erred in admitting said fee book in evidence
 - 4th The court erred in admitting the execution aforesaid & the return thereon in evidence
 - 5th The court erred in admitting parol proof to show that Francis Warner was successor in office to Richard Thorne as sheriff of Saballe les
 - 6th The court erred in admitting in evidence the deed from Francis Warner to the Pltff
 - 7th The court erred in ~~giving~~ giving the instruction asked by the Pltff
 - 8th The court erred in refusing the instruction asked for by the Deft
 - 9th The court erred in overruling motion for new trial
 - 10th The court erred in rendering the judgment aforesaid in manner & form aforesaid.

And now comes the said Appellant by Glover & Look & Wallace his attorneys & says that in the record & proceedings aforesaid & in the rendition of the judgment aforesaid in this writ

Glover & Look
& Wallace
for appellant.

And now comes the appellee by Leland & Leland & says there is no error in said record & proceedings & prays an affirmance of the judgment

Leland & Leland

Richard Ledy
to
Dante L. Hough
Friend

705. 1888
Lundy
OK

per \$ 5.15