

No. 14563

Supreme Court of Illinois

Speer

VS.

Hadduck

STATE OF ILLINOIS,
SUPREME COURT,
Third Grand Division

No. 82

Speed

Haddock

1863

14563

~~After~~ of the Court.
 At Mr. Chief-Justice Baton delivered the opinion,
~~Haddock~~

~~Baton~~ ^{and} ~~Spur~~ ^{his} wife executed
 a mortgage to Goodman, who assigned the
 same to Lory, who assigned to Meadows.
 The mortgage contained a power of
 sale as follows: "

"It shall be lawful
 for the said party of the second part, his personal representatives or as-
 signs, either in person, or by attorney duly constituted, to enter upon all
 and singular the premises hereby conveyed, and either in person, or by
 attorney, to sell the same at public auction, after having first given thirty
 (30) days' notice of the time and place of sale, (such sale to be made in
 the city of Chicago,) by advertisement in any one of the daily newspa-
 pers that may at that time be published in said city of Chicago, (personal
 notice of such sale to said party of the first part being hereby expressly
 waived,) and as the attorney of the said party of the first part, by these
 presents for such purpose duly constituted, to make, execute and deliver
 to the purchaser or purchasers at such sale, a good and sufficient deed of
 conveyance for the same," &c.

Meadows advertised, ~~and~~
 sold and conveyed the premises
 in his own name, and not in the name
 and as the attorney of the mortgagors.
 And the only question is, whether this
 conveyed a good title in fee simple
 to the purchaser, Haddock. Manifestly
 it did not. He could only make the
 sale and conveyance under and
 in pursuance of the power contained
 in the mortgage, and that power he was
 bound strictly to follow. That power
 did not authorize ^{him} to sell and convey

the premises in his own name, but it expressly required him to do that as the attorney of the mortgagors, and thus he could only do by using the name of his principal. If it be said that this conveyance at least operated as an assignment of the mortgage, and that Haddock as such assignee had a right to recover on the mortgage for condition broken, then ^{and} the judgment ~~was~~ ^{is} wrong for they find and say that Haddock has the fee simple of the premises.

The judgment is reversed and the cause remanded.

Judgment reversed.

82-12-1

Spur

Hadlock

Opinion

Carow

O.R.

Recorder Book 13

pp 18,

Campan

Supreme Court of Illinois,
THIRD GRAND DIVISION.

APRIL TERM, A. D. 1863.

ISAAC SPEER, PLAINTIFF IN ERROR,

vs.

BENJAMIN F. HADDUCK,
DEFENDANT IN ERROR.

ERROR TO SUPERIOR COURT
OF CHICAGO.

ABSTRACT OF RECORD.

This was an action of Ejectment, brought by Hadduck against Speer, to obtain possession of part of lot one (1), block one hundred and forty-one (141), in School Section addition to Chicago.

3 Declaration in the usual form, with affidavit of service attached.

6 Plea of general issue and joinder.

11 Trial by jury, and verdict that Plaintiff is owner *in fee simple* of the premises, &c., and that Defendant is guilty of withholding the premises, &c.

13 Motion by Defendant for new trial under the statute overruled.

14 Judgment that Plaintiff have and recover from Defendant the possession *in fee simple* of the premises described, &c.

21 BILL OF EXCEPTIONS. *Date Dec 13 - 1856*

The Plaintiff read in evidence a mortgage from Defendant, Speer and wife, to Calvin H. Goodman, for the premises in controversy, to secure the payment of a bond for \$10,000, payable at three years after date, at ten per cent. Mortgage contains no words waiving homestead.

25 The power of sale contained in it is as follows: "It shall be lawful for the said party of the second part, his personal representatives or as-

signs, either in person, or by attorney duly constituted, to enter upon all and singular the premises hereby conveyed, and either in person, or by attorney, to sell the same at public auction, after having first given thirty (30) days' notice of the time and place of sale, (such sale to be made in the city of Chicago,) by advertisement in any one of the daily newspapers that may at that time be published in said city of Chicago, (personal notice of such sale to said party of the first part being hereby expressly waived,) and as the attorney of the said party of the first part, by these presents for such purpose duly constituted, to make, execute and deliver to the purchaser or purchasers at such sale, a good and sufficient deed of conveyance for the same, &c.

34, 35 & 36 Assignment of the bond and mortgage by C. H. Goodman to Seth Terry.

37, 38, 39 & 40. Assignment from Terry to Wadsworth.

The record shows that this assignment was not *endorsed* on either the bond or mortgage.

41 Notice of sale of said premises under the authority contained in the mortgage in Chicago Daily Journal, from May 5th, 1859, to June 7th, 1859, the day of sale.

43 Admitted that *Journal* was one of the daily papers published in city of Chicago.

44 *William O. Grant* testified that he was attorney of Elisha S. Wadsworth, in making the sale under said mortgage and notice. That Wadsworth, personally, on the 7th of June, at 10 A. M., at the north door of the Court House in the city of Chicago, exposed said premises at public auction, and sold the same to Benjamin F. Haddock, the Plaintiff, for \$11,200 cash, &c.

44 Deed from Elisha S. Wadsworth *in person*, and not as attorney for Speer and wife, to Benjamin F. Haddock, for the property in question,
47 in which is recited that the said party of the first part "doth hereby bargain, sell, convey, remise, release and quit claim to said party of the second part, his heirs and assigns forever, all the right, title and interest, either in law or equity which the said party of the first part hath acquired by virtue of the said assignment of the said mortgage deed above mentioned of, in and to the lands, tenements and premises hereinbefore described, &c."

50 Objection and exception by Defendant to the reading of assignment from Terry to Wadsworth, and deed from Wadsworth to Haddock.
Plaintiff here closed.

Defendant then offered to prove by Charles W. Speer that when the mortgage was executed, and from that time to the trial below, the Defendant was a householder and the head of a family, and with said family

resided upon said premises, in a building thereon, and that the debt was not incurred for the improvement of said premises, or the purchase money thereof.

Plaintiff objected, Court sustained and refused to allow the evidence to be given, and Defendant excepted.

ERRORS ASSIGNED.

- 1st. The admission of improper evidence.
- 2d. The rejection of proper evidence offered by Defendant below.
- 3d. The rendering of judgment aforesaid in manner and form aforesaid.
- 4th. The overruling of said motion for a new trial under the Statute.

POINTS FOR PLAINTIFF IN ERROR.

I.

The writing purporting to be an assignment of the bond and mortgage from Terry to Wadsworth, was not *endorsed* on the instruments attempted to be assigned, and therefore did not constitute a *legal* assignment under our Statute, and should therefore not have been admitted in evidence.

1 *Purple Stat.*

Ryan v. Mag, 14 Ill., 59.

Keeler v. Campbell, 24 Ill., 287.

II.

The deed from Wadsworth to Hadduck should not have been admitted as evidence.

1st. Because Wadsworth had no authority to make any deed at all. He was neither the mortgagee nor the mortgagee's personal representative, nor his *legal* assignee, and no other persons had authority under the mortgage either to sell, or make a deed.

2d. The deed from Wadsworth to Hadduck was not within the scope

of the authority contained in the mortgage, and therefore was of no force or effect as against the mortgagor, and conveyed no title to Haddock.

The mortgage directed the mortgagee, his personal representatives or assigns, as the case might be, *as the attorney in fact of the mortgagor, to convey in his name*, and not otherwise.

Many analogous cases in regard to trustees and agents are found in the books, and in them it is uniformly held, that the conveyances made and acts done must be strictly within the scope of the authority, or they are void.

Stainbach v. Reed, 11 *Grat.*, 281.

Osborne v. Homer, 11 *Ind.*, 359.

7 *Ind.*, 356.

15 *Ill.*, 502.

23 *Ill.*, 470.

24 *Ill.*, 317.

Story on Agency Sec 147 & 148
+ Cases cited in notes

III.

There was no waiver of the homestead contained in the mortgage, and the Defendant offered to prove facts showing conclusively that the premises in question were the homestead of the mortgagor, from the time of making the mortgage to the trial below.

That the proof offered was sufficient to show the homestead, is settled in

Kilchen v. Burgwin, 21 *Ill.*, 40.

That the homestead had not been conveyed (there being no express waiver of it in the body of the deed,) is settled in

Vanzant v. Vanzant, 23 *Ill.*, 536.

As the mortgage did not authorize a conveyance of the homestead under the power of sale contained in it,

And as the sale was made for the entire estate, it was invalid.

In view of the foregoing facts, we think the testimony offered by Defendant below was competent, and should not have been excluded.

7. Mass. 14 -
16. Id. 42 -
5. Peters. 319 -
4. Hill. 351. -
7. Cowen. 413 -

IV.

There was a motion for a new trial *under the Statute*. The record shows that there had been only one trial of the case, and the Statute is imperative that, in such case, a new trial shall be granted on payment of costs.

1st Purple's Stat., 508.

The motion was overruled, and judgment rendered. This was error.

GLOVER, COOK & CAMPBELL,
For Plaintiff in Error.

82-21

Sperr

82 ✓

Nadansk

abts + points

Filed April 15, 1843

L. Leland
Clerk

CLOVER COOK & CAMPBELL

W. B. Smith & Co.

1843

1st Public Sale 20th

The motion was overruled, and judgment rendered. The was over.

1843

imperfect that in such case a new trial shall be granted a judgment or shows that there has been only one trial of the case and the court is of opinion that a motion for a new trial is not proper. The court

UNITED STATES OF AMERICA,
STATE OF ILLINOIS, COUNTY OF COOK, SS.

Pleas, before the Honorable, the Judges of the Superior Court of Chicago, within
and for the County of Cook and State of Illinois, at a regular Term of said Superior Court
of Chicago, begun and holden at the Court House, in the City of Chicago, in said County
and State, on the first Monday, being the third day of
March in the year of our Lord One Thousand Eight Hundred
and Sixty two and of the Independence of the United States of America
the Eighty sixth.

Present, The Honorable

John M. Wilson Chief Justice of the }
Superior Court of Chicago. }

Paul Higgins Judges.

Grant Goodrich
Charles Warren Prosecuting Attorney.

Anthony Weiss Sheriff of Cook County.

Thomas Charter Clerk.

It is remembered that heretofore
to wit: on the twenty sixth day of
May in the year of our Lord One
Thousand Eight Hundred and fifty
nine there was filed with the
Clerk of the Superior Court of Chicago
a certain declaration in the
words and figures following to
wit.

United States of America,
State of Illinois,
County of Cook } ss.

Superior Court of Chicago
June Term, A.D. 1859.

Benjamin F. Haddock who is a citizen of the State of Illinois by Shumway Waite & Tourne Attorney complain of Isaac Speer who is a citizen of the State of Illinois in a plea of trespass and ejectment;

For that whereas, heretofore, to wit on the twenty second day of June in the year Eighteen Hundred and Fifty nine (A.D. 1859) at and within the county of Cook and said State of Illinois, the said Plaintiff was possessed as of his own demense, in fee simple, of that certain tract or parcel of land, with the appurtenances, situate in the County of Cook in the said State of Illinois, and described as follows, to wit;

That part of Lot number one (1) in Block number one Hundred and forty one (141) in the School Section addition to the city of Chicago commencing Fifty one (51) feet from the north east corner of said lot on the North Line thereof Thence West Forty two and three fourths ($42\frac{3}{4}$) feet Thence south one hundred and ninety eight (198) feet Thence East Forty two and three fourths ($42\frac{3}{4}$) feet Thence north to place of beginning which said premises exceed in value the sum of Five hundred Dollars, and which the said

4

Plaintiff claim in fee simple,

And the said Plaintiff being so possessed thereof, the said Defendant afterwards, to wit, on the same day and year last aforesaid, entered into the said premises and ejected the said Plaintiff therefrom, and from the time last aforesaid hath unlawfully withheld and doth now unlawfully withhold from the said Plaintiff the possession thereof, to the damage of the said Plaintiff of the sum of Five Hundred Dollars, and therefore he brings suit, &c.

Shumway Waite & Towne atty for Plaintiff.

To Isaac Speer. the above named Defendant,

You are hereby notified that the Declaration, with a copy of which you are now herewith served, and to which this notice is attached, will be filed in the Superior Court of Chicago, on the twenty fifth day of June A.D. 1859, and that upon filing the same a rule will be entered requiring you to appear and plead to the said Declaration within twenty days after the entry of said rule; and that if you neglect so to appear and plead, a judgment by default will be entered against you, and the Plaintiff will recover possession of the premises specified in said Declaration.

Dated this twenty fourth day of June A.D. 1859.

Shumway Waite & Towne.

atty for Plaintiff.

State of Illinois }
County of Cook } ss

Daniel Shepard being duly sworn
deposes and says that on the Twenty fourth day of June
A.D. 1859 he served a copy of the within Declaration & notice
on the within named Isaac Speer by handing said copy to
him at his store and further deponent saith not.

Subscribed & sworn to Daniel Shepard.

this 24th day of June
A.D. 1859 before me

Edward P. Towne

Notary Public.

And afterwards to wit on the same
day and year aforesaid then was
filed in the office of the Clerk
aforesaid a certain Plea
in the words and figures
following to wit.

6

In the Superior Court of
Chicago June Term 1859.
Benjamin F. Waddack
vs
Isaac Spear

And now Comes
the said defendant by R S
Blackwell his attorney and defends
the force and injury &c, and
says that he is not guilty of
unlawfully withholding the
possession of the said premises
from the said plaintiff or any
part thereof from the said
plaintiff in manner and form
as the said plaintiff hath upon
thereof complained against him
in said declaration and of
this the said defendant puts
himself upon the Country &c,
R S Blackwell
p d

Plaintiff does the like &c,
Thurmay. Wait & Towne
Plff atty.

And afterwards to wit. on the
twelfth day of September A D
eighteen hundred and fifty. said
day being one of the days of
the September term of said Court.
the following among other proceed-
ings was had and entered of
Record. to wit:

Benjamin F Haddock
Isaac Speer. Epistmuh

This day again comes
the said plaintiff by Thumay Waite
and Towne his attorneys and the
said defendant by Henry T Lemms
his attorney also comes and issues
being joined herein it is ordered
that a jury come whereupon
come the jury of good and
lawful men to wit. M O'Neil,
James Hamilton, Raymond Rice
E Chaddock, Archibald Waite,
J F Dean L C Mader, Geo Sumford
Blando Falcott, Otis Merrick. P D
Hall W Granger. who being duly
elected tried and sworn to try

8 the issues joined as aforesaid, after hearing evidence in part and the hour of adjournment having arrived it is ordered upon agreement of the parties that the jury separate and meet the Court tomorrow morning.

And afterwards to wit, on the ~~thirteenth~~ day of the same month and year aforesaid said day being still one of the days of the September term of said Court. the following among other proceedings was had and entered of record to wit:

Benjamin F Madduck
Isaac Speer. Exhibitment

And now again comes the parties to this Cause as on yesterday the said

plaintiff by Shumay Warr & Towner
his attorneys and the said defendants
by Herndy & Sumner his attorneys
and the jury empanelled herein
on yesterday for the trial of
this cause also came, and
after hearing further testimony
and the hour of adjournment
having arrived it is ordered
upon agreement of the parties
that the jury separate until
tomorrow morning.

And afterwards to wit on the
fourteenth day of the same month
and year aforesaid. said day
being still one of the days
of said September term of said
Court. the following among other
proceedings was had and
entered of record to wit:

10. Benjamin F. Haddock Esq.
Isaac Speer. Esq.

And now again
comes the parties to this cause
as on yesterday and the
jury empanelled herein for the
trial of this cause also come
and after hearing all the
testimony and the hour of
adjournment having arrived it is
ordered that the jury again
separate until tomorrow Morn-
ing.

And afterwards to wit, on the fifteenth
day of the month and year
aforesaid, said day being still
one of the days of said September
term. The following among other
proceedings was had and
entered of record in said
Court Book:

Benjamin F. Haddock
Isaac Speer. Esq.

And now again
comes the parties to this cause
as on yesterday, and the jury
empanelled herein for the trial
of this cause also come, as
on yesterday and after hearing
arguments of Counsel and the
instructions of the Court retire
to consider of their verdict and
afterwards come into Court
submit their verdict and say
we the jury find plaintiff to be
the owner of the premises
described in his declaration
herein in fee simple and that
the defendant is guilty of
withholding the possession of the
said premises from the said
plaintiff, which said premises
are described in the plaintiff's
declaration as follows to wit:
That part of lot, number one (1)
in Block Number One hundred
and forty one (41) in the school
Section addition to the City of

Chicago, commencing fifty
 one (51) feet from the North East
 Corner of said lot on the north
 line thereof, thence West forty two
 and three fourths ($42\frac{3}{4}$) feet, thence
 South one hundred and ninety
 eight (198) feet, thence East, forty two
 and three fourths feet ($42\frac{3}{4}$) thence
 North to place of beginning,
 And thereupon the said Defendant
 submits his Motion herein for a
 new trial in this Cause.

And afterwards to wit, on the
 Eighth day of March AD Eighteen
 hundred and sixty two said day
 being one of the days of the
 March Term of said Court.
 The following among other
 proceedings was had and
 entered of Record in said Court
 to wit: -

Benjamin F Haddock
Isaac Spear Exhibitment

This day again Comes
said plaintiff by Walter P Towne
his attorneys and said defendant
by Herry & Semmes his attorney
also come and the Cause coming
on now to be heard upon the
motion of said defendant heretofore
submitted herein at the September
term of this Court in the year of
our Lord Eighteen hundred and
sixty for a new trial in said
Cause under the statute and
counsel being heard thereon and
the Court being fully advised in
the premises is of opinion that the
reasons filed by said defendant
in support of his said motion
are not sufficient to maintain
the same. it is therefore considered
by the Court that the motion
of the said defendant for a new
trial herein be and is hereby
overruled. Wherefore said plaintiff
ought to have judgment entered
for possession of the premises

14 described in his declaration upon
the verdict of the jury rendered
as aforesaid.

Whereupon it is considered that
said plaintiff do have and recover
of and from said defendant the
possession in fee simple of the
premises described in plaintiff's
declaration in this cause as that
part of lot Number one (1) in Block
Number one hundred and forty one
(141) in the School Section Addition
to the City of Chicago Commencing
fifty one (51) feet from the north
East Corner of said lot, on the
North line thereof, thence west
forty two and three fourths ($42\frac{3}{4}$)
feet, thence south one hundred
and ninety eight (198) feet, thence
East forty two and three fourths ($42\frac{3}{4}$)
feet, thence North to place of beginning,
to have and to hold the ~~premises~~
aforesaid as the owner of an
Estate in fee simple therein, and
that a writ of possession issue
therefor directed to the Sheriff of
Cook County, Commanding
him to deliver to said plaintiff

the possession of the premises herein
before described, according to the
form and effect of his said
decrees.

And it is further considered
that said plaintiff do have and recover
of and from said defendant his
Costs and Charges in this behalf
Expended and have Execution
therefor.

And thereupon said defendant prays an appeal herein to the Supreme Court of this state, from the judgment of this Court, which is allowed to him upon filing his appeal bond in the penalty of Five hundred dollars with security to be approved by a Judge of this Court and to be filed with his bill of exceptions within thirty days from the date of this order.



A hand-drawn zigzag line on lined paper. The line starts at the bottom left, moves diagonally up to the right, then diagonally down to the right, then diagonally up to the right, and finally diagonally down to the right, ending at the top right. The line is drawn with a dark pen or marker.

16 and afterwards to wit. on the
twenty ~~ninth~~ day of the same month
and year aforesaid. said day
being one of the days of the
March term aforesaid. the
following among other proceedings
was had and entered of record
to wit:

Benjamin F. Haddock
Esq. Plaintiff
vs. Isaac Speer. Defendant

On Motion Hervey
and Sumner Attorneys for said
Defendant it is ordered that time
to file his bill of Exceptions herein
on appeal to Supreme Court. be
and the same is hereby Ex-
tended from this day to the
first day of the next term
of this Court.

And afterwards to wit on the
same day and year aforesaid
the was filed in the office
of the Clerk aforesaid a
Certain appeal bond in
the words and figures
following to wit.

Know all men by these
presents. That We Isaac Speer,
and John M Van Osdel of the
County of Cook and State of
Illinois are held and firmly
bound unto Benjamin F
Haddock also of the same
County and State in the
penal sum of Five Hundred
\$500, Dollars lawful money
of the United States for the
payment of which, well and
truly to be made we bind
ourselves, our heirs, Executors,
and administrators, jointly
severally and firmly by these
presents. — Witness our hands

14 and seals this 29th day of
March A.D. 1862.

The condition of the above
obligation is such, that
whereas the said Benjamin
F. Haddock did on the eighth
day of March A.D. 1862 in the
Superior Court of Chicago in
and for the County of Cook
and State aforesaid, and
of the March term thereof
A.D. 1862. render a judgment
against the above bounden
Isaac Spur in an action of
Ejectment to recover the
possession of lot 1 in Block
141. School Section Addition
to Chicago besides costs of
suit from which said
judgment of the said Superior
Court of Chicago the said Isaac
Spur has prayed for, and
obtained an appeal to the
Supreme Court of this State.

Now therefore if the said
Isaac Spur shall duly prosecute
his said appeal with effect
and moreover, surrender possession

of said premises pay the amount
of the judgment. Costs interests
and damages rendered and to
be rendered against him in
Case the said judgment shall
be affirmed in said Supreme
Court, and shall also pay all
rents for said premises to accrue
from the date of the rendition
of said judgment in said Superior
Court of Chicago then the
above obligations to be void,
otherwise to remain in full force
and virtue.

Taken and Signed Special
entered into before John W Van Osdel Esq
me at my office
in Chicago this 29th day
of March A.D. 1862.
Wm A Higgins Judge.

And afterwards to wit in the
seventh day of April in the
year aforesaid there was
filed in the office of the
Clerk aforesaid a certain
Bill of Exceptions in the
words and figures following
to wit.

A vertical line drawing of a wavy, zigzag pattern, possibly representing a stylized letter or a decorative element. The line starts at the top left, moves right, then down, then right, then down, and so on, creating a series of peaks and valleys. The pattern is drawn on a background of horizontal lines.

A hand-drawn sine wave on lined paper. The wave is drawn with a black pen and oscillates horizontally across the page. It starts with a small peak on the left, followed by a series of larger, more regular peaks and troughs, ending with a small peak on the right. The amplitude of the oscillations varies slightly, giving it a natural, hand-drawn appearance. The background consists of horizontal blue lines on a white paper.

State of Illinois }
Cook County } s.s.

Superior Court of Chicago -
Benjamin F. Haddock

vs.
Isaac Speer. — }

Be it remembered that this Cause came on for trial at the September Term A.D. 1860 of said Court, and the Plaintiff to maintain the issue on his part offered in evidence a deed of Mortgage from the Defendant Isaac Speer and his wife to Calvin H. Goodman of the premises in controversy which said Mortgage is in words and figures following -

"This Indenture made this thirtieth day of
"March in the year of our Lord One Thousand
"Eight Hundred and fifty six, Between Isaac
"Speer and Verriah his wife of the City of
"Chicago in the County of Cook and State of
"Illinois - Party of the first part and Calvin
"H Goodman of the City and County of Hart-
"ford & State of Connecticut Party of the second
"part. Witnesseth That whereas the said
"Isaac Speer is justly indebted unto the
"said party of the second part in the full
"sum of Ten Thousand dollars, secured to
"be paid by a certain Bond or writing
"obligatory with interest notes attached thereto
"commonly called a Coupon Bond duly executed
"by the said Isaac Speer & bearing ^{even} date here-
"with which said Bond is conditioned in
"the penal sum of Twenty Thousand Dollars
"for the payment of Ten Thousand ^(10,000) Dollars

"in three (3) years from the date thereof to said
 "party of the second part his executors administra-
 "tors or assigns with semi-annual interest
 "thereon at the rate of ten (10 %) per centum p
 "annum (said bond being given to secure
 "an actual loan of money) and in the Condition
 "of which said Bond is contained (among
 "other things) a proviso that if default is
 "made in the payment of any part of the
 "interest on the said principal sum as
 "aforesaid & any portion of said interest shall
 "remain due & unpaid for the space of ten (10)
 "days after the same shall become due & payable
 "according to the recital & condition of said
 "Bond then & in that case the said principal
 "sum together with all arrearages of interest
 "thereon shall at the option of said Calvin H.
 "Goodman his executors Administrators or
 "assigns thereupon become due & payable &
 "may be demanded immediately or at any
 "time within ten days after any such default
 "anything thereinbefore contained to the contrary
 "notwithstanding - Now Therefore these
 "Presents witness That the said party
 "of the first part in order to secure
 "the prompt & punctual payment of the
 "said sum of money in the condition of
 "said Bond mentioned with interest
 "thereon according to the true intent &
 "meaning thereof & in consideration of
 "one dollar to them paid by said Party of
 "the second part (the receipt whereof is
 "hereby acknowledged) have granted

"bargained & sold & by these presents do grant bargain
"sell unto said party of the second part his
"his and assigns forever. all of the following
"described property situate in the City of Chicago
"aforesaid - That is to say. That part of lot
"numbered one (1) in Block numbered one
"hundred & forty one (141) in the school
"section addition to said Chicago, com-
"mencing fifty one (51) feet from the
"North East corner of said lot on the
"North line thereof, thence West forty two
"and three fourths ($42\frac{3}{4}$) feet - thence
"South one hundred and ninety eight
"(198) feet, thence East forty two feet
"and three fourths ($42\frac{3}{4}$) of a foot;
"thence North to the place of beginning
"To Have and to Hold the above granted
"described premises with the tenements, her-
"editaments & appurtenances therunto belonging
"or in any wise appertaining to the said party
"of the second part his heirs and assigns
"forever. Provided always & these presents
"are upon this express condition nevertheless
"that if said party of the first part, their
"heirs Executors Administrators or assigns
"shall well and truly pay or cause to be paid
"unto said party of the second part, his
"Executors Administrators or assigns the
"said sum of money specified in the condi-
"tion of said bond with the interest thereon
"at the time & times respectively when the same
"shall become due & payable as in and by said Bond
"mentioned and set forth according to the true
"intent & meaning thereof - That then & from

24 "thenceforth these presents & the estate hereby granted
"shall cease determine & become utterly null and
"void anything herein contained to the contrary
"notwithstanding - And the said party of
"the first part for themselves & for their heirs Exe-
"cutors administrators & assigns do hereby
"covenant & agree to & with the said party of
"the second part that they will well and truly
"pay the said sum of money in said Bond
"mentioned with the interest thereon as in
"said Bond specified at the time and times
"respectively when the same shall become due -
"Also that they will not at any time until
"said principal sum with the interest thereon
"shall be fully paid, suffer said premises
"or any part thereof to be sold for any tax
"or assessment whatsoever whether ordinary
"or extraordinary, nor will they permit any
"thing to be done upon or about said premises
"that shall lessen the value thereof or in any wise
"weaken or impair the security intended to be
"hereby effected - But it is hereby expressly
"agreed and fully understood by & between the
"parties hereto that in case of default in
"the payment of said sum of money in said
"bond mentioned or in any one of the instal-
"ments of interest to grow due thereon at the
"time when the same shall become due & for
"ten (10) days thereafter - the whole sum
"hereby secured shall thereupon become due
"payable & may be immediately thereafter
"demanded any thing herein or in said
"Bond contained to the contrary notwithstanding
"any or if said party of the first part shall

" suffer said premises or any part thereof to be sold
 " for any taxes or assessments of whatever kind or
 " nature, or shall do or permit or suffer any
 " thing to be done upon in or about said
 " premises that shall tend to lessen the value
 " thereof or weaken and impair the security to be
 " hereby effected that then and in that case
 " the said sum of money hereby secured
 " shall forthwith become due and payable as
 " aforesaid & it shall be lawful for said party
 " of the second part his personal representative's
 " or assigns either in person or by attorney
 " duly constituted to enter into & upon all &
 " singular the premises hereby conveyed & either
 " in person or by attorney to sell the same
 " at public auction after having first given
 " thirty (30) days notice of the time & place of
 " sale (such sale to be made in the City of
 " Chicago) by advertisement in any one of the
 " daily newspapers that may at that time be
 " published in said City of Chicago (personal
 " notice of such sale to said party of the first
 " part ^{being hereby expressly waived} ~~by these parties~~ ^{and as the attorney of said} for such purpose duly
 " constituted to make execute and deliver to
 " the purchaser or purchasers at such sale a
 " good & sufficient deed or deeds of conveyance
 " for the same in the law in fee simple, with or
 " without covenants of warranty as he may
 " think best & out of the proceeds or avails
 " of such sale to retain the amount which
 " may then be due on said Bond & interest
 " notes (it being lawful for said party
 " of the second part his personal represen-
 " tatives or assigns to declare the entire

" sum hereby secured to be ~~paid~~ due in case of a
 " breach of any of the covenants herein contained)
 " and also all tax assessments & redemption
 " moneys which may have been paid by said
 " party of the second part or his legal represen-
 " tatives for the redemption from any tax or
 " assessment sale or sales of said premises or
 " any part thereof with interest from the time
 " of passing the same together with all the
 " costs charges & expenses of advertising &
 " selling the said premises rendering the
 " overplus (if any there shall be) unto the
 " said party of the first part their executors
 " Administrators ~~and~~ ^{or} assigns which sale
 " so to be made shall forever be a perpetual
 " bar both at Law and in equity against
 " the said party of the first part their heirs
 " and assigns & all other persons claiming or
 " to claim said premises or any part thereof
 " by through or under them or either of them.

" And it is hereby declared by said party
 " of the first part that in no case shall it
 " be the duty of the purchaser or purchasers
 " at such sale to see to the application of
 " the purchase money. And the said Isaac
 " Spurr for himself & for his heirs executors
 " & Administrator ^{doth} hereby covenant and
 " agree to and with the said party of the
 " second part his heirs executors Adminis-
 " trators and Assigns that at the time
 " of the making & delivery of these presents
 " he the said Isaac is well seized of
 " the above granted premises as of a

" perfect and absolute estate of inheritance in
 " the law in fee simple & hath good right full
 " power & lawful authority to convey the same in
 " manner aforesaid. That the same are free
 " and clear of & from all incumbrances of what
 " kind and nature soever. And the above
 " granted & described premises in the quiet &
 " peaceable possession of the said party of the second
 " part his heirs and assigns & all & every person
 " or persons whatsoever claiming under & by
 " virtue of these presents or of any deeds
 " executed in the manner herein prescribed
 " against all persons claiming to hold the
 " whole or any part of said premises shall
 " hold Warrant and forever Defend.
 " In Witness whereof the said party of
 " the first part have hereunto set their
 " hands & affixed their seals the day and
 " year first above written"

Isaac Spear
 Veleriah Spear.



State of Illinois
 County of Cook
 City of Chicago

" I George Huntington
 " a Notary Public in & for said City
 " in said County in the State aforesaid do
 " hereby certify That Isaac Spear and Veleriah
 " (his wife) who are personally known to me
 " as the same persons whose names are subscri-
 " bed to the within Deed, appeared before me
 " this day, in person, and acknowledged that
 " they executed and delivered the said instrument
 " of writing as their free and voluntary act

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"for the uses and purposes therein set forth -
 "And the said Veriack wife of the said Isaac
 "Speer having been by me examined separately
 "and apart and out of the hearing of her hus-
 "band, and the contents and meaning of the
 "said instrument in writing having been
 "by me fully made known and explained
 "to her, acknowledged that she had freely
 "and voluntarily executed the same and
 "relinquished her dower and all other right
 "title and interest in and to the lands and
 "tenements therein mentioned without
 "compulsion of her husband and that
 "she does not wish to retract the same.

"Given under my hand and Notarial
 "Seal this first day of May AD 1856.

(L. S.)

"Alonso Huntington
 "Notary Public -

(Endorsed)

"Isaac Speer et ux.

to

"Calvin H. Goodman.

"Mortgage -

№ 70. 227.

"State of Illinois

"Coon County Is. Filed for Record May

"1/56 & recorded in book 25 of Mortgages page 10 -

L D Howard Clerk

And the same was read in evidence, The Plaintiff then offered and read in evidence a bond secured by said Mortgage & endorsements thereon, which said Bond and endorsements is in the words and figures following -

"United States of America"
State of Illinois

"\$10,000:-

"P 1.

"Know all men by these presents
"that I Isaac Spur of the City of Chicago
"County of Cook & State of Illinois am
"led and firmly bound unto Calvin H.
"Goodman of the City & County of Hartford
"and State of Connecticut in the full
"sum of Twenty Thousand (\$20,000.)
"100 Dollars To be paid unto the said
"Calvin H. Goodman his Executors Adminis-
"trators and Assigns; for which payment
"well and truly to be made I bind myself
"my heirs Executors and Administrators
"firmly by these presents. Sealed with my
"Seal and dated at Chicago in the State of
"Illinois the thirteenth day of March A.D.
"1856.

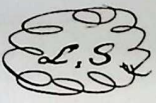
"The Condition of this Obligation is such
"That whereas the above bounden Isaac Spur
"is justly indebted unto the above named
"Calvin H. Goodman in the principal sum of
"Ten Thousand (\$10,000) 100 Dollars. for so
"much money actually loaned by the said
"Calvin H. Goodman to the said Isaac Spur
"at Chicago in the State of Illinois which sum
"is agreed to be paid by the said Isaac

" Spent to the said Calvin H. Goodman his executors
 " Administrators or assigns in three (3) years
 " from the thirtieth day of March A.D. 1856.
 " which will be on the thirtieth day of March
 " 1859 with ten per cent interest per annum for
 " the same to be computed from the thirtieth day
 " of March A.D. 1856. and which interest shall
 " be paid semi-annually viz' on the thirtieth
 " day of March and on the thirtieth day of
 " September in each and every year, until the
 " said principal sum is fully paid and
 " which said interest payments (until said
 " principal sum shall become due) are specified
 " in, and further secured by six (6) Interest Notes
 " or Coupons of one date herewith, signed by
 " the said Isaac Spear and numbered in suc-
 " cession from A one to A 6. inclusive, and
 " all made payable to the order of ~~the~~ said
 " Calvin H. Goodman ~

" Now if the above bounden Isaac Spear
 " his heirs Executors or Administrators shall
 " well and truly pay to the said Calvin H.
 " Goodman his executors Administrators or
 " assigns the said principal sum of money
 " and the said instalments of interest, at the
 " time and times aforesaid, then and in such
 " case this obligation to be void otherwise to remain
 " in full force and virtue ~

" Provided nevertheless, and it is hereby
 " expressly agreed and fully understood
 " that if default be made in the payment of any
 " of the interest on the principal sum as afore-
 " said and any portion thereof shall remain
 " due and unpaid for the space of ten days

" after the same shall become due and payable
" according to the above recital and condition, then
" and in that case, the said principal sum
" together with all arrearages of interest thereon
" shall at the option of Calvin H. Goodman his
" executors ^{said} Administrators or assigns, thereupon
" become due and payable and may be demanded
" immediately or at any time within ten days
" after ^{any} such default, any thing hereinbefore
" contained to the contrary notwithstanding

" This Bond is secured by a certain mort-
" gage of even date herewith and made by said
" Isaac Spur & Elviraiah his wife to said Calvin
" H. Goodman his heirs executors Administra-
" tors and Assigns which will appear on the
" Record of Cook County in the State of Illinois
" In presence of
" Tho Hoge Isaac Spur 
" Moses Shultze.

(Endorsed)

" In consideration of the sum of Ten Thousand
" (\$10.000) Dollars to me in hand paid by Seth
" Terry Commissioner of the American Asylum
" of Hartford Connecticut, of Hartford aforesaid
" said the receipt whereof is hereby acknowledged
" I do hereby transfer assign and set over unto
" the said Seth Terry Commissioner as aforesaid
" his successor in office and assigns, all my
" right title and interest of in and to the
" within instrument and I hereby constitute
" the said Seth Terry Commissioner as
" aforesaid my Attorney in my name or
" otherwise but at his own costs and charge

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" to take all such legal measures as may be necessary
 " for the recovery of the premises hereby assigned
 " and I hereby guarantee the prompt payment
 " of this bond at maturity

" In Witness whereof I have hereunto set
 " my hand and seal this first day of May

" A.D. 1856 -

" In presence of

" (Before execution the word

" "his" in the sixth line erased,

" & "successor in office" inserted

" in lieu thereof -

" Thos Hage

" Moses Hallitt".

C H Goodman L.S.

(Endorsed)

" 10 Percent Coupon Bond -

" No 1

Isaac Spear -

to

Calvin H. Goodman

" Principal \$10,000 - due Mar. 13. 1857.

" Six (6) Interest Coupons \$500th each, payable

" on the 13th day of March and on the 13th day of

" September in each year -

Also a Coupon or interest note with endorse-
 ments likewise secured by said mortgage which
 said Coupon and endorsements is in words
 and figures following:

" \$1500th. Chicago Ill March 13. 1856

" On the thirteenth day of March A.D. 1857 I

" promise to pay to the order of C H Goodman

" of Haulford Conn Five Hundred (\$500⁰⁰)
 " Dollars, for value received being for interest due
 " on that day on my bond N^o 1 dated March
 " 13 A.D. 1856, at Chicago Ill which said Bond
 " is made payable in three years after the date
 " thereof."

N^o 6.

Isaac Speer

(Endorsed)

" Pay to E S Hadsworth or order.

" The payment of the within note is hereby
 " guaranteed at maturity & notice of cash on
 " waived."

C H Goodman.

" State of Illinois
 " County of Cook (Ss.
 " City of Chicago }

Be it known That on this
 " Sixteenth day of March in the year of our Lord
 " One Thousand Eight Hundred and fifty nine
 " J. L. C. Ellsworth Notary Public duly Com-
 " missioned and sworn residing in the City of
 " Chicago in the said County and State, at the
 " request of Merford Brown with the original
 " Coupon which is above to Isaac Speer Office
 " and demanded payment thereof which was
 " refused. Whereupon I the said Notary at
 " the request of aforesaid did protest and by
 " these presents do solemnly protest as well
 " against the maker of said Coupon the
 " endorses thereof as all others whom it may
 " or doth concern for exchange or exchange
 " and all Costs charges damages and interest
 " already incurred by reason of the nonpayment

" of the said Coupon - And I the said Notary, do
 " hereby certify that on the same day and year
 " above written due notice of the foregoing protest
 " was put in the Post Office at Chicago as follows,
 Notice for Isaac Spear. Chicago Ill
 " for C H Goodman. Hartford Conn

" Each of the above named places being the reputed
 " place of residence of the persons to whom this
 " notice was directed.

L.S.

" In Testimony whereof I have hereunto
 " set my hand and affixed my official
 " Seal the day and year above written
 " L C Ellsworth
 Notary Public
 4. 1. 78

The plaintiff then offered and read in evi-
 dence, an assignment of said Bond Mortgage
 and Coupon which said Assignment is in
 words and figures following, viz.

" Calvin H Goodman To Seth Terry Commr. & Apts.
 " Isaac Spear & } Mortgage dated the
 " Veleiah Spear his wife } thirtieth day of March
 " to } A.D. 1856. executed by
 " Calvin H. Goodman } Isaac Spear and
 " Veleiah his wife to
 " Calvin H. Goodman on certain premises described
 " therein being part of lot one (1) in Block one hundred
 " and forty one (141) in the School section addition
 " to the City of Chicago Cook County, Illinois, and
 " duly recorded in Recorder's Office of Cook County

" aforesaid, and

" Isaac Spear

to

" Calvin H. Goodman

(A certain Coupon Bond

bearing date the day

year aforesaid

executed by Isaac

" Spear to Calvin H. Goodman aforesaid in the

" principal sum of Twenty Thousand (\$20,000.) Dollars

" conditioned for the payment of Ten Thousand

" (\$10,000.) Dollars secured by the above mortgage

" on the thirteenth day of March which will be in

" the year A.D. 1859, with semi annual interest

" at ten (10%) per annum the said Bond having

" been given to secure an actual loan of money,

" In consideration of Ten Thousand

" (\$10,000) Dollars to me in hand by Seth Terry

" Commissioner of the American Asylum of

" Hartford Connecticut the receipt whereof is hereby

" acknowledged I do hereby assign transfer and

" ~~it~~ over unto the said Seth Terry Commissioner

" as aforesaid and his Successors in Office the

" mortgage above described together with the

" bond accompanying the same as aforesaid

" for his own use and benefit hereby authorizing

" him to collect and enforce payment thereof in

" my name or otherwise but at his own costs

" and charges.

" And I do hereby Covenant that the sum

" of Ten Thousand (\$10,000) dollars with interest

" since the thirteenth day of March last past

" is now due and owing on the said Bond and

" Mortgage and that I have good right to sell

" and Assign the same.

" In Witness whereof I have hereunto

" set my hand and seal this first day of,

May A.D. 1856.

Witness

C H Goodman

L.S.

Thomas Hoge

Moses Hattitt

State of Illinois

Cook County

I L C Hull a
Notary Public for the City of

Chicago in the County and State aforesaid

Do hereby Certify that C. H. Goodman who is
personally known to me to be the same person
whose name is subscribed to the annexed
assignment appeared before me this day
in person and acknowledged that he had
assigned sealed and delivered the said
instrument of writing as his free act and
deed for the uses and purposes therein
expressed.

Given under my hand and
Notarial Seal this first day
of May A.D. 1856.

L C Hull

Notary Public -

Sp 70 228 Filed for record May 1. 1856. &
Recorded Book 25 of Mortgages p. 13."

~~The Plaintiff then offered in evidence
the daily files of the Chicago Daily Journal
a newspaper published in Chicago, showing
the daily publication's Sundays excepted
from May 5th 1859. to the seventh of June
A.D. 1859. in said paper during all of
said times of the following notice~~

The Plaintiff then offered and read in evidence the Assignment from Seth Terry to Eliza S. Woodward as follows;

"Know all Men by these presents that
 " whereas Isaac Spur and Verriah his Wife of
 " the City of Chicago in the County of Cook and State
 " of Illinois on the thirtieth day of March A.D.
 " 1856. by their Deed of Mortgage of that date for
 " the consideration of Ten Thousand Dollars, did
 " grant bargain sell & convey unto Calvin H.
 " Goodman of the City and County of Hartford
 " in the State of Connecticut, his heirs and
 " Assigns, all and singular the following des-
 " cribed premises situate in the City of Chicago
 " County of Cook aforesaid, that is to say -
 " That part of Lot numbered One (1) in Block
 " numbered one hundred and forty one (141)
 " in the School Section addition to the said
 " Chicago commencing fifty one (51) feet from
 " the North East Corner of said Lot on the
 " North line thereof, thence West forty two
 " and three fourths ($42\frac{3}{4}$) feet, thence South
 " One hundred and ninety eight (198) feet
 " thence East forty two and three fourths ($42\frac{3}{4}$)
 " feet, thence North to the place of beginning.

"To Have and to Hold the above
 " granted and described premises with the
 " tenements hereditaments and appurtenan-
 " ces thereunto belonging or in any wise
 " appertaining to the said Calvin H Goodman
 " his heirs and Assigns forever - to secure the
 " payment of a certain Bond described in
 " said Mortgage, bearing date the day and
 " year aforesaid Conditioned for the payment

" of Ten Thousand Dollars on the thirtieth day
 " of March A.D. 1859. together with semi-annual
 " interest thereon at the rate of ten per Cent
 " per annum, which said Mortgage is recorded
 " in the Office of the Recorder for the County of
 " Cook, State of Illinois in Book 25 of
 " Mortgages page 10 -

" And whereas the said Calvin H.
 " Goodman on the first day of May A.D. 1856
 " by his Deed of Assignment of that date, did
 " grant bargain sell transfer assign and
 " make over unto Seth Terry Commissioner
 " of the American Asylum of Hartford in the
 " State of Connecticut, for the consideration of
 " ~~the sum of~~ Ten Thousand Dollars, the above
 " ~~mentioned~~ described Mortgage and Bond together
 " with all his right title and interest therein
 " which said Deed of Assignment was filed
 " for record in the Office of the Recorder for
 " the County of Cook aforesaid on the first
 " day of May A.D. 1856.

" Now therefore I Seth Terry Commissioner
 " of the American Asylum of Hartford in the
 " State of Connecticut, in consideration of the
 " sum of Ten Thousand and Five hundred
 " Dollars to me in hand paid before the
 " sealing hereof by Elisha S. Wadsworth
 " of the County of Cook and State of Illinois
 " do by these presents grant bargain sell
 " transfer assign and make over unto the said
 " Elisha S. Wadsworth his heirs and assigns
 " forever the above described premises -

" To Have and to Hold the same to him

" the said Elisha S. Wadsworth his heirs and
" assigns forever as fully and in as ample a
" manner as I the said Seth Terry Commissioner
" as aforesaid my heirs and assigns and successors
" in Office, might hold and enjoy the same.

" And I do for myself my successors in
" Office, my heirs Executors and Administrators
" hereby authorize and empower the said
" Elisha S. Wadsworth his heirs, assigns,
" Executors and Administrators to receive to
" his and their own use the sum or sums of
" money mentioned in the said Deed or
" Bond, whenever the same shall be tendered
" or paid to him or them by the said Isaac
" Spear his heirs Executors or Administrators
" agreeably thereto and to discharge the said
" Mortgage or to take and pursue such other
" steps and means for the recovery of the same
" sum or sums with the interest by the sale of
" the said mortgaged premises, or otherwise, as by
" law is provided as fully to all intents and
" purposes as I the said Seth Terry Commissioner
" as aforesaid my successors in Office, heirs
" Executors or Administrators, might or could
" do in the premises -

" And I the said Seth Terry
" Commissioner as aforesaid, for myself
" my successors in Office, my heirs execu-
" tors and ~~assigns~~ administrators covenant
" with the said Elisha S. Wadsworth his
" heirs and assigns that I have good
" rights to assign the said premises aforesaid
" and that he the said Elisha S. Wadsworth
" shall and may ^{have} hold occupy possess and

" enjoy the same against the lawful claim of
 " all persons.

" In Witness whereof I have hereunto
 " set my hand and seal this first day
 " of April A.D. 1859.

" Signed sealed and { Seth Terry L.S.
 " delivered in presence of { Commissioner of the
 " James Nichols { American Asylum of
 " John Hooper. { Hartford -

" State of Connecticut.
 " County and City of { Ss.
 " Hartford -

" I James Nichols, a
 " Notary Public in and for said State
 " aforesaid do hereby Certify that Seth
 " Terry, Commissioner of the American
 " Asylum at Hartford, State aforesaid
 " who is personally known to me as the
 " same person whose name is subscribed
 " to the annexed Deed appeared before
 " me this day in person and acknowledged
 " that he signed sealed and delivered
 " the said instrument of writing as his
 " free and voluntary act for the uses
 " and purposes therein set forth.

L.S.

" Given under my hand and
 " Notarial Seal this First day
 " of April A.D. 1859.

" James Nichols
 " Notary Public.

6.
(Indorsed)

Seth Terry
to
Elisha S. Wadsworth.

21. 216.

" State of Illinois
" Cook County }

" Filed for Record 26 July 1859
" and duly recorded in Book No 179 of
" Deeds at Page 387.

J. L. Church

Ch^{to}

(Objected to by Defendant)

The Plaintiff then offered in evidence the daily files of the Chicago Daily Journal a newspaper published in Chicago, showing the daily publication sundays excepted from May 5th A.D. 1859 to the seventh of June A.D. 1859. in said paper during all of said time of the following notice -

"Mortgage Sale -

" Whereas Isaac Spur and Verleniah
" Spur his wife on the thirtieth (13) day
" of March A.D. 1856. did make and
" execute their deed of Mortgage of that date
" to the following described premises, situate
" in the City of Chicago County of Cook
" and State of Illinois, that is to say,
" that part of Lot numbered one hundred
" and forty one (141) in the School Section
" addition to the said Chicago, commencing
41 " fifty one (51.) feet from the north East

corner of said lot on the North line thereof
 thence West forty two and three fourths ($42\frac{3}{4}$)
 feet thence North to the place of beginning, to
 secure the payment of a certain bond described
 in said Mortgage, bearing date the day &
 year aforesaid Conditioned for the payment
 of Ten Thousand dollars on the thirtieth
 (13) day of March AD 1859 together with
 semi annual interest thereon at the rate
 of ten per cent per annum, which said
 Mortgage is duly recorded in the Recorder's
 Office for the County of Cook and State aforesaid
 in book 25 of Mortgages at page 10

And whereas said Mortgage, amongst
 other things provided that if default be
 made in the payment of said bond or of
 the interest due thereon on the day or days
 whenon the same shall become due & payable
 and for ten days thereafter that then and
 in that case the Mortgagee in said Mortgage
 or his assigns are empowered by said Mort-
 gage after publishing a notice thereof in a
 newspaper printed in the City of Chicago for
 30 days to sell the said premises and all
 equity of Redemption of the said Isaac Spur
 and Valeriah his wife, to the highest bidder
 for cash, and to make execute and deliver
 to the purchaser or purchasers thereof
 good and sufficient conveyances of the same

Now therefore, default having been
 made in the payment of said bond and
 of the last instalment of interest thereon,
 Notice is hereby given that, I, Elisha S

"Wadsworth the assignee of said mortgage
"and Bond and the legal owner of the same
"will sell the above described premises and
"all equity of redemption of said grantors
"to the highest and best bidder for cash on
"Tuesday the 7th day of June next at ten
"o'clock in the forenoon at the North door
"of the Court house in said Chicago -

"Elisha J Wadsworth
"Chicago May 15th 1859. "Assignee of said mortgage

"This is to certify That the annexed
"Mortgage Sale was published in the Chicago
"Daily Evening Journal, a Newspaper printed
"and published in the City of Chicago
"County of Cook and State of Illinois 30
"times being — times a week for —
"successive weeks, the date of the first
"paper containing the same — being the sixth
"day of May 1859. having been published
"and issued that day and the date of the
"last paper containing the same being the
"sixth day of June 1859. being published
"and issued on that day and that I have
"received ten Dollars for publishing the same.
"Dated at Chicago April 16th 1862.

"J L Wilson Publisher
"J G. Dwen.

43 It was admitted by the Defendant that the
Chicago Daily Journal in which notice was

44 published was during the entire time of the publication of said notice one of the daily Newspapers published in the City of Chicago -

The Plaintiff then called William C. Grant who testified that he was the Attorney of said Elisha S. Wadsworth in making the sale of the property aforesaid under the Mortgage and notice aforesaid; That the said Wadsworth personally on the seventh (7) day of June A.D. 1857. at ten o'clock in the forenoon at the North Door of the Court House in the City of Chicago upon said exposed at public auction the said property named in said Mortgage for cash under the terms of said Mortgage and notice, and then and there sold said property to the plaintiff Benjamin F. Haddock for the sum of Eleven Thousand two hundred dollars (\$11,200) Cash (which was the highest bid made therefor) and delivered to the said Haddock a deed which was offered on the ^{said} trial and read in evidence and which was in the words and figures following;

"This Indenture made this seventh
"day of June in the year of our Lord One
"Thousand Eight Hundred and fifty nine
"Between Elisha S. Wadsworth of the County
"of Cook and State of Illinois Party of the
"first part and Benjamin F. Haddock of the
"same place, Party of the second part.

"Witnesseth that whereas Isaac
"Speer and Vererick Speer his wife, of the
"City of Chicago in the County of Cook and
"State of Illinois, died, on the thirteenth

" day of March A.D. 1856. by their Deed of
 " Mortgage of that date grant bargain sell
 " and convey unto Calvin W Goodman of the
 " City and County of Hartford in the State of
 " Connecticut, his heirs and assigns, all and
 " singular the following described premises
 " situate and lying in the City of Chicago
 " County of Cook aforesaid that is to say.

" That part of lot numbered one (1) in
 " Block numbered One hundred and forty one
 " (141) in the School Section Addition to the
 " said Chicago commencing fifty one (51) feet
 " from the North East Corner of said Lot on
 " the North line thereof - thence West forty two
 " and three fourths ($42\frac{3}{4}$) feet, thence South
 " one hundred and ninety eight (198) feet
 " thence East forty two and three fourths ($42\frac{3}{4}$)
 " feet, thence North to the place of beginning

" To Have and To Hold the above
 " granted and described premises to the said
 " Calvin W Goodman his heirs and assigns
 " forever, to secure the payment of a certain
 " Bond in said Deed of Mortgage described
 " conditioned for the payment of Ten Thousand
 " Dollars on the thirtieth day of March A.D.
 " 1859. together with semi-annual interest
 " thereon at the rate of ten per Cent per
 " annum, which said Mortgage Deed is
 " recorded in the Office of the Recorder for
 " the County of Cook aforesaid in Book
 " twenty five (25) of Mortgages page ten (10).

" And whereas the said Calvin
 " W Goodman on the first day of May
 " A.D. 1856. by his deed of Assignment of

"that date did grant bargain sell transfer
 "assign and make over unto Seth Perry
 "of Hartford in the state of Connecticut,
 "Commissioner of the Fund of the American
 "Asylum and to his successors in ^{said} Office
 "the above described Mortgage Deed and Bond
 "together with all his right title and
 "interest therein which said Deed of
 "Assignment was filed for record in the
 "Office of the Recorder for the County of Cook
 "aforesaid on the first day of May A.D.
 "1856. — And whereas the said Seth
 "Perry, Commissioner of the American Asylum
 "at Hartford in the state of Connecticut
 "aforesaid did by his Deed of Assignment
 "bearing date the first day of April A.D.
 "1859. grant bargain sell transfer assign
 "and make over unto the said Eliska H.
 "Wadsworth party of the first part, his heirs
 "and assigns forever, the above described
 "premises, and did for himself, his
 "successor in office, his heirs executors
 "and Administrators, thereby authorized
 "and empower the said Eliska S Wadsworth
 "to receive the sum or sums of money men-
 "tioned in the said Mortgage Deed or Bond
 "and to take and pursue any and all suc-
 "cessful steps and means for the recovery of the
 "said sum or sums with interest by the
 "sale of the said Mortgaged premises, or
 "otherwise, as by law is provided —

"And whereas default having been
 "made in the payment of said Bond

" together with the last instalment of interest due
" thereon the above described premises were by the party
" of the first part duly noticed for public sale at the
" door of the Court House in the County of Cook and
" State of Illinois on the seventh day of June A.D.
" 1859. in the manner prescribed in and by said Deeds
" of Assignment and Mortgage and were upon the
" day and year and at the place last mentioned
" aforesaid in pursuance of said Notice sold at
" public Sale, and at said Sale said party of the second
" part was the highest and best bidder therefor
" and bid for the same the sum of Eleven Thousand
" and Two Hundred Dollars.

Now therefore these presents witness
" that the said party of the first part, in pursuance
" of the power and authority vested in him by and
" in the said Mortgage Deed and the said Assign-
" ments thereof, and in consideration of the sum
" of One dollar and also the further sum of
" Eleven Thousand and Two Hundred Dollars
" to the said party of the first part paid by the
" said party of the second part, the receipt where-
" of is hereby acknowledged and hath and doth
" hereby bargain sell convey remise release and
" quit claim to the said party of the second part
" his heirs and assigns forever, all the right
" title and interest either in law or in equity
" which the said party of the first part hath
" acquired by virtue of the said Assignment of
" the said Mortgage Deed above mentioned of
" in and to the lands tenements and premises
" hereinbefore described, together with all and
" singular the tenements hereditaments and
" appurtenances therunto belonging or in any

"wise appurtenances, and the reversion and reversion
 "remainders, rents issues and profits thereof
 "and also all of the Estate right title interest
 "claim and demand whatsoever as well in Law
 "as in Equity of the said party of the first part
 "of in and to the same and any and every part
 "thereof with the appurtenances -

"To Have and To Hold the same
 "unto the only proper use benefit and behoof of
 "the said party of the second part, his heirs and
 "Assigns forever.

"In Witness whereof the said party
 "of the first part hath hereunto set his hand and
 "Seal the day and year first above written -
 "Sealed and delivered {
 "in presence of { "E. S. Wadsworth" Seal

"State of Illinois (S.S.
 "County of Cook
 "City of Chicago)

"I Henry Brookes a Notary

"Public in and for the said City of
 "Chicago in the said County in the State aforesaid
 "do hereby Certify that Elisha S. Wadsworth, per-
 "sonally known to me as the same person whose
 "name is subscribed to the foregoing Deed, appeared
 "before me this day in person and acknowledged
 "that he signed sealed and delivered the said
 "instrument of writing as his free and voluntary
 "act and deed for the uses and purposes therein
 "set forth. Given under my hand and notarial

"Seal this 11th day of June A.D. 1859

Henry Brookes
 Notary Public

L. S.

8.
("Endorsed")

" E. S. Wadsworth
To

" Benj F. Haddock.

- Deed -

19.497.

" State of Illinois {
Cook County { " Filed for Record 16th June
" 1859 And Recorded in Book 175
" of Deeds page 346.
Wm L Church
Clerk."

All objections to the papers and other evidence introduced by the Plaintiff as aforesaid were waived except the following -

To the reading of the Deed from said Wadsworth to the Plaintiff, the said Defendant by his Counsel objected -

1st That the notice of Sale which was offered by the Plaintiff did not comply with the conditions of the Mortgage from Isaac Speer and wife to Calvin H. Goodman not being for the time specified in said Mortgage.

2^d There is no proof that the said Benjamin F. Haddock either in person or by Attorney or otherwise demanded or entered into possession of the premises according to the requirements of said Mortgage from Speer to Goodman -

3^d That the said Deed was not made in accordance with the power in said Deed of Mortgage from said Spur to said Goodman which prescribed that said Mortgagee or his assigns as the Attorney of the said Mortgagor should make a Deed or deeds to the purchaser.

^{1st} To the reading of the assignment of Seth Terry Commissioner to Elisha S. Weddworth, the Defendant objected because the estate in said premises in said assignment mentioned was vested in the said American Asylum at Hartford and no conveyance thereof from the said Asylum was shown or authority to the said Seth Terry to make such conveyance -

But the Court then and there overruled said objections of said Defendant and admitted the said deed of assignment and the said Deed from Weddworth to Plaintiff to be read in evidence as an assignment of the said Mortgage from the said Grantor to the said Grantee -

To which ruling of the Court the said Defendant by his Counsel then and there excepted -

Here the Plaintiff rested -

The Defendant then offered to prove by Charles W. Spur that at the time said Defendant and wife gave such Mortgage to the said Calvin H. Goodman and from said time up to and at the trial of said Cause the said Defendant resided upon the said

premises with his family, that he was a householder during said time having a family and that there was during said time a building upon said premises in which he resided with his family. That the debt incurred or no part thereof was for the purchase or improvement of said premises or in any way expended thereon.

Plaintiff objected on the ground of irrelevancy which said objection being then and there sustained by the Court, the Defendant by his Counsel then and there excepted.

The issues were then found for the Plaintiff, whereupon the Defendant by his Counsel then and there moved for a new trial which being overruled by the Court, the Defendant then and there prayed an appeal and assign for error, the following:

- 1st The admission of improper evidence
- 2^d The rejection of the evidence offered by Defendant.
- 3^d The overruling the motion for a new Trial.

Wherefore inasmuch as none of the matters above set forth do appear of record, the said defendant prays the Court to sign this his Bill of Exceptions which is accordingly done.

(Signed) Wm H. Higgins
Jury (Seal)

State of Illinois
Cook County E. B.

I Thomas B. Carter Clerk of the
Superior Court of Chicago, in and for the County
of Cook in the State of Illinois Do hereby certify
the above and foregoing to be a full true and
complete Transcript of the papers now on file in
my office, together with all orders and Independent
Entered of record in said Court in a certain suit
heretofore pending in said Court, wherein Benjamin
F. Hardwick was Plaintiff and Isaac Spear defendant.

In testimony whereof I have hereunto
set my hand and affixed the Seal
of said Superior Court, in the City
of Chicago in said County the
twenty second day of April A. D. 1862,
Thomas B. Carter Clerk



State of Illinois } April Term of the
Supreme Court } In the year of our Lord
A. D. 1862. -

Isaac Speer }
vs }
Benjamin F. Haduck } In Error.

Afterwards, to wit, on the 24th day of
April 1862, at this same term of the
Court, before the justices thereof, comes
the said Isaac Speer, by Robert Hervey
& B. J. Semmes, his Attorneys, and says
that in the record & proceedings afore-
said, and also in the rendition of the
judgment aforesaid, there is manifest
error in this. to wit, The admission
of improper evidence. 2nd The rejection
of proper evidence offered by the Defen-
dant. 3rd The overruling of the motion for
new trial, made by the Plaintiff in error
defendant below. And the said Isaac Speer
prays that the judgment aforesaid, for the er-
rors aforesaid & for other errors apparent in
the record & proceedings aforesaid, may be re-
versed, annulled & altogether held for nothing
and that he may be ^{restored} to all things which

he hath lost by occasion of the said
judgment.

Robert Harvey &
B. J. Semmes
Atty for Plaintiff in Error

And now Comes the Defendant
in Error by Williams, Woodbridge & Grant
his Attorneys And Says that in the record
of proceedings & judgment in the above
entitled Cause there is no error

Williams, Woodbridge
& Grant,
Attys for Defendant
Error —

Let a supersedeas issue. Bond five hundred col
dollars John M Van Orsdale surety

J H Carow

~~156~~ ⁸² ~~800~~
Isaac Speir
20

Benjamin F. Hadlock

Record &
Asst. of Enrs

Filed April 24. 1862
L. Leland
Clerk

Re-filed Sept. 26. 1862
L. Leland
Clk.

Fees \$13⁰⁰
Rec^d the above fees
(113⁰⁰) April 22 - 1862
J. B. Carter
Clerk

SUPREME COURT OF ILLINOIS,

THIRD GRAND DIVISION, }
APRIL TERM, A. D. 1862. }

Isaac Speer,
Plaintiff in Error,

vs.

Benjamin F. Haddock,
Defendant in Error.

APPEAL FROM
SUPERIOR COURT OF CHICAGO.

ABSTRACT OF RECORD.

Rec p. 1 **Placita.**

- 3 Declaration in ejectment for 42 $\frac{3}{4}$ feet on Monroe street, city of Chicago, by 198 feet deep.
Title in fee accrued 22d June, 1859.
- 4 Notice to plaintiff in error, tenant in possession.
- 5 Affidavit of service sworn 24th June, 1859.
- 6 Plea, not guilty; and issue thereon.
- 7 Venire.
- 11 Verdict for defendant in error, finding him entitled to possession of premises in declaration, and that he has an estate in fee therein.
- 13, 14 Motion for a new trial, and overruling of the same. Judgment on verdict, 28th March, 1862.

- 15 Prayer of appeal and allowance of same, 28th March, 1862.
- 16 Extension of time to file bill of exceptions till first day of April Term, 1862.
- 18, 19 20 Appeal bond signed by plaintiff in error, and John M. Van Osdel as surety, penalty \$500, approved by Hon. Van H. Higgins, Judge.
- 21 Filing of bill of exceptions, 7th of April, 1862.

Abstract of BILL OF EXCEPTIONS.

- 22 Sets out a mortgage, dated 13th day of March, 1856, from Isaac Speer and wife, to Calvin H. Goodman, of the premises in question, to secure the payment of a certain bond of \$10,000, executed by said Speer to Goodman, in three years from date, with interest at ten per cent. payable half yearly—with defeasance of payment duly made.
- 23
- 24 Covenant by Speer to pay bond and interest, and also to pay taxes, and preserve the premises from waste.
- 25 Power of sale on default. Right of entry given on default. Thirty days public notice of sale, in daily newspaper published in Chicago.
- 26 Power given to make conveyances on such sale, as *the attorney of the mortgagor*.
- To pay the said bond and interest from the proceeds of sale, rendering the surplus, if any, to the mortgagor.
- 27, 28 Covenants of seisin and for quiet enjoyment, &c.
- 28 Acknowledgment.
- 29 Recorded May 1, 1856.
- 30, 1, 2 Bond which said mortgage was given to secure.

- 32 Assignment of same endorsed thereon, as follows:

33 “In consideration of the sum of ten thousand dollars (\$10,000) to me in hand paid by Seth Terry, commissioner of the American Asylum of Hartford, Connecticut, of Hartford aforesaid, the receipt whereof is hereby acknowledged, I do hereby transfer, assign and set over unto the said Seth Terry, commissioner as aforesaid, his successor in office, and assigns, all my right, title and interest, of, in and to the within instrument, and I hereby constitute the said Seth Terry, commissioner as aforesaid, my attorney, in my name or otherwise, but at his own costs and charges, to take all such legal measures as may be necessary for the recovery of the premises hereby assigned, and I hereby guarantey the prompt payment of this bond at maturity.

In witness whereof I have hereto set my hand and seal this first day of May, A. D. 1856.

C. H. GOODMAN, [L. s.]

In presence of

Before execution the word "heirs" in the sixth line erased, and "successor in office" inserted in lieu thereof.

"THOMAS HOGE,"
"MOSES HALLETT."

Coupon for \$500, due 13th March, 1859, for interest on above bond, payable to C. H. Goodman or order. And endorsed by him to E. S. Wadsworth.

34 Protest of above coupon, 16th March, 1859.

36 Assignment of mortgage and bond above mentioned from C. H. Goodman to Seth Terry commissioner as aforesaid. The operative part of which is as follows :

"In consideration of ten thousand dollars to me in hand paid by Seth Terry, commissioner of the American Asylum of Hartford, Connecticut, the receipt whereof is hereby acknowledged, I do hereby assign, transfer and set over unto the said Seth Terry, commissioner as aforesaid, *and his successors in office*, the mortgage above described, together with the bond accompanying the same as aforesaid for his own use and benefit; hereby authorizing him to collect and enforce payment thereof in my name or otherwise but at his own costs and charges."

Covenant that \$10,000 is due with interest since 13th March, 1856.
Dated 1st May, 1856.

Signed,

C. H. GOODMAN. [SEAL.]

38 Acknowledgement 1st May, 1856.

Memorandum of recording 1st May, 1856.

39 Assignment of said bond and mortgage from Seth Terry, commissioner of the American Asylum at Hartford to Elisha J. Wadsworth, dated 1st, April, 1859. Setting forth the making of the mortgage by Speer and wife to Goodman and the assignment thereof by said Goodman to

Seth Terry, commissioner of the American Asylum at Hartford.

Continues as follows :

"Now therefore I, Seth Terry, commissioner of the American Asylum of Hartford in the state Connecticut, assign, &c., to said Wadsworth, to hold as fully as I, the said Seth Terry, commissioner as aforesaid, my heirs and assigns and successors in office, might hold and enjoy the same."

Signed as follows :

SETH TERRY, [SEAL.]

Commissioner of the American Asylum
At Hartford.

41 Acknowledgment, 1st April, 1859.

42 Memorandum of record, 26th July, 1859. (Objected to by defendant below.)

43 Notice of mortgage sale, showing daily publication, except Sundays, - from May 6th, 1859 to 6th June 1859.

43 Notice set forth, to sell on the 7th June, at 10 A. M., signed by "Elisha S. Wadsworth," assignee of said mortgage. Dated, Chicago, May 6th, 1859

44 Certificate of publication.

45 Testimony of W. C. Grant, proving sale by Wadsworth, on 7th June, 1859, at 10 A. M., at place appointed, to defendant in error, for \$11,200.

46 Deed from E. S. Wadsworth, *in his own name*, to defendant in error, dated 7th June, 1859, of premises in question, reciting the above mortgage and assignments to Terry, commissioner as aforesaid, and by Terry to Wadsworth, setting forth default in payment of principal and \$500 interest; advertisement and sale; in consideration of \$11,200, paid by defendant in error to said Wadsworth, he conveys the said premises to to him, (*defendant in error.*)

Signed, E. S. WADSWORTH. [Seal.]

47 Acknowledgement, 11th June, 1859.

48 Memorandum of record, 16th June, 1859.

Objections taken at the trial below.

46 To the reading of the deed from said Wadsworth to Haddock, the defendant below objected.

1. That the notice of sale, which was offered, did not comply with the conditions of the mortgage from Speer to Goodman, not being for the time specified in said mortgage.

50 2. There is no proof that said Haddock, either in person or by attorney or otherwise, demanded or entered into possession of the premises in said mortgage, according to the requirements of said mortgage, before said sale.

3. That said deed was not made in accordance with the power in said deed of mortgage, which prescribed that said mortgagee or his assigns, *as the attorney of the mortgagor*, should make deed to the purchaser.

4. To the reading of the assignment from Seth Terry, commissioner, to Elisha Wadsworth, the said defendant objected, because the estate in the said premises, in said assignment mentioned, was vested in the said American Assylum at Hartford, and no conveyance thereof from said Assylum was shown, or authority to said Terry to make such conveyance.

51 Overruling of such objection ~~and~~ exceptions.

Plaintiff below rested.

51 Defendant (below,) offered to prove that the premises were his homestead.

52 Objection by plaintiff below. Objection sustained and exception.

Finding for plaintiff below; motion for a new trial and overruling of same and exceptions.

Assignment of errors.

1. The admission of improper evidence.
2. The rejection of the evidence offered by defendant, (below.)
3. The overruling the motion for a new trial.

ROBERT HERVEY & B. J. SEMMES,
For Plaintiff in Error.

156 ~~307~~ 82-

Isaac Spear
vs

B. F. Haddock

abstract

Filed Apr 24. 1842

J. L. Linnell

clerk

State of Illinois
LaSalle County

Isaac Speer being
first duly sworn states on oath
that he is well acquainted
with the pecuniary circumstan-
ces of John H. Van Osdale
that he resides in Cook County
Illinois and is worth over
and above his liabilities
the sum of Ten thousand
dollars and he here by offers
said Van Osdale as security
upon whatever Supersedeas
Bond may be required in
a certain Case between
this Affiant and Benjamin
Haddock from the Super-
ior Court of Chicago wherein
a Supersedeas is applied for
from the Supreme Court of the
State of Illinois

Subscribed Sworn to
before me this 24th day
of September A.D. 1862 -

Subs

Isaac Speer

W. H. Cameron
Notary Public

Supreme Court of Maine
Isaac Spear
vs
Benjamin F. Wadsworth
Opinion of justification

Filed Sept. 26th 1862

J. L. Leland
Clerk



SUPREME COURT OF ILLINOIS,

THIRD GRAND DIVISION, }
APRIL TERM, A. D. 1862. }

Isaac Speer,
Plaintiff in Error,

VS.

Benjamin F. Haddock,
Defendant in Error.

APPEAL FROM
SUPERIOR COURT OF CHICAGO.

ABSTRACT OF RECORD.

Rec p. 1 **Placita.**

- 3 Declaration in ejectment for 42 $\frac{3}{4}$ feet on Monroe street, city of Chicago, by 198 feet deep.
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- 6 Plea, not guilty ; and issue thereon.
- 7 Venire.
- 11 Verdict for defendant in error, finding him entitled to possession of premises in declaration, and that he has an estate in fee therein.
under the statute
- 13, 14 Motion for a new trial, and overruling of the same. Judgment on verdict, 28th March, 1862.

- 15 Prayer of appeal and allowance of same, 28th March, 1862.
- 16 Extension of time to file bill of exceptions till first day of April Term, 1862.
- 18, 19 20 Appeal bond signed by plaintiff in error, and John M. Van Osdell as surety, penalty \$500, approved by Hon. Van H. Higgins, Judge.
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Abstract of BILL OF EXCEPTIONS.

- 22 Sets out a mortgage, dated 13th day of March, 1856, from Isaac Speer and wife, to Calvin H. Goodman, of the premises in question, to secure the payment of a certain bond of \$10,000, executed by said Speer to Goodman, in three years from date, with interest at ten per cent. payable half yearly—with defeasance of payment duly made.
- 23
- 24 Covenant by Speer to pay bond and interest, and also to pay taxes, and preserve the premises from waste.
- 25 Power of sale on default. Right of entry given on default. Thirty days public notice of sale, in daily newspaper published in Chicago.
- 26 Power given to make conveyances on such sale, as the attorney of the mortgagor. & not otherwise
- To pay the said bond and interest from the proceeds of sale, rendering the surplus, if any, to the mortgagor.
- 27, 28 Covenants of seisin and for quiet enjoyment, &c.
- 28 Acknowledgment.
- 29 Recorded May 1, 1856.
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In witness whereof I have hereto set my hand and seal this first day
of May, A. D. 1856.

C. H. GOODMAN, [L. s.]

In presence of

Before execution the word "heirs" in the sixth line erased, and "successor in office" inserted in lieu thereof.

"THOMAS HOGE,"
"MOSES HALLETT."

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Signed,

C. H. GOODMAN. [SEAL.]

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Memorandum of recording 1st May, 1856.

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Seth Terry, commissioner of the American Asylum at Hartford.

Continues as follows :

"Now therefore I, Seth Terry, commissioner of the American Asylum of Hartford in the state Connecticut, assign, &c., to said Wadsworth, to hold as fully as I, the said Seth Terry, commissioner as aforesaid, my heirs and assigns and successors in office, might hold and enjoy the same."

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Commissioner of the American Asylum
At Hartford.

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43 Notice set forth, to sell on the 7th June, at 10 A. M., signed by "Elisha S. Wadsworth," assignee of said mortgage. Dated, Chicago, May 6th, 1859

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45 Testimony of W. C. Grant, proving sale by Wadsworth, on 7th June, 1859, at 10 A. M., at place appointed, to defendant in error, for \$11,200.

46 Deed from E. S. Wadsworth, in his own name, to defendant in error, dated 7th June, 1859, of premises in question, reciting the above mortgage and assignments to Terry, commissioner as aforesaid, and by Terry to Wadsworth, setting forth default in payment of principal and \$500 interest; advertisement and sale; in consideration of \$11,200, paid by defendant in error to said Wadsworth, he conveys the said premises to to him, (*defendant in error.*)

Signed, E. S. WADSWORTH. [Seal.]

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Objections taken at the trial below.

46 To the reading of the deed from said Wadsworth to Haddock, the defendant below objected.

1. That the notice of sale, which was offered, did not comply with the conditions of the mortgage from Speer to Goodman, not being for the time specified in said mortgage.

50 2. There is no proof that said Haddock, either in person or by attorney or otherwise, demanded or entered into possession of the premises in said mortgage, according to the requirements of said mortgage, before said sale.

3. That said deed was not made in accordance with the power in said deed of mortgage, which prescribed that said mortgagee or his assigns, *as the attorney of the mortgagor*, should make deed to the purchaser.

4. To the reading of the assignment from Seth Terry, commissioner, to Elisha Wadsworth, the said defendant objected, because the estate in the said premises, in said assignment mentioned, was vested in the said American Assylum at Hartford, and no conveyance thereof from said Assylum was shown, or authority to said Terry to make such conveyance.

51 Overruling of such objections and exceptions.

Plaintiff below rested.

51 Defendant (below,) offered to prove that the premises were his homestead.

52 Objection by plaintiff below. Objection sustained and exception.

Finding for plaintiff below; motion for a new trial and overruling of same and exceptions.

Assignment of errors.

1. The admission of improper evidence.

2. The rejection of the evidence offered by defendant, (below.)

3. The overruling the motion for a new trial.

ROBERT HERVEY & B. J. SEMMES,
For Plaintiff in Error.

754 302 82
Isaac Spear
As.

B. F. Woodcock
abstract

Filed Apr 24, 1862
J. L. Leland
Clerk

Know all Men by these Presents, That We Isaac Speer
and John M. Van Osdel

as principal, and John M.

Van Osdel as security, are held and firmly bound
unto Benjamin F. Haddock

in the penal sum of Five hundred Dollars
good and lawful money of the United States, for the payment of which, well and truly
to be made, the said Isaac Speer and John M. Van Osdel

bind themselves their heirs, executors and administrators,
jointly, severally and firmly by these Presents.

Witness, our hands and seals

this 25th day of September A. D. 1862

The Condition of the above Obligation is such, That, whereas the above named
Benjamin F. Haddock

did, at the March Term of the Superior Court, of Chicago
held in and for the County of Cook in the
State of Illinois, A. D. 1862 recover a judgment against the above bounden
Isaac Speer in an action of Ejectment

for the sum of

said Isaac Speer to reverse which said judgment, the

has sued out a Writ of Error from the Supreme Court, within and for the Third
Grand Division of said State, which Writ of Error is made a Supersedeas. Now if the
said Isaac Speer

shall duly prosecute said Writ of Error, and pay, or cause to be paid, the amount of said
judgment, and all judgments, costs, interest and damages which the said Supreme Court
shall adjudge against him said Isaac Speer

and abide the order and judgment of said Su-
preme Court in this behalf, then this obligation is to be void, otherwise to remain in full
force and effect.

Isaac Speer [SEAL.]

John M. Van Osdel [SEAL.]

[SEAL.]

[SEAL.]

State of Illinois
Cook County

John M Van Ordel of said County
being first duly sworn doth depose & say that
he is surety in the within bond and that he is
worth five hundred dollars and much more
than that cover and above all his debts, liabilities
of every nature
Subscribed & sworn to
before me this 25th
day of September
1862
Azariah T. Gall
Notary Public

John M Van Ordel

82
No.
SUPREME COURT,

THIRD GRAND DIVISION.

vs.
Isaac Speer

Benjamin F. Haddock

SUPERSEDEAS BOND.

Filed Sept. 26th 1862,

L. Deland Clerk.

STATE OF ILLINOIS, }
SUPREME COURT, } ss.

The People of the State of Illinois,

To the Clerk of the Superior Court ~~for the County of Chicago~~ - Greeting:

Because, In the record and proceedings, as also in the rendition of the judgment of a plea which was in the Superior Court of Chicago ~~Court of Cook~~ - County, before the Judge thereof, between

Benjamin F. Haddock

plaintiff, and

Isaac Spear

defendant, it is said manifest error hath intervened, to the injury of the aforesaid

Isaac Spear

as we are informed by this —

complaint, and we being willing that error should be corrected, if any there be, in due form and manner, and that justice be done to the parties aforesaid, command you that if judgment thereof be given, you distinctly and openly, without delay, send to our Justices of the Supreme Court the record and proceedings of the plaint aforesaid, with all things touching the same, under your seal, so that we may have the same before our Justices aforesaid at Ottawa, in the County of La Salle, on the first Tuesday after the third Monday in April next, that the record and proceedings, being inspected, we may cause to be done therein, to correct the error, what of right ought to be done according to law.

Witness, The Hon. John D. Eaton, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this 26 day of September in the Year of Our Lord One Thousand Eight Hundred and Sixty two.

L. Vance

Clerk of the Supreme Court.

Isaac Speer

No.

vs.

Benjamin F. Haddock

WRIT OF ERROR.

FILED

Sept. 26

A. D. 1862

L. Uland

Clerk.

This writ of error is
made a supersedeas
as such should be stayed
by all concerned -

L. Uland