

No. 14670

Supreme Court of Illinois

⁰
~~H~~ugh

vs.

Hoodless

71641  7

STATE OF ILLINOIS,
SUPREME COURT,
THIRD GRAND DIVISION.

No. 219

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

Apr. 7, 1864

(Report)

Haugh
vs

Hoadley

1864

14670

IN THE SUPREME COURT,

THIRD GRAND DIVISION, APRIL TERM, A. D. 1864.

ROSELL M. HOUGH,

Plaintiff in Error,

vs.

WILLIAM R. HOODLESS,

Defendant in Error.

Error to Cook.

ABSTRACT OF RECORD.

This suit was originally brought before a Justice of the Peace, by the defendant in error, against the plaintiff in error.

Record, p.

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8 On the trial in the Circuit Court, before Hon. E. S. Williams, who
presided without the intervention of a jury, the plaintiff first offered a
deed dated May 1st, 1858, executed by Rufus P. Haywood and wife,
purporting to convey to the plaintiff certain premises, situated in the
12 county of Cook. The defendant objected to the admission of this deed,
on the ground that the grantors were not shown to have had any title to
said premises. But the court overruled said objection, and permitted
said deed to be read.

12, 13 The plaintiff next offered the record of a certain map, as entered in
a record book in the recorder's office in said county, which said map pur-
ported to represent the premises aforesaid, with surrounding streets,
alleys and lots, and had connected therewith a certificate by Henry L.
Rucker, as county Judge, &c., of said county, dated April 22d, 1857,
and stating that said map had been acknowledged before him, by Rufus
Haywood, as proprietor of the lands, but not stating that said Rufus
15 Haywood was personally known to him. To the reading of this map
the defendant objected, because no title to the premises was shown to
have been held by Haywood, and because said map was not sufficiently
certified or authenticated. But the court overruled these objections, and
received said map as evidence.

16, 19 And the plaintiff next offered certain tax receipts running to himself, viz: a receipt for State and county taxes for 1861, on four of the lots described in the deed aforesaid, to wit: lots 33, 34, 35 and 36; and receipts for the State and county taxes for the years 1857, 1858, 1859 and 1860, on all the lots described in said deed, viz: lots 11 to 15, inclusive, and lots 29 to 36, inclusive, in Haywood's subdivision of west eight acres of north twenty acres of E. $\frac{1}{2}$ N. W. $\frac{1}{4}$ sec. 34, T. 39., R. 14 E. These receipts the court received as evidence, although the defendant objected thereto.

20 Horace Warren was then sworn as a witness for the plaintiff, and stated that he lived in Chicago, near Camp Douglas, and knew the plaintiff to be in possession of some property on the corner of Indiana Avenue and Ridgley Place, represented on said map, which property the plaintiff occupied as his residence; that he had heard plaintiff offer to sell lots on Indiana Avenue, south of said house, and that the building torn down, as hereinafter stated, was on one of the lots which the plaintiff so offered to sell; all which lots were represented on said map, but separated from plaintiff's residence, by several intervening lots: also that he had seen plaintiff show to third parties, for sale, the lots, on one of which the house so torn down was situated. Defendant objected to the testimony as to the showing and offering of the lots for sale, but the court received the same subject to the objection. The witness stated that said house was on said lot 35 or lot 36, and was not completed, but

21

22

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Hough v. Hoo

Abstract.

Filed Apr 27. 1864

J. L. C. M.

(11)
UNITED STATES OF AMERICA,

STATE OF ILLINOIS, COUNTY OF COOK, SS.

Plas, before the Honorable E. S. Williams Judge of the Seventh
Judicial Circuit of the State of Illinois, and sole presiding Judge of the Circuit Court of
Cook County, in the State aforesaid, and at a term thereof begun and held at the Court House
in the City of Chicago, in said County, on the second Monday, (being the
ninth day) of October in the year
of our Lord One Thousand Eight Hundred and eighty-three and of the
Independence of the said United States the eighty year.

Present, Honorable E. S. Williams Judge of the 7th Judicial Circuit }
of the State of Illinois. }

Joseph Knox States Attorney.

David S. Hammond Sheriff of Cook County.

Attest, Wm L Church Clerk.

Be it remembered that heretofore to wit: on the
19th day of November 1862 Rosell W. Wough filed
in the Office of the Clerk of the said Court afore-
said his certain Appeal Bond in the words
and figures following to wit:

Know all men by these presents that Rosell
W. Wough and Oramel S. Wough of
Chicago Illinois are held and firmly bound
unto William R. Woodlee in the penal sum
of One hundred and fifty dollars lawful money
of the United States for the payment of which
well and truly to be made me bind our-
selves our heirs and administrators jointly
severally and firmly by these presents
by these presents Witness our hands and

(2)

reads this 13th day of November AD 1862.
The condition of the above obligation is such, where
as the said William R Woodless did on the
third day of November AD 1862 before H. B. Brom
Esq a Justice of the Peace in and for the County
of Cook recover a judgment against the above
defendant Rosell W Wough for the sum of fifty
dollars and costs of suit from which said judg-
ment the said Rosell W Wough has taken an
appeal to the Circuit Court of the County of
Cook aforesaid and State of Illinois, Now
if the said Rosell W Wough shall prose-
cute his appeal with effect and shall pay
whatever judgment may be rendered by the
Court upon dismissal or trial of said appeal
then the above obligation to be void
otherwise to remain in force and effect

Oramel S Wough (Seal)
Rosell W Wough (Seal)

Taken and approved by me
this 19 day of November
AD 1862

J. M. L. Church Clerk

And afterwards to wit on the 19th day of November
AD 1862 before H. B. Brom
Esq a Justice of the Peace in and for
said County filed in the Office of the
Clerk of the Court aforesaid a transcript
from this docket of the proceedings

(3)

had before him in said Cause together with the
summons & officer return thereon in the words
& figures following viz;

1045

William R Woodlief

Roselle W Bough

} Demand \$100

Oct 28 1862, Summons
issues returnable November 3^d 1862 at 9 A.M.
Oct 29 1862 Summons ret'd by const J. S.
Witchell served by reading to the within named
Defdt: Nov 3^d 1862 Suit cont to Nov 3^d 1862
at 2 ½ o'clock precisely by agreement, Nov 3^d
1862 Suit Called at 2 ½ P.M. Plff declares on
trespass for tearing down and removing the
building William Mc Cormick, John H
Scanlon, J Frankwein, B T Hale from as
mittees. After hearing the ^{evidence} judgment is rendered
in favor of the plaintiff and against said def
in trespass for the sum of \$50.00 and
costs of suit, Nov 22 1862. Supersedeas served
from Circuit Court no transcript having
been taken or demanded no transcript
fee having been tendered J. P.

State of Illinois }
Cook County }

J Thomas B Brown a Justice

(4)^a
of the peace in and for said County do hereby cer-
tify that the above transcript is a true copy
from my Docket of all the proceedings had be-
fore me in the above entitled suit Witness my
hand this 17th day of December A D 1862
N B Brom

Justice of the Peace
Noting appeals transcript paid for by deft April
15 1864 45 cts N B Brom J. P.

State of Illinois ss
Cook County The People of the State of Illinois
to any Constable of said County: Greeting;
You are hereby commanded to summon
Roselle W Dough to appear before me
at my Office in South Chicago on the third
day of November A D 1862 at 9 o'clock A M.
to answer the complaint of William R
Woodless for a failure to pay a certain
sum not exceeding one hundred dollars
and hereof make due return as the law
directs, Given under my hand and seal
this 28th day of October A D 1862
N B Brom Seal

Justice of the Peace
Served by reading to the nation named
defendant this 29th day of Oct 1862
Service Mileage 75-
J S Mitchell Constable

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And afterwards to wit at the October Term of said Court to wit on the twentieth day of October in the year of our Lord One thousand eight hundred and sixty three, the following proceedings were had in said Case in the Court aforesaid and entered of record to wit:

William R Woodlee

Rosell B Wough

} Appeal

This day comes the said plaintiff by Buell Hopkins his Attorney and the said defendant by Arrington & Dent his Attorneys also come and by oral consent of said parties now here given in open Court said Cause is submitted to the Court for trial upon the issues joined therein and the intervention of a jury waived and the Court after hearing the evidence and arguments of Counsel as well on the part of the plaintiff as of the defendant and not being sufficiently advised in the premises takes said Cause under advisement.

And afterwards to wit at the Term of the Court last aforesaid to wit on the 22nd day of October in the year of our Lord One thousand eight hundred and sixty three the following proceedings were had

in said Cause and entered of record to wit:
 William R Woodless

Rosell McWough } Appeal

This day again comes the said parties by their attorneys and the Court having had said Cause under advisement and being now fully advised of and concerning the premises doth find the issue for the Plaintiff and assess his damages herein by reason of the premises to the ~~premises~~ sum of Seventy five dollars Whereupon the defendant by his Counsel moves the Court for new trial of said Cause.

And afterwards to wit at the term of said Court adjourned to wit on the seventh day of November in the year of our Lord One thousand eight hundred and sixty three the following proceedings were had in said Cause and entered of record to wit:

William R Woodless

Rosell McWough } Appeal

This day again comes the said parties by their Attorneys and Counsel having been heard at well in support of the motion of the Defendant

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Verulofone entered for a new trial of said Cause as in opposition thereto and the Court being now fully advised of and concerning the premises doth order that said motion be and the same hereby is overruled to which ruling of the Court in overruling said motion for a new trial the Defendant by his Counsel now here objects and on his motion ten days are allowed the Defendant in which to prepare and file his bill of exceptions in said Cause. Therefore it is considered that said Plaintiff do have and recover of the said defendant his damages of seventy five dollars in form aforesaid assessed together with his costs and charges by him about his suit in this behalf expended and have execution therefor. Whereupon the said Defendant by his Counsel excepts and prays an appeal from the rulings and decision of this Court in said Cause to the Supreme Court of the State of Illinois which is granted by the Court upon condition that the said defendant shall within ten days from this date excepts and file with the Clerk of this Court his appeal Bond therein on the penal sum of two Hundred Dollars conditioned according to law with Oramel S. Wough as surety thereto

And afterwards to wit on the fifteenth day of November in the year of our Lord One thousand eight hundred and sixty three the said defendant by his Attorneys filed in said Cause their certain bill of exceptions in the words and figures following to wit

William R Woodless

^{vs}
Rosell M Wough

In the Circuit Court
of Cook County
At the October
Term thereof AD 1863

State of Illinois ss

Cook County, Be it remembered that on the trial of this Cause, the same being submitted to the Court and a jury viewed the plaintiff offered as evidence a certain deed which was and is as follows. To wit This Indenture Made this first day of May in the year of our Lord One thousand eight hundred and fifty eight Between Rufus Waymood and Elizabeth P his wife of the City of Chicago in the County of Cook and State of Illinois party of the first part and William Raitley Woodless of the City of Chicago in the County and State aforesaid party of the second part, Witnesseth That the said part of the first part for and in consideration of the sum of Three thousand eight hun

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hundred and eighty six (\$3886⁰⁰/₁₀₀) Dollars
in hand paid by the said party of the second
part the receipt whereof is hereby acknowl-
edged and the said party of the second part
forever released and discharged therefrom
that granted bargained sold remised re-
leased conveyed aliened and confirmed and
by these presents do grant bargain sell
reemise release convey alien and confirm
unto the said party of the second part
his heirs and assigns forever all the
following described lot piece or parcel of
land situated in the County of Cook and
State of Illinois to-wit- Lots Eleven
(11) Twelve (12) Thirteen (13) Fourteen (14) and
Fifteen (15) on Ridgley Place also lots twenty
nine (29) thirty (30) Thirty one (31) Thirty two (32)
thirty three (33) thirty four (34) thirty five (35)
and thirty six (36) fronting on Indiana
Avenue in the subdivision of the West-
four fifths (⁴/₅) of the North West quarter
(¹/₄) of the North East quarter (¹/₄) of the North
West quarter (¹/₄) of Section thirty four (34)
Township thirty nine (39) North of Range
fourteen (14) East of the third principal
Meridian Together with all and singular
the hereditaments and appurtenances thereto
belonging or in anywise appertaining and

the reversion and reversions remainders and
remainders rents issues and profits thereof and all
the estate right title interest claim & demand
whatsoever of the said party of the first part
either in law or equity of M and to the
above bargained premises with the hereditaments
and appurtenances To Have and to Hold
the said premises above bargained and de-
scribed with the appurtenances unto the said
party of the second part his heirs and
assigns forever, And the said Rufus
JO aforesaid party of the first part for
himself his heirs executors and administrators
do Covenant grant bargain and agree
to and with the said party of the second
part his heirs and assigns that at the time
of the enrolling and delivering of these presents
he is well seized of the premises above
conveyed as of a good sure perfect ab-
solute and indefeasible estate of inheritance
in law in fee simple and hath good
right full power and lawful authority
to grant bargain sell and convey the same
in manner and form aforesaid and that the
same are free and clear from all former
and other grants bargains sales liens taxes
assessments and incumbrances of what
kind and nature soever and the above

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largained premises, in the quiet and peaceable possession of the said party of the second part his heirs and assigns against all and every person lawfully claiming or to claim the whole or any part thereof the said party of the first part shall and will warrant and forever defend In Witness Whereof the said party of the first part hereunto set their hands and seals the day and year first above written

Signed Sealed and Delivered in presence of
Rufus W. Baymood Seal
Elizabeth P. Baymood Seal
Jm W. Stenart as to E. W.

State of Illinois
Cook County I, William W. Stenart
a Notary Public in said County in the State aforesaid do hereby Certify that Rufus W. Baymood and Elizabeth P. his wife personally known to me to be the same persons whose names are subscribed to the foregoing Warranty Deed appeared before me this day in person and acknowledged that he signed sealed and delivered the said instrument of writing as their free and voluntary act for the use and purposes therein set forth, And the said Elizabeth P. Baymood having been by me examined separately and apart

and out of the hearing of her husband and
 the contents and meaning of the said deed
 having been by me made known and fully
 explained to her acknowledged that she
 had freely and voluntarily executed the
 same and relinquished her dower to the
 lands and tenements therein mentioned without
 compulsion of her said husband and that
 she does not wish to retract the same
 Given under my hand and seal this fifth
 day of May 1858

(Seal)

Wm W Sterratt
 Not Pub

To which said deed the defendant by his Counsel
 then and there objected, because the grantors
 in said deed make not shew to have had any
 title in the premises therein but the Court
 then and there overruled said objection
 and permitted said deed to be read as
 evidence to which said decision and ruling
 of the Court the defendant by his Counsel
 then and there excepted, The Plaintiff next
 offered as evidence the record of a certain
 map which said record was and is as
 follows

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Prairie Ave.

Subdivision of

$17\frac{1}{2}$ of $17\frac{1}{2}$ of $24\frac{1}{2}$ of $24\frac{1}{2}$ Sec. 34 T. 39. R. 14, E. 8th P. 122,

North line of Section 34 T. 39 R. 14. — Ridgely Place

Section 34

33	27	6	27	66	27	30	26	26	25	100	309
15	14	13	12	11	10	9	8	7	6	100	
20	27	4	27	11	11	11	11	11	27		
13	16			13	15						
17				17	56						
18				18	55						
19				19	54						
20				20	53						
21				21	52						
22				22	51						
23				23	50						
24				24	49						
25				25	48						
26				26	47						
27				27	46						
28				28	45						
29				29	44						
30				30	43						
31				31	42						
32				32	41						
33				33	40						
34				34	39						
35				35	38						
36				36	37						
37				37	36						
38				38	35						
39				39	34						
40				40	33						
41				41	32						
42				42	31						
43				43	30						
44				44	29						
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53				53	20						
54				54	19						
55				55	18						
56				56	17						
57				57	16						
58				58	15						
59				59	14						
60				60	13						
61				61	12						
62				62	11						
63				63	10						
64				64	9						
65				65	8						
66				66	7						
67				67	6						
68				68	5						
69				69	4						
70				70	3						
71				71	2						
72				72	1						
73				73	0						
74				74	0						
75				75	0						
76				76	0						
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90				90	0						
91				91	0						
92				92	0						
93				93	0						
94				94	0						
95				95	0						
96				96	0						
97				97	0						
98				98	0						
99				99	0						
100				100	0						

Charles Clever

Line between St. 37 & E. 8th of N. 1/4 of Sec. 34.

Section 34

Indiana Avenue 54 8/10

Dorothy Avenue 65 1/2

State of Illinois
County of Cook
City of Chicago

I hereby certify that I have made a survey and this plat of the $17\frac{1}{2}$ of the $17\frac{1}{2}$ of $24\frac{1}{2}$ of $24\frac{1}{2}$ Section 34 Town 39 Range 14 E of the 3rd principal meridian. Distances are all in feet. Streets 66 feet wide. Alleys 14 feet wide the whole is subdivided into 78 lots. July 1st 1854-

John Von Horn Cook County, Surveyor,

State of Illinois
Cook County

I Henry L. Rucker County Judge & Ex. Officer a Justice of the Peace in and for said County, do hereby certify that Rufus Haywood this day appeared before

(14)
me. and as proprietor of the lands designated on
this map or Plat. acknowledges said Map and also
that he has caused said lands to be subdivided
and platted as hereon indicated)

Given under my hand this 22^d day of April 1857

H. L. Rucker

County Judge &c

No. 84729

Filed for Record April 22^d 1857

State of Illinois }
Cook County }

Chicago June 20 1861

Received of W R Woodliss
Thirty three dollars and cents in full of the
following taxes for the year 1860. on the following
described real estate and on personal property
valued labor to-wit

Part of Town	Sub lot	Lot	Block	Sub lot	Valuation	State Tax	County Tax	Int Tax	Sch Tax	Prod Tax	Total
Waymouth		11			70						1 12
Subdn of		12			70						1 12
W 8 th of N 20 th		13			700						10 32
of E 1/2 of W 1/4		14			750						11 04
Sec 34-39-14		15			100						1 56
		29			60						98
		30			60						98
		81			60						98
		32			60						98
		33			60						98
		34			60						98
		35			60						98
		36			60						98
											33 00

A W Boyden Treasurer
per Geo D Boyden

State of Illinois }
Cook County }

Chicago July 14 1860

Received of W R Woodliss Thirty

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two dollars and cents in full of the following
 taxes & cost due for the year 1859 on the following
 described real estate and on personal property
 as valued below to-wit

Part of Town	Sub Lot	Block	Sub Block	Valuation	State Tax	County Tax	Int Tax	Sch Tax	Road Tax	Total
	11			70				Ex School Tax		1 01
Waymord's	12			70				do		1 01
Subd of W & A	13			700				do		9 47
Ad 20a 6 1/2	14			750				do		9 92
W 1/4 Sec 34	15			100				do		1 28
39-14	29			60				do		89
	30			60				do		89
	31			60				do		89
	32			60				do		89
	33			60				do		89
	34			60				do		89
	35			60				do		89
	36			60				do		89
Personal				200				do		1 89
										<u>31 63</u>
										<u>37</u>
										32 00

A B Boyden Treasurer
 State of Illinois }
 Cook County } Chicago March 29 1859
 Received of W R Woodliff Fifty six dollars
 and forty one cents in full of the following
 taxes due for the year 1858 on the following
 described real estate and on personal property

as valued below to wit

Part of Town	Sub Lot	Lot	Block	Platting Tax	Valuation	State Tax	County Tax	Town Tax	School Tax	Road Tax	Total
Sub of Sec 24		9	35		1200	11	40	120			12 60
39 R 14 W of		11			90		86	1	13	3 6	1 3 6
River View Wood		12			90		86	1	13	3 6	1 3 6
Subdiv of 18a		13			1000	9	50	10	150	400	15 10
of 120d of 6 1/2		14			1000	9	50	10	150	400	15 10
1/4 Sec 34		15			90		76	1	12	3 2	1 2 1
39-14		29			80						1 2 1
		30			80						1 2 1
		31			80						1 2 1
		32			80						1 2 1
		33			80						1 2 1
		34			80						1 2 1
		35			80						1 2 1
		36			80						1 2 1
											56 41
											59
											57 00

At No Boyden Treasurer
 State of Illinois }
 Cook County } Chicago May 18 1858
 Received of W R Woodless
 Fifty One dollars and forty eight cents in
 full of the following taxes due for the year
 1857 on the following described real estate
 and on personal property as valued

below to not

A No Boyden Treasurer
per Sec R Boyden

The defendant objected to said tax receipts but the Court overruled the said objection and permitted them to be read as evidence and the defendant then and there excepted to the decision of the Court in receiving

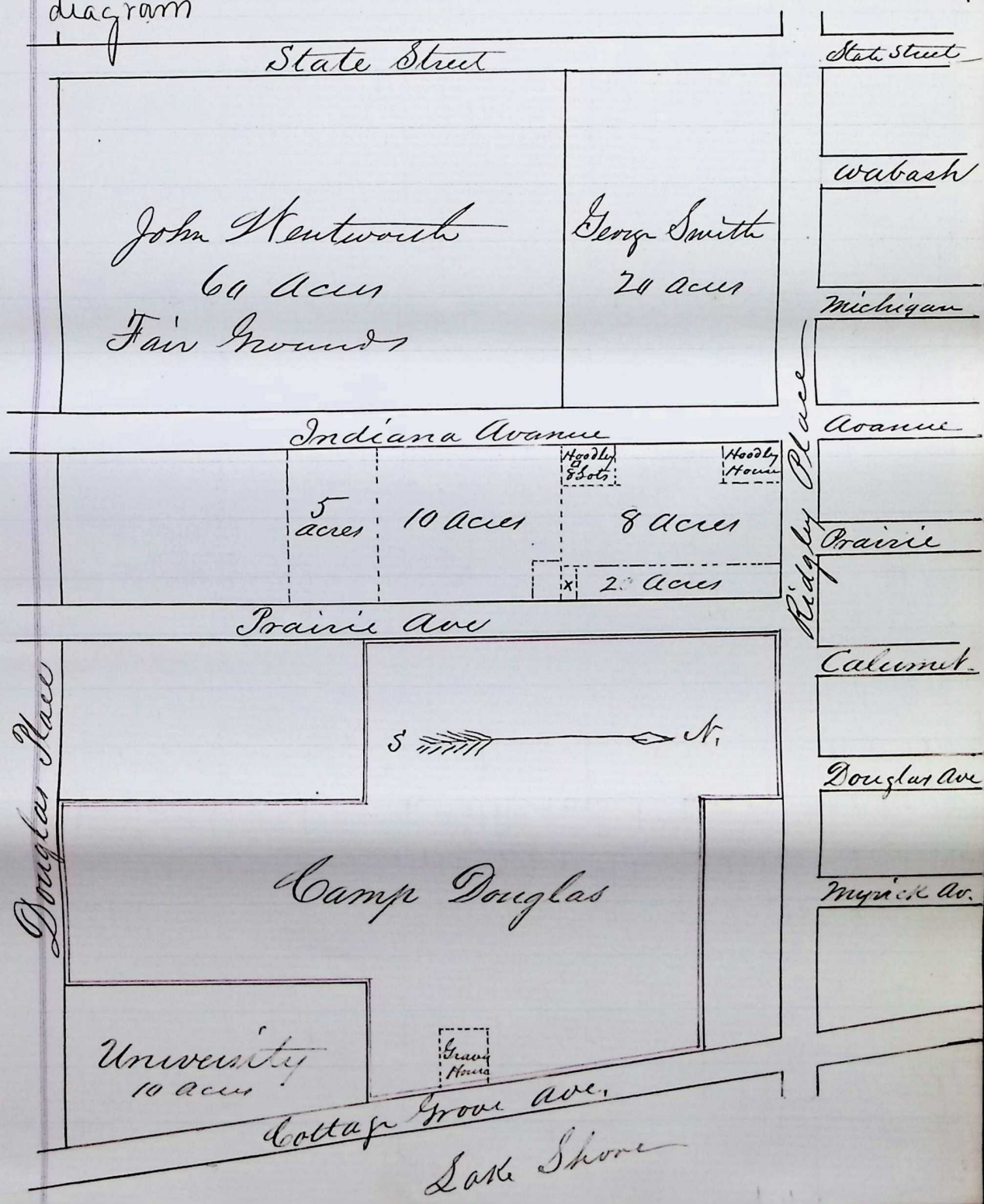
(20)9

said receipts as evidence. The Plaintiff then called as a witness Horace Warren who testified as follows, I reside in Chicago near Camp Douglas across the street from the Camp, I know Woodruff, Woodruff was in possession of some property at the Corner of Indiana Avenue & Ridgely Place that was his residence. I have heard the plaintiff offer to sell lots on Indiana Avenue South of his house. The building which was torn down stood on one of these lots. I have seen plaintiff show these lots to third parties for sale. The defendant objected to the testimony of this witness as to the offering and showing of these lots for sale by the plaintiff and the testimony was admitted subject to such objection.

The Witness further testified on direct Examination as follows, I know of a house being partially built on one of these lots. It was lot 35 or 36 on the plat. The house was partly up - the rafters were up but the roof was not on. It was sheathed and the floor laid. This was a year ago last summer. The building was 30 to 35 feet long & 18 or 20 feet wide. I have put up 3 or 4 cheap houses. Lumber was then worth \$10 or \$12 per M. such a building in the condition I last saw it was worth from \$100 to \$200.

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The building was five hundred or six hundred feet meet of the Western boundary of Camp Douglas. It was out side of the line where martial law had been declared. This building could have been moved easily on rollers. The building was near the ground, I stepped up to get into it. The Witness was then shown the following diagram



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and on examining it said this diagram is a fair representation of the Camp and grounds in its vicinity. To the admission of which the defendant objected. The Witness then further testified as follows, The property was all open except two acres & Capt Woodlies residence. It was open Prairie all round there. The regiments were accustomed to parade on the 16 acres South of the House that was torn down sometimes they went North.

On Cross examination he testified some of the troops were encamped out side before the erection of this little building. There was a line of sentinels around the Camp in the street. The Camp did not extend any further than the board fence as I understood. They declared martial law & stuck the stakes down and the ground between the line of stakes & Camp Douglas was under Martial law. The line of stakes was 150 to 200 feet East of this building. It was a cheap balloon frame building. I had seen the troops in a number of instances pass in the vicinity of this ground when on dress parade. For three months I think, I saw this building three or four days per haps a week - I saw Capt Woodlies draw the lumber there. It had been fenced

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before but was vacant that season.

William McCormick was next called and sworn as a witness for the plaintiff and he testified as follows, I knew the house in question, Woodless was erecting the house and was in possession of the property, Had been in possession of the property 7 or 8 years. It was a frame house about 20 x 30. The joist were laid on the ground & floored over that and sheathed rafters, no roof. I saw the house pulled down. It was Sunday afternoon, the last Sunday in August or the 1st Sunday in September. Col Bough was on the ground when the house was pulled down. He was the only Col on the ground. There were 1000 troops I think on the ground. The building was torn down quickly and carried off into the street. There might have been 200 men engaged, I think the building could have been moved. On cross examination he testified, The ground had been vacant before the building was up. Have seen the troops out parading in that vicinity. Originally this ground and Capt Woodless house was in the same enclosure. There was property owned by other persons between the house of the plaintiff in which the plaintiff lived and

the property in question.

John W Skanlon was next called and sworn as a witness on the part of the plaintiff and he testified as follows, I was a Capt in Col Wough's regiment, There was a building torn down West of Camp Douglas one afternoon, I saw some soldiers tearing the building down, Company C of Col Wough's Regiment were ^{around} ~~armed~~ the building when I got there, By the order of Col Wough I helped move a part of the materials into the road my company helped.

On cross examination he testified, We were out for parade that day, I think that afternoon there were from 5000 to 7000 troops on the ground, I think the building was in the way in the general line of march but it might have been avoided, The troops generally marched near the line of the building, We used to march some where about this ground but not often in this place as we had better ground South and there was open ground East & South The brigade could have gone West of the house, by marching further East West the house could be avoided Plaintiff next read the deposition of William R Enoch which is as follows

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William R. Hoodless } Cook County Circuit Court.

vs.
Roselle M. Hough
State of Illinois }
Cook County } Sd.

William R. Hoodless the defendant in the above entitled suit being duly sworn deposes and says that one Miriam R. Hough who resides without the said County of Cook and in the County of Winnebago in the State of Illinois is a material and necessary witness in said Cause on the part of the said plaintiff and that the said plaintiff desires to take the testimony of the said Witness by Commission in accordance with the Statute in such case made and provided.

Sworn and Subscribed to } W. R. Hoodless.
Before me this 23rd day of }
December A.D. 1892. }

William L. Church. Sd.

State of Illinois }
Cook County } Sd. Cook County Circuit Court
William R. Hoodless }

vs.
Roselle M. Hough }

You are hereby notified
that on Monday the 22nd day of December

A.D. 1862 at ten O'clock in the forenoon of said day or as soon thereafter as Counsel can be heard we shall apply to William L. Hunt Esq. Clerk of the Circuit Court of Cook County at his office in the City of Chicago for a Receit Potestatum or Commission to be issued out of and under the Seal of said Court and directed to O. Penoyer Esq. of Rockford in the County of Winnebago and State of Illinois authorizing and requiring him to Cause Hiram Epoch of Rockford in the County and State last aforesaid who is a necessary Witness on the part of the plaintiff residing without the said County of Cook and in the County of Winnebago in said State of Illinois to come before the said O. Penoyer Esq. and to take his said Hiram Epoch's deposition in the above entitled Suit upon such Interrogatories as may be enclosed with or attached to said Commission to be read as evidence in the above entitled Cause on the part of the plaintiff a copy of which Interrogatories is hereto attached when and where you may appear and file Cross interrogatories and join in said Commission if you shall see fit.

Chicago the 11th day of Pull & Hopkins, Attys.
December A.D. 1862.

To Messrs. Arrington & Dent, Defts. Attys.

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State of Illinois }
Cook County } ss.

Interrogatories to be propounded to William R. Epoch of Rockford Winnebago County and State of Illinois a witness to be produced sworn and examined under & by virtue of the annexed Commission before a Plummer Esq. of Rockford in the County and State last aforesaid in a certain Cause now pending and undetermined in the Cook County Circuit Court wherein William R. Hoodless is plaintiff and Roselle M. Hough is defendant on the part and behalf of the said plaintiff as follows to-wit:

Interrogatory 1st. What is your name age occupation and place of residence?

Interrogatory 2nd. Do you know the parties plaintiff and defendant in the Caption to the Interrogatories mentioned or either of them and which of them and how long have you known them respectively?

Interrogatory 3rd. What was your occupation during the month of August and September A.D. 1862 and where were you then stationed?

Interrogatory 4th. If in answer to the third Interrogatory you state that you were a Military

Officer at Camp Douglas Illinois State what
Office you held. In what Company & Regiment
and who was the Colonel of your Regiment?

Interrogatory 5th Were you present at a general
Parade or review at Camp Douglas Ill.
which occurred on or about the last Sunday
in August A D 1862. If yes State if you
saw a frame Building then in the course
of Construction or partly erected near the
Parade ground torn down by any of the
troops of your Regiment If yes by what
troops and by whose Command or order
did they tear down the building and who
was at the time in Command of your Regi-
ment. State also as near as you can
recollect where the said Building stood
with reference to the general parade ground
of the Camp and with reference to the Camp
itself?

We hereby admit Service on us of a copy
of the foregoing Notice and the Interrogatories
hereto attached, this 12th day of December
A D 1862.

Arrington & Dent
Depts Attorneys

Per. W. H. W.

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Hoodless v. Hough.

Cook Circuit Court.

Cross Interrogatories to put to Miriam Rhock,
on the part of the defendant.

- 1st State about how many troops attended
or were present at the parade you have
mentioned -
- 2^d Who was in Command of such troops?
Who was the Commanding Officer at Camp Douglas?
- 3^d Was such Commanding Officer present on
the parade ground on the day mentioned
in the fifth direct interrogatory?
- 4th State how large a space of ground
had previously been occupied for a parade
ground and about how long had you known
it to be so occupied?
- 5th About how large a space was needed
on the Sunday you have mentioned.
- 6th State if you remember when you first
saw the building or frame thereof referred
to in the 5th direct interrogatory.
- 7th Also state whether or not the ground
on which said frame or building was being
erected had been previously used as or for
a parade grounds. If so, under whose direc-
tion, and by whose authority, and when
did you first know of it being so used.
- 8th State whether or not it was necessary

to free the ground from obstructions like par
 building (if it was one) so as to furnish room
 for the parade on said last Sunday in Aug.
 1862.

9th Do you know anything more that will
 be of benefit or advantage to the defendant
 If so. State such matter fully and at large
 Arrington & Dent for Deft.

Hoodless vs Hough

It is stipulated on the
 part of the deft. that no further notice of the
 taking of the deposition of Hiram Epoch before
 O Brunoyr Esq. need be given: nor shall it be
 necessary to attend at the taking of the same
 but the foregoing interrogatories and Cross-
 interrogatories, as to which all legal objections
 are reserved. May be put to said witness
 Arrington & Dent. for Deft.

The Deposition of Hiram Epoch of the
 County of Winnebago and State of Illinois a
 witness of lawful age produced sworn and
 examined upon his Corporal Oath on the 29th
 day of December in the year of our Lord one
 thousand eight hundred and Sixty two at the
 Office of the Circuit Clerk of said County of
 Winnebago and State of Illinois aforesaid by me

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I A. Prunoy a Commissioner duly appointed
 by a Decimus Potestatem or Commission issued
 out of the Clerks Office of the Circuit Court of
 Cook County in the State of Illinois, bearing
 Teste in the name of Wm L. Chubb Esq. Clerk
 of the said Circuit Court with the Seal of said
 Court affixed thereto and to me directed as
 such Commissioner for the Examination of the
 said Abram R. Epoch a witness in a certain
 suit and matter in Controversy now pending
 and undetermined in the said Circuit Court
 wherein William R. Hodless is Plaintiff &
 Roselle McHough is defendant in behalf
 of the said Plaintiff. as well upon the Cross
 interrogatories of the defendant as on the
 interrogatories of the Plaintiff. which were
 attached to or incorporated with the said
 Commission and upon none others. The said
 Abram R. Epoch being first duly sworn
 by me as a witness in the said Cause
 previous to the Commencement of his Examina-
 tion to testify the truth as well on the part
 of the plaintiff as the Defendant in relation
 to the matters in Controversy between the said
 plaintiff and defendant so far as he should
 be interrogated. testified and deposed, as
 follows.

(32) Int. 1st What is your name age occupation and place of Residence?

Ans. My name is Herman R. Crook - my age 35 years occupation County Treasurer, Residence Rockford Muenchago County Illinois.

Int. 2nd Do you know the parties plaintiff and Defendant in the Caption to these Interrogatories mentioned or either of them, and when of them and how long have you known them respectively?

Ans. I am acquainted with Roselle M. Hough am not acquainted with the plaintiff, have known Hough since the first of June 1862.

Int. 3rd What was your occupation during the months of August and September A.D. 1863. and where you then stationed?

Ans. I was in the Military Service of the United States in the months of August and September 1862. I was stationed at Camp Douglas near Chicago Illinois -

Int. 4th If in answer to the third interrogatory you state that you were a military officer at Camp Douglas Illinois. State what office you held, in what Company and Regiment and who was the Colonel of your Regiment?

Ans. I was Captain of Company 'C' 6th Regiment.

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Illinois Volunteers. and Provost Marshall of Camp Douglas. R M Hough was Colonel of the 67th Regiment

Ints Were you present at a general parade or review at Camp Douglas Illinois which occurred on or about the last Sunday in August A D 1862. If yea. State if you saw a frame building then in the course of construction or partly erected near the parade ground, torn down by any of the Troops of your Regiment. if yea. what Troops. and by whose Command or order did they tear down the building and who was at the time in Command of your Regiment. State also as near as you can recollect where the said building stood with reference to the general parade ground of the Camp. and with reference to the Camp itself.

Ans. I was present at the parade mentioned. I saw a frame building in course of construction on the parade ground torn down on the day referred to. It was torn down by Company K of the 67th Regiment. by order of Colonel R M Hough. Col Hough was at that time in Command of that Regiment. The building stood on the west side near the northwest corner of the parade ground. The parade

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ground was the open space of ground lying west of Camp Douglas & east of the fair ground.

Cross Interrogatories to be put to Miriam R. Enock on the part of the Defendant

1st State ^{about} how many troops attended or were present at the parade you have mentioned?

Ans. There were about 7000 troops present at that parade.

2nd Who was in Command of such Troops, who was the Commanding Officer at Camp Douglas?

Ans. Colonel Joseph H. Tucker was in the Command of the troops that day. Colonel Joseph H. Tucker was Commanding Officer of Camp Douglas.

3rd Was such Commanding Officer present on the parade ground on the day mentioned in the fifth direct interrogatory?

Ans. He was present.

4th State how large a space of ground had previously been occupied for a parade ground and about how long had you known it to be so occupied?

Ans. The space of ground lying between the river on the east side of the fair ground, and west of a line running south from an enclosed

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tract of ground lying West of Camp Douglas was used as a parade ground. I have known it to be so occupied from the 10th of June.

5th About how large a space was needed on the Sunday you have mentioned?

Ans. We needed all the vacant ground between the lines mentioned in answer to 4th Cross interrogatory.

6th State if you remember when you first saw the building or the frame thereof referred to in the 3rd direct interrogatory?

Ans. I saw it for the first time on the Sunday referred to.

7th Also state whether or not the ground on which said frame or building was being erected had been previously used as or for a parade ground. if so under whose direction and by whose authority and when did you first know of its being so used?

Ans. It had been used as a parade ground. I do not know by whose authority or direction it was so used. I first knew of its so being used on the 10th day of June 1862.

8th State whether or not it was necessary to free the ground from obstructions like said building (if it was one) in order to furnish room for the parade on said last Sunday in Augt 1862?

(36) Ans It was necessary to free the ground from such obstructions.

Q^d Do you know anything more that will be of benefit or advantage to the Defendant, if so. State such matter fully and at large?

Ans After the building was removed to what I considered a proper distance from the parade ground to be out of the way. It had to be removed a still further distance to make room for the parade. I know of nothing further —

Hiram R Enoch.

I O A Promoter of the County of Winnebago and State of Illinois a Commissioner duly appointed to take the deposition of the said Hiram R Enoch a witness, whose name is subscribed to the foregoing deposition do hereby Certify that previous to the Commencement of the Examination of the said of the said Hiram R Enoch as a witness in the suit between the said William A Hoodless Plaintiff & Roselle M Hough defendant he was duly sworn by me as such Commissioner to testify the truth in relation to the matters in Controversy between the said William A Hoodless Plaintiff & Roselle M Hough defendant so far as he should be interrogated concerning the same that the said Deposition was taken at my office in the City of Rockford (Recorder's office)

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in the County of Winnebago and State of Illinois on the 29th day of October December A D 1862. And that after said deposition was taken by me as aforesaid the interrogatories and answers thereto as written down were read over to the said witness and that thereupon the same was signed and sworn to by the said deponent before me, the oath being administered by me as such Commissioner, at the place and on the day and year last aforesaid. (Erasures & interlineations made before signing by witness)

Oliver A. Penoyer
Commissioner.



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The defendant then called as a witness Joseph -
36 Tucker and he testified that there were
about 9000 troops at Camp Douglas and
camped in its immediate vicinity at the time
in question and that there were also 8000 and
9000 rebel prisoners being guarded there
And that he undoubtedly gave the order
for the mustering of the troops on that day
also that he acted as the reviewing officer
being then in Command at Camp Douglas,
that the ground where said building was
put had been used for parade and instruc-
tion for said troops and was the only ground
particularly in wet weather which could
be used for such purpose, and that they
had to use all the available ground around
the Camp for parading the troops and that
the ground used at the time in question
including that upon which the building was
put was less than was absolutely required
to parade or review the troops upon and
as it was some of the troops had to be
marched in the gutters and streets and
by the witness had directed that the troops
should be mustered there, and that his
impression was but it was a mere im-
pression that the ground upon which
the building was put was entirely

within the military lines and that the lines of martial law were 100 feet outside of the line of sentinels around the entire troops including some that had to be camped outside of Camp Douglas. He testified that he had directed the troops to be mustered on the grounds they used and that they never mustered except on his order. That he always issued an order for general parade on the last Sunday in each month Sunday being by army regulations provided for regular instruction & parade of troops. On Cross Examination he said that he the Commanding officer had been authorized to establish lines of sentinels at such distance from the Camp as he necessarily might require. On direct Examination he said that he and the defendant Colonel Mough had agreed as to where the lines of martial law around the Camp should be and that he as the Commanding Officer had left it to the defendant to have stakes driven to indicate such lines.

Lewis B Pastine was next called as a witness for the defendant and he testified that he was Assistant Quarter Master at Camp Douglas at the time aforesaid

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and that the plaintiff had a bill made out against the Government for the value of the building so torn down, and that the Quarter Master would have audited it, or had it allowed but for a dispute which arose between him and the plaintiff about a Sleg of Nails which the Quarter Master said had not been used in the building, on which dispute arising the plaintiff withdrew the bill, as the witnesses thought, or said bill had been destroyed, as not necessary to be kept by the Quarter Master. Witnesses thought the Bill was for \$115- for the building. Inclusive of said Sleg of Nails but in Cross Examination could not say whether the bill was for over \$100 or not. The foregoing was all the testimony.

The Court on the foregoing testimony found for the plaintiff, and assessed his damages at \$75, and the defendant thereupon moved for a new trial, which motion the Court overruled, and the defendant then and there excepted to the decision of the Court overruling said motion; and the Court thereupon gave judgment on said finding.

And the defendant prayed that the matters aforesaid might be embodied in a bill of Exceptions, which is done accordingly.

E. S. Williams Seal
Judge &c

And afterwards to-wit: on the 16th day of November A.D. 1863. the said Defendant filed in said Cause in the Court aforesaid his certain Appeal Bond in the words & figures following to-wit:

Know all men by these presents, that we Rosell M Hough and Oramel S Hough of the City of Chicago are held and firmly bound unto William R Hoodless in the penal sum of Two Hundred Dollars for the payment of which well and truly to be made we bind ourselves our heirs Executors and administrators jointly and severally by these presents. Witness our hands and seals this 14th day of November A.D. 1863.

Whereas the above named William R Hoodless, heretofore, to-wit: on the 7th day of Nov^r, A.D. 1863. recovered judgment in the Circuit Court of Cook County in the State of Illinois against the above named Rosell M Hough for the sum of Seventy five dollars and Costs of Suit from which said judgment the said Rosell M Hough then and there prays an appeal to the Supreme Court of said State which appeal was allowed. &c.

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Now the Condition of the above obligation is such, that if the Said Rosell Mough shall duly prosecute said Appeal, and shall pay the judgments Costs, interest and damages in Case the aforesaid judgment of Said Circuit Court shall be affirmed then this Bond shall be void, otherwise that the same shall remain in full force

R M Mough Seal
Oramel S Mough Seal

I, WILLIAM L. CHURCH, Clerk of the Circuit Court of Cook County, in the State aforesaid, do hereby certify the above and foregoing, to be a true, perfect and complete copy of all pleadings proceedings of record bills of Exceptions appeal bond and all pending in said Court, on the Common Law side thereof, wherein William R Goodless was plaintiff and Rosell Mough was Defendant

In Witness Whereof, I have hereunto set my hand, and affixed the Seal of said Court, at Chicago, this 18 day of April A. D. 186

Wm L Church Clerk.



12.50 paid by post

Paid 12,50
by Def to atty

And now comes the said Rosell M. Hough, by Arrington & Dent his attys., and says that in the record and proceedings aforesaid there is manifest error in this, to wit:

That said Circuit Court erred in finding for the plaintiff.

That said court erred in overruling the motion for a new trial.

That said court erred in rendering judgment for the plaintiff.

That said court erred in the admission of testimony on the part of the plaintiff.

That the finding and judgment respectively should have been for the defendant, ~~and~~ instead of for the plaintiff.

Wherefore, and for other errors the said Rosell M. Hough prays that said judgment be reversed, and that he be restored to what he has lost thereby, &c. — Arrington & Dent, attys. for plf. in error.

And the said Wm. H. Hoodless comes by Wm. Hopkins his atty., and says that there is no such error in the said record and proceedings as is above supposed: wherefore he prays that the judgment be affirmed, &c.

Wm Hopkins for
Appellee

Filed April 20. 1864
L. Leland
Clerk

219 126

Hough

Hoodless

Record Books
& Journal