

12077

No. _____

Supreme Court of Illinois

Walker.

vs.

Haddock.

71641  7

44
Martin C. Walker
Edward H. Haddock

44

1853

Prepared

12077

United States of America
State of Illinois } S.S.
County of Cook }

Hear before the Honorable
Mark Skinner Judge of the Cook County
Court of Common Pleas, within and for the
County of Cook and State aforesaid at a reg-
ular term of the Cook County Court of Common
Pleas, begun and holden at the Court House in
the City of Chicago, in said County on the First
Monday, being the Seventh day of February
in the year of Our Lord One thousand eight
hundred and fifty three and of the Independence
of the United States the Seventy Seventh
Present the Honorable Mark Skinner Judge
Samuel McHenry Prosecuting Attorney
Matter Kimball Clerk

Be it Remembered that heretofore to wit: On
the twenty second day of January, in the year
of Our Lord One thousand eight hundred & fifty
three, Martin Walker Plaintiff by Nelson & Smith
his attorneys filed in the Office of the Clerk of the
Cook County Court of Common Pleas a Precipe
for Summons against Edward A. Haduck
defendant which said precipe is as follows to wit:

Cook County Court of Common Pleas
Martin Walker

^{vs} Edward H. Haddock
Whitcomb clerk

Now will please issue a
Summons at the suit of the Plaintiff against
the defendant in the above entitled cause in
an action of Assumpsit to the Plff. damages
\$5000

W. H. & F. v. H.

Atty for Plff

And thereupon a Summons issued out of the
Office of the Clerk of said Court which said Summons
is in words & figures as follows to wit:
State of Illinois

Cook County

The People of the State of Illinois
to the Sheriff of said County in Treating
The Command you that you summon Edward
H. Haddock if he shall be found in your County
personally to be and appear before the Cook County
Court of Common Pleas of said County on the first
day of the next term thereof to be holden at the Court
House in the City of Chicago in said County on the
first Monday of February next to answer unto
Martin Walker in a plea of Trespass on the case
upon promises to the damage of the said plaintiff

as he says in the sum of Five Thousand Dollars
And have you then and there the writ, with an
endorsement thereon, in what manner you shall
have executed the same

Witness Walter Kimball, clerk, of said
Court and the seat thereof at the City of
Chicago, in said County, this 22nd day
of January A.D. 1852

Walter Kimball clerk

And which said Summons was afterwards returned
into the Office of the clerk of said Court by the
Sheriff of said County with the following
endorsement thereon to wit:

Served by reading to the within named C.
H. Haddock. Dated 24th 1852

Wm. S. Church Sheriff

By A. A. Dexter Deft

And afterwards to wit: On the 23rd day of January
A.D. 1852. Came the said Plaintiff by his said
attorneys & filed his declaration in said cause, which
said declaration is in words and figures as follow
to wit:

State of Illinois

Cook County Court of Common Pleas

Of the term of February in the year of
Our Lord One thousand eight hundred & fifty two

Cook County of

Martin Walker plaintiff in this suit
by Wilson & Frinks his attorneys complains of
Edward H. Haddock defendant in this suit who
has been duly summoned &c of a plea of trespass on
the case upon promises

For that whereas heretofore to wit on the
Sixth day of July in the year One thousand eight
hundred and forty eight at Chicago Ill in consideration
that the said plaintiff would and has by an
Instrument in writing signed by the said plaintiff
and bearing date the day and year aforesaid leased
unto the said defendant One undivided half of
the ware house situate on lot eight in block three
in Port Dearborn addition to Chicago (then occupied
by said defendant) from the first day of August
in said year One thousand eight hundred and
forty eight & during and untill the first day of
August in the year One thousand eight hundred
and fifty. That is to say two years from the first
day of August in said year One thousand eight
hundred and forty eight. The said defendant then
and there in and by the same instrument in writing
signed by the said defendant did agree and promise
to pay the said plaintiff as rent for said premises
the sum of eight hundred and sixty two ⁵⁰/₁₀₀ Dollars
(Eight hundred and sixty two dollars and fifty
Cents meaning per annum in quarterly payments
of two hundred & fifteen & 62 ⁵⁰/₁₀₀ Dollars (Two hundred

and fifteen dollars and Sixty two and a half cents meaning) On the first days of November, February, May, and August in each year which said period of time hath now fully elapsed, and the said plaintiff avers that the said defendant has papered & enjoyed the said undivided half of said ware house from the said first day of August in the year One thousand eight hundred and forty eight to the first day of August, eighteen hundred and fifty under said lease by means whereof and by force of the Statute in such case made and provided the said defendant become liable to pay to the said plaintiff the said sum of Two thousand fifteen dollars and Sixty two and a half cents for each quarter of said term of two years amounting in the aggregate to One thousand Seven hundred and twenty five dollars as principal money. And being so liable in consideration thereof the said defendant afterwards to wit: On the day and year last aforesaid undertook & promised the said plaintiff to pay him said sum of money with interest upon request.

And whereas heretofore to wit: On the first day of August in the year One thousand eight hundred and fifty at Chicago aforesaid the consideration that the said plaintiff would rent to the said defendant One undivided half of the ware house situate on lot eight in block three in Port Dearborn addition to Chicago, and permit the said

plaintiff to pay defendant to use and occupy
the same. the said defendant then and there promised
the said plaintiff to pay to him at the rate the sum
of One thousand two hundred and fifty dollars as
rent for said One undivided half of said ware
house. for and during the time the said defendant
should continue to occupy the same to be paid
in equal quarterly payments. And the said plaintiff
avels that the said defendant did occupy & use said
One undivided half of said ware house for a long
space of time to wit: from the first day of August
in the year One thousand eight hundred and fifty
to the first day of January eighteen hundred and
fifty two. Whereby and by force of the Law in such
case provided the said defendant became liable to
pay the said plaintiff at the rate of the said
sum of One thousand two hundred & fifty Dollars
per year as rent for and during the time the said
defendant so occupied said undivided One half
of said ware house, and being so liable in consider-
ation thereof afterwards to wit: on the day & year &
at the place last aforesaid the said defendant enter-
took & promised to pay to the said plaintiff the said
sum of Twelve hundred and fifty dollars in quarterly
payments, as yearly rent for & during the time that
said building had been so occupied by the said
defendant. And for that whereas heretofore to
wit: on the first day of August in the year One

thousand eight hundred and fifty the said
plaintiff & the said defendant being seized & prop-
er of lot eight in block three in ~~South~~ Dearborn
adjoining to Chicago, with a ware house thereon
in consideration that the said plaintiff would permit
the said defendant to occupy the said ware house
the said defendant agreed and promised the said
plaintiff to allow for the said ware house to be
charged as rent at the rate of two thousand five
hundred dollars per year and agreed and promised
to account for and pay to the said plaintiff one
half of said sum in quarterly instalments for and
during the time that the said defendant should occupy
the same. And the said plaintiff avers that the
said defendant did occupy the said ware house
from thence for a long space of time to wit for
the term of one year and five months whereby he
became liable to pay to the said plaintiff the sum
of one thousand two hundred & fifty dollars per
year as half the rent agreed upon during sixteen
in quarterly instalments, and being so liable in
consideration thereof the said defendant undertook
& promised the said plaintiff afterwards to wit on
the first day of January eighteen hundred & fifty
two to pay the same to him.

And for that whereas the said defendant
on the first day of January in the year one thousand
eight hundred and fifty two at Chicago was indebted

to the said plaintiff in the sum of four thousand
dollars for the use and Occupation of One un-
divided half of the ware house Situate on Lot eight
in block three in Port Dearborn addition to Chicago
by him the said defendant had and used for a
long time before then elapsed with the consent &
permission of the said plaintiff and at the Special
instance & request of the said defendant, and being
so indebted to the said defendant in consideration
thereof afterwards to wit: On the day & Year last
aforesaid at the place aforesaid undertook & there
promised the said plaintiff to pay him the
said sum of money upon being afterwards ^{requested} ~~requested~~

And whereas the said defendant afterwards
to wit: On the same day and year & at the place
aforesaid, the consideration that the said defendant
at his like Special instance & request had before
that time used and Occupied. One undivided half
of a certain Other ware house, Situate on Lot Eight in block
three in Port Dearborn addition to Chicago of him the
said plaintiff by his consent & permission he the said
defendant then and there undertook and promised the
said plaintiff to pay so much money as the said use &
Occupation was then & there reasonably worth, when he the
said defendant should be thereunto afterwards requested.
And the said plaintiff avers that the said last mentioned
use and Occupation by the defendant was then &
there at the time last mentioned reasonable worth the

Sum of three thousand dollars, whereof the said defendant
afterwards to wit: On the day & year last aforesaid had notice
That the said defendant (although often requested so to do)
has not as yet paid the said several sums of money or
any or either of them but to pay the same or any or either
of them or any part thereof the said defendant has hitherto
wholly neglected & refused & still does refuse to the plaintiff
damage five thousand dollars & therefore the said plaintiff
brings suit &c

Wilson & Trunk Attys for Plff

And afterwards to wit: On the twelfth day of February
AD 1853 comes the said defendant by Collins & Williams
his attorneys and files herein his plea, ^{& says} which said plea ^{& says}
is in words and figures as follows to wit:

Cook County Court
of Common Pleas
Edward A. Hadlock
vs
Martin O'Malley

And now comes the said defendant
by Collins & Williams his attorneys & defends the wrong
& injury when &c & says that he did not understand
& promise in manner & form as the said plaintiff hath
above thereof complained against him & of this he puts
himself upon the country &c

Collins & Williams
Defts Attys

To the above named plaintiff
or his attorney

Sent You will please take notice
that upon the trial of the above entitled suit, the said
defendant will give in evidence & insist that the said
plaintiff was at the commencement of the said & is
justly indebted to the said defendant in the sum of
Two thousand dollars for so much money paid said
Out expended to & for the use of the said plaintiff
by said defendant at the plaintiffs request, and
also in a like sum of money for so much money
had received by said plaintiff to & for the use of the
said defendant, & also in the further sum of Two thou
and dollars for work & labor done & materials furnished
by said defendant to said plaintiff at his (said plain
tiffs) request, and also in a like sum for so much
money expended by said defendant in and about the
business of the said plaintiff, & at said plaintiffs request
and also in the further sum of Two thousand dollars
for goods wares & Merchandise sold & delivered by
said defendant to said plaintiff, & also in a like
sum for interest money due said defendant from
said plaintiff, which said sums the said defendant
will set off against the demand of the said plaintiff

Coccius & Williams
Defts attys

M Walker

1848	To E. N. Haddock	Dr
Sept 26	To 6 cords wood	27.00
1849		
July 5	Cash	100.00
18	"	100.00
May 12	" 1/2 share horse account to this date	1511.00
July 14 1850	" " " 20 Bush Corn "	203.79
Mar 21	" " " "	586.10
1852		
July 12	To 1/2 of Warehouse account to date	161.84
	To 1/2 deduction on horse power	12.50
	Money laid out & expended	2000.00
	Money had & received	2000.00
	Wages Labor & Materials	2000.00
	Goods sold	2000.00
	Interest	2000.00

And afterwards to wit: On the 5th day of March in the year of Our Lord One thousand eight hundred and fifty three it being one of the days of the February term of the Cook County Court of Common Pleas for A.D. 1853 the following proceedings were had and entered of record in said cause to wit:

Martin Walker

Edward N. Haddock } Apt

This day comes the said

plaintiff by Wilson & Trunk his attorneys and
the said defendant by Collins & Williams his attorneys
also came. and issue being joined herein. it is Ordered
that a jury come. and thereupon came the Jurors of
a jury of good and lawful men to wit

Thomas Hill	Michael Burns	W. L. Seltow
Wm. Carriagand	Theodore Hubbard	Henry Myers
Squire A. Gramus	Clinton May	Daniel Martin
John Brown	Thos. M. Gray	& John Devet

Who being duly elected tried and sworn well
and truly to try the issue joined as aforesaid. after hear-
ing the evidence adduced argument of counsel and
instructions of the Court retire under charge of an
Officer of the Court to consider of their verdict. and
the hour of adjournment having thereupon arrived
by agreement and consent of said parties it is Order-
ed. That when the jury shall have agreed upon a
Verdict they may reduce it to writing sign & Seal the
same and afterwards be permitted to separate. and
meet the Court on Monday morning next at ten
O'clock

And afterwards to wit On the Seventh day of
March A.D. 1853 it being one of the days of the February
Term of the Cook County Court of Common Pleas afore-
said the following proceedings were had and
entered of Record in said Cause to wit

Martin Walker

^m Edward H Haddock & 1 Apt

And now at this day
come the parties aforesaid by their said attorneys
and the jury empanelled in this cause also come
and say we the jury find the issues for the plaintiff
and aser his damages to the Sum of Twelve Hun-
dred dollars

Therefore it is considered that the
said plaintiff do have and recover of the said
defendant his damages of Twelve Hundred dollars
in form aforesaid by the jury aser and also his
costs and charges by him in this behalf expended
and have Execution therefore

And afterwards to Wit: On the same day come the
said ~~Defendant~~ Plaintiff by H Smith and J Ballingall
and files herein his Motion for a New trial, which
said Motion is in words and figures as follows to
Wit:

Martin Walker took les to com Pleas Feb 3
^m Edward H Haddock & 1853.
Apt

And now comes the said Plaintiff
by H Smith and J Ballingall his attorneys and
moves the court for a New Trial in this cause

1st Because the verdict of the jury is contrary to the Law

2nd Because the verdict is contrary to the evidence given in the trial

3rd Because the ^{court} verdict erred in admitting improper and irrelevant testimony to be given before and to the jury on the part of the defendant

4th Because the court erred in refusing to give to the jury the first, sixth and eighth instructions asked on the part of the Plaintiff

5th Because the court erred in qualifying the 5th instruction asked on the part of the Plaintiff by adding, after the words "possession by Haddock" the words "without notice to Walker" and in giving such qualified instruction to the jury.

6th The court erred in giving to the jury each instruction asked for on the part of the Defendant

W. Frank

P. Ballingall

And afterwards to wit: On the Twelfth day of March A.D. 1858. it being one of the days of the February Term of the Cook County Court at Chicago in Illinois aforesaid the following proceedings were had and entered of Record in said cause to wit:

Martin Walker

Edward H. Haddock

1st
2nd
3rd
4th
5th
6th
7th
8th
9th
10th
11th
12th
13th
14th
15th
16th
17th
18th
19th
20th
21st
22nd
23rd
24th
25th
26th
27th
28th
29th
30th
31st

And now at this day again come the
said parties by their attorneys. and the said plaintiff
enters his motion herein to set aside the verdict of the
jury rendered herein and for a new trial in this
cause. and after the argument of counsel heard on
said motion the Court takes the matter under advis-
ment

And afterwards to Wit: On the Sixteenth day of March
A.D. 1853. it being one of the days of the aforesaid
February Term of the Cook County Court of Common
Pleas the following proceedings were had and entered
of Record in said cause to Wit:

Martin Walker

vs
Edward W. Haddock } Apt

And now at this day again
come the said parties by their attorneys, and the Court
after mature deliberation on the said plaintiff's motion
to set aside the verdict and for a new trial in this
cause. and being now fully advised in the premises
overrules said motion to which decision of the Court
the said plaintiff excepts. and thereupon it is ordered
that leave be given either of the parties in this cause to
file bill of exceptions and appeal Bond herein by the
first day of April next.

Afterwards to Wit On the first day of April in the
Year of Our Lord One thousand Eight Hundred and
Fifty three came the said plaintiff by his attorney
and files in said cause in the Office of the Clerk of
the Cook County Court of Common Pleas his Bill
of Exceptions. which said Bill of Exceptions is in
words & figures as follows to wit:

Martin Walker

^{rs}
E. H. Haddock

} Apt

Book too Court Common
Pleas February Term 1853.

Be it Remembered that in the trial of this cause the plaintiff to prove the issue on his part called the following Witnesses who were sworn and testified as follows.

Paul Davidson - testified that he knows the premises for the rent of which this suit is brought but is not much acquainted with them: They were larger than other premises used by forwarding Merchants; and learned from defendant that they were larger than any other warehouse - Haddock stored grain & provisions in them and did a little forwarding the first Year - never heard Haddock say what the rent was worth - Served this notice (shown to witness) at Haddock's place of business on the premises 1st Aug^t 1850. The notice and a lease were then read in evidence without objection; which notice and lease are as follows
Chicago 1 August 1853.

To E. H. Haddock

Sir

Notice

Now will please take notice that the warehouse owned by you and myself will be charged with rent at the rate of twenty five Hundred Dollars per Year, from this date exclusive of taxes and that no charges will be allowed for alterations fixtures, or repairs whatever. And if you

continue the occupation of said warehouse. I will expect you to account to me for the One half of said Sum as rent, to be paid quarterly

Morris & Co
Martin Walker

Sease

This Indenture made this Sixth day of July in the year of Our Lord One thousand Eight hundred and forty eight. Between Martin W Walker of the City of Chicago County of Cook, and State of Illinois of the first part, and Edward H. Haddock, of the City of Chicago County and State aforesaid of the second part. Witnesseth, that the said party of the first part, for and in consideration of the covenants and agreements hereinafter mentioned, to be kept and performed by the said party of the second part, his executors, administrators, and assigns, have demised and leased to the said party all those premises situate lying and being in the City of Chicago, in the County of Cook, and State of Illinois, known and described as follows, to Wit: One undivided half of the warehouse situate on Lot (8) Eight in Block Three (3), North Dearborn addition to Chicago. Now occupied by said Haddock, Do Have, And, Do Hold the said above described premises, with the appurtenances, unto the said party of the second part, his executors, administrators

and assigns from the first day of August, in the year of Our Lord One thousand eight hundred and Forty Eight, and during, untill the first day of August, in the year of Our Lord One thousand and Fifty. That is Two years from the first day of August Eighteen hundred and forty eight.

And the said party of the second part, in consideration of the leasing of the premises aforesaid by the said party of the first part, to the said party of the second part, does covenant and agree with the said party of the first part his heirs, executors, administrators, and assigns, to pay the said party of the first part, as rent for said demised premises, the Sum of Eight Hundred Sixty two & $\frac{50}{100}$ dollars per Annum in quarterly payments of two Hundred fifteen & $\frac{62\frac{1}{2}}{100}$ dollars, on the first days of November, February, May and August in each year.

And the said party of the second part further covenants with the said party of the first part, that at the expiration of the time in this lease mentioned he will yield up the said demised premises to the said party of the first part, in as good condition as when the same were entered upon by the said party of the second part, loss by fire, or inevitable accident, and ordinary wear excepted.

It is expressly understood and agreed, by and between the parties aforesaid, that if the rent, above mentioned or any part thereof, shall be behind or unpaid, on the

day of payment, whereon the same ought to be paid as
aforesaid or in default, shall be made in any of
the covenants herein contained, to be kept by the said
party of the second part, his executors, administrators
and assigns it shall and may be lawful for the
said party of the ^{first} second part, his heirs executors
administrators Agent, Attorney, or assigns, at his
election to declare said term ended, and unto the
said demise, premises, or any part thereof, either
with or without process of law, to enter, and the
said party of the second part, or any other person
or persons occupying in or upon the same, to expel
him or her, and put out, using such force as may be
necessary in so doing, and the said premises again
to repossess, and enjoy, as in his first and former
Estate and to distrain for any rent that may be
due thereon, upon any property belonging to the
said party of the second part, whether the same
be exempt from execution or distress by law or
not, and the said party of the second part, in
that case, hereby agreed to waive all legal
rights which he may have to hold or retain
any such property under any exemption laws now
in force in this State, or in any other way, meaning
and intending hereby to give to the said party
of the first part, his heirs Executors, Adminis-
trators, or assigns, a valid and first lien upon any
and all goods, chattels, or other property belonging

to the said party of the Second part, as security for the payment of said rent, in manner aforesaid anything hereinbefore contained to the contrary notwithstanding, And if at any time said term shall be ended at such election of said party of the first part, his heirs, executors, administrators or assigns, as aforesaid or in any other way, the said party of the second part, his executors, administrators, and assigns, do hereby covenant and agree to surrender and deliver up said above described premises and property peaceably to said party of the first part, his heirs executors, administrators and assigns immediately upon the determination of said term as aforesaid, and if he shall remain in the possession of the same ten days after notice of such default, or after the determination of this lease in any of the ways above named, he shall be deemed guilty of a forcible detainer of said demised premises under the Statute, and shall be subject to all the conditions and provisions above named, and to eviction and removal, forcibly or otherwise, with or without process of law, as above stated

Martin Walker
E. H. Haddock

Crop
examination

Haddock was ^{not} at home when I left the notice
The Book Keeper was there at the time it was left
Haddock had left that day or the day before for

the East.

John P. Chapin testified that he knows the warehouse in question. Haddock himself occupied it when it was burned up. It was offered to rent in the Spring of 1857 for two thousand five hundred Dollars. Mr. Hunt informed me so. I had the same information from the other party. I knew the premises before the engine was put into it. Engine was put in, in 1848 or 1849. My information was got from Hunt & Haddock, not from Walker - there were elevators in the warehouse before the Engine was put in and there were used by mule power. I was generally acquainted with the warehouse. I think the House commenced business in 1846. or 1847. It was completed for Horse power - Haddock put more elevators in it.

Cross

Examination Has. no recollection of conversing with Walker as to, ~~renting~~ ^{renting} to Hunt; The offer to pay \$2,000. included the same as Haddock used; He purchased a lot from Walker for Canal Boats; and the Machinery was to elevate from Canal Boats at that lot. It was a great accommodation to the Warehouse the lot, 65 feet on Water Street and 57 on the Water. There was not room enough on that lot alone to carry on business. Hunt's proposition included the lot bought from Walker - Slip - Engine &c just as Haddock had it. a large part of the business

came from the Canal Lot - not half as much
business could be done without. The Hadduck
lot & improvement - I think they ^{could} ~~would~~ ^{do} be
double the business, but whether worth double
I cannot say - don't know difference of expence
in steam and horse power: Receipts of grain
brought in Winter of 1851. I were not so large
as former years. all I can say, is the warehouse
was worth much more with the Hadduck lot
Engine. & than without it. The matter of rent
between Hadduck & Walker was, referred to me
and Mr Madsworth in 1848. Rather think Had-
duck then said that he might make some improve-
ments - Don't recollect the improvements wanted
but some talk was had as to additional impro-
vements and to pay additional Rent - Hadduck
said he might want to put on some machinery
to do more business; and expected to pay ad-
ditional rent; no Objection was made; ~~an~~
~~agreement was given~~: This was forepart of Summer
of 1848. it was warm weather. Hadduck super-
intended the building of the warehouse - The
~~warehouse~~ ^{machinery} put in it was necessary to carry
on the business on the Canal Lot

Re-Exp^d: The increased Machinery was necessary by Boats
coming into the Slip - It was and is the only Slip in
town built in that way - a Street runs past the

Warehouse - A dock. I understood was built by Haddock & Bolton and used between them. it was built before July, 1848. The conversation I alluded to, was before the lease was executed, and at the time of Subinfring. There is and was a Street on the South Side of the Warehouse. Mid th between River and Street the depth of dock is 30 feet. - Haddock lot & Slip are on the west side of it

By
Defendant: Dock is wider than others. It would be very inconvenient to use elevators on the Warehouse lot.

By Plaintiff The light business was in Winter of 1850 & 1851. The summer business was very large: very large

Gordon
S. Hubbard testified: As a Warehouseman knows Walker & Hadducks Warehouse. The rent from August 1850 to August 1851. with the whole dock machinery &c worth two thousand five hundred Dollars. Thinks Capacity of Warehouse. greater than any one in Town. Thinks it larger than Raymond Gibbs & Co. Thinks Hadducks more capacious. It had a basement: the basement is desirable for storage, the machinery was entirely for elevating grain. The grain was elevated before the machinery was put in. by Horse Power. but don't recollect seeing the power in it. - The machinery put in was rendered Serviceable by the Slip

Cross Examined The \$2,500. rent includes all occupied by Haddock in 1850

Re. ex. B : The slip was on the west corner of the Warehouse
it made an opening through the Wharf. There was a
Wharf west of the Slip in front of the Mill

Paul C. Walter testified - Knows the Warehouse in question.
It was occupied by Haddock from August 1850
till it was burned down - I had a Warehouse nearly
50 feet of wharf was connected with the warehouse
this did not include wharf in front of the Street -
a dock was built in front of the Street, it was
built to be used in common: 62 feet in length
between the two buildings: depth 40 feet: very good
dock. Knew the Warehouse in 1848-9. then were two
elevators impelled by Horse Power - The Warehouse
was in good condition and well furnished: The
Steam engine was put into it by Haddock in 1849
or 1850. in the summer - he built the slip at the same
time. The machinery was necessary to do business
at the slip. Before the slip and engine were built
and put in by Haddock, two thousand dollars a
Year would be fair rent as Warehouses were renting
at that time. The Warehouse was used at the time
it was burned down for storing grain and freight.
From the time it was built till it was burned down
Haddock occupied it and did a large business.
Was not doing so large a business in Summer of 1857.
especially in Winter. The greater part of business was
from Canal

^{Cross} Examination. In Winter of 1850-51. the business was small. Our storage was very small. it was so during the close of navigation. Our receipts did not exceed 10,000 bushels; it was so with Haddock; it would hardly pay expenses. - The Manf was burned as well as Ware house; Haddock. rebuilt it; Haddock. occupied it till sometime in October; and Sage afterwards and Still does.

Chas Walker testified: Knew Warehouse in question - Knew the capacity of it. in 1848 & 1849. Knew it before the engine was put in it - It had elevators worked by mules. - There was ample power to elevate, before the slip was put there. for all ordinary business; For the Warehouse and dock, before the slip &c, were put there, two thousand five hundred Dollars would be a fair rent. per Year, if it remained as it was. Think slip was made sometime in 1848. It was a slip for doing dockage and Warehouse business - The Warehouse was the best Warehouse in Chicago. The dock was large. I don't wheather it was ^{well} built. Examined the Warehouse - elevators impelled by steam are advantageous: they will take larger loads. They can be worked night as well as day. Haddock did an extensive business in 1851. He occupied it from August 1850. till it was burned; no one else occupied it; - The lot sold to Haddock was 57 feet in front, extended from Street to Street. The business in the

^{Cross exd}

Street, ^{ing 1851 was less than in the} two years previous - I had as much business in 1850 as any time - I had to hire Warehouse room - my Warehouse business was an exception to others. There was a light crop of spring wheat in 1850 - ^{from} August 1850. to August 1851 the business would have been less from Street by the elevators. Hadduck with out his elevators from Canal would have lost 2/3 of his business - a Slip increased the value, and without it diminished it with Hadducks additions it would be worth ~~three~~ times the value I put on it before.

The defendant then called the following Witnesses who where sworn and testified as follows: ~~first~~ before they testified the defendant read without Objection the following deposition of Thomas Dyer, which said deposition is in words and figures as follows to wit:

Martin Walker	} Cook Co Court of Common Pleas.
Edward H Hadduck	

The deposition of Thomas Dyer a Witness of lawful age, produced, Sworn and examined before me Louis D Hoar, clerk of the circuit Court of the County of Cook, in the State of Illinois at my Office in Chicago in said County on the 12th day of February 1853. by agreement of parties.

The said Thomas Dyer being first

duly sworn according to law testified and depose
as follows.

Int 1st What is your age Occupation & residence & do you
know the parties to this Suit

Answer I am forty seven years old. produce dealer reside
in Chicago. and know the parties plaintiff & defend
ant.

Int 2 Were you present at a conversation held between
the plaintiff, and the defendant, in the Year 1848
or 1849. at the Office of the defendant in the City
of Chicago, in reference to certain Machinery,
then in the Warehouse used & Occupied by the defen
dant. if yes please state what was said by the plain
tiff in relation to a payment to be made to the
defendant, for said Machinery or any part thereof
State so far as you can now recollect what was
said in said conversation about the payment
for said Machinery.

Answer I was present and heard some conversation
about Machinery, but do not know what Year
my impression is. that it was one of those Years.
I was present when Mr Walker came into Mr.
Hadducks warehouse for the purpose of collecting
rent as I understood it. Mr. Hadduck refused
to pay the rent, or a portion of it - am not
certain which, unless Mr. Hadduck Walker
would allow part of some Expenses he had been

to in putting in some fixtures & machinery I cannot remember all that was said at that conversation, but can only state my understanding of it. The substance of what was said between Messrs. Walker, Haddock & myself at that time was that Mr. Haddock proposed to pay him the rent if he would deduct some sum. That he, Mr. Haddock, had paid out in putting in some fixtures & machinery, the amount I cannot state. My impression is that Mr. Walker replied that he had not ordered any of those fixtures or machinery in there, and therefore was not willing to allow any thing to be taken out of the rent due him at that time, but at the end of the lease, would be willing to allow, whether he said, he would allow his share or what was right & proper for the fixtures. Mr. Haddock had put in at his own expense - I can't say but one or the other he said. Mr. Walker said that he did not know what the machinery would be worth at the end of the lease, but that whatever it would then be worth he was willing to allow.

Int 3

Do you know about the time when the lease expired, and were you at the warehouse of the defendant, after the expiration of said lease, and did you notice the machinery and fixtures and what their condition then was. If I can state their condition whether said machinery and fixtures had been impaired by use & if so, how much, if any left.

Answer

were they worth than when first put into the building
I don't recollect the year when the lease expired
I had my Office there till the house burnt up. I
did not notice, particularly the Machinery. My attention
was not called to it, particularly. saw it every day.
I should say that the Machinery & Elevator were more
perfect than any other in town, to all appearance,
the Machinery was just as good as when it was put
in Except the natural wear for the time it had
run. - I should think the Elevator & fixtures aside
from the Engine & Boilers were worth twenty five per
Cent. less. I may be too high or too low. of new belts &
buckets were put in to the Elevator at the end of
the lease they would be worth as much as when
new. they could be made as good as new. I don't
know, whether they (the belts &c) were made new
or not. - I recollect of his, Mr Hadducks, putting in some
new belts

Int 1

Cross Examination by plff

Who did you rent from at the time you occupied
as spoken of in your direct Examination

Answer

Of Mr Hadduck.

Int 2

What share of the premises did you rent from
Mr Hadduck. & were the premises occupied by you
& Hadduck together

Answer

I believe my interest was two thirds can't say
positively - the premises were occupied by myself

& Mr Hadduck together. Others were interested with me in the two thirds, & I had nothing to do in the direction & carrying on of the business. What business was carried on in the warehouse.

Int 3

Ans^r

Int 3

Buying & Selling of grain storage of property. In your direct testimony, what do you include in the terms fixtures & machinery?

Answer

I mean the elevators and Machinery & power that propelled them.

Int 4

How long after you had commenced occupying the premises with Mr Hadduck before the Engine & Elevators were put into the warehouse.

Answer

Doubt. recollect. I can't state positively. My impression is that the machinery was not put into the warehouse, until after I went in. How long after. At what time. I can not state.

Int 5.

Was the warehouse premises rendered more valuable for use by the Machinery & fixtures being put in, as spoken of by you.

Ans^r

They were.

Int 6.

Did the putting in of the Engine, render it necessary and were these fixtures that you speak of, put in consequence of the engines, being placed there.

Ans^r

I suppose some of them were. I don't know how many. After putting in the engine, he put

Qnt 7 in more elevators in Order to do more business.
Were there any elevators in the warehouse before the engine was put there & if yes, what power propelled them

Answer There were elevators there propelled by horse or mule power

Qnt 8 Were you & the other persons you speak of as being connected with you, in company with Hadduck in the business of the warehouse & was the rent from Hadduck to Walker accounted for by the firm

Answer The rent was paid out of the funds belonging to the Company. Myself & those persons interested with me were in company with Mr Hadduck in the warehouse business

Qnt 9 Do you know whether the slip was built by Hadduck & was his individual property

Answer I have so understood it

Qnt 10 Should this engine & the new Elevators be useful in the warehouse, without the use of the slip

Answer They would be useful, but not so much so as if there was a slip

Qnt 11 Do you know what finally became of this engine & those fixtures

Answer They were burnt up I believe in August, 1851. I think the lease expired in July 1850.

Qnt 12 Who was in actual possession & occupancy of the house at the time of the fire & who was

Ans^d
Ques^t 13.

doing business there
Mr. Haddock, I suppose
at the time of the conversation spoken of by
You in Your direct examination, did not
Walker say to Haddock that the Elevators &
Fixtures put in in consequence of the Slip &
engine, would be useful to him at the end
of the lease, unless he should purchase an interest
in said Slip and Engine

Ans^d

My impression is that I heard some such
Conversation, but what ^{part} time, I do not recollect
It is rather my impression it was not at that con-
-versation, but I cannot say

Ques^t 4

Direct resumed.

Have you any interest direct or indirect
in the result of this suit

Ans^d

I have not.

Thos. Dyer

State of Illinois,
Cook County

I Louis D Hoard Clerk of the
Circuit Court of Cook County do hereby certify
that previous to the commencement of the examina-
tion of the said Thomas Dyer as a witness in the
above cause he was duly sworn by me to testify
the truth in relation to the matters and things in
controversy between the parties hereto, that said

depositions were taken by me at my Office
in Chicago in Said County On the 12th day of
February A.D. 1853. between the hours of 10 O.
Clock A.M. & 5 O'clock P.M. of said day, that
after said depositions were taken by me as afore
said the interrogatories & answers. thereto as written
down by me were read over to said Witness & there
upon subscribed by said witness before me, at the
place and On the day & Year last aforesaid



In testimony whereof I have here
unto set my hand and affixed the
Seal of said Court at Chicago this 18th
day of February 1853.

L. R. Hoard Clerk

Samuel Horne testified Was clerk in the warehouse for Hadduck
prior to 1851. from May 1849. till August 1851.
Was clerk for Hadduck; and for Had duck
Spaitners. & then again for Hadduck & paid
Walker on 12 May 1849. myself for Rent \$150.
cash. This is the only payment. I have knowl
edge of. The improvements made consisted of
Elevators & Booms. Saw certain improvements
were made, & settled the bills. I know Branger
had men to do work for Hadduck from 1st May
to 13 July on elevators and Machinery - 3 or 4 men
at different times. There were five elevators Machinery

all connected with them. Tranger furnished some
bolting for elevators. can't tell amount Bill was
paid \$150. I settled account with Tranger & paid
him the balance \$516.13. - The Warehouse account
is only for improvements on the joint property -
Woodbury was clerk he is dead: am acquainted
with his handwriting - Bills rendered by Tranger
destroyed by fire. \$1173.19 was Tranger's Bill -
Bolting is a subsequent matter. The whole Bill
at that time \$1173.19. \$150. was for new Bolting for
new elevators. The Warehouse account was settled
by charging $\frac{1}{2}$ to Walker & $\frac{1}{2}$ to Haddock - Other
accounts settled the same way. There are charges
in the books against Walker found standing
unsettled before I took charge of them. The first
charge I made was the \$150. each paid; next 11th
Only \$273. half of Warehouse account knows nothing
of it. (and thereupon the Plaintiff objected to that
item) and so excepted to each and all items -
detailed by witness as new entries as the Books of
Haddock without any knowledge by witness of
their correctness or apent by Walker) - The Rents
were credited to Mr Walker all along - account
stands on Books. \$381.76. to credit of Walker: no
date to last item. This is to expiration of lease August
1850. Does not recollect of being in Warehouse when
notice handed in Haddock was not here I called
to see Walker in Aug 1850. did not see him. I called

to inform him that Haddock would not accede
to the terms of his notice. I left a note for Walker
The letter is shown to Witney, who states that it was
the one he delivered. — Which said letter is
in words and figures as follows to wit:

Chicago Dec 17. 1850.

W Walker Esq
Dear Sir

I think it would be advise-
able for us to come to some definite understanding
in relation to the occupancy of our Warehouse
You will understand that I am paying no rent
for your interest nor do I intend to. I am ready &
have been ever since the lease expired to give you
possession of your interest in the house and still
hold myself in readiness to do so at all times. If
you do not choose to do so, it is not my fault &
I am ready and desirous to make an amicable
adjustment of the whole matter either to buy or sell
or lease it to some good man. I have no desire
to keep it longer & willing to do what is right &
we will settle the whole matter.

I am Yours &c
C. Haddock

The business was small in Winter of 1850 - amount
of grain received was from 30. to 60.000 Bushels and the
difference would be from 10 to \$1500 a year for
rent between the Warehouse as it was and is. \$1500

to \$1800. would ^{have been} ~~have been~~ sent for Marchouse without
Slip &c. Marchouse at first used to take grain
from Wagons then it was arranged so as to take it
from Canal Boats. The ^{Capacity of} Warehouse for doing
business was increased as 2 to 1 by the Slip.

Without the steam River Canal business could not
conveniently be carried on. It was 40 feet Marf
or thereby from the end of Warehouse to River
I think they did not do near so much business
after elevators were built as grain did not come
into town. Thinks the Machinery as good after
Traugot ceased his labors as it was when I first
went to Warehouse

Corp Examination

The slip was built 1st May 1849 the Engine
was was there then. I am not sure of slip being done
It was in Order in May 1849. The bulk of the \$1100
Bill included charges before I went there. The
Old Elevators were kept - and additional ones
put in. The engine was put in the Warehouse: the Boiler
House was on the Haddock lot - The Machinery
could not be used without occupying Hadducks
Crown ground as it was then placed - Mr Dyers interested
in Hadducks business till 1st July 1850. Traugers
entries were made on the books of Haddock
& Dyer - Has no knowledge of the Greater part of
Traugers bill; there was some work done by him
after I went there - The half of the Warehouse account
was charged by Hadducks directions - Walker never

gave any directions, never conversed with him on the subject. The new Elevators were put in after the Engine to meet its increased power. Materials all furnished in connection with it. - The lumber for Bins was to divide the Old Bins off - Except enquiring at others I have no personal knowledge of the bills for work. - Hadducks Books were in Office, under Oremont House after Warehouse burned. The Horse power is the same power used before engine put into Warehouse. The credits given to Walker for rent were directed first by Hadduck, afterwards by myself. Has not been in Hadducks employment for more than a Year. There was no balance struck but account shows the balance. Hadduck got home from Buffalo three or four weeks after he left. - I communicated Walkers notice to Hadduck by letter - Had 4,000 Bushels flour in State 1856. & 1857. dont know prices that Winter. - It was a capacious Warehouse. In the season of Navigation in 1856. 250,000 Bushels grain purchased and stored. Dont recollect amount of business done last Year in Warehouse or Year before.

Re. Exp^{ts} - The payments to Mechanics $\frac{1}{2}$ charged to Hadduck the payments were made from the funds of Oyer & Hadduck and charged to Hadduck. - The business was done in name of Hadduck alone. - I think Mr. Walker examined the books and all the items with before Warehouse burned in 1857. - cant remember what

he said - He objected to allowing repairs, no
recollection of what he said. Don't know that
I can remember his reason or that he gave any
I think that Walker examined Books at Ingham's
House in presence of B. J. Hadduck - Walker
looked back to Woodbury's time in the Books, no
objection made to any part of it that I recollect
don't remember the Willard item. Don't remember
that any thing was said about correctness
or in correctness of accounts

Crop Ex resumed - Only knows of \$150. rent being paid to Walker

B. J. Hadduck testified as defendant's Brother, heard a
conversation in August 1850. between Walker & Hadduck
after Hadduck's return. He told Walker he owned
half of the Warehouse and had a right to stay
there. That he was not occupying the whole of the
Warehouse and would not pay rent at Walker's
price. Said he (Hadduck) would give him (Walker)
\$1500. a year for his part or take that - Then after
talking some time came to no agreement - Hadduck
said he would not keep the Warehouse; it was ready
for him (Walker) at any time, or he might rent it
Walker did not make any reply. Hadduck told
Walker that he tendered him one half of the Ware-
house if he wanted to rent his part of it he
might do so

The conversation was in Walker's Office in

August 1850. Mr. ~~Hewitt~~ ^{Vernon} was present I think
not any one else that I recollect, can't recollect
Kimball - Brother occupied the Warehouse and
carried on business there as usual

J. S. Flint

testified. Had a conversation with Haddock
& Walker. Called on Haddock he referred me to
Walker. I called on Walker he told me his interest
would be \$1200. or \$1250. finally said any arrange-
ment with Haddock would be satisfactory. Haddock
proposed \$2500. for the whole slip and all. I would
not have had warehouse without slip. Haddock
wanted to rent it for 3. Years. - I did not want it
for so long a time. Plaintiff then admitted a payment
of \$200. cash. for rent by Haddock beside the pay-
ment \$150. Spoken of by Howe

Elisha Grainger

testified that he did work in Engine & Elevator
& the whole bill was \$1522.22. I settled with Haddock
have no check. The business was done with him
have no recollection of any work done otherwise
than concerning Machinery in Warehouse.
Engine & C & C Steam Engine was not in building
when I put up first elevators.

Crop Examined
William Ames

Can't tell when elevators were put up.
testified commenced working for Haddock
in January 1849. Howe came in May 1849. Canal
Elevators & Central Elevators where not then finished
the small Elevators was built before I came. The
house with slip & C was worth double what it would

have been without them. Warehouse was burned
23 August 1851. Its condition at that time was
first rate. It could not be better.

Crop Examination Lived two & a half years, with Hadduck Engine
put in fall before I went there, the big Elevators
were built & afterwards altered; fire took from
boiler house

Re Ex The rent might be \$1500. or \$1600. without
slip very little grain came in by canal ⁱⁿ Winter
Plf then called Mer T. Brown. who
testified that he recollects Mer Hadduck. being
Wacker. Office but does not recollect anything
that was said, and this was all the Evidence given
on the part of the Plaintiff and defendant. The
Plaintiff asked the court to instruct the Jury as
follows.

pt The plaintiff is entitled to recover rent
from the defendant for the time the defendant
occupied the Warehouse under the lease at the rate
of Eight Hundred Sixty two dollars, & fifty cents
per year, for the plaintiff, half of the Warehouse
and Dock, with interest upon each quarter rent
from the time it fell due.

2d If the Jury believe from the Evidence that
the defendant occupied said Warehouse from
the first day of August, A.D. 1850 to the time the
same was destroyed by fire in August 1851, as
the tenant of plaintiff of One half of the premises

~~The~~ The plaintiff is Entitled to recover for rent
such sum as his half of the House & Dock, was
reasonable worth. ~~Subject however to any payment~~
~~or legal set off that may have been proved pro~~
~~vided any such have been proved~~

3^d

If the defendant made alterations in the Ware
House not provided for by the lease, and without
the consent, or authority of the plaintiff, for the
purpose of using his Steam Engine and Slip on
the lot, adjoining, and put into the Building
additional Elevators to increase his business
then the plaintiff is not liable for any portion
of the Expenses incurred in making said alterations

4th

The Plaintiff is not liable for any alter-
ations made in the Ware House by the defendant
for the purpose of accomodating the increased
Power of his Steam Engine and Slip without the
Consent of the plaintiff, then no part of such
Expenses can be set off by the defendant,
against the rents due to the plaintiff if the
Court find any such rents due.

5th

If the Court shall believe from the evidence
that it is agreed upon in the lease given in
evidence, that Haddock was to Build up the
leased premises to Walker in as good condition
as they were when entered upon by Haddock
the there being ready and willing to Build up
provision by Haddock without notice to Walker

6th
11

is not a compliance with said agreement
That, if the Jury shall believe from the
evidence, that the fire that burned up the leased
premises, was communicated from the fire in
the Boiler House, or Hadduck's own lot, adjoining
while Hadduck was tenant to Walker, and
that by such burning the whole of the machinery
placed in the Warehouse by Hadduck was
consumed and lost, and that the premises
leased were never actually fielded up or
surrendered to Walker, by Hadduck then Hadduck
cannot ^{off set} ~~offset~~ such machinery against the rent
that may be found due.

7th

That, if the Jury shall believe from the
evidence, that under the lease given in evidence
Hadduck was tenant to Walker, of one undivided
half of the Warehouse; and that Hadduck
while he was tenant, placed machinery in the
leased premises to increase Hadduck's own
private business during his tenancy; and that the
placing of such machinery, was done without
the consent of Walker and was propelled solely
by steam generated on a lot of ground, adjoining
the leased premises, owned exclusively by Hadduck
and that while the leased premises were in the
exclusive possession of Hadduck, they were burned
down and became a total loss, then Walker ought
not to be charged with the price of any part of the

8th
"

machinery so leased and consumed.

That if the jury shall believe from the evidence, that the plaintiff Walker and the defendant Haddock were tenants in common of the lot and Ware House built thereon: Sec. if they shall further believe from the evidence, that Haddock became tenant to Walker, of Walkers undivided half, then the joint tenancy, by such leasing, by Haddock, was terminated, during currency of the lease, and also for the time, Haddock occupied the leased premises without actually surrendering them to Walker in compliance with the written Notice served by Walker.

But the court refused to give the first Eighth & Eighth instructions, and refused to give the Second as requested but gave it in the following qualified form viz If the jury believe from the Evidence, that the defendant occupied said Ware House from the first day of August A.D. 1850, to the ^{time} the same was destroyed by fire in August 1851, as the tenant of plaintiff, of One half of the premises, then the plaintiff is entitled to recover for rent such sum as his half of the house & dock was reasonable worth subject however to any payments or legal set off, that may have been proved provided any such have been proved.

To which refusal and qualification the plaintiff Excepted

The defendant thereupon asked the court to instruct the jury as follows.

If the jury believe from the Evidence that Walker & Haddock were tenants in common ^{premises} of the plaintiff from 1st August 1850, to 1st August 1857, and that Haddock gave notice to Walker that he would not pay rent any longer but that Walker might come in and occupy the ~~same~~ ^{warehouse} house with him then Walker cannot recover any rent after such notice and offer to give possession.

If the jury believe from the Evidence that Walker agreed to pay for the Machinery and improvements to what ^{it was} ~~they were~~ worth at the end of the lease, then Haddock is entitled to a credit for what the same were worth at the Expiration of the lease.

That Haddock was not by law obliged to clear every thing out of the warehouse in order to relieve himself from the payment of rent. nor was he bound to leave the premises himself.

If the jury believe from the Evidence that the plaintiff promised said defendant to pay him for the fixtures erected in the warehouse what said fixtures were worth at the Expiration of the lease that said fixtures were of any value at the Expiration of the lease then the value of said fixtures should be set off against the demand of the plaintiff in this Suit.

* And thereupon the plaintiff moved for a verdict

* The jury thereupon rendered the following verdict namely
That the jury find the sum for the plaintiff and against
the defendant to be two hundred dollars

1st

Because the verdict of the Jury is contrary to law

2^d

Because the ^{verdict is contrary to the} evidence given at the trial

3^d

Because the court Erred in admitting improper and irrelevant testimony to be given before & to the Jury On the part of the defendant.

4th

Because the court Erred in refusing to give to the jury the first, sixth and Eighth instructions asked On the part of the plaintiff

5th

Because the court Erred in qualifying the 5th instruction asked on the part of the plaintiff by adding after the words "possession by Haddock" the words "without notice to Walker," and in giving such qualified instructions to the jury.

6th

The Court Erred in giving to the jury Each instruction asked for, on the part of the defendant Which Motion the court Overruled and rendered judgment upon the said verdict to which Overruling and rendering judgment the plaintiff Excepted and prayed the court to sign and seal this bill of exceptions which is done in open court

Mark Skinner

Judge

State of Illinois
County of Cook } S. I.

I Walter Kimball Clerk of the Cook
County Court of Common Pleas within and for
the County and State aforesaid do hereby certify
that the above and foregoing is a full true
and correct copy and transcript of the papers
on file, and of the Records of said Court, in
the case of Martin Walter plaintiff and
Edmund H. Maduck defendants in an
action of assumpsit.

In testimony whereof I have here-
unto set my hand and affixed the
seal of said Court at the City of Chicago
in said County this 7th day of June
A D 1853.

Walter Kimball, Clerk

Supreme Court
Martin O. Walker
vs.
Edwin H. Haddock

And now comes the said Plaintiff by H. Frink his Attorney and says that in the record proceedings and judgment aforesaid there is manifest error in this to wit:

First, the Court erred in admitting the evidence objected to by the plaintiffs Counsel.

Second the refusing to give the instructions asked by the plaintiff numbered first.

Third the refusing to give instruction numbered six.

Fourth. the refusing to give instruction numbered eight.

Fifth the refusing to give the instruction asked by the plaintiff numbered second and in qualifying the same and giving it as qualified by the Court.

State of Illinois }
County of Cook } S.S.

I Walter Kimball Clerk of the Cook
County Court of Common Pleas within and for
the County and State aforesaid do hereby certify
that the above and foregoing is a full true
and correct copy and transcript of the papers
on file, and of the Records of said Court in
the case of Martin Walker plaintiff and
Edward R. Haddock defendants in an
action of assumpsit.

In testimony whereof I have here-
unto set my hand and affixed the
seal of said Court at the City of Chicago
in said County this 25th day of June
A.D. 1853.

Walter Kimball, Clerk

Sixth The verdict is against the evidence
and law of the case.

Therefore for the errors aforesaid the said
Plaintiff prays that the judgment aforesaid
may be reversed and annulled.

H. F. Fisk
Atty for Plffs

And the Edward H. Haddock defendant in
error by J. H. Collins his Attorney comes & says
that in the said proceedings aforesaid given
in the giving of Judgment aforesaid there is not
any error & prays that the said Judgment may
be affirmed &c

J. H. Collins
Atty for Deft in Error

44

Walter O. W. W.

1200.

W. W. W. W. W.

Transcript

Prepared

Filed June 10. 1853.
H. Seland C.R.

W. W. W. W. W.
J. 14 15-

STATE OF ILLINOIS,

WRIT OF ERROR.

Supreme Court,

ss.

The People of the State of Illinois,

To the Clerk of the Circuit Court for the county of *Cook* Greeting:

BECAUSE in the record and proceedings, as also in the rendition of the judgment of a plea which was in the circuit court of *Common Pleas of Cook* county, before the Judge thereof, between *Martin O. Walker*

plaintiff, and *Edward H. Haddock*

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

as we are informed by *his* 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 *Second Monday of June* ^{in June} 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. **SAMUEL H. TREAT**, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this *10th* day of *June* in the Year of Our Lord One Thousand Eight Hundred and Fifty-*three*.

L. Leland Clerk of the Supreme Court.
By *P. H. Leland* Depy. Clk.

44.

Martin O. Walker

vs.

Edward H. Haddock

Writ of error.

Filed June 10th 1853.

L. Deland Clk.

By P. H. Deland Depy.

SAMUEL H. TREAT, Clerk

[Faint handwritten notes and signatures in the bottom right corner]

STATE OF ILLINOIS, }
Supreme Court.

The People of the State of Illinois,

To the Sheriff of the County of

Rock Island Greeting:

BECAUSE in the record and proceedings, and also in the rendition of the judgment of a plea which was in the circuit court of *Jo Daviess* — county, before the Judge thereof, between *Nathaniel Smith* plaintiff and *Warner L. Clark* owner of the Steamboat *Uncle Toby* —

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

as we are informed by *his* complaint, the record and proceedings of which said judgment we have caused to be brought into our Supreme Court of the state of Illinois, at Ottawa, before the justices thereof, to correct the errors in the same, in due form and manner, according to law; therefore we command you, that by good and lawful men of your county, you give notice to the said *Nathaniel Smith* —

that *he* be and appear before the justices of our said supreme court, at the next term of said court, to be holden at Ottawa, in said state, on the *second* Monday in

June next, to hear the records and proceedings aforesaid, and the errors assigned, if *he* shall see fit; and further to do and receive what said court shall order in this behalf; and have you then there the names of those by whom you shall give the said

Nathaniel Smith — notice, together with this writ.

Witness, the Hon. SAMUEL H. TREAT, Chief Justice of our said Court, and the seal thereof, at Ottawa, this *14th* day of *April* in the year of our Lord one thousand eight hundred and fifty *three*.

S. Leland Clerk of the Supreme Court.
By *P. H. Leland* Deputy Clerk.

I have served the writ
 out by reading the same
 to the within named Nathan-
 iel Smith, in presence of
 H. L. Henderson and
 M. B. Clark, on the 7th
 day of May. A.D. 1853

For H. L. Henderson Sheriff
 A. J. Coulter Dep^y

Filed June 13. 1853
 W. L. Clark C. A.

31
 Clark vs Smith
 Sci. Fa.

Nathaniel Smith
 Deem Groline

Sheriff's Fee

Service	50
15 Mile Travel	75
Return	10
	<u>\$1.35</u>

Incurred away to post and
~~draw at~~