11837

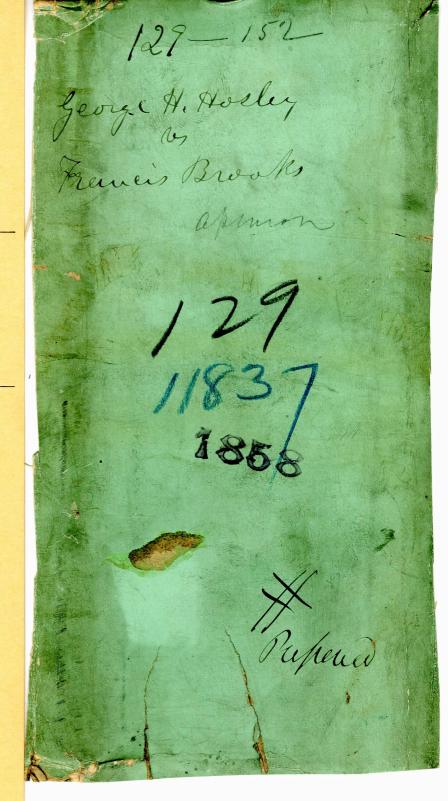
Supreme Court of Illinois

# Mosley

VS.

Brooks

71641



Monday 14 Hersinter and 1856 Mittel States of Ments of Charanica. That of Ellining 3 Pleas Cefore The Commable Tenge Meniene Judge of The ferrallo Indicial Circuis of the State of Allining Court of look logenz in said state at a trul Term thereof legen in Chicago in soil Oung on the Third Monday Ching the dissuteento day of Mossinteer in The year of Our Lord Ow Thrown Cight hundred and fift Lie In the Andipendance of the Muited States The Ceipt fires Homerable Songe, Maniere July y Theoreial Oircuit James of Beach, Come duction Theriff of 6 Coming Daniel Michny States Momen Dattock Louis Deljound 211837-1]

Beit him embered to wit ; - that on the 28 day of October Cin 1836 There was filed in The Office of The Clerk of the Circuit Court of Cook Come in the State of Ollining, a certain for ascipe for Summens which is in The words and Jigures fallowing to coil in Good Ground Court Court Chancis Bonds & Bastova.

Chance Bonds & Bastova.

Chance of Starty & Clerk please epu dummins a abore cause in an action on the Case Returnable to Chrimber Jenn damages Trising fire hundred Challans ankich ally for foly and afterwards to wit; on the Ansig Eighth day of October as 1856 There was iful ent of the Office of the Clerk of the Corcuis Court aforesail a Certain Suples Whit Comment Called Semmons which is in the words and figures fallineng to wis ! - Oummen - Cincil Court of That of celling 3 to the Corner & - office acting Thereof pound Cong Greeting: you that you dummin days Ho. Hosley if he chall be fumine Your Commy, porsumally to be and Chhear Cefore The Circuit Court of Out Oung on The first day of the heat Term Thorof, to be kill en at the Ourst Hense in the City of Chicago in said Gente on the there Mentay Charamber need, to cueus ento Francis Broks and Unice Broke in a plea of Treesous on the case to the damage of the Said plantiff the is said in the dum of times fine hundred Dallans Und have you then and there This Mit with and Endersement Themen In What incomer you Shall have Orecuted the Same Clerk of our said bound, and Seus Cherry at Chicago Seus Chair and this thing Eight October and 1856 LO Hand

4. Com on The Back of the foregoing aim last insultine mis appears Endernement thich are in The words and figures fallowing to mid; Denes by leading to The withing Macuel derje. On Healey the Thirteeth day of Ochlan 1806 Ace 1 Dérvice de 1 1 Elum 16. 20. James & Beach Corner tecting Cheriff By JM Brudley Special Deput And afternands to with ou the Smuth day of Thomsmen and 1806 There was filed in the Office of the Clerk of the Circuit Court afresaid to Cestrain Checlanting which is in the winds ever figures fallining to nih! That of Ollinis Cool Cong fo Ook bong Oincuit Our of The Chersonler Seron · and 1856 Olamois Brown and linese Downs plantiff in This out Complain of George et stocky Observe with the has been Summone &c en a plea of trespas

in the Case Forthat Isherens the 5. Jaid plantiff her leve good Tour honest just and faithful Citizens of said Stale and as duck have always behave and Conducted thouselves and outle The Commetting of the Sersal Greinances by the said Clefendant Ces herrin after mentioned were always reputied and acception Meighbors and other ford and worth citizens of said State to them They were in augmine homen to be poersons of just mane James and credit. To with out · Chicago, in the Oung and State agreeail and Theres ali the said duice Donds rife of the said Francis Donk has not Eres been quilt , or, centel the forme of Commetting of the said dessal Greiners lay the Daid Clefferd and as hereinafter mentioner, leeen Suspected to have been quiet of tedulting is any other such Crime , and whereas theales the Said Chice Bouchs trife of The said Ammeis Brooks at the time of Committing of The deid desiral gorriances ley the Oaid Clepenslant herrinagter Insutioned and 211837-3]

long before I mas a find two honest push and faithful tripe of the said touncis Bruks and die faithfully and diligenty Exercise the househier duting belinging and apportaining to her as duch sife at the Time of Commelling of the desiral. Greinances herrinafter mentioned to wit at Chicago in the County and State aforesaid Of The oard Elifeudant treel muring the prismeses and greatly Energing the haply state and Condition of the said plainty and Contracing and falsely and prejudice The said chine Bushs in her few have fame and Credit as buch mife and to be leputed an indocume luchaste immodest and importer person and enfuethful new heretigne to int on the Isratheuth Clay of October on The year 1856 to wit at Chicago in the Count and State aforesaid en a certain clis come cond. Concernation which he the said defendant then and there had of and Concerning the said Unice Brooks in the prosence and heaving of dirers good Cend everty Cetizens and Then

and there in the presence of In and heaving of said last Mulicius Spoke and. published These deserral Julie In alicino Scandalens and Clefamales hands of and Concerning the said Course Buch that is to very Son I meaning the said their Broks Jane a Farmed there and Ilmening the said defendant) can Jours it meaning that he the Quid defendant Could forms thus The the said Cluice mas a where) and The said plaintiff further Day that the oaid Olegendent Justher Contrining and falses and malicinstry intending to to face and parejudice the said plantiff and Expecially The Daid Unice Bruks in their good name fame and credit and to Cause The said luice to la Exported an indscerons encharte Immodest improper and enfaithful mile to mit as On the bisnteets Clay of October in the year Eighten Security and Jiff on the bring and State aforcion in a centain Cliscourse thing to the Daid Olefferd and then

1/1837-4

and there had of and Concerning the said Chaice Brokes and of and Encerning her tharian as nife of daid Thancis Brils falses Toursely and malicins & in the presence and hearing Clining Good and worth citiens Those and builts has These Small Salse Tourdalins malicing and alefamating words of there Bounds that is to vay South one a Ged damined letel of a there and the said plaintiff Cleffeed and Justher Contraring and falses and Inalicionsly intending to my one can prejudice The said Unice Bowls in her God name fame and tredit and to cause her to be affected and indocuring enchaste formoders and emporper per and augaithful sife on the Insutieth Clay of October in the year Eighthen Trenden and fifty die to with at Chicago en aforward in a certain discusse this he. The Daid defendant. Then and there had trad of and

Cend there in the presence of In end heaving of said last Mulicians Spoke and. published These deserrel Julie malicino Sombaleno and Obefamalez honds of and Concercing the David Cerice Buch that is to say For foreaving the said their Brooks ) are a Januared thehere and Ilmening the said Olefondant ) Can Jours it meaning that he the Quid defendant Could forms Thus The the said Elvice mas a there) End The said plantiff Justher Day that the oail Offendent Justin Continuence and falses and malicinstry Intending to Injure and porjudice the said plantiff and Especially The Daid Unice Bruks in their good name fame and Oredit and to Cause The said luice to be Exported an indscerons wucheste Immodely imporper and enfaithful mele to mit at On the brentieto Clay of October in the year Eighten Security and Jiff oir to wit - at things in the Oring and State aforein in a centain Cliscourse which he the said Cliffeed and then 11837-4]

and There had of and Concerning the Said Chaice Broke and of and Encerning her thariour as mife of daid Thancis Brits Jaley O'Cund alongly and malicions & in the presence and hearing of Clining Good and worth citiens Salse There and bublished These Simil and defamating words of elecice Bounds that is to day South on a del danine bites of a there! and the said plaintiffs Clefendant Justher Contraining and falses and malicionsly intending to injure con foregudice The said Unice Borols in her God name Jame and Gredit and to cause her to be apriled and indocuring unchaste formoders and emporper per and enjoithful trife on the Insutietto Clay of October in the year Eighthen hunden and the trung of could State discusse this he. The Daid Clefendant Then and These had trad of and

Concerning The said Unice I Breaks and of and Concerning her Ocharian thile the lived with the said Francis Donots as his langul mige Halsely Ocembalinsty Mulicinst in the presence truck hearing of Clining Good and worthy Citizens Thoke and published These Ferent Jales otawalous malicion and Clefamating words of and Encerning The said Cluice Broks and of and Concerning her behaviour. that is to very den (meaning the said Umice Bourts) are a Where !! By means of the Committing of which said Sevent que circures by the said Clefewort the said Clautiff have been greatly Injured in their good have Jame and Credit and brughtento public of and, infamy and Chis prace with and amongst all Their neighbors con aller Good and truthy City on to whom They were in any wise thenen morning that Cleases of Their heigh boss and Citigen to whom the innocence of the Daid Unice Brooks in The said offsuces and mis cenduct de as aforseil montine to have Chargo whom and imputed to the said linice [11887-5]

none culenon have enoccasion after the Commetting of the Said Sereral frecionces by the baid Cleffendant from Them hitherto despetal and believe and still do Suspect and Celein the said Eluice to have Ceen quilt of the Offences and Misembut de as afores and Insutioned to have been Charger when and imputed to her as aforesaid and have by leason of the Committing of the Dand Vereral Greirances by The said Olefendant from Thence hitherto Refused and still de Refuse to have any acquaintance. Intercourse or Clis Course with The Daid Schamtiff and Especially with the said line and The Daid Solewith have been and are by means of the and Dannified to with at the Cany of State aforesaid to the damage of The Daid plaintiff of Amenty Jose Quadrad Challans and There fore they bring duck to Ce Bick Cetty for help

Clad afterward, on the 1st day of Monniter at 1806 there in file an the Office of The Clerk of The Ourcell Out of Oak Overny africail a Certain Donnerser which is in the words our difund Jullining touis !-The Circuit Court of the Coing of Tenji eli elijalij dane Armais Bouchs of S And the said Clepudant by Brown and Hungen his although times and defends the throng and layury then ic. and Days that the out Clecharaters Clud The matters Therein Contained In Invinier and firm as The dame lese above Statul and det firth are not dufficient in few for the daid plantiff to have or prounteen their aforesaid action thereof against The Daid Referdant and he the Said Oleffendant is but trom. by few to current the ocure Con this he is leavy to enily the fore by leason of the. Insufficiency of the said declaration [11837-6]

En This Tehast, the card Clefendant from judements and that the said plaintiff may be bared from having a Inautaine Their aforesaid action thereof a fainth him to Brown and Buryon Dept any Und afterwards i to mit; Ou The 19 to day of DEcember CD 1806 it living one of the Bays of the Chromber Verm of our said Court for said your the faller up trung Other peroceedings were had and Entered of Becard therew ith wis! Hamis Brishs Saph 1 Emil Brishs Saph Lenge School Saph This day Come the said parties by their Respectore atterment and by Them Opreement made in open Cause Stand Continued hel The west term of this Court and afterwards to with on the 140 day of May a 21854 Then tras felice in the Office of the Week of the Court aforesaid a

Certain Plea which is in the Jands and figures following he

The County of Carl The of,

Carlos of Jung & Carlo The of,

Carlos of South of Carlo The of,

Carlos of South of Carlo The of,

Carlos of South of Sout Cuice Bords & Chal the Oace defendant by Down and Hungen his Atterney Come and Clefunds the evering and injury when out and Days that he is hat guilt of the occil children greinances above fail to his Change ir eny or Either of them or any part thereof in Incumer and form as the said plainty hath alm Thereof Complained afainst him and of this he the Jaid Clefendant but himself when the County de Brown and Aungen State of Ollining 3 for JEn 26 Horsley deft in the above out being day deveros ougs that he has a find Offence to interpose at the tout 14 Subscribed and cam 1. 3 This day of Morniber 3 01/18 Ruger O.P. And afternands to without the 16th day of Indy and 185% there has filed in the Office of the Clerk of the Court apresaid a Certain Officant of Month: Which is in the words and figures Jollenay to ever ,-Cort long Execut Out of The about d'en and 1837 Thomas Brinks Curice Bruto Thate of Electricis George 36 26. Olesley Defendant in The tome Cause being duly deven days that he believes he has a for and just defende to the above, deit to interpose at the the South to monitor to Sea Of Musley Tetrombul and Sommet of May axo1854 EF Rungan Motary Fablic

Chul afternands to onit ;- On. The 1288 day of May and 1834 It Coing one of the fans of the april Jermy said County cail year, and This Come having Cen Eightang Continued The following coming other porceeding were head and Entered of feared in ouil Court to wid ! Francis Breeks & Can.

Euge. es es aly Condend, in mition, that Said Olefand unt have leave to Bethoins his dement to the parties herein Chad afternands to mid, On The 18 day of May and 185% et Com as get one of the days of The april Verm of said Court for soin your the Following timing other proceedings pail bout to as -David Court, to aid; Jones Bonds & Case
Jones Holes & Consults

Jones Holes & Consults 511837-8]

16 This day come The said parties by Their Cetterning and ifour being Juned hersin It is Corden that a feing Come Mherrufun Come The Juns of a day of furtam langue men to wist Thence Thames El Mende
Blendheim The Briggs
The Steems Cl Blindles

If Cit Gatter

Afhickley Disracken

Ill Calley Colo Sichen

Ill Calley Colo Sichen The long duty Elichel threel and serom well and thing to hing The effect Joined Expression after hearing The Eridence addiced Congument of Council cond sustanctions of the Court Cetire to Cousider of Their Estable and atteriorando Come into Court & Say The the day find for the plantiffs and apen Their duringes hersin to The own of Join hundred and fiff Callans" Therefore ouil Elefundant mores the Cour for a new trul of this laure, and The Court having heard Council an said trettin and being fully cedriced in The promises ersmules The Came Then for this Considered that ouil plaintiff the have and Eccuse of said defendant

May 18.185% Their Claimages of Fire 17, handen and fift dullans, 1/500 Aun apreced together will them in this to half Expended and have Edecution Therefor And afterwards to wid: On The 30 hay of May a 2180%, it leave a get of the said afril Jeron onil Out for said your the fallowing Cornery Other proceeding were had ear Entired of Becan in said Out to wit !-Omnie Broket D Cancie Broket D 870 Jenge V. Maly This eleny Comes the said defendant and prays an expled of this lauce to the feeleseme Court of the State of Allinois which is frunted Clark Sering Clays form to file Beil of Excelling and boul for Stateen hundred Challens mits La Doubtle & Dand C. Paleys as Sureties Conditioned Occarding 24837-9]

1. Clad afterwards to wit it the ook bay of May and 180% there was filed in the Office If the Clerk of the Circuit Court Ofiresaid a testain appent Bend white is in The everts and Jugenes fallening to evil; from all men by there Insents that me George & Overly wine David . C. Chauleigh ound Laws a Dorlittle on heed and firmly Dum auto Chances Broke and Cunice But a The Deval dam of Fateen Houndrik Challans, Sanful driving of the duited states. Jo The payment of which tree Ourselves, our heirs and describer and firmer by these forment themet our hands and vals This 30 day of May and 1854 The Condition of the above Obligation is duck That phereas the Dail Francis Broks and Cunice Brooks elid on the 18th day of May ad 180% in the Out Gump Oneit Couch Record at jerdgement si an action in the Case for an allegal Securely against the above brunden dange

19 and gray ductors Cosides Cut form which fregement the Said Cange 26 Hooling has Taken an ceppeal to the Juposme Court of the Stale of Olling hen of the oail Then do stocking that diliqued and duf prode cute his cail cephene and Thace bay The Beigement. Cest poterest and damages thick may be Coursell agusted and apressed afacust sim by the capsime Court in Case the Judement aforesaid of the Cort Ours Comment Out Shall be affirmed in they the soul Supreme But then the above Obligation to be ein Otherwise to Comain in July force and Capech Te Ul Marlay Gene La Owlittle Escut And affirmands to mili on the Med day of chime and 180%. Then mus filed in the Office of the Colerte of the Oiseuit Out aforesaid a Certain Dece of Exceptions which are in the mids and Jigues falling A mix !-[11837-10]

21. The Court Court of Court of Court Court of Francis Browns & 3 Eliniu Borres 3 George He Horday · Acit of member That en The 186 Ray of Man Chassy the above Entitled Cause come en to be helen in dans Court held at the lig of Chicago by and before the Hon Venne Mancien Grede of Dail Court and a Dung thee, Introduced the fallening rame mithiefes in The order hersingles raced who being due, our the Seven the Seject as follows Jan acyanisted wettethe parties in This said - The plaintiff her live on the Corner of Stabled and Harrison Street They list in Clinton at plaintiff house last October when the defendant 26 ocley Called there, the

micked at the Clin and lines But ment and Cherry it Horley Come in fut his Ours amind her nech and Repull her The (Am Bruchs) Then Called him a bream ding purply and esset out the back part of the House which mus occer as a betohen to tall Mr. Brokes - 20 osly Called her all manner of names a Ged dummed litch of a where The Total him to leave the house he deplied that The house me his min our he Showed but heave thee he got song The had a right to very and do what he pleased in his om house He Bicker her and Olven his tome to Danke her - Bowhs Stepen in Cetreen Them Hoosley Called her a Farmed with of a Where - Dand he could forms it said too he smed tice her, 26is precise words here I'm are a dumined litch of a thise and el con forms it the repeated the repeated The Language or Language to that Effect Firent times - it has assepul to Mis Bouchs one of the polacity in this Duit Houley Then with at Stairs where some ene Else Sira and Came buch [1837-1]

in about fifteen humites often and vaid Tentlemen of cloud Brun what you think but I think the is a Curins cuman but I can formall I have Can hop on as son as the Learn a mino to " My refe and for frattenere present Mr Downlis mus en The back now out of oight when Housley first Came in ; On Examined Jama Curpenter by trade have been acquainted with Mir and Mis Smoks dometime - have Ocen Housey Cofne I Called That Ersuing in Ductor Brown for some Medicine her herew what House Came there for when he Came in he said "good Essing mother Drives " and fut his comes Ennal her hech and tepen. her The Called him a mean. An lin puppy, Hooley wont Through with the letchen There ware three rome in the Donne O Coupied by Ital Bouchs Houly Came in on the Each will or front Olde of the Source paper Through The front rome essed for our Office, The middle room and into the Netchen Man Bouchs

23 mas a little Cacited Doctor Dorols was on the Getchin heard fact tack there but could not understand what was said They came buck ent of the testehen Mons Dontes told him to feare the House Called him a new Clist hupby could derent other harst mames of the not reculled This Calling him a town mou Hosley mus a lettle Excelled token he used the longuage Towards her He was there What half on hour they exceeding to get him ent of the house . The Case him a huply before he eized the ends to her Ollmin Min Bruks Character -Mathew Brats Coing Che Juin testeful as fallens eigi-I have heard the Eridence of the Tuernsey - about 80 clock in The Ersning of which he spoke Classed at the Office of Decter Bruks Mer duernsy was in the affice Coul The Docter was Enjaged in the back now I heard wices , en the back now but Could had hear what mus said - In a Thirt heme the tomber Came to the tack dur of the Office I mus at The Same Tome Talking [11837-12]

fasting with penties in the Bitchou The mul into the telchen Cejain Then Returned and Referdant Yealing and Mr Brokes Came in well her More Brooks ordand steeling to learn the House Healing said is trus his ein house and he had a right to the as he pleased Hoaling Said to Mins Broke Sin are a. Clamina Citch of a where "Ho raised his Cane to Strike her and Said he had a find laster to Eice her This tanguage to as adreped to Mars Bounds one of The plaintiff in this Case Hegling appeared Excited Jones to and writ out to Case the Bolice Ishen & returned Hosley has gine up drains the som came back and Said "Seutherman That Mirs Broks is a droll third of a Jonnan Man Survisey Femantal that it was hard language Housey card, ges but of can forms what I have said and En more tend they may hup en if They please "Heely called her a ged danned rep ga there and repented the language derend times He was tall terme "if and titel" of a where Mero Brooks was the person addriped - said They might furt on if they pleased he was road

25 Omp. Examinar.
Other about a hory a mile from Doctor Brists Than had Concernation with Duty Drives and his einge colomb This matter there was some Excitements at the Time Hosling has en much Excited uns Broks Called him a hen mean man and ordered him out downs Hoosly desman resolute in his manner Sthut he Statul that The Doctor and him Clinabeth Gurmany Coing Clug Seum hethiguid as goldens Janus foresent at Duter Broks one time feet October phen defendant Diely mus There Mr Borols Fouts, my husband Cend Healey were in The Office, there hus quarrelling when I first went in Horard Charley use the everds "titch of a where "Tenando Mis Bruks of came in en the words while he was speaking He raised his cane to otherke her and Jever he would hill her oran Treed to tack her be left in about half an hour Emp Edaniero about 8 Ochoch in the morning There was quarrelling to hen of mont a . Mars. Boroks cised [1837-13]

26 her Tengue no more Than a great many armen wind at buch a Teme The Called Horly to Mean freshy Whey were Olme Excited dam Reighton to the Doctor cisit there frequently here time well this in Mrs Broks about This matter Mr Charley was Inne (della) Club Ima Bruks was Eduted Charles Jahin Cing duly Down Astiguid as faceurs, eig, Elegendant here the work hour what his business is I know he is forethe well aff the error to Lot at Buch Island R.R. Mehot Cum one back of Doctor Gans and some fets en Clinter Threet He enns a firm at Thisky point, and did om Que at Theeling Dent Brown that he is worth any thing him The above Sextiming man abject to the lay the Cleford and Council and Exceptibled.

The Melliam Skillman Coing dig der Matter and the Stillman Coing dig

Offeren where the defendant Il Horsley and to leve and tour about his Concumed nones Iron What he ken Total me I estimate. The calue of Horse sompers at fell a only there and chiefen erranded and Excepted by Dector M. Buchanan being duly deven testefied as fallins eig: I have been requiremented in et Man I sun Brooks the plainty Whenh In years, eleving which Teme they have lised together as husband and mife they have de recejoniza Each ather coul tere or Reputal to be Sesterney Objected to Objection erzrauld lud Excepted to Mathew South reculail There Trum Mer, I Mers Bruks The polacity of about Israe years they are refuted to be hurtand and wife emil have dies tyether to hickory and evele clusing that time My Maintests now rested their cost allen Coleffend and then the Coleffend and then cut ordered apon the struct as a evelnes Tengs. If fittenford - who loine Cluy Devon bestefeel as gallen 11837-14]

28, 012,-I am acquainted with Men Bruke and Do Bruks have deen them the Souther Defendant there Offerio to poure by the evetness that Qu Brooks one of the polaintiff had statut the Unice Brooks was a quan essene person to the introduction of which Exidence the plaintiff Objected and the Our nechana The Christin and Excluded The Exidence to which Ruling The Olefand and Then and There Exception The foregoing includes. are the Erid Ence in the Case Excepted The planity Then weter the Court to give the fallening instanctions to the Dung. Celeire from the Eridsone that the Olegandant is quity of attering the Standerms words Charged de the electuration They may take into Courd southern the Recurrency Ceremostances of elefendant end his pesition and influence in deciez in Esternating The amount of Jumajes and if They chace also find from the

Evidence that the Clepens and oftended himself out plantiff. 29, James and then Offered en dur Jamiliaretes to Eurice his evife at the true ourse on the occurrence of the lettering the everes le question these Circumstances may aler be taken lite Consideration on fring damages Church the Gire damages by my of Courtment to the elefendant Broportioned to the Circumstines la Endence as mellas for Compensation which was form and do marked by the work To the Juny as asked In by The promitiff of which instructions de juin les africais The Clefend and Then and There Excepted The defendant Then asked the Court to give the Eight falling mintouctions to the Jung the day theme Celein from the End Ence that The Olegendant Olesley worth the 26 me of the plaintiff Brooks for the purpose of Callecting money and a Clispute Cerose between The parties while there and that Curice Brooks was the appear [4837-18A]

30 and end the first hand Edhoroping and That The and Thoken by Officely were a detail to de of Exponencias They wire find on the Elependant And If the Derry Mand find I form the Evidence that the Language and by The Clasendants Morey to the polaintiff Chine Brooks pas Sporken in jert tund but mell malie Their endich beel be for The Clefendant I'd They also find that the Municipa mas an 22 cound and Condentant by The persons Soresent at the Tome) 30 Of the day dhourd believe from the Exidence that the sunds cosso Opolan in at deal out Lapin (and enthub makin) then their cordict wiel he for the defendant (if they ale find that The words were also so understand organder at the time) 46 of the day offenor betein from The Exidence that there was for malice at the time the lierds were sporten by the Elefendant, but that they evere Marken in the Excitament Consequent form the hard was Colorson Them They well find for

the elegendant Sind form the Existence that device Brooks one of the plantiff berson found 20 Eakithited herry at the time ) and and former to have been and by the Clefend and to her un land ly a quant Catheren Them they will take that Jack ent Consideration in Considering the amount of danings thing the plaintiffs are Entetled to recorn, to of the day should fend from the Endence that the words. Tholen by the Elejendant were at another and different hime Them there celleged in the Clicharation They will find for The Elefeed out J'bog the Dung Showed Celein from the Endence that there is a Conspirincy Cotons in The polacutiffs a This sail or betonen Them cand athers to Eatest many from The Elegand out, They mill take that with Consideration in Considering Their esdecti 11837-15]

The question of the alefendants. malice is a question of fact for the Juny Upon Consideration of all the facts and Conversations and that of they believe the winds Spoken by the defendant to the polanital Unice Doroches evere sporten en heat and papin (without malice) and withour intention to accuse her of the Cochal Creme which the winds imported (and that it was so envorated by The posties poresent at that Time) They will find for the defendant. The Court defund to fire and Inasked Them Do Effect The In 436 5 + 95 huttending and gare The 2nd 305 5 + 83 after mosting What is included in bruchets to which refusing of the Court and The leverteng of words en there custometime given to the jung by The Cent The Clefendant Then and then Excepted The day having fund a Cordich for the palantiff and apered the Clamages at Dissu 20 couds and Jiff Vallars (1 /00 8) The defendant, by his Coursel Men the Deat fra hear trial thich the ting the Court errould to which

Culiny the said Elefendant by his Council then tred there Excepted to the Ofinion of the Court and prayed The Court to digen and Seal this his live of Exceptions which es according of the en the form Tinge Momine Bend July of Jasian Cerenity Allining That of Collins & Charles Court Court of Court of Court of Court Court Court of State of State of States of Court of Male of States of Court of States of States of Court of States of State Elo here by Certif thus The cebire con foregoing Transcript is a true con perfect and Complete Copy of the file, I for ceeding to nell as The Orders had and Entered of Jeans in the said Circuit Court on a certain deit takley pouling Therein, Athersia Francis Bontos and Clarice Brooks were plainty and Jenje, If Housey mas Olefendant and of the estable Thereof as Express to as of In Method Inherent & ZU837-16] have hereunt det my hand and

affixed the deal of our said 34 Court This 2nd Day of February Carol 858

Cookbring Con Co Theres Brich ch Then & Ho & Correct Teled April 16: 1858 Sodeland, Cambelle Mecano for Dechisme CI Henry ... Amuroph to A in Lastan 900 Bet 9 Fin 11 acres The Church Birmand Strongen

## The Supreme Court of the State of Illinois,

OF THE APRIL TERM, 1858.

## GEORGE H. HOSLEY, Plaintiff in Error,

vs.

FRANCIS BROOKS & EUNICE BROOKS, Defendants in Error.

## ERROR TO COOK COUNTY CIRCUIT COURT.

7 The declaration is in case for Slander, and comprises three counts.

The first count states that in a colloquium on the 17th of October, 1856, with the Plaintiff, in the hearing of divers good and worthy citizens, the Plaintiff falsely and maliciously spoke and published these several false, malicious, scandalous and defamatory words, of and concerning the said Eunice Brooks, that is to say, "you," meaning the said Eunice Brooks, "are a damned whore, and I," meaning the said Plaintiff, "can prove it," meaning that he the said Plaintiff could prove that she the said Eunice was a whore.

The second count states the words to be—"you," meaning the said Eunice Brooks, "are a God damned bitch of a whore."

The third count states the words to be--"you," meaning the said Eunice Brooks, "are a whore." Damages \$2,500.

Plea, not guilty.

The trial was had before a jury, in the Circuit Court of Cook County, at the April Term, A. D. 1857, and a verdict of guilty rendered with \$750 damages, and costs.

Hon. George Manierre, Judge presiding.

At the trial the Defendants produced Frederick Guernsey, who, on his direct examination, testified that he knew the parties; the Defendants then lived on the corner of Halstead and Harrison Streets; they lived on Clinton Street in October, 1856; he was at Defendants house in October, when the Plaintiff Hosley called there; Hosley knocked at the door, and Mrs. Brooks went and opened it; Hosley came in, put his arms around her neck and kissed her; she (Mrs. Brooks,) then called him a mean dirty puppy, and went into the back part of the house, which was used as a kitchen, to tell Mr. Brooks; Hosley called her all manner of names—a God damned bitch of a whore; she told him to leave the house, he replied that the house was his own, and he should not leave till he got ready; he had a right to say and do what he pleased in his own house; he kicked her and drew his cane to strike her; Brooks stept in between them; Hosley called her a damned rip of a whore; said he could prove it; said too, he would kill her; his precise words were-"You are a damned bitch of a whore, and I can prove it;" he repeated the language, or language to that effect several times; it was addressed to

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Mrs. Brooks, one of the Defendants in this suit; Hosley then went up stairs where some one else lived, and came back in about fifteen minutes after, and said—"Gentlemen, I don't know what you think, but I think she is a curious woman; but I can prove all I have said, and if they want to, they can hop on as soon as they have a mind to;" my wife and Mr. Pratt were present; Mr. Brooks was in the back room out of sight when Hosley first came in.

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On cross-examination, the witness testified that he was a carpenter by trade; had been acquainted with Mr. and Mrs. Brooks sometime; had seen Hosley before; he called that evening on Dr. Brooks for some medicine; never knew what Hosley came there for; when he came in he said-"Good evening, mother Brooks," and put his arms around her neck and kissed her: she called him a mean low lived puppy; Hosley went through into the kitchen; there were three rooms in the house occupied by Mr. Brooks; Hosley came in on the east side, or front side of the house, passed through the front room used for an office, the middle room and into the kitchen; Mrs. Brooks was a little excited; Dr. Brooks was in the kitchen; heard hard talk there, but could not understand what was said; they came back out of the kitchen; Mrs. Brooks told him to leave the house; called him a mean dirty puppy, and several other harsh names; he did not recollect of her calling him a bad man; Hosley was a little excited when he used the language towards her; he was there about half an hour; they were trying to get him out of the house; she called him a puppy before he used the words towards her; I know Mrs. Brooks' character.

The Defendants also produced Matthew Pratt, who testified that he had heard the evidence of Mr. Guernsey; about 8 o'clock in the evening of which he spoke, he called at the office of Dr. Brooks; Mr. Guernsey was in the office, and the doctor was engaged in the back room; he heard cries in the back room, but could not hear what was said; in a short time Mrs. Brooks came to the back door of the office, and was at the same time talking with parties in the kitchen; she went into the kitchen again, then returned, and Plaintiff, Hosley and Mr. Brooks came in with her; Mrs. Brooks ordered Hosley to leave the house; Hosley said it was his own house, and he had a right to do as he pleased; Hosley said to Mrs. Brooks—"You are a damned bitch of a whore;" he raised his cane to strike her, and said he had a good mind to kill her; this language was addressed to Mrs. Brooks, one of the Defendants in this case; Hosley appeared excited, he was excited too, and went out to call the police, when he returned, Hosley had gone up stairs; he soon came back and said-"Gentlemen, that Mrs. Brooks is a droll kind of a woman;" Mrs. Guernsey remarked that it was hard language; Hosley said-"Yes, but I can prove what I have said, and even more, and they may hop on if they please;" Hosley called her a damned rip of a whore, and repeated the language several times; he used both terms, "rip and bitch" of a whore; Mrs. Brooks was the person addressed; said they might put on if they pleased, he was ready.

On cross-examination, witness testified that he lived about half a mile from Dr. Brooks; he had had conversation with Dr. Brooks and his wife about this matter; there was some excitement at the time; Hosley was very much excited; Mrs. Brooks called him a low mean man, and or-

dered him out doors; Hosley seemed resolute in his manner; he thought that he stated that the Doctor owed him.

The Defendants also produced Mrs. Elizabeth Guernsey, who testified that she was present at Dr. Brooks' one time in October, 1856, when Plaintiff Hosley was there; Mr. Pratt, my husband and Hosley were in the office; there was quarrelling when she first went in; heard Hosley use the words "bitch of a whore" towards Mrs. Brooks; she came in on the words which he was speaking; he raised his cane to strike her, and swore he would kill her, and tried to kick her; he left in about half an hour.

On cross-examination, the witness testified that she went there at about 8 o'clock in the evening; there was quarrelling when she went in; Mrs. Brooks used her tongue no more than a great many woman would at such a time; she called Hosley a mean puppy; they were some excited; she was neighbor to the doctor; visited there frequently; never conversed with him or Mrs. Brooks about this matter; Mr. Hosley was some excited, and Mrs. Brooks was excited.

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The Defendants also produced Charles Sabin, who testified that he was acquainted with Hosley, the Plaintiff here; did not know what his business was; he knew he was pretty well off; he owned a lot at Rock Island Railroad Depot; owned one back of Dr. Egans, and some lots on Clinton Street; he owns a farm at Whisky Point, and had owned one at Wheeling; did not know that he was worth anything then.

Which testimony was objected to by Plaintiff's counsel, and objection overruled by the Court, and exception taken.

The Defendants also produced William Skillman, who testified that he knew where the Plaintiff Hosley used to live, and knew about his circumstances; from what he had told him, he estimated the value of Hosley's property at \$50,000 or 60,000.

Which testimony was also objected to by the Plaintiff's counsel, and objection overruled by the Court, and exception taken.

The Defendants also produced Dr. H. Buchanan, who testified that he had been acquainted with Mr. and Mrs. Brooks, the Defendants, for about two years, during which time they had lived together as man and wife; they had so recognized each other, and are so reputed to be.

Which testimony was also objected to by the Plaintiff's counsel, and objection overruled by the Court, and excepted to.

The Defendants then re-called Matthew Pratt, who testified that he had known Mr. and Mrs. Brooks, the Defendants, about seven years they were reputed to be husband and wife, and had lived together as husband and wife during that time.

Which testimony was also objected to by the Plaintiff's counsel, and objection overruled by the Court, and exception taken.

On the defence, the Plaintiff in Error produced, as a witness, George W. Stanford, who testified that he was acquainted with Mrs. Brooks and Dr. Brooks; had seen them at Justice Grant's office.

Plaintiff in Error here proposed to prove by the witness, that Dr.

Brooks, one of the Defendants, had stated that Eunice Brooks was a quarrelsome person, and continually in difficulty for the purpose of decreasing the damages which the Defendants might recover, should the Plaintiff be found guilty; to the introduction of which evidence the Defendants by their counsel objected, and the Court sustained the objection and excluded the evidence, to which ruling the Plaintiff excepted.

If the Jury believe from the evidence that the Plaintiff is guilty of uttering the slanderous words charged in the declaration, they may take into consideration the pecuniary circumstances of Plaintiff, and his position and influence in society, in estimating the amount of damages; and if they shall also find from the evidence that the Plaintiff obtruded himself into Defendants' house, and there offered undue familiarities to Eunice, his wife, at the time, and on the occasion of the uttering the words in question, these circumstances may also be taken into consideration in fixing damages, and the Jury in their discretion may give damages by way of punishment to the Plaintiff, proportioned to the circumstances in evidence, as well as for compensation.

On the part of the Plaintiff in Error, the following instructions were asked, and the 1st, 4th, 6th and 7th were refused; the 2nd, 3rd, 5th and 8th, after inserting what is included in brackets, were given, to which refusing of the Court, and the inserting of words in those instructions given to the Jury, the Plaintiff excepted.

- 29 1 If the Jury should believe from the evidence that the Plaintiff Hosley went to the house of the Defendants, Brooks, for the purpose of collecting money, and a dispute arose between the parties while there, and that Eunice Brooks was the aggressor, and used the first harsh expressions, and that the words spoken by Hosley were a retort to such expressions, they will find for the Plaintiff.
- 2 If the Jury should find from the evidence that the language used by the Plaintiff Hosley to the Defendant, Eunice Brooks, was spoken in jest, and not with malice, their verdict will be for the Plaintiff, (if they also find that the language was so received and understood by the persons present at the time.)
- 3 If the Jury shall believe from the evidence that the words were spoken in heat and passion, (and without malice,) then their verdict will be for the Plaintiff, (if they also find that the words were also so understood and regarded at the time.)
- 4 If the Jury should believe from the evidence that there was no malice at the time the words were spoken by the Plaintiff, but that they were spoken in the excitement consequent from the hard words that had previously passed between them, they will find for the Plaintiff.
- 5 If the Jury should find from the evidence that Eunice Brooks, one of the Defendants in this suit was a quarrelsome person, (and so exhibited herself at the time,) and that the language alleged and proved to have been used by the Plaintiff to her, was caused by a quarrel between them, they will take that fact into consideration in considering the amount of damages which the Defendants are entitled to recover.

- 6 If the Jury should find from the evidence that the words spoken by the Plaintiff were at another and different time than those alleged in the declaration, they will find for the Plaintiff.
- 7 If the Jury should believe from the evidence that there is a conspiracy between the Defendants in this suit, or between them and others, to extort money from the Plaintiff, they will take that into consideration in rendering their verdict.
- 8 The question of the Plaintiff's malice is a question of fact for the Jury upon consideration of all the facts and conversations, and that if they believe the words spoken by the Plaintiff to the Defendant, Eunice Brooks, were spoken in heat and passion, (without malice,) and without intention to accuse her of the actual crime which the words import, (and that it was so understood by the parties present at the time,) they will find for the Plaintiff.

Now comes the said George H. Hosley, Plaintiff in Error in this suit, by Brown and Runyan, his attorneys, and says, that in the record and proceedings aforesaid, and also in giving the judgment aforesaid, there is manifest error in this:

- 28 1st.—The Circuit Court erred in refusing to admit the evidence offered by the Plaintiff.
- 26 & 27 2nd.—The Circuit Court erred in permitting improper testimony to go before the Jury.
- 29, 30 & 31 3rd.—The Circuit Court erred in refusing to give the 1st, 4th, 6th and 7th instructions asked for by the Plaintiff.
- 30, 31 & 32 4th.—The Circuit Court erred in inserting the words included in brackets in the 2nd, 3rd, 5th and 8th instruction asked for by the Plaintiff.
  - 5th.—The Circuit Court erred in giving the instruction asked for by the Defendants.
  - 6th.—The Circuit Court erred in refusing to grant a new trial.

Hosley Brooks asset of Envis Tiles April 16, 1858
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2 Starker Wi. 469 Note 1. mealy ander as Harris 6 ming 465 Walker & Winn 8 Mass. 248 2° Enor. in punutting improper testimony to go before the juny. jet in relative to. Huslings wealth o curemustances - the widine was propely admitted as in all cases where vidictair damajos may be awarde) Gralble & Mayrano 3 Seam. 372-3 mc Namara v King 2 Gil. 432 Red v Davis 4 Pick 216 Lincoln o S & S. RR 23 Trend Burutt v Hyde 6 Conn 24-7 Shate v Barut 7 Pick 86 2 Greenlaf n. par. 269. 2. in relation to proof of maniage of plaintiffs below. In this case reputation cahabitation and acknowledgement of parties is competent - sufficient proof ofthis 2 Starkie Ev. 510 .. 2 Grundraf Er par 461 Fruton v Reed 4 John 52-4

3 Error in refusing to give 1st 4th 6th & 7th instructions asked by plaintiff for Error pet as to 1st 6th & 7th wishuctions, they wire propuly refused - there being no vidence whatever on which to base them & they Could out tend tomistead the juny Humphrys v Callins 1 Scam 47 Stout & Mcadams 2 Scam 68 Hamilton v Hust 14 Ill. 472. 2: as to the 4th instruction. It was properly refused because the state of facts therein Ruppered if found by the gury would not authorize a fuiding for plaintiff in Error, but would only be in metigation of damages Else v Persis author 23 Desides the 4th instruction so far as applicable to the case is substantially Imbodied in the 5-th instruction given and it is not arrow to refuse an instruction when another is given whenly the part asking it has the full lumpet of the law, so far as applicable, contains in the custometion refused. He is not prejudiced by such refusal. Prior r White 12 Ile. 261

4th how - in modifying the 2? 3? 5th & 8th instructions asked by plaintiff in server and grow by court as modified. The circuit court may and should modify instructions submitted or asked so that they will state the law cornetty as applicable to the sorderer. This doctrin has him repeatedly neigning in this court a ought to be in any court. Stato of Illa Wilson 2 Scen 225. Brown v People 4 Gil 439. The modifications made by the current Court were proper; 1st . Words are to be understood in that surse which the speaker intended to Convy to the minds of the heaves as Evened by the whole circumstances of the Selvin Sisi Pres 1272 reves the 2° as to the qualification "arthout" The gist of this action is malice. In this case the words charged to have been spoken are in thurseles actionable & malier in such case is presund bichure that the words were spoken is just or in heat and possion is only proper at tending to Show the absurer of malice in the speaker

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Good v. Barkly 1 Penn 169 Sprucu v Mc master 16 Ill 405-

The circuit court properly defused to grant a new trial grant a new trial, There is abundant wedness to grant a new trial, There is abundant wedness to warrant the rediet; and the law applicable was substantially comety tates in the instructions given, the damages are not secessies. The gury are to determine from all the circumstances of the case what damages ought to be given and unless the damages are such as to satisfy the court that the gury acted from prejudice partially or comption the redict should not be disturbed affects of the motion of McMostrossax 16 Sle 405- & cases then cited

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Supreme Court - State of Illinois.

George A Hosley
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Francis Brooks & Points for Peff in Error.

Eurice Brooks defts

m Error

The Court Erred in giving the instruction on behalf of Plffs below as to what Circumstances might be Considered in Estimating the damages.

I If the deft did obtude hereself into hlefs house and offer under familiarities to his wife at the time and on the occasion of atterns the words in question, upon what principle of law Can the injury be rechefsed in an action of Slander?

This stated in 2 Greenleafs to Sec 420, in heating of damages, for Slander. "that so dam- ages Can, in any Case be recovered Except those Which are the natural and proximate conse- greenes of the broughel act Complained of."

The wrongful act lemplaced of in this suit, is the maliciously speaking certain defaruatory words, Now will am Dane man Claim that the Committing of other acts, on the Dame occasion,

Which amount to a trespass, by the deft, could, in any manner be considered as the natural and proportional consequence" of speaking the words charged?

It is plain that if deft obtruded heruself into felfs house, that the act was a his pass and he a trespasser; for to obtrude inte mes house, is to Enter it without license or with face. Websters Dict 765 and for this an action would be; but it must be brought in the name of the husband alone. get by this instruction, the juny are directed A Consider this Concumstance in Estimating the damage and this allow an term of damage in this sunt, when none but the myrry to the wife alone Can legally be becovered, and founded on an injury for Which the husband alone lould sue. Lewis Herfe as Babeack 18 Johns R 444

Bulling to the deft offerred undue familiarity, Bulling to the wife, the law considers it an afrault.

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15 Delw Shows that the deft Committed an afrault

20 27. 3 Chit and battery upon her, on that occasion.

Cr Law 821 He Ricked her and drew his came to stuke note (#) her'- is the Evidence. See Rec 21-24 Igh the Court Days in this instruction\_the Jury in their discretion may give damages by way of punishment to the deft, propertimed to the Cercumstance, in Evidence, as well as for lempensation, How many times should this deft, naugh -ty as he was, be punished for this assault upon Mus Brooks? First, he is punished for afraight & battery, in an action for slander. Secondly, he may be sued in a separate Civil action for trespors to the person, Thirdly although twice purushed in civil Root no Lounder actions, he is still amenable to the Crimi 6 Hill 578 -nul law, Her ruling of the Court falls directly against the doctum of the decision in Green of as Stokes 2 Gil 688 and Cannot be Sustained, 3 of Such Considerations could be Vanderslice allowed in Estimating the damage, newton 4 to Courtoth 132 by way of aggravation, the facts should Grewled on to have been specially det firthe in the Dedgwick on Dan declaration, have an alleged here 569 Sampson as Coy 15 Map R 2/93 1 Chity R 388 Butter is Kent 19 John R 228 11837-30]

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Sup Bout George & Hosley Francis Brooks et al Brief A Brown & Rumpon for Peff

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The wrongful act complained of in this Suit is the malicionaly speaking certain defamatory words. Now will any saw man claim that the committing of other acts, on the saw occasion which amount to a trespap, by the

deft, could in any manus be considered as the natural and proximate Consequences of speaking the words Charged?

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George H Hostey Francis Brooks et al Points for Peff in Erun ABrown Runyan pur Peff #1 Hiled April 29.185

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