

No. 11853

Supreme Court of Illinois

^K
Startweather.

vs.

Huginin.

No. 34

Robert Heggenstad.

vs

Charles K. Starkweather

1850

1849

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

Plas before the Honorable Hugh S. Dickoy
Judge of the Cook County Court within and
for the County of Cook and State of Illinois
at a term thereof begun and holden at the Court
House in the City of Chicago in said County and
State on the first Monday being the second day
of October in the Year of Our Lord one thousand
eight hundred and forty eight and of the In-
dependence of the United States the Seventy
third.

Present the Honorable Hugh S. Dickoy Judge
Patrick Ballingall Pro. Att.
Isaac Cook Sheriff
Attest James Curtis Clerk.

It is remembered that heretofore to wit on the
Second day of December in the Year of Our Lord
one thousand eight hundred and forty six comes
Charles R. Starkweather and puts in his place Skinner
and Garrabee his solicitors in his certain Bill of
Complaint on the Chancery side of said Court,
against Robert Mugger, William B. Ogden Thomas
P. Chase, Peop. Morrison, The President, Directors & compa-
ny of the State Bank of Illinois and the Chicago Marine
& Fire insurance Company whereupon there was
filed in the office of the Clerk of said Court the
said Bill of Complaint, which said Bill of Com-
plaint is in the words and figures following to wit

"State of Illinois }
Cook County } 20

To the Honorable Hugh S. Dicksey
Judge of the Cook County Court in Chauncy sitting:—

Charles R. Starkweather of the City of Chicago
in the County of Cook and State of Illinois, Complainant
in this suit, shows to your Honor, that on or about
the thirteenth day of July, in the year of our Lord
One thousand eight hundred and thirty six one
Robert Huginin at that time a resident of Jefferson
County in the State of New York defendant in this
suit, to secure the Payment of the Sum of thirteen
hundred and thirty dollars, and eighty three cents
secured to be paid by a certain promissory note
bearing date the day and year aforesaid did
make and execute under his hand and seal &
delivered to one Calvin Case at that time a resident
of Chicago in the State of Illinois, a certain mort-
-gage, bearing date on the said thirteenth day
of July, by which said mortgage said
defendant did grant bargain sell and convey
unto the said Calvin Case his heirs and assigns
forever, All the one undivided third part of
that certain piece or parcel of land, situated in
the town of Chicago aforesaid described as being
that part of the South fraction, of the North West
quarter of Section number twenty eight in Township
number thirty nine north in Range number
fourteen east of the third principal meridian
butted and bounded as follows, to wit. Begin-
-ing at a Stake standing on the South Bank
of the South Branch of the Chicago River, equi-
-distant by the meandering of the river from the
points where the West and North lines of said

South fraction cross the said South Branch
being 19 Chains and 7 links distant from either of
said west and north lines aforesaid, It being
also the north west corner stake of that part
of the aforesaid south fraction conveyed on the 27th
day of June 1836 by William B Ogden and
others to George W Pine. Thence south 44 degrees
45 minutes east thirty three Chains to a stake
at the south east corner of said south fraction
of said north west quarter of said section 28
aforesaid, thence north seven chains and forty
eight links on the division line of said section
No 28 running north of the South Branch of said
river thence along up said river south 30 degrees
fifteen minutes west five chains and twenty two
links to the place of beginning, containing 15⁹⁷/₁₀₀
acres To Have and to hold the same together
with all and singular the tenements, hereditaments,
privileges and appurtenances, therunto belonging
or in anywise appertaining & also all the estate
interest & claim whatever, in law as well as in
equity which the said defendant had in and to
the premises thereby conveyed unto the said Calvin
Case his heirs and assigns, and to their only proper
use benefit & behoof. Provided always and said
mortgage was therein declared to be upon this
express condition, that if the said defendant his
heirs Executors or administrators should well and
truly pay, or cause to be paid to the said Calvin
Case, his heirs, Executors, Administrators, or assigns,
the aforesaid sum of money, with such interest
thereon, at the time and in the manner specified
in the above mentioned note according to the true
intent and meaning thereof, then and in that
case the said Mortgage & everything therein expressed

should be absolutely null and void; And which said Mortgage was duly acknowledged by the said defendant and purporting to be recorded in the Office of the Recorder of Cook County in the State of Illinois in Book C. of Mortgages page 404 on the second day of August in the year of our Lord one thousand eight hundred and thirty six, as by said Mortgage ready to be produced, as your Honor shall direct on the record thereof will appear

And said Complainant further shews unto your Honor that after the Execution, and delivery of the said Mortgage and note hereinbefore mentioned and before the recording of the said Mortgage the said Calvin Case gave up the said note to the said defendant, and the said defendant in lieu of the said note, substituted and delivered to the said Case, a certain agreement in writing for the payment of an amount of money equal to that mentioned in the said note and mortgage bearing date the thirtieth day of July AD 1836 & purporting to be in the words and figures following to wit:

"Whereas, William B Ogden, William Taylor and Alexander Mac Gregor of the County of Chicago Cook County & State of Illinois on the first day of July 1836, conveyed to Calvin Case $15\frac{7}{10}$ acres of land being part of the south fraction, of the north west quarter of section number twenty eight township thirty nine North Range fourteen east of the third principal meridian in Chicago land district, as by reference to said deed will more fully appear, And whereas the said Calvin Case as security of the ~~said~~ consideration of the said conveyance executed his three individual notes

to William Taylor & Wm Bogden each for \$249.53.
each note due two, three and four years after
date with interest at 7 per cent payable annually
also his three individual notes of \$499.06. each
to Alexander Mac Gregor, due at the same time
of those to Taylor all of the above notes payable at
the Branch of the State Bank of Illinois in Chicago.

Also to Mac Gregor his (Case), two indorsed notes
the one due eight months after date for \$261.25
and the other for \$267.14 due twelve months after
date & both ^{negotiable &} payable at the Branch of the State Bank
in Illinois in Chicago, also to William Taylor
his two indorsed notes, the one for \$150.36 due
eight months after date & the other for 133.57 due
twelve months after date, also to William
Bogden his two indorsed notes, the one for \$150.36
due eight months after date & the other for \$133.57 due
twelve months after date, the notes to both Taylor
& Bogden negotiable & payable at the Branch of the
State Bank of Illinois in Chicago; And Whereas
the said Calum Case on the 13th day of July 1836
conveyed one undivided third of said lot of land
to Robert Mugger, and on the same day, he also con-
veyed one undivided third of said lot of land to
Walter Kimball in consideration of which convey-
ances, they respectively executed to the said Case
as security for the purchase money their individual
mortgages on the said lands for \$1330.83. Now,
Therefore, I Robert Mugger do hereby agree
with the said Case to pay the said \$1330.83 se-
cured by my said mortgage by paying one third
part of the said notes given by the said Case as
aforesaid when they shall fall due, and I the said

Walter Kimball do hereby agree with the said
Case to pay the said \$1350.83. Secured by my said
Mortgage by paying one third part of the said
Note given by said Case as aforesaid when
they shall fall due, and the said Case hereby
agrees with the said Kimball and Huggin
that upon their making such payments as afo-
said the same shall apply upon and be a dis-
charge of their respective Mortgages. In Witness
whereof the said Parties have hereunto subscribed
their Names this 13th day of July 1836.

Case

Robt Huggin

Walter Kimball

And the said Complement further shews to your
Honor that after the signing and delivery of the said
agreement to wit, on the twelfth day of September
A.D. 1839. then being then due and unpaid according
to the tenor thereof the said sum of \$1350.83. with
Interest thereon at the rate of 7 per centum per
annum from said 13th day of July A.D. 1836 the
said Calvin Case did duly assign and transfer
the said agreement to the said Alexander Mac
Gregor for a valuable consideration under
his hand purporting to be in the words & figures
following to wit,

For and in consideration of the sum of six
teen hundred and eleven dollars to me in hand
paid by Alexander Mac Gregor, the receipt where-
of is hereby acknowledged, I do hereby assign and
transfer the amount in the foregoing agreement
against Robert Huggin, to said Mac Gregor and
order the same to be paid by the said Huggin

to said Mac Gregor without recourse ^{or} to me.
September 12. 1839. Calvin Case

And said complainant further shews to your Honor that afterwards to wit on the 20th day of June A.D. 1840. the said Alexander Mac Gregor did for a valuable consideration under his hand assign the said agreement to said Complainant, then being then due and unpaid according to the tenor thereof, the said sum of \$1330.83. with interest thereon at the rate of 7 per cent per annum from the 15th day of July A.D. 1830. which said assignment purports to be in the words and figures following to wit

For and in consideration of the sum of Ten Dollars to me in hand paid by Charles R. Starkweather the Receipt whereof is hereby acknowledged, I do hereby assign and transfer the amount in the foregoing agreement against Robert Mugger to said Starkweather, and order the same to be paid by the said Mugger to said Starkweather without recourse on me; In witness whereof I have hereunto set my hand, this 20th day of June A.D. 1840

Alexander Mac Gregor

as by said agreement and assignment ready to be produced as your Honor may desire will more fully appear.

And the said complainant further shews to your Honor that after the execution delivery and recording of the said Mortgage, to wit. on the 12th day of September A.D. 1839 then being then due and unpaid upon the said Mortgage a large sum of money to wit. the sum of Thirteen hundred and thirty dollars and eighty three cents with interest

at the rate of seven per centum per annum from
the 13th day of July A.D. 1836. the said Calvin Case
the Mortgage in said Mortgage, did duly assign
transfer, and convey all his right title and
interest and claim in and to the same for
a valuable consideration, under his Hand and
Seal, to the said Alexander MacGregor, pur-
porting to be in the words and figures following
to wit;

For and in consideration of the sum of
Fifteen Hundred Dollars to me in Hand paid
by Alexander MacGregor, the receipt whereof
is hereby acknowledged, I the within named Calvin
Case do hereby assign, transfer and convey to the
said Alexander MacGregor his heirs and assigns
all my right title interest, and claim, in and to
the within Mortgage premises, and to the money
therein secured to be paid. In testimony where-
of I have hereto set my Hand and Seal this twelfth
day of September, A.D. 1839.

Signed sealed and delivered } Calvin Case (Seal)
in presence of }
Tiler Spring }

And the complainant further shews to your
Honor that afterwards to wit on or about the
first day of Mar, A.D. 1840. there being then due
and unpaid according to the tenor of the said Mort-
gage or large sum of Money, to wit the aforesaid
sum of Fifteen hundred and thirty dollars, and eighty
three cents with interest thereon at the rate of seven
per centum per annum from the said 13th day of July
A.D. 1836. the said Alexander MacGregor for a val-
uable consideration, did duly assign transfer and

Convey all his right title interest, and Claim in and to the same, under his Hand and Seal to the said Complainant - purporting to be in the words and Figures following to wit,

For an in consideration of the Sum of Ten dollars to me in Hand paid by Charles R. Starbuck, the receipt whereof is hereby acknowledged, I Alexander Mac Gregor, hereby assign without recourse on me, transfer and Convey to the said Charles R. Starbuck, his Heirs and assigns, all my right title interest, and Claim in and to the within Mortgaged premises, and to the Money therein secured to be paid, In testimony whereof I have herunto set my Hand and Seal this First day of May A.D. 1846.

Signed Sealed & de. Alexander Mac Gregor (S)

Witness in presence of

C. J. Learned

P. A. B. Bruce

Which said assignment, is duly acknowledged and as by said Mortgage and assignment on the back thereof, ready to be produced as your Honor may direct will more fully appear.

And the said Complainant, further shews to your Honor that about the sum of \$1330.53 the principal sum of mentioned in the condition of said Mortgage remains due to him together with interest thereon at the rate of 7 per centum per annum from the 15th day of July A.D. 1836

By reason whereof the estate of said Complainant in said Mortgaged premises hath become and is absolute in law subject only to the equity of redemption in this Court. And see further shews

That said defendant or those claiming under
him has from the time of making and ex-
ecuting said Mortgage possessed & enjoyed &
still doth possess & enjoy all & singular the
said Mortgagab premises and has at all times
received & still doth receive the rents issues &
profits thereof. And the said Complainant
further shews unto Your Honor that William
B. Ogden William Taylor Thomas Plehan Jesse
Morrison, the President, Directors and Company
of the State of Illinois, and the Chicago Marine and
Fire Insurance Company as he is informed and
believes claim to have some interest in the said prem-
ises as Judgment Creditors, subsequent most-
gagors, subsequent purchasers or otherwise.

But now so it is may it please Your
Honor that the said Defendants combining &
confederating with others to your Orator未知
own but who when discovered may be made
parties to this Bill with apt words to charge them
how to deceive & defraud your Orator in the prem-
ises hath wholly refused either to pay your Orator
such sum of Money and interest and charges
or to release to him his right & equity of redem-
ption in and to such premises.

In consideration whereof & forasmuch as your
Orator is remediless in the Premises by the strict
rules of Common Law & can only have adequate
& proper relief in this Honorable Court when
matters of this kind are properly cognizable. To
the end thereof that the said Defendants and
their confederates when discovered may upon
their respective corporal Oaths full true and

perfect answer make to all and singular the
premises and that in as full & perfect a
manner as if the same were herein repeated
paragraph by paragraph and they particularly
interrogated thereto. and that it be referred
to one of the Masters of this Court to ascertain
& report what is due and owing to your said
Orator for principal & interest, on the Mortgage
& agreement aforesaid. And that the said
Robert Muggerin may be decreed to pay to your
Orator what may be so found due to him
as aforesaid, together with his costs for this
suit, by a short day appointed by this Honorable
Court for that purpose, or in default thereof
that the said Defendants & all persons claiming
under them may be absolutely debarred & fore-
closed of and from all rights & equity of re-
demption in or to the said Mortgage prem-
ises, and every part thereof & may deliver
up to your Orator all deeds papers or writings
in their custody or power relating to or
concerning the said Mortgage premises or
any part thereof.

May it please your Honor to grant unto
your Orator the Peoples writ of Summons
issuing out of & under the seal of this Court directed
to the said Robert Muggerin, William Bogden, Thomas
& Chas Jefe Morrison, the President Directors and Com-
pany of the State Bank of Illinois and the Chicago
and Maine and Fire Insurance Company and
William Taylor. Commanding them by a day
& under a penalty to be therein inserted to be and
appear in this Honorable Court then & there to an-

smen the premises and to stand & abide such
Order & decree of this Court as shall be made
therein and shall be agreeable to equity.

C. R. Starkweather

State of Illinois }
Cook County } J.

On this second day of
December in the year of our Lord one
thousand eight hundred and forty six before
me personally appeared the above named
Charles R. Starkweather and made Oath that
he has read the above bill subscribed by him
and knows the contents thereof and that the same
is true of his knowledge ~~and~~ except as to the matters
which are therein stated to be on his information
& belief and as to those matters he believes it to
be true.

Subscribed & sworn to before me this
2^d day of December A.D. 1846.

C. R. Starkweather

James Curtis cler.

State of Illinois }
Cook County } J.

Charles H. Larrabee first
being duly sworn deposes and says that Robert
Meyers Jesse Morrison Thomas P. Chas. The
President Director and Company of the State Bank
of Illinois and the Chicago Marine and Fire Insurance
Company defendants in the foregoing Bill of
Fouclous are non residents of the State
of Illinois, as this deponent, is informed & believes.

Subscribed & sworn to }
before me this 2^d day }
of December A.D. 1846 }
James Curtis cler.

Chas. H. Larrabee
Solo for Complainant

Whereupon was issued out of the office of the Clerk
of the Cook County Court the Peoples writ of Summons
in the words and figures following to wit,

State of Illinois }
Cook County, } p.

The People of the State of Illinois to the Sheriff
of Said County Greeting: We Command you
that you summon Robert Huginin, William B
Ogden Thomas P. Chase, Jeps Morisson, the Pres-
ident Director and Company of the State Bank of
Illinois & the Chicago Marine & Fire Insurance Com-
pany if they shall be found in your County,
personally to be and appear before the Cook County
Court 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 the said County, on the first Mon-
day of February next to answer unto Charles R
Starkweather in his certain Bill of Complaint,
now on file in the office of the Clerk of the Cook
County Court on the Chancery side of said Court.

And have you then and then this writ with
an endorsement thereon, in what manner you shall
have executed the same. Witness the Honorable
Hugh S. Dickey, Judge of our said Court
and the seal thereof, at the City of Chicago
in said County this second day of Decem-
ber A D 1846. James County Clerk

Seal.
And on the Back of said Summons is the
following endorsement to wit
Executed by reading the within in the presence
of the within W B Ogden, & W H Brown for the President
& Directors Company of the State Bank of Illinois
and delivering them a ^{true} copy thereof. January 21st 1846.

1847. Thomas P Chas. Jesse Morrison & the Chicago
Fire & Marine Insurance Company not found in
my County.

Isaac Cook Shffl
by J. Rich. Depty Shff

And afterwards to wit on the fourth day of
February A. D. 1847. there was filed in the office of
the clerk of said Court a Notice of Publication to the
Nonresident defendants in said bill together with
the evidence of the publication thereof, which said
Notice and proof is in the words and figures as
follows to wit,

State of Illinois }
Cook County } Cook County Court
February Term. A. D. 1847
Charles R. Starkweather,

Robert Nugenim, William B. Ogden } In Chancery
Thomas P Chas. Jesse Morrison, The President } Bill to foreclose
Directors & Company of the State Bank of Illi } a Mortgage
nois and the Chicago Marine & Fire Insurance }
Company

It appearing by affidavit on file in the office of the
clerk of the Cook County Court, within and for the
County of Cook. That Robert Nugenim, Thomas P Chas
Jesse Morrison, The President Directors and Company
of the State Bank of Illinois and the Chicago Marine
and Fire Insurance Company, defendants in the
above entitled cause, are Non residents of the
State of Illinois. Public Notice is hereby given to
said Robert Nugenim, Thomas P Chas. Jesse Morrison
The President Directors and Company of the State Bank
of Illinois and the Chicago Marine and Fire

Insurance Company, that the said Complainant has
filed his bill of foreclosure in the office of the Clerk
of said Court on the Chancery side thereof, and that
a summons in Chancery has been issued thereon
returnable on the first Monday of February A.D.
1847. and implead you the said Robert Huggins, Thomas
V. Shaw, Jesse Morrison the President, Directors, and
Company of the State Bank of Illinois, and the
Chicago Marine and Fire Insurance Company
shall personally be and appear before the Cook
County Court aforesaid on the first day of the
next term thereof, to be held at the Court House
in the City of Chicago in said County and plead,
answer or demurr to the said Complainant's
bill the same will be taken as confessed, and a
decree be entered accordingly.

Spencer & Sarrahee

James Curtis Clerk

Compl't Sol'r.

Dec 2. 1846

This is to certify, that the annexed No-
tice was published in the Chicago Journal, a
Daily & Weekly Newspaper, printed in the City of Chi-
cago, County of Cook, and State of Illinois, five
times, to wit, for five successive weeks, as follows..

The first insertion on the second day of December
1846 in Vol 4 No 188. of the Daily edition, the second in-
sertion on the 7th Dec 1846 in Vol 3. No 59. the 3rd insertion
on the 14th Dec 1846 in Vol 3. No 50. the 4th insertion
on the 21st Dec 1846 in Vol 3. No 51. the 5th insertion
on the 28th Dec 1846 in Vol 3. No 52 of the weekly edition
of said paper. Dated at Chicago 1st February 1847

Wilson & Beer

Dec 5. 4. 00

Publisher Chicago Daily & Weekly
Journal

And on the Second day of February
A.D. 1847. being one of the days of the February
Term. A.D. 1847. of the said Cook County Court
the following proceedings were had and en-
tered of Record to wit;

Charles R. Startweaver,

vs.

Robert Mugger, William Bogden
Thomas Chase, Jeph Morrison, the
President Directors and Company of
the State Bank of Illinois and
the Chicago Marine Fire Insurance
Company

In Chancery

Ordered by the Court that the Defendants in the
above entitled case, plead, answer, or demur
to the said Complainant's bill on or before
Monday next.

And afterwards to wit on the
eighth day of February A.D. 1847. there was filed
in the office of the Clerk of said Court the demur-
er of Robert Mugger, ^{one of the} Defendants in the said
cause, which said demurrer is the words and
figures following to wit;

In Chancery.

Before the Hon. Hugh S. Dick, Judge of the Cook
County Court. In Chancery sitting.

The demurrer of Robert Mugger one of
the Defendants to the Bill of Complaint
of Charles R. Startweaver, Complainant.
This defendant, by protestation, not confessing
or acknowledging all or any of the matters and

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things in the said Complainant's bill, to be true, in
such manner and form as the said assent therein
set forth and alleged, doth demur thereto,
and for cause of demur - Showeth, that the
said Complainant hath herein said by his
said bill made or stated such a case as doth
or ought to entitle him to any such discovery
or relief as is therein sought and prayed for
- from or against this defendant. Wherefore
this defendant demands the Judgment of this
Honorable Court whether he shall be com-
pelled to make any further or other answer
to the said Bill or any of the matters and things
therein contained and prays to be hence dis-
missed with his reasonable costs in this behalf
sustained.

Tracy & Butterfield
Solicitors for deft
Robert Nugent

And afterwards to wit on the twentieth
day of August in the Year of our Lord one
Thousand Eight Hundred & Forty seven was
issued out of the office of the Clerk of the Cook
County Court, the Peoples writ of Summons in
the Words and Figures following to wit,

State of Illinois }
Cook County }
The People of the State of Illinois to the
Sheriff of Sangamon County Greeting:
We command you that you summon the
President Directors and Company of the State Bank
of Illinois (impleaded with Robert Nugent, the

Chicago Marine & fire insurance company, W B
Oyden, William W Brown, Thomas P Chan & John
Monnison) if they shall be found in your County
personally to be and appear before the Cook County
Court 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 October next, to answer unto
Charles R. Starkweather in his certain Bill of
Complaint in Chancery now on file in this
office. And have you then and there this
Writ, with an endorsement thereon, in what
manner you shall have executed the same.

Witness the Honorable Hugh J. Dicksey, Judge
of our said Court and the Seal thereof at the
City of Chicago in said County this 20th day
of August A.D. 1847

Seal

James C. Curtis

And on the return of said Summons is
the following endorsement to wit,

Summons Executed by Leaving a copy
of the same with W H Ridgely Cashier of the
State Bank in Bank House, this 6th day of Septem-
ber 1847. W Harney Shff. Sc by J W Garrison D.S.

And at the same time, to wit on the
seventieth day of August in the Year of our Lord
one thousand eight hundred and forty seven was
issued out of the office of the Clerk of the said
Cook County Court the Peoples writ of Summons
in the words and figures following to wit.

State of Illinois
Cook County }
The People of the State of Illinois, to the

Sheriff of Said County, Greeting;

We Command you that you summon Robert
Muzum & the Chicago Marine and Fire Insurance
Company (impleaded with the President, Directors
& Company of the State Bank of Illinois, W. B
Bogden, William W Brown Thomas P Chas. &
Jesse Morrison) if they shall be found in
your County, personally to be and appear before
the Cook County Court 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 the said
County, on the first Monday of October
next, to answer unto Charles R. Startsevitch
in his certain Bill of Complaint in Chancery
now on file in this office

And have you then and then this writ, with
an endorsement thereon, in what manner you
shall have executed the same. Witness the
Honorable Hugh S. Dickoy Judge of our said
Court and the seal thereof, at the City of Chicago
in said County this 20th day of August
A D 1847. James Cowley Clerk

And on the Back of said summons is
the following endorsement, to wit,
Executed by informing the within named
Robert Muzum, and delivering to him a true
copy of the within writ Aug 30th 1847. William W Brown
by informing him of the contents of the within, and
delivering him a true copy of the same Sept 4th 1847
and also William Bogden Sept 4th 1847, the President
Directors of the Chicago Marine and Fire Insurance
Company and the State Bank of Illinois, Thomas P
Chas. and Jesse Morrison Not found.

J Cook Sheriff

By John Beach Depty

And afterwards to wit. on the seventh day of March in the Year of our Lord one thousand eight hundred & forty eight being one of the days of the February Term in the Year aforesaid of the said Cook County Court the following proceeding were had and entered of Record to wit,

Charles B. Starkweather

vs

Robert Huggin et al

In Chancery
Bill

This day came on to be heard the Demurrer of the Defendants to the Bill of Complaint herein and was argued by Counsel and taken under advisement by the Court.

And afterwards to wit on the Eighth day of March in the Year of our Lord one thousand eight hundred and forty eight being one of the days of the February term of the Year aforesaid of the said Cook County Court the following proceedings were had and entered of Record to wit.

Charles B. Starkweather

vs

Robert Huggin et al

In Chancery
Bill

~~This day came on to be~~

And now again come the parties by their Solicitors, and the Court having had under advisement the Demurrer of the Defendants to the Bill of Complaint herein. do now overrule the same.

And thereupon on Motion of said Complainant it is Ordered that the said Defen-

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answer said Bill by Friday Morning
next or that the same be taken as confessed
against them.

And afterwards, to wit on the
Tenth day of March in the Year of our Lord
One thousand eight hundred and forty eight being
one of the days of the said March Term of the
said Cook County Court in the Year aforesaid
the following proceedings were had and entered
of Record to wit,

Charles R. Starkweather }
vs } In Chancery
Robert Huggin et al } Bill

And now comes Tracy Solicitor
for said Defendants and elects to stand by
their Demurrer to the Bill of Complaint of
said Complainant herein, and make no
further answer thereto.

And afterwards to wit on the
thirteenth day of March in the Year of our Lord
one thousand eight hundred and forty eight
being one of the days of the said March
Term of the Cook County Court in the Year aforesaid
the following proceedings were had and
entered of Record to wit,

Charles R. Starkweather }
vs } In Chancery
Robert Huggin et al } Bill

And now comes the said Com-
plainant by ^{his solicitor} Spring & Goodrich, and the said
defendants electing to stand by their Demurrer,
and not having filed their answer to said
Bill of Complaint as required by the order

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of the Court heretofore entered herein, on
Motion of said Complainant it is Ordered
that the said Bill of Complaint be taken as
Confessed against said Defendants, - and
that it be referred to the Master in Chancery
for this County to ascertain and compute the
amount due on the Mortgage set forth in
the bill of Complaint and report to the
Court at its next term.

And afterwards to wit on the fourteenth
day of August in the Year of our Lord one
Thousand eight hundred & forty nine there
was issued out of the office of the Clerk of
the said Cook County Court The Peoples writ
of Summons in the words and figures follow-
ing to wit,

State of Illinois }
Cook County }.

The People of the State of Illinois, to the
Sheriff of DuPage County, Greeting;

We command you that you summon William
Taylor who is impleaded with Robert Huggins
the Chicago Marine and fire insurance Company
the President Directors and Company of the State
Bank of Illinois, William Bogden, William H Brown
Thomas Chan, & Sipe Morrison if he shall be
found in your County, personally to be and
appear before the Cook County Court of said
County on the first day of the next term there-
of, to be holden at the Court House, in the
City of Chicago, in said County, on the first
Monday of October next to answer unto

Charles R Starkweather to a Bill of Complaint
filed in the office of the Clerk of said Court
on the Chancery side thereof. And have you
then and then this writ, with an endow-
ment thereon in what manner you shall
have executed the same.

Witness the Honourable Hugh J. Wickes
Judge of the said Court, and the seal
thereof at the City of Chicago, in said
County this 14th day of August A.D. 1848
James Curtis Clerk

And on the back of said summons is
the following endorsement. To wit,
Executed the within summons by leaving
with William Taylor a true and tested copy
of the original. August 22nd. A.D. 1848
George Roush Sheriff
of Du Page Co. Ill.

And afterwards to wit, on the twenty
seventh day of October in the Year of our
Lord one thousand eight hundred and forty eight
being one of the days of the October Term of
said Cook County Court for the Year aforesaid,
the following proceedings were had
and entered of Record, to wit,

Charles R Starkweather } In Chancery
vs } Bill & C
Robert Huginin et al }

And now at this day comes
Seammon Solicitor for the Chicago ^{Fire &} Marine
Fire Insurance Company and enters their
appearance in this suit.

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442

And afterwards, to wit on the twenty eighth day of October in the Year of our Lord one thousand eight hundred and thirty eight being one of the days of the October term of the Cook County Court in the Year aforesaid the following proceedings were had and entered of record to wit,

Charles R. Stackmather } In Chancery
as } Bill
Robert Muggerin et al }

And now comes the Complaint
ant by his Solicitor and on his Motion. It is
Ordered, that the Defendants to the said Bill
of Complaint plead Answer or Demurr to
the same by the opening of the Court on Monday
Morning next, or that the same be taken as
Confessed against them.

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444

And afterwards to wit on the thirtieth day of October in the Year of our Lord one thousand eight hundred and forty eight being one of the days of the October term of the Cook County Court in the Year aforesaid the following proceedings were had and entered of record to wit,

Charles R. Stackmather } In Chancery
as } Bill
Robert Muggerin et al }

And now come the Parties by their
Solicitors, and the Court after mature delib-
eration had on the Demurrer of said Defend-
ant Muggerin to the Bill of Complaint herein
being fully advised thereon, do Over rule the same.

And thereupon said Defendant Higginins doth
stand by his said Answer, and make no
further or other answer to said Bill, and ex-
cepts to the decision of the Court on said Answer.

It is therefore ordered, that as to him said
Bill be taken as confessed against him.

And it appearing that due personal service
of process issued herein has been had on William
Saylor, The President Directors and Company
of the State Bank of Illinois, William Boyden
William H Brown Thomas P Chas, and Jesse
Morrison, at least ten days before the first
day of the term to which such process was re-
turnable - and the Chicago ^{State} Marine and Fire
insurance Company having entered their ap-
pearance to this suit - and said Defendants
not having filed their answer to said Bill,
of Complaint in compliance with the order
of the Court made in this cause - and being
solemnly advertised come not nor any one
for them - It is on motion of said Plaintiffs
Solicitor Ordered that the said Bill of Com-
plaint be taken as confessed against them, and
that it be referred to the Master in Chancery of
this Court to ascertain and report to the Court
the amount due upon the mortgage set forth
in the Bill of Complaint in this cause to the
said Complainant - and that he report with
all convenient speed.

And afterwards to wit on the thirty first
day of October in the year of Our Lord one
thousand eight hundred and forty eight there
was filed in the office of the Clerk of said

Count the Demurrer of Robert Muggeridge de-
fendant in the said Cause which said Demur-
er is in the words and figures following to wit,

State of Illinois Cook County }
Robert Muggeridge et al }
advs }
Charles H. Starkweather }
County Clerk }
vs }
} Court Oct 1848
} In Chancery

Separate Demurrer of said Robert
Muggeridge to the Bill herein. The said Defendant by
Protestation Not confessing or acknowledging
all or any of the matters and things in the said
Complainant's bill to be true, in such manner
and form as the same are herein set forth and
alleged, doth demand thereof, and for cause
of Demurrer sheweth that the said complain-
ant hath not in and by his said bill made
or stated such a case as doth or ought to en-
title him to any such discovery or relief as
is thereby sought and prayed for from or
against the Defendant. Wherefore this de-
fendant demands the judgment, of this Hon-
orable Court whether he shall be compelled
to make any further or other answer to the
said Bill or any of the matters and things
therein contained & prays to be hence dismissed
with his reasonable costs in this behalf
sustained

E. W. Tracy
Sol for said Robert Muggeridge

And on the same day, to wit on the thirty
first day of October in the Year of our Lord
One thousand eight hundred & forty eight, there was
filed in the office of the Clerk of said Court the

Said Masters Report. which said report is in
the words and figures following to wit,

State of Illinois } Cook County Court
Cook County } P.

Charles R. Hartweather }
vs } Masters Report
Robert Huginin et al }

It having been referred
to me Master in Chancery for Cook County, to
compute & report the amount due from the defend-
ant Robert Huginin upon the Article of Agreement &
Mortgage mentioned in the Complainants Bill of
Complaint, I do hereby Report that I find from
examining the said Article of Agreement & the said
Mortgage (the Note mentioned in the Mortgage not
having been produced, nor shown to me) I find
that there is due to the said Complainant from
the said Huginin the sum of thirteen hundred & thirty
(\$ 1330.83) Dollars & eighty three Cents for principal money, & the
further sum of Eleven hundred & forty five Dollars
& six Cents, amounting in the whole to the sum
of Twenty four hundred & seventy five Dollars & eighty
nine Cents. All of which is respectfully submitted,

Mark Steiner

Master in Chy.

And upon the same day, to wit, on the thirty
first day of October in the Year of our Lord
one thousand eight hundred & forty eight being
One of the days of the October Term of said Court
in the Year aforesaid the following proceeding was

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By 447
now had and entered of Record to wit,

Charles P. Hartman

vs
Robert Higgins The President Director
Company of the State Bank of
Illinois, The Chicago Marine & Fire Insur
ance Company, William Bogden Wil
liam H. Brown Thomas P. Chan Jesse
Monnison & William Taylor

In Chancery

Bill of
Fiduciaries

And now comes the Complainant by his
Solicitor J. H. Collins - and upon reading and
filing the Report of Mark Skinner Esquire
Master in Chancery bearing date the 30th day of
October A. D. 1848 to whom it was referred to ascer-
tain and compute the amount due to the Com-
plainant upon the Mortgage mentioned and set
forth in said Bill by which said report it appears
that there is due upon the said Mortgage to the said
Complainant the sum of Twenty Four Hundred
and Seventy Five Dollars and eighty ^{nine} Cents. Where-
upon, and on Motion of said Complainant's
Solicitor It is Ordered, adjudged, and decreed
that the said report and all the matters and
things therein contained do stand satisfied and con-
firmed. - And it is further Ordered, adjudged
and decreed that all and singular the said
Mortgage premises mentioned and described
in the said Complainant's Bill of Complaint
in said cause with the appurtenances be sold
at Public Auction to the highest bidder by and
under the direction of Mark Skinner Esquire

Master in Chancery - The said Master giving
thirty days notice of the time and place of said
sale by posting notices in three public places
in Chicago - which said mortgaged premises are
described as follows to wit:

"That part of the south fraction of the North West
quarter of section number twenty eight in Town
ship thirty nine North in range number fourteen
east of the third principal meridian, butted
and bounded as follows to wit: Beginning at
a Stake standing on the South Bank of the
South Branch of the Chicago River equi dis-
tant by the meanderings of the River from
the points where the West & North lines of said
South fraction cross the said South branch being
19 Chains and 7 links distant from either of
said West and North lines aforesaid. It being also
the North West Corner stake of that part of the aforesaid
South fraction conveyed on the 27th day of June
1856 by William B. Cyden and others to George H
Pine. Thence South 44 degrees 45 minutes east
thirty three chains to a stake at the South east
corner of said South fraction of said North West
quarter of said section twenty eight aforesaid,
thence North seven chains and forty eight links
on the division line of said section No. twenty
eight, running North of the South branch of said
River; thence along up said river South thirty
degrees fifteen minutes west five chains and
twenty two links to the place of beginning. Con-
taining fifteen. Ninety seven one hundred and
and that said Master make report of his
proceedings herein with all convenient speed

And it is further ordered that out of the
Money arising from said sale the said Master pay
to the complainant, Solicitor the amount of
Principal and interest, which may be due
at the time of said sale with the costs of suit
and that the remainder if any there shall be,
shall be retained by said Master to abide
the further Order of this Court.

State of Illinois }
County of Cook } J

I Walter Kimball Clerk of
the Cook County Court in for the County and
State aforesaid do hereby certify that the fore-
going is a full true and perfect Transcript of the
Records and papers in a certain cause on the
chancery side of said Court wherein Charles R Stark
Weather is Complainant & Robert Huggins et al are
Defendants, as appears from the Records and papers
on file in my office.

In Testimony whereof I have hereunto
set my hand and affixed the Seal of
said Court at the City of Chicago
this 9th day of June A.D. 1849.

Walter Kimball Clerk


Court Court Court
In Chancery

Charles R. Haddock

Robert Higgins et al

Transcript

Volume 22

Filed June 13 1849
W. Leland Clerk.

Recd Tracy in full
W. Leland
100 folios of 13.50
Cash paid 14.00

Supreme Court

Charles B. Starkweather other ~~Def.~~ in Error
~~Def. in Error~~

adv.

Robert Huguenin ~~other~~ ~~Def.~~
Plffs in Error

In Chancery

Warden

And the said Defendant in Error Charles B.
Starkweather by James H. Collins his Attorney
^{at Law}
and says that there is not any error in the
Record of proceedings or in the rendering of the
said decree as is above alleged by the
said Plaintiff in error & the said
Defendant in error prays that the
said decree may be in all things
affirmed

James H. Collins

Solr. pr Def. in Error

Supreme Court

Charles B. Starkweather
Deft. in Error

vs.

Robert Huggins
Plff. in Error

Indict. in Error

W. H. Collins

Solr. for Deft. in Error

Filed June 27, 1849.
S. Deland Clk.

Supreme Court, 3^d Grand Division - June Term 1849.

Robert Auguin

vs
Charles N. Starkweather

Error to Cook County Court.
Decree affd. -

Defts. Costs. -

Ent. apper. 25; fil. & ent. joinder 31 $\frac{1}{4}$, Adv. affg. Decree 25, .81 $\frac{1}{4}$

Fil. opinion 6 $\frac{1}{4}$, Ent. jrdt. & opinion 29 fol. 5.22, Copy of jrdt. 50, 5.78 $\frac{1}{4}$

Certif. & seal 50, Ent. jrdt. for costs 25, Adv. for extn. 25, Execution 50, 1.50

Fil. & Dh. 18 $\frac{1}{4}$, Supp. etc. 12 $\frac{1}{2}$, bill of costs 57 $\frac{1}{2}$, copy 25, postg. 20, Sats for. 25, 1.38 $\frac{3}{4}$

Or. By balance of \$5. pd. after paying appellants costs 9.48 $\frac{1}{4}$
Amt. \$ 9.15 $\frac{3}{4}$
32 $\frac{1}{2}$

A true copy from my fee book as taxed & recorded therein.
S. Leland Clk. Sup. Court.

Supreme Court

Robert H. Arguiri

vs
Charles N. Starkweather

Bill of Costs \$ 9.15²/₄

State of Illinois, ss.

Supreme Court, Third Grand Division, at Ottawa:

The People of the State of Illinois, to the Sheriff of Cook County---Greeting:
WE COMMAND YOU, That of the goods and chattels, lands and tenements, and real estate of

Robert Auguin

you cause to be made the sum of nine dollars and
fifteen & three fourths ^{cents} in the said Supreme Court, which Charles R.

Starbuck

lately recovered against him before the Justices of our said Supreme Court, as appears to
us of record, and make return hereof in ninety days.

WITNESS, the Hon. SAMUEL H. TREAT, Chief Justice
of our said Court, and the Seal thereof, at Ottawa,
this 27th day of July
in the year of our Lord one thousand eight hundred
and forty nine.

S. Ireland Clerk of the Supreme Court.

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Supreme Court.

Robert Auguin
vs
Charles R. Stackweather

Execution as Ref.
Bill of Costs of 9.15⁷/₄

Copy of Robert Auguin
This execution returned
satisfied in full
May 1850 J. Cook
Ref.
C.C.

Recd. Costs herein of 9.15⁷/₄
May 27, 1850.
S. Deland
for Geo. S. Fisher
Filed May 29, 1850.
S. Deland Clk.

My vote of the within execution is one levied upon the full owing described in a party to
not undivided one third part of the north labor of the south East Quarter and undivided third
of the north west quarter of the north East Quarter of section thirty five 35 town thirty
seven 37 range twelve 12 undivided south 1/2 of the East labor of section thirty one 31
town thirty nine 39 range twelve 12 also the undivided south 1/2 of the north west section
Quarter section twelve 12 town thirty eight 38 range twelve 12 being in the County
of Cook and State of Illinois this 11 day of August A.D. 1848 Isaac Cook Sheriff of Cook County Ill
by Owen McCortney deputy

State of Illinois, Sct.

The people of the State of Illinois,
To the Clerk of the ~~circuit~~ ^{Cook County} 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~~ ^{Cook County} Court of Cook — county, before the Judge thereof, between Charles R. Starkweather —

plaintiff and Robert Auguin et al.

defendants, it is said manifest error hath intervened to the injury of the aforesaid Robert Auguin et al. as we are informed by their complaint, and we being willing that error, if any there be, should be corrected 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 A.D. 1850* — ~~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 *13th* day of *June* — in the year of our Lord one thousand eight hundred and forty-*nine*—

J. Leland
Clerk of the Supreme Court.

Robert Hugonow & others } Plffs in Error
Charles, ^{vs} H. Starkweather } Defts in Error

In the Supreme Court 3rd Grand
Division of the State of Illinois
Error to Cook County Court -

And the said Plaintiffs in Error by
their Attorney E. W. Tracy come and say
that in the Record and proceedings and
in the rendition of the decree in this
Cause there is manifest Error in
this to wit.

1st That the said Cook County Court
Erred in overruling the Demurrer to
the Complainants bill

2nd That the said Court Erred in
the rendition of the decree in
the manner and for the amount in
the said decree mentioned and set
forth.

3rd That the said Court Erred in the
Rendition of the said decree against
the said Plaintiffs in Error.

Wherefore the said Plaintiff in Error pray
that the said decree may be reversed
set aside and wholly for nothing es-
teemed

Quid 19th 1849

E. W. Tracy
for Plffs in Error

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Fils June 27. 1849
S. Leland Elk.