for 1870 were paid before a sale. All O'Reilly required was proof of amounts, and that being made the right to the relief asked was conceded. No exception was taken to the amount as reported by the master. The questions as to liability for the taxes of 1870, and for the full amounts paid, rather than two-thirds, were first raised at the hearing on the reference. When those questions came to be considered by the court, the agreement of compromise, after having been examined and approved, was received as evidence that the full amount should be allowed. While the agreement was not directly sued on, the amount it called for was claimed in the cross-bill. No defence was set up in the answer inconsistent with what had been agreed to, and, as the agreement has been perfected by the approval of the court, we see no reason why it may not be used in evidence to show that, for a valuable consideration, the assignee has waived the objections he now makes to the amount of the recovery. The decree, as rendered, is not for the specific performance of the agreement, but is one in which the rights of the administrators are "ascertained, declared and settled," in accordance with the prayer of the original bill, and establishing a lien on the lands for the taxes paid, and requiring the assignee to refund the amount expended, as asked for in the cross-bill. *Affirmed.*

Mr. W. K. Ingersoll, *Mr. A. P. Morse* and *Mr. A. B. Pitman* for appellant. *Mr. G. Gordon Adam*, *Mr. Thomas J. Durant* and *Mr. C. W. Hornor* for appellees.

CONNECTICUT MUTUAL LIFE INSURANCE COMPANY, PETITIONER.

ORIGINAL.

No. 8. Original. October Term, 1880. — Decided May 2, 1881.

Mandamus will not lie when there is an ample remedy by appeal if the case is put in a condition for it.

THIS was an application for a writ of mandamus. The case is stated in the opinion.

MR. CHIEF JUSTICE WAITE delivered the opinion of the court.

This is a petition for a writ of mandamus to compel the Circuit Court of the United States for the Northern District of Illinois to hear and determine whether a master of the court shall execute to the relator a deed for certain lands bought under a sale ordered

by that court. It nowhere appears from the relator's own showing that the court has expressly refused such an order. The court has refused leave to file a certain petition in the suit, and it has refused an order on the master to show cause why he should not make such a deed. From the whole case as presented by the parties we infer that the court below, as constituted when the application was made, thought the deed ought not to be executed, and it is possible the order now complained of may be the equivalent of a final decree in the cause to that effect, from which an appeal to this court may be taken. But whether that be so or not, we will presume the court below will not hesitate, on a proper application, to put the record in a shape to enable us to pass on that question in the ordinary course of proceeding to obtain our review. Mandamus can only be resorted to when other remedies fail. It is an extraordinary writ, and should only be used on extraordinary occasions. Here the parties have ample remedy by appeal, if they put their case in a condition for such a form of proceeding. As the relator presents his case on this application, he must avail himself of that remedy. We cannot, under the facts he states, expedite the determination of his cause by mandamus. *The application is consequently denied.*

Mr. E. S. Isham, *Mr. Robert T. Lincoln* and *Mr. C. Beckwith* for petitioner. *Mr. George F. Edmunds*, *Mr. Henry S. Monroe*, *Mr. William R. Page* and *Mr. W. C. Goudy* opposing.

HAND *v.* HAGOOD.

ERROR TO THE SUPREME COURT OF THE STATE OF SOUTH CAROLINA.

No. 2. October Term, 1880. — Decided October 25, 1880.

On the facts set forth in the opinion, it is held that the judgment below, to which the writ of error was directed, was not a final judgment, and that this court was therefore without jurisdiction.

The case is stated in the opinion.

Mr. Chief Justice Waite delivered the opinion of the court.

The judgment from which this writ of error was taken is not a final judgment in the cause. Hand, a creditor of the Savannah and Charleston Railroad Company, sued that company in the Court of Common Pleas of Charleston County, South Carolina, and obtained the appointment of a receiver to hold and operate the railroad of the company and apply the net profits to the payment of its