

No. 13609

Supreme Court of Illinois

Durham et al

vs.

Heaton

71641  7

18
STATE OF ILLINOIS,
SUPREME COURT,
Third Grand Division.

No. 119

Durham
vs
Heaton

1862

replead

1862

13609

1
Plead before the Honl. Martin Ballou
Judge of the twenty third judicial cir-
cuit of the Circuit Court of the State
of Illinois at the April term of said Cir-
cuit Court begun and held at the Court
House in Princeton in the County of
Poucan on Monday the fifth day of
April in the year of our Lord One Thousand
and Eight Hundred and fifty Eight.

Present Honl. Martin Ballou Judge
Edward M. Fisher Clerk
G. F. Waldron Sheriff
George W. Stepp State Atty

(To wit on the 17th day of said Term)

Friday April 23^d 1858.

Court met pursuant to adjourn-
ment.

William W. Heaton

vs

Exigent

Walter Durham +

Abbott Ellis

Now comes the plaintiff by Peter
+ Farwell his attorneys and files his declaration
herein in the words and figures following, to wit

" " State of Illinois ff. Circuit Court
" " Poucan County April Term AD 1858
" " William W. Heaton plaintiff in
" " this suit complains of Walter Durham and
" " Abbott Ellis defendants in this suit in a

" Plea of Trespass and Ejectment

" For that whereas the said plaintiff
 " heretofore to wit on the first 1st day of July A.D.
 " 1857 was possessed in his own dessein as of
 " fee simple of a certain Lot of Land situated
 " in said County and State and described
 " as the East Half of the South West quarter
 " of section Thirty four in Township Eighteen
 " North of Range Ten East of the 4th Principal
 " Meridian and the said plaintiff being so
 " possessed then of the said defendants ~~having~~ ~~so~~
 " there afterwards to wit on the 1st day of March
 " A.D. 1858 entered into the possession of the Prem-
 " ises aforesaid and ejected the plaintiff there
 " from and have from the time last aforesaid
 " unlawfully withheld and still do unlaw-
 " fully withhold from the plaintiff the pos-
 " session of said premises. To the damages of
 " the plaintiff in the sum of One Hundred
 " dollars and therefore he brings his suit

Heaton, Peter + Farwell
 Plaintiffs attys

Walter Durham +
 Abbott Ellis

Sirs You will hereby take notice
 that the foregoing Declaration with a copy of
 which you are now served together with this
 notice will be filed in the Circuit Court of
 Bureau County Illinois on the first day of
 the next Term thereof to be holden at the

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" Court House in Princeton in said County
 " + State on the first Monday in the month
 " of April AD 1858 or as soon thereafter during
 " said Term as counsel can be heard and
 " that upon filing the same a Rule will
 " be entered requiring you to appear and plead
 " to said declaration within twenty days there
 " after, and that if you neglect to appear and
 " plead within such time a judgment by
 " default will be entered against you, and
 " the plaintiff named in ~~the~~ such declar-
 " ation will recover possession of the premises
 " therein described.

Heaton Peters + Fawell
 Pliffs attys

" State of Illinois
 " Bureau County John H. Mason being
 " by me first duly sworn on oath says that he
 " served the above declaration + (+) notice on
 " the above named Walter Durham by read-
 " ing the within writ and leaving a certified
 " copy of the same with said Walter Durham
 " on the 18th day of March AD 1858
 " Subscribed + sworn to J. H. Mason
 " before me this 9th day
 " of April 1858. E. M. Fisher, Clk.

" State of Illinois
 " Bureau County John Cairns being by
 " me first duly sworn on oath says he served
 " the within declaration + notice on the with

4 " in named Abbott Ellis by delivering him a true
" + perfect copy of the same on the 26th day of
" March 1858.

" Sworn to + subscribed John Cadico
" before me this 22nd day
" of April 1858.

" E. M. Fisher Clerk

And on motion of said attorney a rule is
taken on said defendants to file their plea
to said declaration herein within twenty days
from this date or judgment will be entered
against them by default and the plaintiff
will recover possession of ^{the} said premises

(And now on the first day of May AD 1858
come the defendants by Taylor and Zearing
their attorneys and file with the Clerk of the ^{said} Cir
Cuit Court their plea ^{herein} and the same is in
the words and figures following) to wit

" State of Missouri } Burean Co Circuit Court
" Burean County } 24th April Term AD 1858
" William W. Heaton

"
" Walter Durham +
" Abbott Ellis

" And said defendants come
" by Zearing their attorney and say that they
" are not guilty of unlawfully withholding
" the premises claimed by the plaintiff as
" alleged in ^{the} said declaration and of this they
" put themselves upon the country.

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"
"

Taylor & Zeaming
for debts

Pleas before the Honorable Martin
Ballou Judge of the County third ju-
dicial Circuit of the State of Illinois at
a Term of said Circuit Court begun
and held at the Court House in Prince-
ton within and for the County of Tazewell
in said state on Monday the sixth
day of September in the year of our
Lord One Thousand Eight and fifty eight

Present Hon^{ble} Martin Ballou Judge
Edward M. Fisher Clerk
G. A. Waldron Sheriff
George W. Stipp State attorney

(On the 1st day of said Term) to wit;

William W. Heaton

vs. Ejectment

Walter Durham &

Abbott Ellis

Now comes the plaintiff by Peter &
Fauwell his attorney, and on motion of said
attorney leave is given the plaintiff to amend
his declaration herein. It is also further considered
by the Court that this cause be continued to the
next term of this Court.

Pleas before the Honorable Martin Ballou

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low Judge of the County third judicial
circuit of the State of Illinois at the
January ~~at the~~ ~~January~~ term of said
Court began and held at the Court
House in Princeton in the County
of Bureau and State of Illinois
on Monday the third day of Jan-
uary in the year of our Lord One
Thousand Eight Hundred and fif-
ty nine

Present Honl. Martin Ballou Judge
E. M. Fisher Clerk
D. E. Norton Sheriff
Geo. W. Stepp States Atty

(To wit on the 6th day of said Term)

Saturday January 8th 1859.

Court met pursuant to adjournment

William L Heaton

vs Epitment

Walter Durham +

Abbott Ellis

Now comes the plaintiff by Peter
+ Fawell his attorneys and the defendants come
by Geaving + Taylor their attorneys and by
agreement of said parties this cause is contin-
ued to the next term of this Court.

Plas before the Honl. M. E. Hollister

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Judge of the ninth judicial circuit
of the State of Illinois at the
March Term of said Circuit Court
in and for the County of Pierson
begun and held at the Court house
in Princeton in said County on the
second Monday of in the month
of March in the year of our Lord
One Thousand Eight Hundred and
fifty nine

Present Court, M. C. Hollister Judge
E. M. Fisher Clerk
D. E. Norton Sheriff
Wm. Bushnell State attorney

(To wit on the 3^d day of said Term)
~~Monday~~ ^{Wednesday} March 16th 1859.
Court met pursuant to ad-
journalment.

William L. Heaton

vs.

Walter Durham &
Abbott Ellis

Now comes the defendants by
Taylor their attorney and on motion of said
attorney it is considered by the Court that this
cause be continued to the next term of this
Court and that said defendants pay all the
costs accruing herein at the present term

Pleas before the Hon^{ble} M. E. Hollister Judge
of the ninth judicial circuit of the State
of Illinois at the September term of the said
Circuit Court begun and held at the Court
House in Princeton in and for the County
of Bureau on the third Monday in
the month of September in the year of
our Lord One Thousand Eight Hundred
and fifty nine.

Present M. E. Hollister Judge
E. M. Fisher Clerk
D. C. Norton Sheriff
W. Bushnell States atty

(To wit on the first day of said term)

William W. Heaton

vs

Ejectment

Walter Durham +

Abbott Ellis

This day this cause being call-
ed; by the agreement of parties this cause
is set for trial on Thursday of second
week.

(To wit on the 19th day of said term)

Thursday ~~at 10 o'clock~~ morning 8¹/₂ o'clock am
Sept 29th 1859. Court met pur-
suant to adjournment

William W. Heaton

vs.

Ejectment

Walter Durham +
Abbott Lewis

Now comes the said plaintiffs
9 by Peters, Farwell + himself as attorneys and
the said defendants come by Taylor + Powell
their attorneys and the said plaintiff ~~comes~~
inter his motion to suppress (suppress) the dep-
osition of William A. Furney herein and
after argument of counsel, and the Court being
fully advised in the premises considers that
said motion be sustained as to the interog-
atories numbered "three, four, five, ~~six~~, seven,
nine, and eleven and the answer thereto
and verities as to other ~~interogatories~~ inter-
rogatories and answers. It is further consid-
ered by the Court that this cause be continu-
ed to the next term of this Court at the
costs of the said defendants and that the
said plaintiff have and recover of the
said defendants all his costs + charges
of this term of the Court by him herein
expended and that she have execution
therefor

(And now to wit on the same day come the
defendants by their attorneys aforesaid and
file their Bill of Exceptions and the same is
in the words and figures following to wit)

" William W. Heaton	} Bureau Circuit Court	
" 18		September Term at W 1859
" Walter Durham		In Ejectment

" Abbott Ellis

" Be it remembered that on this day this
 " cause came up on a motion entered by the
 " plaintiff to suppress the deposition of William
 " A. Turney taken on behalf of the said defen-
 " dants for the reasons following

" 1st That said depositions are not properly cer-
 " tified. That the certificate of the notary ~~xxx~~
 " ~~xxx~~ ~~xxx~~ & ~~xxx~~ before whom they were taken
 " is informal & insufficient

" 2nd That said depositions do not appear to
 " have been taken by or under the direction
 " of the notary who certifies ^{to} them

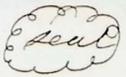
" 3. That there is no evidence that the inter-
 " rogatories & answers or either of them were
 " reduced to writing by the notary or under
 " his direction and are not in his hand
 " writing

" 4th That each of said interrogatories ex-
 " cept the first & second & the answers thereto are
 " irregular unlawful & insufficient in this that
 " each of said interrogatories seeks to obtain
 " testimony not relevant to the issue, that
 " it seeks to prove some fact that can only be
 " proved by second evidence & is leading

" That each of said answers are not evidence
 " for the reason that they are irrelevant not
 " pertinent to the issue and not responsive
 " to the questions and state matters that can
 " not be proved by parol but can only be pro-
 " ved by second evidence - and that they are other

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"wise informal irregular + insufficient +
 "not the best evidence of the truth of the
 "statements therein made -
 "which motion the Court sustains and quash
 "ed the interrogations and answers thereto
 "numbered three (3) four (4) five (5) Six (6)
 "Seven (7) Nine (9) and eleven (11) and exclu-
 "ded said depositions so far as the said que-
 "tions and the answers thereto are concerned
 "to which ~~said~~ opinion of the Court in the
 "suppressing of said portions of said depositions
 "the defendants by their council then
 "and there excepted and then and there pray
 "ed that this their bill of exceptions might
 "be signed sealed and allowed - which is
 "accordingly done

M. E. Hollister 

Treas before the Hon^{ble} M. E. Hollister Judge
 of the North Judicial Circuit of the State
 of Illinois at a term of said Circuit Court
 begun and held at the Court House in Prince-
 ton within and for the County of Bureau on
 the second Monday in the month of December
 in the year of our Lord One Thousand
 Eight Hundred and fifty nine

Present Hon^{ble} M. E. Hollister Judge

E. M. Fisher Clerk

D. C. Norton Sheriff

Washington Bushnell.

States attorney

(To wit on the 2nd day of said Term)

Tuesday morning December 13th 1859

Court met pursuant to adjournment

William W. Heaton

vs

Ejectment

Walter Durham +

Abott Ellis

Now comes the said plaintiff~~s~~ by Peter + Fawell his attorneys and the defendants come by Taylor + Cook their attorneys and by agreement of the parties, It is considered by the Court that this cause be continued to the next term of this Court.

I was before the Hon^{ble} M. E. Hollister Judge of the Ninth judicial circuit of the State of Illinois at a term of said Circuit Court begun and held within and for the County of Bureau in the said State at the Court House in Princeton in said County on the second ^{Monday} in the month of March in the year of our Lord One Thousand Eight Hundred and sixty.

Present Hon^{ble} M. E. Hollister Judge

E. M. ~~Hollister~~ ^{Fisher} Clerk

D. E. Norton Sheriff

W. Bushnell States attorney

(To wit on the second day of said Term)

Tuesday morning 8 1/2 O'clock A.M.

March 13th AD 1860. Court met

William W. Heaton
 vs
 Pursuant to adjournment.

Walter Durham +
 Abbott Ellis

Now comes the said parties by
 by their attorneys aforesaid and by agreement
 a jury is waived and the issues herein are
 submitted to the Court for trial.

(To wit on the 18th day of said term)
 Saturday morning 8 $\frac{1}{2}$ Clock am.
 AD 1860 March 31st. Court met
 pursuant to adjournment.

William W. Heaton
 vs
 Ejectment

Walter Durham +
 Abbott Ellis

Now come the parties aforesaid
 by their attorneys aforesaid and by agreement
 of the parties it is considered by the Court
 that this cause be set for hearing on Tuesday the
 17th day of April A.D. 1860. at the Chambers of the Judge of this Court in Ottawa La Salle
 County, in the State of Illinois.

Pleas before the Hon^{ble} M. C. Hollister Judge of
 the ninth Judicial Circuit of the State of Illinois
 at the September Term of said Circuit Court
 begun and held at the Court House in Tines
 town in and for the County of Bureau in said
 State on the ^{third} Monday in the month of September

ter in the year of our Lord One thousand Eight
Hundred and sixty.

Present Hon^{ble} M. E. Hollister Judge
Edward M. Fisher Clerk
Daniel E. Norton Sheriff
W. Bushnell State Atty

(To wit on the 2nd day of said Term)
Tuesday morning 8 o'clock September
18th AD 1860. Court met pursuant
to adjournment

William W. Heaton
vs Ejectment
Walter Durham +
Abbott Ellis

Now come the said parties by their
attorneys aforesaid and upon motion it is con-
sidered by the Court that this cause be contin-
ued to the next term of this Court

Pleas before the Hon^{ble} M. E. Hollister Judge
of the Ninth Judicial Circuit of the State
of Illinois at a term of the Circuit Court
held at the Court House in Princeton within
and for the County of Bureau in the State
aforesaid on the Second Monday in the
month of March in the year of our Lord
One Thousand Eight Hundred and fifty
one.

Present Hon^{ble} M. E. Hollister Judge

George W. Radcliffe, Clerk
Daniel W. Donald, Sheriff

(To wit, on the second day of said term)

Tuesday (morning) March 12th A.D.
1861. - Court met pursuant
to adjournment.

William W. Heaton

vs.

Ejectment

Walter Durham &

Abbott Ellis

And now come the parties
aforesaid by their Attorneys aforesaid and
after further argument of Counsel the Court
being now fully advised in the premises
considers that the issues joined herein are in
favor of the Plaintiff and that defendants
are guilty as alleged in the declaration, and
thereupon it is considered and determined
by the Court that Plaintiff have and recover
of defendants the possession of the premises
in his declaration herein described with also
his costs of suit by him herein expended.
And on motion of Taylor & Paddock of
defendants Counsel it is considered and
ordered by the Court that an appeal to
the Supreme Court be allowed to the defendants
herein upon filing bond therefor conditioned
according to law in the penal sum of Five
Hundred Dollars with Eras Smith as
surety therein, within ten days from this date
and that the same be filed as of to day.

16 It is also further considered and ordered by the Court that defendants have until the 1st day of April next to file their Bill of Exceptions herein.

(To wit, on the eighth day of said term)
Tuesday Morning March 19th A.D.
1861 - Court met pursuant
to adjournment.

William W. Heaton
vs. Ejectment
Walter Durham & Abbott Ellis

And now come
the defendants by their Attorneys aforesaid
and file their bond for appeal herein *in* pro
tunc as of the 12th day of March A.D. 1861,
and the same is as follows, to wit:

(To wit, on the 16th day of said term)
Thursday Morning March 28th
A.D. 1861 - Court met
pursuant to adjournment

William W. Heaton
vs. Ejectment
Walter Durham &
Abbott Ellis

And now come the
defendants and file their Bill of Exceptions
herein in the words and figures following,
to wit:

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" State of Illinois }
" County of Bureau }

In the Circuit Court
March Term AD 1861

" William W. Heaton

v.

Exhibent

" Walter Durham and

" Abbott Ellis

" Be it remembered that on the trial
" of this cause to maintain the issues here
" in on his part the said plaintiff offered
" in evidence and read to the Court with
" proof of the signature thereof the certificate
" of the Register of the Land Office at Spring-
" field in the words and figures following to
" wit

" United States Land Office

" Register's Office

" Springfield Illinois

" January 6th 1859.

" J. William C. Keefer, Register of the Land
" Office at Springfield Illinois do hereby cer-
" tify that on the fifteenth day of July
" 1835 Oliver Lindley purchaser of the
" General Government, at the Land Office
" at Gallua Illinois the East half of the
" South West quarter of section number
" thirty four in Township number Eight-
" een N. of range number ten East of
" the 4th principal meridian containing
" Eighty acres and one that said land

" " has been for some years past a resident of
 " " Knoxville in the State of ~~Alabama~~ Iowa.
 " " That this affiant applied by letter to said
 " " John Lindley for said deed ~~was~~ by
 " " him informed that said deed was not
 " " in his possession and that ^{the same} with other
 " " papers had been while the said ~~James~~
 " " Lindley resided in Tazewell County
 " " in this State accidentally destroyed by
 " " fire which information from said Lindley
 " " by affiant believes to be true. That
 " " said deed is a material part of his
 " " evidence in this case. He further
 " " states that one other deed made by
 " " said John Lindley to one James Barber
 " " dated June 13th AD 1846. to among
 " " other the premises in controversy is
 " " a material part of his testimony in
 " " this case That said deed is not
 " " in his power to produce on the tri-
 " " al of this cause. That James Barber
 " " the grantee in said deed in whose
 " " possession the same would most
 " " likely be found under other cir-
 " " cumstances was at the time of the
 " " commencement of this suit insane
 " " and confined as such insane per-
 " " son in the State insane Asylum at
 " " Jacksonville where affiant believes
 " " he is still confined that before
 " " he became insane said Barber who

" has no family residing in Stephenson County
 " " in this State. That Martin P. Sweet of
 " " Freeport in said County is and has been
 " " since long before the commencement of this
 " " suit the Conservator of said Barber & the only
 " " persons likely to have the custody of said
 " " deed as only a part of the lands therein
 " " described have ever been conveyed by said
 " " Barber to any other person. That affiant
 " " has called upon said Sweet for as well
 " " the last mentioned deed as the one first
 " " above mentioned That said Sweet in
 " " formed this affiant that he had never
 " " seen, ~~said~~, had never been able to find
 " " & had not ~~had~~ in his possession either of
 " " said deeds " That affiant knows of
 " " no other person who would be likely
 " " to have the possession of said deeds & that
 " " he has no knowledge where the same
 " " now are except as above stated. That
 " " one other certain deed made by said
 " " James Barber to one Tracy Kree dat-
 " " ed July 23rd AD 1846 to among other
 " " the premises in controversy is a ma-
 " " terial part of this testimony in this
 " " case. That said deed is not in the
 " " power of this affiant to produce on
 " " the trial of this cause. That said
 " " Tracy Kree the grantee in said deed
 " " lives at Lamville in this County
 " " that this defendant has repeatedly call

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" " ed upon said Peve for said deed that said
 " " Peve informed affiant at first that
 " " he thought he had said deed but has
 " " since informed affiant that after dili-
 " " gent search in all places where said
 " " deed would be likely to be found he
 " " could not find the same & that said
 " " deed was lost. affiant further states
 " " that he searched the desk of said Peve
 " " where he was informed said deed
 " " should be found & various packages
 " " of deeds & other papers and all such
 " " packages as he could find & was un-
 " " able to find said deed & that he ver-
 " " by believes the same is lost & can
 " " not be found to be used in evidence
 " " on the trial of this cause

W. W. Heaton

Subscribed & sworn to
 this 13th day of March

AD 1860 before

E. M. Fisher CLK

" and thereupon by leave of said Court of
 " fees and fees in evidence a certain
 " certified copy of the record of deed (and
 " certificates) from Oliver Lindley and
 " wife to John Lindley in the words and
 " figures following -

" No. 398. This indenture made this town-
 " by sixth February AD 1838 between Oliver

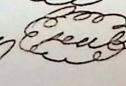
County of Tazewell and State of Illinois
 of the first part and John Linsley of
 the County of Tazewell and State aforesaid
 of the second part Witness That
 for and in consideration of the sum
 of ten thousand five hundred dollars
 lawful money of the U. States to them
 in hand paid the receipt ^{whereof} ~~of which~~ is
 hereby acknowledged by the parties of
 the first part have granted bargain-
 ed and sold and by these presents
 do grant bargain ~~and~~ sell and con-
 vey unto the party of the second part
 his heirs and assigns all those certain
 tracts and parcels of land situate ly-
 ing and being in the County of
 Bureau and State of Illinois described
 as following the east half of the
 south west quarter of section five (5)
 also the east half of the north west
 quarter of section No four (4) also the
 west half of the north west quarter of
 section No two (2) also the west half
 of the south west quarter ~~of section~~
 section No. five (5) also the east half
 of the north east quarter of section
 No. ^{seven} ~~four~~ (7) ~~also the north west quar-~~
~~ter of the south east quarter of sec-~~
~~tion No. seven (7) also the north east~~
 quarter of section No. four (4) also

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" " the north west quarter of the south east
 " " quarter of section No. seven (7) all the above
 " " described lands are in township No seven
 " " teen North of the base line of Range
 " " No. Ten east of the fourth principal merid-
 " " ian. Also the west half of the south
 " " west quarter of section No. Thirty five (35)
 " " also the west half of the south west quar-
 " " ter of section No. twenty six (26) also the west
 " " half of the north west quarter of section
 " " No. thirty five (35) also the west half of
 " " the south west quarter of section no. thir-
 " " ty four (34) also the east half of the south
 " " west quarter of section No. twenty seven
 " " (27) also the west half of the south
 " " west quarter of section No. twenty seven (27)
 " " also the west half of the north west quar-
 " " ter of section no. thirty four (34) also the
 " " east half of the north east quarter of sec-
 " " tion No. thirty four (34) also the east half
 " " of the south west quarter of section No.
 " " thirty four (34) all in township No Eighteen
 " " (18) North of the base line of Range
 " " No ten (10) East of the fourth ⁽⁴⁾ principal
 " " meridian which ^{will} more fully appear
 " " by reference being had to the record of
 " " Congress surveys in the district of lands
 " " subject to sale at Galena Illinois
 " " To have and to hold the aforesaid prem-
 " " ises together with all the ^{appurtenances} ~~privileges~~ ^{per}
 " " ~~quisites~~ ^{privileges} ~~rights~~ ^{rights} ~~belonging~~ ^{belonging}

or in any wise appertaining to the only
 proper use and behalf of the party of the
 second part his heirs and assigns forever
 and the parties of the first part for ~~and~~
 themselves their heirs executors or admin-
 istrators doth covenant to and with the
 party of the second part his heirs and as-
 signs that they will forever warrant
 and defend the aforesaid premises and
 every part thereof from the claim or
 claims of all ^{person or} persons whatsoever —

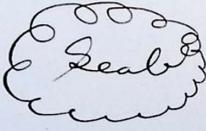
In testimony whereof the parties of the
 first part have hereunto set their hands
 and seals the day and year first above
 written

Oliver Lindley 
 Pussilla Lindley 

In presence of us
 Saml P. Bailey

State of Illinois }
 Tazewell County } This day the twen-
 ty sixth February AD 1838, personally
 appeared before the subscriber a notary
 Public in & for said County and State
 aforesaid Oliver Lindley and Pussilla
 Lindley his wife whose signatures do
 bear to the above deed and who are
 personally known to me to be the
 persons described ~~in~~ ~~the~~ ~~deed~~ in and
 who executed the same did sever-
 ally acknowledge that they had

executed the said conveyance for the uses and purposes therein mentioned, and the said Priscilla Lindley having been by me made acquainted with the contents of said deed, and examined separate and apart from her said husband acknowledged that she had executed the same and relinquished her dower to the premises therein conveyed voluntarily freely and without compulsion of her said husband this 26th Feby A.D. 1838. In testimony whereof I herewith subscribe my name and affix my seal notarial the day and year aforesaid.



Samuel P. Bailey
Notary Public

I hereby certify that the foregoing is a correct copy of a deed filed for Record Nov. 2^d. 1838 at 9 o'clock A.M. and Recorded this 2nd day of Nov. 1838

Robert Barton Recorder
by B. L. Smith Deputy

State of Illinois }
Bureau County }
I, Edward W. Fisher
Clerk of the Circuit Court and ex officio Recorder in and for said County do hereby certify that the foregoing is a full true and perfect copy of the record of a deed executed by Oliver Lindley and Priscilla Lindley to John Lindley and the certificates thereof and thereto attached as Recorded on Pages 471 and 472 in Book A. of Deeds in the Recorder's office in said County of Bureau.

In testimony whereof I have herewith subscribed my

"
"
"
"
"
"
"
"



name and affixed the Seal
of said Court at Princeton
this 18th day of November in
the year of our Lord One
Thousand eight hundred and
Fifty four

Edward W. Fisher Clerk
and its officis Recorder



" "~~assented the said conveyance for the uses~~
 " "~~and purposes therein mentioned and~~
 " "~~the said Priscilla Lindley having been~~
 " "~~by me made acquainted with the con-~~
 " "~~tests of said deed and examined sep-~~
 " "~~arate and apart from her said husband~~
 " "~~acknowledged that she had executed the~~
 " "~~same and relinquished her dower to the~~
 " "~~premises therein conveyed voluntarily freely~~
 " "~~and without the compulsion of her said~~
 " "~~husband this 26th day of July 1853~~

" "~~In testimony whereof I have to subscribe~~
 " "~~my name and affix my seal notary~~
 " "~~public the day and year aforesaid~~
 " "~~and~~ Samuel P. Bailey
 " "~~Notary Public~~

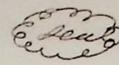
" to the reading of which copy in evidence
 " as well as to the reading of the copies of
 " two certain other deeds next hereinafter
 " mentioned defendants by their counsel
 " then and there objected and the said
 " Court then and there overruled such ob-
 " jectios and allowed the said copy of the
 " record of said deed to be read and the
 " same was read as evidence here in to which
 " opinion and ruling of the Court the said
 " defendants by their counsel then and there
 " excepted - said plaintiff thereupon of-
 " fered in evidence a certain certified
 " copy of the record of a deed from John
 " Lindley to James Barber bearing date

" 13. June 1846. in the words and figures fol-
 " lowing to wit
 " " Know all men by these presents that I
 " " John Lindley of the County of Taylor
 " " and State of Illinois for and in consid-
 " " eration of the sum of one dollar to me
 " " in hand paid by James Barber of the
 " " County of Stephenson and state aforesaid
 " " said at and before signing sealing and
 " " delivery of these presents the receipt of
 " " which is hereby acknowledged have
 " " granted bargained ^{released} sold, and quit claim
 " " us and by these presents do hereby grant
 " " bargain sell release and forever quit
 " " claim unto the said James Barber
 " " all my right title interest in law
 " " and equity in and to the following
 " " described real estate lying ^{and} being
 " " and situated in the County of Bureau
 " " and State of Illinois known and de-
 " " scribed as follows to wit The East half
 " " of the North East quarter of section sev-
 " " en (7) the north west quarter of the south
 " " East quarter of section seven (7) the
 " " North East quarter of section four (4)
 " " the east half of the north west quarter
 " " of section four (4) The east half of the
 " " south west quarter of section five (5)
 " " all in township seventeen (17) North ten East
 " " of the fourth (4th) P. M. - South west quar-

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" " ter of thirty four (34) the north west quarter
 " " of thirty four (34) and the south west quar-
 " " ter of twenty seven (27) all in Township
 " " Eighteen (18) North Ten East of the fourth
 " " P. M. West half of the North west quarter
 " " of section two (2) ^{East} in Township seventeen
 " " (17) North Ten (10) of the fourth P. M.
 " " I, have and to hold the described premises
 " " with all the privileges and appurtenances
 " " unto him the said James Butler his heirs
 " " and assigns forever
 " " In witness whereof I have hereunto set my
 " " hand and seal this the thirteenth day
 " " of June One Thousand Eight Hundred
 " " + forty six (1846)
 " " *John Lindley* 

" " State of Illinois
 " " Tazewell County Before the undersigned
 " " Justice of the Peace in and for said
 " " County this day personally ~~appeared~~
 " " came John Lindley who is known
 " " to me to be the real person whose name
 " " is subscribed to the foregoing deed of con-
 " " veyance as having executed the same
 " " and then and there acknowledged that
 " " he executed the same for the uses and
 " " purposes therein expressed.
 " " Given under my hand and seal the
 " " thirteenth day of June AD one thousand
 " " Eight hundred and forty six.

Jacob Kern J. P. 

I hereby certify that the foregoing is a correct copy of a deed filed for record June 13th 1846. at 10 o'clock am and Recorded June 19th 1846.

Oliver Boyle Recorder

State of Illinois

Jagwell County I John Guidley Clerk of the County Court in and for said County do hereby certify that Jacob Kern Esquire whose name appears subscribed to the attached certified copy of Deed and certificate of acknowledgement was on the day of the date of said certificate to wit on the 13th day of June AD 1846 an acting Justice of the Peace in and for the County aforesaid duly commissioned and qualified as appears of record in my office; that as such full faith and credit are due to all his official acts



In testimony whereof I have hereto set my hand and affixed the seal of said Court at Pekin this 19th day of September AD 1859.

John Guidley Clerk
~~to the reading of which copy the deponents then and there objected but the said Court then and there overruled said objection and allowed the said copy to be read as evidence herein and the same was read~~

State of Illinois
 Bureau County Edward M. Fisher Clerk
 of the Circuit Court and Ex officio Recorder
 in and for said County do hereby certify that
 the foregoing is a full true and perfect copy
 of the record of a deed executed by John Lind
 by to James Barber and the certificates
 thereof and thereto attached as Record
 ed on pages 288 and 289 in Book "E" of
 Deeds in the Recorder's office in said county
 of Bureau.

L. S.

In testimony whereof I have hereunto
 subscribed my name and affixed the seal of said Court
 at Princeton this 18th day of November
 in the year of our Lord one thousand Eight
 hundred and fifty four
 Edward M. Fisher Clerk
 and Ex officio Recorder

to the reading of which copy the defendants
 then and there objected but the said Court
 then and there overruled said objection
 and allowed the said copy to be read as
 evidence ^{herein} and the same was read

by said plaintiff to which opinion and
 ruling of the Court the said defendants by
 their counsel then and then excepted - said
 plaintiff thereupon offered in evidence
 a certain certified copy of the record of
 a deed from James Barber to Tracy Kew
 bearing date 23 July 1846. in the words and
 figures following to wit.

" This indenture made this 23^d day July
 " in the year of our Lord one thousand
 " Eight Hundred and forty six between
 " James Barber of Stephenson County Ill
 " of the first part and Tracy Kew of the
 " second part witness that the said par-
 " ty of the first part for and in consideration
 " of the sum of Four hundred and twenty
 " five dollars lawful money ~~of the~~ paid by
 " the said by the party of the ~~first~~ ^{second} part the
 " receipt of which is hereby acknowledged
 " do by these presents grant bargain and
 " sell remise release convey and confirm
 " unto the said party of the second part his
 " heirs and assigns all certain tracts or
 " parcels of land situated in the County of
 " Bureau + State of Illinois and described
 " as follows to wit The East half of the ~~south~~
 " west quarter of section Twenty seven + the
 " East half of the south west quarter and
 " the east half of the North west quarter
 " of section Thirty four (34) in Township
 " (18) Eighteen. Range (10) Ten East of the

(4) fourth P. M. containing Two hundred
 and forty acres more or less. Together with
 all and singular the hereditaments and
 appurtenances therunto belonging or in
 any wise appertaining. To have and to
 hold the said premises as above described
 with the appurtenances unto the said
 party of the second party his heirs and
 assigns forever - And the said party of the
 first part for himself his and his heirs exec-
 utors and administrators do hereby covenant
 to and with the said party of the second part
 his heirs and assigns that he is well seized
 of the premises above conveyed as of a good
 and indefeasible estate in fee simple and
 has good right to sell and convey the same
 in manner and form as aforesaid. that they
 are free from all incumbrance and that the
 above bargained premises in the quiet and
 peaceable possession of the said party of the
 second part his heirs ~~and~~ or assigns against
 the claim of all persons whatsoever will
 forever warrant and defend
 In testimony whereof the said party of the
 first part has hereunto set his hand and
 seal the day and year first above written
 Signed sealed and ~~delivered~~ James Barber 
 delivered in presence of
 Note the words "quarter"
 intended after "west and" of

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" " intended after half in
" " the 4th line was written
" " before signed
" " in presence of Robert C. Masters

" " State of Illinois) Robert C. Masters a Jus
" " Bureau County) tice of the Peace within
" " and for the County aforesaid do hereby certify
" " that this day personally appeared before me
" " James Barber who is personally known to me
" " to be the ~~identical~~ person describedⁱⁿ, and whose
" " name appears signed to the foregoing deed as
" " having executed the same and acknowledged
" " that he had executed the said conveyance for
" " the uses and purposes therein expressed
" " Given under my hand and seal at Linn
" " in said County this 23^d day of July in the
" " year of our Lord one thousand Eight hun-
" " dred and forty six. Robert C. Masters
" " J.P.

" " I hereby certify that the foregoing is a cor-
" " rect copy of a deed filed for record July 24th
" " 1846 at 11^{1/2} o'clock A.M. and recorded
" " July 24th 1846.

Oliver Boyle Recorder

" " State of Illinois)
" " Bureau County) J. Edward M. Fisher
" " Clerk of the Circuit Court and Ex Officio
" " Recorder in and for said County do here-
" " by certify that the foregoing is a full true

" and perfect copy of the Record of deed
 " executed by James Barber to Tracy Rave
 " and the certificates ^{thereof and} thereto attached as Re-
 " corded also pages 335 and 336 in Book
 " C of deeds in the Recorder's office in said
 " County of Bureau.

L. S. J.

In testimony whereof I have
 hereunto subscribed my name
 and affixed the seal of said
 Court at Princeton this 18th
 day of November in the year
 of our Lord One thousand
 Eight Hundred and fifty four
 Edward M. Fisher Clerk

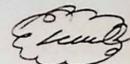
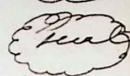
and Ex Officio Recorder
 to the reading of which copy the said defend-
 ants then and there objected but the said Court
 then and there overruled ^{said objection} and allowed the said
 Copy to be read as evidence herein and the
 same was read by said plaintiff to which
 opinion and ruling of ^{said} ~~the~~ Court the said
 defendants by their counsel then and there
 accepted. And thereupon the said plaintiff
 next read in evidence a certain deed ^{from Tracy Rave to Plaintiff} bear-
 ing date 3^d July 1855 in the words and fig-
 ures following to wit:

" This indenture made ^{this} third day of July
 " in the year of our Lord one thousand
 " eight hundred and fifty ~~seven~~ five be-
 " tween Tracy Rave of the County of Bu-
 " reau + state of Illinois of the first part

+ William W. Heaton of the County of Lee
 + State ^{of Illinois} ~~of Illinois~~ ~~of Illinois~~ of the second
 part Writings. The said party of the
 first part for and in consideration of fifty
 dollars in hand paid by the said party
 of the second part the receipt whereof is here
 by acknowledged and the said party of the
 second part forever released and discharged
 and therefore, has remise released sold
 conveyed and quit claimed and by these
 presents does remise release sell convey
 and quit claim unto the said party of
 the second part his heirs and assigns for
 ever, all the right title interest, claim
 and demand which the said party of
 the first part has in and to the following
 described lot, piece or parcel of land to
 wit: The east half of ^{the} south west quar-
 ter of section (of section) No. twenty seven
 (27) The east half of the North west quar-
 ter and the East half of the south west
 quarter of section ^(of section) No. thirty four (34) all in
 Township Eighteen (18) north of Range
 ten (10) East of the fourth principal meri-
 dian in the County of Bureau + State
 of Illinois containing two hundred and
 forty acres of land be the same more or
 less. To have and to hold the same togeth-
 er with all and singular the appurtenances
 and privileges thereto belonging or in
 any wise ^{thereto} appertaining and all the estate

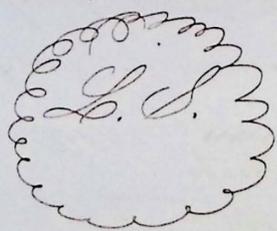
right title ~~xxxx~~ interest & claim ~~xxxx~~
whenever of the said party of the first part
either in law or equity, to the only proper
use benefit and behoof of the said party
of the second parts his heirs and assigns
forever.

In witness whereof the said party
of the first part ^{hereunto} set his hand and
seal the day and year first above
written

Signed sealed and delivered  Tracy Reeve 
in presence of 

State of Illinois 
Lee County  J. Isaac S. Bradman
Clerk of the Circuit Court in and for said
County in the State aforesaid do hereby
certify That Tracy Reeve personally known
to me as the same person whose name is
subscribed to the foregoing instrument of
writing appeared before me this day in
person and acknowledged that he has
signed sealed and delivered the said
instrument of writing as his free and vol-
untary act, for the uses and purposes
therein set forth

Given under my hand and seal of said
Court this 3^d day of July AD 1855
J. S. Bradman Clerk


L. S.

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" Filed for record Oct 2^d 1855 at 4 o'clock
" P. M. and duly recorded in Book F
" of Deeds Page 498
" E. M. Fisher Recorder

" Whereupon the said defendants by their counsel
" admitted that at the time of the commencement
" of this action they the said defendants were in possession
" of the land in said plaintiffs declaration mentioned and claiming
" title thereto and the said plaintiff then rested his case

" And the said defendants to maintain the issues on their part herein offered and
" read in evidence to the Court a certified transcript of a judgment of the Supreme
" Court of the State of Illinois in favour of ~~Oliver~~ William Dougherty and against
" Oliver Lindley and Irwin B. Doolittle with transcripts from the docket and records
" of said Court thereto attached and the deposition of William A. Tunney Clerk
" of said Supreme Court in the words and figures following to wit

" " State of Illinois } In Circuit Court of said
" " Bureau County } County December Term AD 1859
" " William W. Huston
" " vs In Opposition
" " Walter Durham +
" " Abbott Ellis
" " The above plaintiffs vs Messrs

" " Peter + Fawell his attorneys will take notice
 " " that the undersigned defendants will on Wed
 " " nesday the 30th day of November instant
 " " between the hours of Ten o'clock Am and
 " " six o'clock P. M. of said at the office of
 " " the Clerk of the Supreme Court of said
 " " State in Springfield in the County of Sang
 " " amon in said State before some officers
 " " duly authorized by law to take depositions
 " " proceed to take the deposition of William
 " " A. Funnery a witness residing in said
 " " County of Sangamon to be read as evidence
 " " on the trial of the above entitled cause
 " " and if the taking of said deposition is
 " " not completed on said day that then the
 " " taking of the same will be continued from
 " " day to day until the same is completed
 " " at which time and place of taking said
 " " deposition you may appear and cross ex-
 " " amine said witness

" " Princeton November 10th 1859.

" " Walter Durham
 " " Abbott Ellis

" " by Cook + Taylor their Atty
 " " We have this day received a true copy of
 " " the within notice on this 12th day of Novem
 " " ber AD 1859.

" " Peter + Fawell
 " " Atty Atty

Deposition

" " of William A. Furney taken before Orlin
 " " H. Monier, a notary public, at the office
 " " of the Clerk of the Supreme Court for
 " " the second Grand Division of the State
 " " of Illinois, in Springfield in the Coun-
 " " ty of Sangamon in said State on Wed-
 " " nesday the 30th day of November AD
 " " 1859, between the hours of ten o'clock AM
 " " and six o'clock P. M. of said day in pur-
 " " suance of of the foregoing attached notice
 " " to be read as evidence in the trial of a
 " " cause now pending in the Circuit Court of
 " " Bureau County, wherein William W. Hea-
 " " -ter is plaintiff and Walter Durham
 " " and Abbott Ellis are defendants.

" "
 " "
 " "
 " "
 " "
 " "
 " "
 " "
 " "

William A. Furney

" " of lawful age, being pro-
 " " duced sworn and examined in the part of
 " " the defendants testifies as follows -

" " Interrogatories to be put to William A. Fur-
 " " ney.

" " 1. What is your name age residence and occu-

" " *petition.*
 " " Answer. My name is William A. Turney I
 " " am twenty seven years of age. I reside in
 " " the City of Springfield and State of Il-
 " " linois and am Clerk of the Supreme
 " " Court, for the Second Grand Division of said
 " " State.

" " 2. Are you Clerk of the Supreme Court of
 " " the Second Grand Division in the State of
 " " Illinois and if so state whether ^{you} as such
 " " Clerk ~~you~~ have in your custody all the
 " " records papers and files of the Supreme
 " " Court of Illinois prior to the adoption
 " " of the present constitution of this State?

" " Answer - I am Clerk as above stated
 " " All the records of the Supreme Court pri-
 " " or to the adoption of the present Constitu-
 " " tion are on file in my office to the best
 " " of my knowledge.

" " 3. State whether there is in the records of
 " " the Old Supreme Court a judgment in
 " " favor of William Dougherty vs. Oliver
 " " Lindley and Irwin B. Doolittle and
 " " if you find such a judgment please
 " " make a correct certified transcript of
 " " such judgment and attach the same
 " " as an exhibit with a proper mark

" " Answer - There is a judgment on the
 " " records of the Old Supreme Court in fa-
 " " vor of William Dougherty vs. Oliver
 " " Lindley and Irwin B. Doolittle a

" " Copy of which is hereto attached
 " " marked exhibit "A".

" " 4. Examine the records of said Supreme
 " " Court and then state whether there is
 " " any other judgment appearing on the
 " " records or files of said Court between
 " " the said parties named in the third
 " " interrogatory. if so attach a certified copy
 " " as an exhibit and if not please state
 " " whether you have searched the records
 " " diligently for that purpose.

" " Answer. — I have searched the records
 " " and can find no other judgment on
 " " the records of said Court between the
 " " parties named

" " 5. State whether there is a Book
 " " in the office of the Clerk of the Su-
 " " preme ^{Court} in which is kept a record of all
 " " executions issued upon judgments ren-
 " " dered in the Supreme Court and of the
 " " ~~return~~ ^{return} of such executions. And if you
 " " shall answer that ^{there} is such a book ~~then~~
 " " state whether you find that an ex-
 " " ecution was issued upon the judg-
 " " ment in favor of the said William
 " " Dougherty vs. Oliver Lindley and
 " " Jamin D. Doolittle. And if you find
 " " there is such a record of an execution so
 " " made and returned please make out a
 " " certified copy of such record and attach
 " " the same to as an exhibit to your deposition

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with a proper mark

Answer - There is a book in my office called an "Execution Book" which ~~is a~~ ~~book~~. it is supposed contains a record of all the executions issued upon judgments rendered by the old Supreme Court and a number of the returns made upon the executions. I find from said book that several executions were issued upon the judgment aforesaid in favor of Oliver Lindley William Dougherty and against said Lindley & Arolittle of which the following is a copy of one which is hereto attached & marked "B"

6. Will you search diligently amongst the records and files of ~~the~~ Supreme Court Clerk's office and state whether you can find the execution mentioned in the record Book referred to and as having been issued December 26th 1837 upon the judgment in favor of said William Dougherty vs. Oliver Lindley and Arolittle and if you can find such execution please attach a certified copy of the same to your answer and if you shall say you cannot find such an execution state fully whether you have searched every place ^{in the office} for it and whether it is lost

Answer - I have made diligent search

" " for the execution which appears by the
 " " Execution Book to have been issued on
 " " the 26th December 1837 and cannot find
 " " the same in my office. I believe it to
 " " be lost

" " 7. Please examine the records of ^{the} said
 " " Supreme Court and ascertain whether
 " " there has ever been recorded upon the
 " " records of said Court letters of admin-
 " " istration in the estate of William
 " " Dougherty and if you find any such
 " " letters of record you will please ~~attached~~
 " " to your answer a certified copy of the same
 " " with a proper mark. Also state in what
 " " book or record and when they were record-
 " " ed.

" " Answer - There appears on page 372 of
 " " Record Book "G" of the records of said Su-
 " " preme Court letters of administration of
 " " which exhibit "C" hereto attached is a
 " " copy.

" " 8. You will please make out a certified
 " " copy of the last order of the said Court
 " " preceding and the first order following
 " " the record of said letters of administra-
 " " tion and make them an exhibit to your
 " " deposition

" " Answer - The exhibit hereto attached mark-
 " " ed "D" is copy of the order of said Court
 " " immediately preceding and the exhibit her-
 " " to attached marked "C" is a copy of the

written immediately following the rec-
ord of the letters of administration
referred to

9. Will you examine and state
whether after the date of said last
order of as made an exhibit to your
last answer an execution was issued
by the Clerk of the Supreme Court
in the name of Thomas Lewis Ad-
ministrator of William Dougherty
deceased and against Oliver Lind-
ley and Irwin B. Doolittle and direct-
ed to the sheriff of Bureau County
Illinois upon which it may appear
by the returns that any lands were
levied upon and sold by the Sher-
iff of Bureau County as the proper-
ty of Oliver Lindley. If you can
find any such execution and re-
turn please attach to your answer
a duly certified copy of such exe-
cution, ^{copy} and return with a proper
mark.

Answer - There is an execution, with
returns on and attached to it on file
in my office which appears to have
been issued on the "Eighth day of
July in the year of our Lord one
thousand Eight hundred and forty three"
by "E. Fisk Clerk of the Supreme Court"

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" " against Oliver Lindley and Iovin B.
 " " Doolittle and in favor of Thomas Lewis
 " " is Administrator of William Dougherty,
 " " deceased, which execution appears to have
 " " been directed to the Sheriff of ^{here to} Boone
 " " County. The exhibit attached, and
 " " marked "F" is a copy of said execu-
 " " tion and returns and will show
 " " what and whose lands were lev-
 " " ied on.

" " 10. Examine the records of said Supreme
 " " Court diligently (and state whether you
 " " have done so) and state whether there
 " " was ever any other judgment ren-
 " " dered in the said Supreme Court
 " " wherein either William Dougherty
 " " or Thomas Lewis administrator of
 " " William Dougherty was plaintiff
 " " and Oliver Lindley and Iovin B. Doolittle
 " " ^{were defendants} except the judgment mention-
 " " ed in your answer to the third in-
 " " terrogatory.

" " Answer — I have examined diligent-
 " " ly and can find no other judgment
 " " than the one referred to heretofore.

" " 11. If there ever was any other judg-
 " " ment of record in your office between
 " " said parties would you from the re-
 " " searches you have made among the
 " " records and papers of your office have
 " " been likely to have found such
 " " judgment.

47

Answer - I think I should

Wm A. Turney -

Sworn to and subscribed
before me this 30th day of
November AD 1859
O. H. Monier



Notary Public

(Exhibit "A")

At a Supreme Court of the State of
Illinois, begun and held at Vandalia
on Monday, the Eleventh day of De-
cember AD 1837; To wit: On Satur-
day the Sixteenth day of December
AD 1837, the following judgment was
~~reversed~~ entered of record.

Present, all the justices

April 29, 1843. Assign the

William Dougherty } following judgment to

vs.

Errol to Farewell
William B. Doolittle

Oliver Linsley +

J. W. Crosby

Swain B. Doolittle

Attorney for Administrators

This day came the plain-
tiff in error by Logan & Baker his attor-
neys, and it appearing to the Court that
the defendants in error have failed to join
their joinder to the assignment of errors
in this cause according to a rule enter-
ed against them at a previous day of
this term; Therefore on motion of the

" " plaintiffs in error by his attorneys it is
 " " ordered that for the default aforesaid the
 " " judgment of the Circuit Court rendered
 " " in this cause be reversed; and it is fur
 " " ther considered by the Court that the de
 " " murrer of ^{the} defendants in error to ~~the~~
 " " plaintiffs declaration be overruled and that
 " " the plaintiff in ^{error} recover against the said
 " " defendants in error his damages sustain
 " " ed by reason of the breach of promise in
 " " the plaintiffs declaration alleged but be
 " " cause those damages are unknown to the
 " " Court, it is ruled that the Clerk assess
 " " the same: the Clerk having made his as
 " " sessment reported to the Court that the
 " " damages amount to the sum of Three
 " " thousand four hundred and forty one
 " " dollar and forty one cents (\$3441. 41)
 " " which being approved by the Court it
 " " is considered and adjudged by the
 " " Court that the plaintiff in error recov
 " " er of the defendant in error the said sum
 " " of Three thousand four hundred and
 " " forty one dollar and forty one cents
 " " the damages aforesaid ^{in form of overpaid} by the Clerk assess
 " " ed, and also his costs by him in this
 " " Court and also in the Court below ex
 " " pended, and that he have execution
 " " from this Court for his damages and
 " " costs aforesaid

Dougherty

vs.

Lundley & Dolittle

Copy of Judgment

"B"
Date of year

Parties

To whom sent.

amt of
Doll

Int.

Supreme
Court costs

C. C
Costs

1837.
Dec. 26

William Dougherty
vs
Oliver Lindley and
Purvin B. Dr. Little

The Sheriff of Tozwell
County
(Case of S. J. Logans)

13448 41

Interest
from 16th
Dec. 1837.

9594 141834

No.	Amt of Debt	Int.	Supreme Court costs	C. C. Costs	Amt. made Debt	Amt. made Costs &c	Return	(page) 10.
Togwell	\$3441 41	Interest from 16 th Decr. 1887.	9 57 ³ / ₄	14 18 ³ / ₄	\$200		<p>Acc^d on the within execution \$200. March 21st 1888</p> <p>Returned no property found of which the money can be made March 26th 1888.</p> <p>Wm. A. Finney Sh. J. C.</p>	

(S)

(Exhibit "D")

" " "Ordered, that all causes heard and not
 " " decided to be continued under advisement,
 " " and that all other causes motions and
 " " matters not otherwise disposed of be con-
 " " tinued until the next term of this Court"

" " State of Illinois
 " " Supreme Court, Second Grand Division
 " " I William A. Tunney, Clerk of said Su-
 " " preme Court hereby certify that the foregoing
 " " is a true and correct copy of an or-
 " " der of the Supreme Court of Illinois which
 " " appears to have been entered of record on
 " " Thursday afternoon 14th July 1842. as ap-
 " " pears by Record Book "B" pages 364 + 371
 " " of file in my office.

In testimony whereof I have
~~Seal of the~~ hereunto set my hand and
 Supreme Court affixed the seal of said Court
 at Springfield this 22^d day
 of November AD 1859.

Wm A. Tunney
 Clk S.C.

(Exhibit "C")

" Monday 12th Dec. 1842

" At a Supreme Court began and held
" at Springfield on the Monday the 12th
" twelfth day of December in the year of our
" Lord one thousand eight hundred and
" forty two.

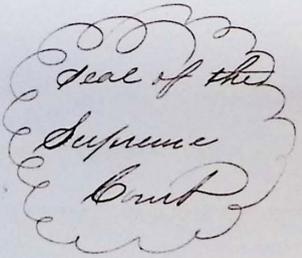
" Present the Honorable William Wilson Ch. Just.

- " " " Thomas C. Brown
- " " " Sidney Bress
- " " " Walter B. Scates
- " " " Samuel H. Treat
- " " " Stephen A. Douglas
- " " " John D. Catron

" State of Illinois

" Supreme Court - Second Grand Division

" I William A. Tunney Clerk of said
" Supreme Court hereby certify that the fore-
" going entry appears of record of the Supreme
" Court of said State in record book "G" on
" page 374.



In testimony whereof I have
hereunto set my hand and
affixed the seal of said
Court at Springfield this
22nd day of November 1859
Wm A. Tunney
Clerk S.C.

" F "

50

" " State of Illinois
" " Supreme Court

" " The People of the State of Illinois
" " To the Sheriff of the County of Bureau greeting
" " We command you that of the goods and chat-
" " tels, lands and tenements of Oliver, Lindsey
" " and Junia, B. Doolittle, you cause to be
" " made the sum of Four Thousand one
" " hundred and thirteen dollars and fifty
" " six cents damages. Fourteen dollars and
" " Eighteen + three fourths cents costs in the Cri-
" " minal Court of Tazewell County, and the sum
" " of Ten dollars and seven cents costs in said
" " Supreme Court which Thomas Lewis Admin-
" " istrator of William Dougherty deceased
" " lately ^{recovered} against them before the Justice of
" " our said Supreme Court as appears to us
" " of record and make return ^{hereof} ~~thereof~~ in nine
" " ty days.

Seal of the
Supreme Court

Witness the Hon. William Wilson
Chief Justice of our said Court
and the seal thereof at Spring
field this Eighth day of July
in the year of our Lord, one
thousand Eight Hundred forty
three

C. Peck
Clerk of the Supreme
Court

(Enclosed upon which execution is the following)

58

" State of Illinois
" " Bureau County Ill.

To Richard C. Masters

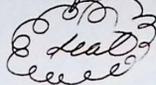
" James C. Forrestall + Richard C. Masters Executors

" " Whereas by virtue of a writ of execution
" " to me directed, issued out of the Supreme
" " Court of the State of Illinois, bearing date the
" " Eighth day of July AD 1843, commanding
" " me to levy the amount therein specified of
" " the goods and chattels, lands and tenements
" " of Oliver Lindley and Junia B. Doolittle
" " The defendant in execution to satisfy Thomas
" " Lewis Administrator of the estate of William
" " Dougherty deceased the plaintiff in said
" " execution the amount of his judgment therein
" " decreed, I have seized and taken in execu-
" " tion, the following described property of the
" " said Oliver Lindley, To wit

"	"	"	"	"	"	"	"	"	acres
"	"	The S. W. 1/4 of section 34 Town 18. North Range 10 east of 4 th P.M. 1/60							
"	"	N. W. 1/4 "	34	18	"	10	"	"	150
"	"	S. W. 1/4 "	27	18	"	10	"	"	160
"	"	W. 1/2 S. W. 1/4 "	26	18	"	10	"	"	80
"	"	W. 1/2 N. W. 1/4 "	35	18	"	10	"	"	80
"	"	S. W. 1/2 "	35	18	"	10	"	"	160
"	"	W. 1/2 N. W. 1/4 "	2	17	"	10	"	"	80-13
"	"	N. E. 1/4 "	4	17	"	10	"	"	159-22
"	"	E. 1/2 W. 1/2 1/4 "	4	17	"	10	"	"	79-20

" E. 1/2 S. W. 1/4 of section 5 town 17 North Range 10 east of 4th P.M. section 80
" " all in the County of Bureau and State of Illinois
" " Now therefore according to the statute in

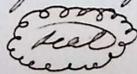
" " such cases made and provided, I do hereby
 " " call and appoint you the said Richard
 " " C. Masters James G. Frostall Robert C.
 " " Masters an inquest, and do require of you
 " " an oath forthwith to view estimate and ap-
 " " praise the reasonable and fair valuation of
 " " said property in ordinary times and return
 " " to me your doings under your hands and
 " " seals. Given under my hand and seal the 25th day of August A.D. 1843.

 Seal

Stephen Smith

Sheriff of Bureau County
 Ills.

" " Personally appeared before me Stephen
 " " Smith ^{Sheriff} of the County of Bureau, the above
 " " named Richard C. Masters, James G.
 " " Frostall and Robert C. Masters appraisers
 " " aforesaid who were severally sworn accord-
 " " ing to law to well and truly ^{value and} appraise
 " " all such property by me pointed out and
 " " discharge the duties of such appointment
 " " Given under my hand and seal this
 " " 25th day of August A.D. 1843

 Seal

Stephen Smith

Sheriff of Bureau County

" " To Stephen Smith Sheriff
 " " of Bureau County Illinois } In pursuance of
 " " ^{the foregoing} appointment we have proceeded ~~proceed~~ to
 " " upon actual view of the property by you
 " " you taken in execution as the property of

Oliver Lindley at the suit of Thomas Lewis and
 administrators of William Dougherty deceased
 that is to say.

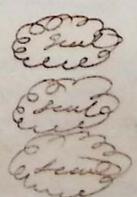
					Acres containing	
"	"	The S.W. 1/4 Section 34 Town 18 North Range 10 East of the 4 th P.M. No.			160	
"	"	N.W. 1/4	34	18	10	160
"	"	S.W. 1/4	27	18	10	160
"	"	W. 1/2 S.W. 1/4	26	18	10	80
"	"	W. 1/2 N.W. 1/4	35	18	10	80
"	"	S.W. 1/4	35	18	10	160
"	"	W. 1/2 N.W. 1/4	2	17	10	80-43
"	"	N.E. 1/4	4	17	10	159-22
"	"	E. 1/2 N.W. 1/4	4	17	10	79-20
"	"	E. 1/2 S.W. 1/4	5	17	10	80-00

And have proceeded upon actual view ~~of~~ of said
 lands and premises to estimate the fair and
 reasonable value thereof in ordinary times to wit

					Acres	Value
"	"	The S.W. 1/4 Sec. 34, 5, 18, N. 28, 10 E. of 4 th P.M. No.			160	\$ 325.00
"	"	N.W. 1/4 " 34 " 18 " " 10 " " " "			160	200.00
"	"	S.W. 1/4 " 27 " 18 " " 10 " " " "			160	475.
"	"	W. 1/2 S.W. 1/4 " 26 " 18 " " 10 " " " "			80	500.
"	"	W. 1/2 N.W. 1/4 " 35 " 18 " " 10 " " " "			80	200.
"	"	S.W. 1/4 " 35 " 18 " " 10 " " " "			160	425.
"	"	W. 1/2 N.W. 1/4 " 2 " 17 " " 10 " " " "			80-43	100.
"	"	N.E. 1/4 " 4 " 17 " " 10 " " " "			159-22	300.
"	"	E. 1/2 N.W. 1/4 " 4 " 17 " " 10 " " " "			79-20	150.
"	"	E. 1/2 S.W. 1/4 " 5 " 17 " " 10 " " " "			80	450.

Given under our hands and seals this 25th
 day of August AD 1843.

Richard C. Masters
 James C. Finestall
 Robert C. Masters



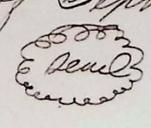
Received this writ & collect P. No. the 29th day of
 July AD 1843. and by virtue of the command
 therein I did on the same day ^{to wit the 29th day of July AD 1843} proceed to levy
 upon the following described real estate, to wit:
 (The north west quarter of ^{Section} thirty four (34) contain-
 ing 160 acres more or less - north west quarter of
 section thirty four (34) containing 160 acres more
 or less - ~~South west of section thirty four (34)~~
~~containing 160 acres more or less - North west~~
~~quarter of section thirty four (34) containing 160~~
~~more or less - South west quarter of section~~
~~twenty seven (27) containing 160 acres more or~~
~~less more or less.~~ The three above described
 lots are in Township number Eighteen (18) north
 of Base line Range Number Ten (10) east of the
 fourth principal meridian - Also the west
 half of the North west quarter of section two
 (2) containing $20\frac{3}{10}$ acres more or less - North
 East ~~half~~ quarter of section four (4) containing $159\frac{7}{10}$
 acres more or less - East half of ~~the~~ north
 west quarter of section four (4) containing $79\frac{2}{10}$
 more or less and east half of south west
 quarter of section five (5) containing 80 acres
 more or less - the four last described tracts
 are in township No seventeen (17) North of Base
 line. Range No. Ten (10) East of the 4th principal
 Meridian - and all of the above mentioned
 tracts are situated in Indian County Illinois
 as the property of the said Oliver Linnell one
 of the defendants named in this writ. And
 afterwards to wit on the twenty sixth day

" " of August AD 1848. I proceeded to the prem-
" " ises aforesaid and did appoint them and
" " them as appraisers Richard C. Masters
" " in the part of ~~the~~ defendant who was
" " absent and James S. Forestall in the part
" " of the Sheriff and Robert C. Masters, was
" " appointed by the plaintiff all of them be-
" " ing free holders of said County of Bureau
" " who were sworn by me to well and truly
" " without partiality or prejudice appraise said
" " real estate and make return according to
" " law which said appraisement of said ~~pre-~~
" " ises appraisers and their return of the val-
" " ue of the premises is hereto attached and
" " made part of this ^{and} return. And having
" " duly advertised said lands for sale by post-
" " ing up advertisements of the time and
" " place of sale in three of the most pub-
" " lic places in said County of Bureau for
" " the space of twenty days previous to day of
" " sale. And in pursuance of said adver-
" " tisements I proceeded to offer said lands
" " for sale at public venue at the door of
" " the Sheriff's office in Princeton in said
" " County of Bureau on the twenty sixth
" " day of August AD 1848 between the hours
" " of nine o'clock AM and six o'clock P.M.
" " of said day to the highest and best bid-
" " der for ready money - And that William
" " B. Doolittle being the highest and best
" " bidder became ^{the} purchaser thereof for the sum

" three hundred dollars for the first ^{tract} mentioned
 " ~~tract~~ - And the sum of two hundred dollars
 " for the second tract mentioned - And the sum
 " of four hundred dollars for the third tract
 " mentioned - And the sum of seventy five dol
 " ^{for the} lars fourth tract mentioned - And the sum
 " of two hundred dollars for the fifth tract
 " mentioned. And the sum of one hun
 " dred dollars for the sixth tract mention
 " ed - And the sum of three hundred dol
 " lars for the seventh ^{and last} tract mentioned, I sell
 " the sum of One thousand five hundred
 " + seventy five dollars, and that being more
 " than two thirds of the appraised value
 " the said real estate was then and there
 " sold and struck off to him at that
 " price. And have executed a certificate
 " of purchase to the ^{Paid} William C. Doolittle
 " for the above described this 26th day of
 " August AD 1843. Stephen Smith
 " Sheriff of the said County of Bureau
 " Illinois

"	"	Sheriff's Fee - Levy -	50
"	"	Advertising property & sale	25
"	"	12 mile travel to ^{appraisers} summons	75
"	"	summoning 3 appraisers 25 each	75
"	"	procuring same to value property	18
"	"	Making certificate of Purchase	25
"	"	Commission on \$1575 =	44.75 44.37
"	"	appraisers fees	1.50
"	"		\$48.55

" Burean County Illinois - Now therefore
 " according to the statute in such cases
 " made and provided, I do hereby call
 " and appoint you the said Richard
 " C. Masters, James G. Forestell and Rob-
 " ert C. Masters an inquest and do
 " require of you an oath forthwith to
 " view estimate and appraise the read-
 " mable and fair valuation thereof in
 " ordinary times and return to me
 " your doings under your hands and seals
 " given under my hand and seal
 " this 18th day of Sept AD 1843
 " Stephen Smith
 " Sheriff Burean County Illinois

" I personally appeared before me Stephen Smith
 " Sheriff of Burean County Illinois, the above
 " named Richard C. Masters James G. Forest-
 " ell and Robert C. Masters appraisers afore-
 " said, who were sworn by me according to
 " law to well and truly value and appraise
 " said property by me pointed out and dis-
 " charge the duties of said appointment.
 " Given under my hand and seal this
 " 18th day of Sept. 1843.
 "  Stephen Smith Sheriff
 " of Burean County Illinois

46

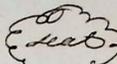
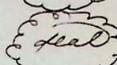
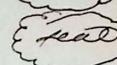
To Stephen Smith Sheriff
 Boone County Illinois In pursuance of
 the foregoing appointment, we have pro-
 ceeded upon actual view of the premises
 by you taken in execution as the property
 of Oliver Lindley at the suit of Thomas
 Lewis Administrator of William Gughrty
 deceased - that is to say:

The $W\frac{1}{2}$ of $SW\frac{1}{4}$ of sec 26 - The $W\frac{1}{2}$ of $NW\frac{1}{4}$ of
 sec 35 - The $E\frac{1}{2}$ of $SW\frac{1}{4}$ of sec 35 - The $W\frac{1}{2}$ of
 $SW\frac{1}{4}$ of sec 35 - The $E\frac{1}{2}$ of $NE\frac{1}{4}$ of sec 34 - The
 above described five tracts are in township
 No. 18 North Range no. 10 East of 4th Principal Merid-
 ian - The $E\frac{1}{2}$ of $NE\frac{1}{4}$ of sec 7 - The $W\frac{1}{2}$ of
 $SW\frac{1}{4}$ of sec 5 - The $NW\frac{1}{4}$ of $SE\frac{1}{4}$ of sec 7 -
 These last described tracts are in town-
 ship 17 north Range 10 East of 4th Principal
 Meridian - All in Boone County State
 of Illinois - and have proceeded upon
 actual view of said lands and premises
 to estimate the fair and reasonable value
 thereof in ordinary times to wit

Tract Description	Acres	Value
The $W\frac{1}{2}$ $SW\frac{1}{4}$ sec 26 T. 18. N. 18. E. of the 4 th pl. mer. 80	18	1500
" $W\frac{1}{2}$ $NW\frac{1}{4}$ " 35 " 18 " " 10	80	200
" $W\frac{1}{2}$ $SW\frac{1}{4}$ " 35 " 18 " " 10	80	300
" $E\frac{1}{2}$ $SW\frac{1}{4}$ " 35 " 18 " " 10	80	125
" $E\frac{1}{2}$ $NE\frac{1}{4}$ " 34 " 18 " " 10	80	600
" $E\frac{1}{2}$ $NE\frac{1}{4}$ " 7 " 17 " " 10	80	175
" $W\frac{1}{2}$ $SW\frac{1}{4}$ " 5 " 17 " " 10	80	175
" $NW\frac{1}{4}$ $SE\frac{1}{4}$ " 7 " 17 " " 10	80	100

Given under our hands and

seals this 18th day of Sept. AD 1843

Richard C. Musters 
 James G. Fowler 
 Robert C. Musters 

Reviewed this writ 3. P. M. the 29th day
 of July AD 1843. and by virtue of the com-
 mand therein I did on the same day lay
 out upon the following described lands to wit
 The west half of ~~the~~ south west quarter of sec-
 tion twenty six (26) containing 80 acres more
 or less - The west half of north west quar-
 ter of section thirty five (35) containing 80
 acres more or less - The west half of ~~the~~ ^{west} west
 quarter of section thirty five (35) containing
 80 acres more or less. The east half of south
 west quarter of section thirty five (35) contain-
 ing 80 acres more or less.

I did on the four following described
 Lots September 12th AD. 1843. to wit

The east half of North East quarter of sec-
 tion thirty four (34) containing 80 acres more
 or less. The above described five tracts are
 in township Eighteen 18 north of Baseline
 Range No. 10 East of the Fourth Principal
 Meridian. Also the east half of North
 east quarter of section seven (7) containing
 80 acres more or less. The west half of the
 south west quarter of section five (5) con-
 taining 80 acres more or less. And the north
 west quarter of South ^{quarter} east of section seven (7)

" containing 80 acres more or less - The three
 " last described tracts are in township No. Sev-
 " enteen (17) North of Base line Range No. Ten
 " (10) East of the Fourth Principal Meridian
 " all in the County of Bureau and State of
 " Illinois all as the property of the said ^{Lindley} Oliver
 " defendant in this execution. And afterwards
 " to wit on the 18th day of September AD 1843
 " I proceeded to the premises aforesaid and
 " did appoint them and three as appraisers
 " Richard C. Masters on the part of the de-
 " fendant he being absent, and James L. For-
 " restall on the part of the Sheriff and Rob-
 " ert C. Masters was appointed by the plaintiff
 " all of them being free holders in said County
 " of Bureau, who were sworn by me to well
 " and truly without partiality or prejudice ap-
 " praise said lands and make return & records
 " -ing to law - which said appraisement of said
 " appraisers and their return of the value of
 " said lands are hereto attached and made part
 " of this my return. And having duly adver-
 " tised said lands for sale by posting up ad-
 " vertisements of the time and place of sale
 " in three of the most public places in said
 " County of Bureau for the space of twenty
 " days previous to day of sale - And in pursu-
 " ance of said advertisements I proceeded to of-
 " fer said lands for sale at public vendue at
 " the door of the Sheriff's office in Princeton
 " in said County of Bureau on the third day

" of October AD 1843. between the hours of nine
 " o'clock Am and six o'clock P. M. of said
 " day to the highest and best bidder for
 " ready money and that William B. Doolittle
 " - the, he being the highest and best bidder
 " became the purchaser thereof for the sum
 " of \$480 dollars for the first tract men-
 " tioned and the sum of 150 dollars for the
 " second tract mentioned, and the sum
 " 200 dollars for the third tract mentioned
 " and the sum of 127 dollars for the sixth
 " tract mentioned, and the sum of 125 dol-
 " lars for the seventh tract mentioned and
 " the sum of 67 dollars for the eighth tract
 " mentioned. And in all the sum of Eleven
 " Hundred and thirty nine dollars and
 " that being more than two thirds of the ap-
 " praised value the said lands were then
 " and there sold and struck off to him
 " at that price and I have executed ~~and~~
 " a certificate of purchase to the said
 " William B. Doolittle for the above de-
 " scribed tracts this third day of October
 " AD 1843

Smith
 Stephen Sheriff

Bureau County Illinois

Sheriff's fees
 Levy 50
 collecting 25
 July apprais 75
 Levy 18
 Commission
 on \$1139- 28.47
 appraisals 1.50
 certificate
 purchase 50

Received my fees in full on
 this execution
 Stephen Smith Sheriff

\$32.15

70

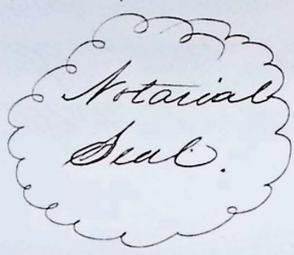
" " State of Illinois
 " " Supreme Court - Second Grand Division
 " " I, William A. Furney Clerk of
 " " said Supreme Court do ^{hereby} certify that the fore-
 " " going execution and the return thereon wherein
 " " Thomas Lewis, Administrator of William Dough-
 " " erty deceased is Plaintiff and Oliver Lindley
 " " and Edwin B. Doolittle defendants are true
 " " copies from the original execution and re-
 " " turn on file in my office, all of which
 " " appears of record in my said office

In testimony whereof I have hereunto
 to set my name and af-
 fixed the seal of said
 Seal of the Supreme Court Court at Springfield this
 18th day of May AD 1859

Wm A. Furney -
 Clerk S.C.

" " State of Illinois
 " " Sangamon County
 " " J. Olin H. Mower, a
 " " Notary Public for the City of Springfield in
 " " said County and State do hereby certify that
 " " the foregoing deposition was taken before me
 " " at the office of the Clerk of the Supreme
 " " Court for the second Grand Division of said
 " " State in Springfield in the County of Sangamon
 " " in said State on Wednesday the 3rd
 " " day of November AD 1859. between the hours

of ten o'clock Am. and six o'clock P.M. of said day, that previous to the taking of his deposition the said witness was sworn by me to testify the truth in the relation to the matter in controversy; and having testified and his deposition being read to him he swore to and subscribed the same before me as notary public aforesaid



In testimony whereof I have hereunto set my hand and affixed my ^{Notarial} seal ~~at~~ at Springfield this 30th day of November AD 1859
- W. M. Miller

Fee \$7.00

Notary Public

The deponents that read affidavits of Thackerberry and E. A. Powell to wit

State of Illinois } In Circuit Court
}
} of Jaywell County } of Bureau County

William W. Heaton

vs.

In Ejectment

Walter Durham et al

This day personally appeared before me the undersigned Clerk of the Circuit Court of Jaywell County Middleton Thackerberry who being duly sworn deposes and says that he was well acquainted with William B. Doolittle in his lifetime that said William B. Doolittle departed this life on or about the fifteenth day of

" " July AD 1854. That affiant was duly ap-
 " " pointed executor of the estate of ^{the} said Wil-
 " " liam B. Doolittle deceased and as such
 " " executor he came into the possession of
 " " all the books and papers deeds and other
 " " instruments of writing belonging to ^{the} said
 " " Doolittle in his lifetime That affiant has
 " " diligently searched among ^{and} the the papers of
 " " said Doolittle for a deed made by Stephen
 " " Smith Sheriff of Bureau County Illinois
 " " to said William B. Doolittle dated Febru-
 " " ary Eleventh AD 1846. and has been un-
 " " -able to find such deed. Affiant further
 " " states that he has searched over all the
 " " deeds and other papers belonging to the
 " " said William B. Doolittle deceased and
 " " feels assured that there is no such deed
 " " amongst his papers and further saith
 " " not.

M. Thackerbury

E. L. S.

Subscribed and sworn to before
 me this 9th day of August AD
 1859 as witness my hand of-
 ficial seal at Pekin the
 day and year last aforesaid

Minell C. Young Clerk
 Tazewell County Circuit Court Illinois

" " AD 1846. Affiant further states that he
 " " knows that said Robert Patterson never had
 " " in his possession the said deed and has
 " " not now in his possession nor under his
 " " power or control said deed nor does he
 " " know where said deed is.

" " Affiant further states that the said
 " " defendants never had the said deed in
 " " their possession or custody nor do they or either
 " " of them know where said ^{deed} is to be found

" " Affiant further states that some
 " " years since he saw according to his best re-
 " " collection the said described deed in the
 " " possession of the said William B. Doolittle
 " " the the grantee in said deed ^{at}

" " Affiant further states ^{that} the said
 " " William B. Doolittle as affiant is inform-
 " " ed and believes to be true departed this
 " " life in the month of July AD 1854. having
 " " made his last will and testament there-
 " " in appointing as his executor Middleton
 " " Thackerberg and that said Thackerberg
 " " took out letters testamentary on said estate
 " " That affiant as agent for said Patterson
 " " and on behalf of the defendants call-
 " " ed on the said Executor to get said deed
 " " and upon diligent search amongst the pa-
 " " pers of the said deceased the said deed could
 " " not be found as will more fully appear by
 " " the affidavit of said Thackerberg heretofore
 " " filed to and made part hereof. Affiant

further states that he was attorney for said
 Patterson when said Patterson acquired
 his interest in said land. Affiant fur-
 ther states that he has inquired of every per-
 son he knew who would likely have
 the said deed in their possession and has
 got several persons to search for said deed
 and has been unable to find it and
 affiant knows it to be out of the power
 of the defendants to obtain said deed
 on the trial of said cause and further
 saith not

C. N. Powell

Subscribed & sworn to
 before me this 10th day of
 August AD 1859. - J. A. McCoy N.P.

State of Illinois
 City & County of Peoria J. A. McCoy Notary

Public in and for the said City of Peoria
 in said County I do hereby certify that
 the foregoing affidavit was subscribed and
 sworn to before me this the tenth
 day of August AD 1859. Witness my



hand & seal notarial at
 the City of Peoria the day
 of August and year aforesaid
 J. A. McCoy
 Notary Public

" + thereupon without objection by said plaintiff
 " offered and read in evidence to the Court a cer-
 " tified copy of ^{the} record of ^a deed and certificates from
 " the Sheriff of Bureau County Illinois to Wil-
 " liam B. Doolittle bearing date 11 Feby 1846 ac-
 " knowledged 20 Feby 1846. and filed for record
 " 21 March 1846 in the words and figures fol-
 " lowing to wit

" " Whereas Thomas Lewis Administrator of the
 " " Estate William Dougherty deceased at the De-
 " " cember term AD 1837 of the Supreme Court of the
 " " State of Illinois Returned a Judgment against
 " " Oliver Smidley and James B. Doolittle for
 " " the sum of three thousand ^{four hundred} and fifty one ^{1/100}
 " " dollars and costs of suit upon which judg-
 " " ment an execution was issued dated the
 " " Eighth day of July 1848 directed to Stephen
 " " Smith Sheriff of Bureau County to execute
 " " and by virtue of said execution the said
 " " sheriff levied upon the lands hereinafter de-
 " " scribed and the same were struck off and
 " " sold to William B. Doolittle for the sum
 " " of fifteen hundred and twenty dollars
 " " he being the highest and best bidder there-
 " " for, and the time and place of the sale
 " " there of having been duly advertised accord-
 " " ing to law. Now therefore Know all by
 " " this deed That I, Stephen Smith Sheriff
 " " of said County of Bureau in consideration
 " " of the premises here granted bargained

" " and sold and do hereby convey to the said
 " " William B. Doolittle his heirs or assigns the
 " " following described tracts of land to wit.
 " " "The south west quarter of section thirty
 " " four containing 160. acres more or less" The
 " " North west quarter of Section thirty four
 " " containing 160 acres more or less. The south
 " " west quarter of section Twenty seven contain
 " " ing 160 acres more or less The three above
 " " named tracts in township No. Eighteen North
 " " of Range No. Ten East of the fourth ~~pr~~
 " " meridian Also The west half of the
 " " North west quarter of section Two contain
 " " ing 80³/₄ acres more or less The north East
 " " quarter of section four containing 159²/₁₀₀
 " " acres more or less The East half of the North
 " " West quarter of section four containing 79²⁰/₁₀₀
 " " acres more or less And the east half of the
 " " south West quarter of section five containing
 " " eighty acres more or less. The four last
 " " mentioned tracts in Township seventeen
 " " North Range No. Ten East of fourth me
 " " ridian and all in the County of Prew
 " " and State of Illinois. To have and to
 " " hold the ^{said} described premises with all the
 " " appurtenances thereto belonging to the said
 " " William B. Doolittle his heirs and assigns
 " " forever Witness my hand and seal this
 " " Eleventh day of February in the year of our
 " " Lord One thousand Eight hundred and

forty six

Stephen Smith Sheriff ^{seal}
Bureau County Ills

State of Illinois

Bureau County Ills

J. Cyrus Bryant Clerk

of the Circuit Court within and for said
County do hereby certify that Stephen

Smith Sheriff of said ^{County} whose signature
appears ~~on the~~ to the foregoing deed and

who is personally known to me to be the
identical person whose name is subscribed

to said deed as having executed the same
this day appeared before me and advised

me that he had signed sealed and
delivered the same for as his free act and

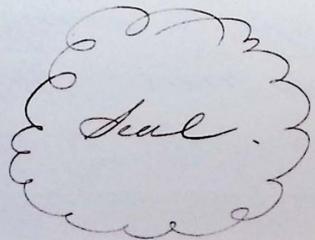
deed as sheriff as aforesaid for the uses
and purposes therein expressed,

In testimony whereof I have hereunto
subscribed my name and affixed

my seal at Tunicton this twentieth
day of March in the

year of our Lord Eight
an hundred and forty

six.
Cyrus Bryant Clerk Circuit
Court



derived from the said judgment execution and Sheriff deed.

Whereupon said defendants read in evidence to the Court a certificate of said William A. Tunney Clerk of said Supreme Court in the words and figures following to wit

State of Illinois

Supreme Court - Second Grand Division

I, William A. Tunney Clerk of said Supreme

Court hereby certify that I have examined

the records ⁱⁿ file in my office and that

it appears from Record Book "C" which con-

tains the orders opinions and proceedings

of the Supreme Court of the ~~State~~ State of Illinois

vis for December Term AD 1837 among ^{things} others,

that said Supreme Court of the state of

Illinois commenced its session at Vandalia

on "Monday the Eleventh day of December

AD 1837" I further certify that said

record does not show any order of the

adjournment of said Court for said Term,

but that the last orders and opinions

of said December Term AD 1837, appears to

have been entered under date "Monday

December 23rd 1837", which date commences

on page 61 of said Record Book "C" and

that the last of the proceedings of said term

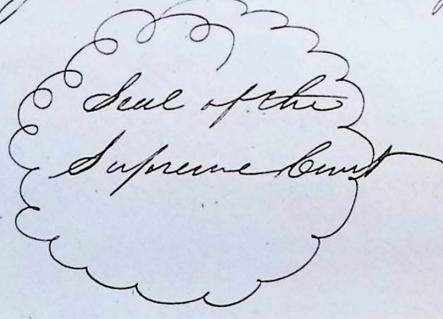
appear to end on page 77 of said Record

Book: and that among other orders of said

last mentioned date in said Record Book

" and in page 68 of the same is an order
 " of which the following is a copy;
 " "Ordered, that all causes not otherwise dis-
 " " posed of stand continued until ^{the} next Term
 " " I further certify that in page 78 of said
 " " Record Book "E" the following order first
 " " appears, a copy of which is as follows
 " " " At a Supreme Court begun and held
 " " at Vandalia on Monday the 4th day of June
 " " 1838 "

" Given under my hand and the seal
 " of said Supreme Court
 " at Springfield this 14th
 " day of December AD 1860
 " Wm W. Tunney
 " Clerk Supreme Court



" which was all the evidence in the case
 " and thereupon the said Circuit Court
 " rendered judgment herein for the said
 " plaintiff and against the said defend-
 " ants to which ruling and opinion of
 " the Court as well as the aforesaid other
 " opinions of the said Court in this behalf
 " the said defendants by their counsel
 " then and there excepted and then and
 " there prayed said Court to allow this their
 " bill of exceptions and sign and seal the
 " ^{same} which is done this 27th day of March
 " AD 1861 in open Court M. E. Hollister
 " Judge Presd

State of Illinois, Bureau County, Jo.

I, George W. Radcliffe, Clerk of the Circuit Court within and for said County do hereby certify that the foregoing is a true copy from the records of said Court of proceedings had therein in the foregoing entitled Cause.

Witness my hand and the Seal of said Court at Princeton this 23^d day of May A. D. 1861.

Geo. W. Radcliffe Clerk
Pr. Chas. J. Peckham Deputy

One now come the said Walter Lusham & Alastor Ellis and say that in the record & proceedings aforesaid and in the rendition of the Judgment aforesaid there is manifest error in this Court

- 1st The Court erred in suppressing the answers & the 3rd, 4th, 5th, 6th, 7th, 9th & 11th interrogatories in the deposition of witness William A. Turney and each of them severally
- 2nd The Court erred in admitting in evidence the Record of a deed from Oliver Lindley & Priscilla his wife to John Lindley and the certificates attached thereto
- 3rd The Court erred in admitting in evidence the record of the deed from John Lindley to James Baker
- 4th The Court erred in admitting in evidence record of deed from James Borden to Lucy Reeves

5th The court erred in finding the issue for the plaintiff

6th The court erred in rendering the verdict against in manner of some of the points

R. C. Cook

atty for ptty in error

And now comes the defendant in error & says that there is no such error in said record & proceedings as is above specified

Leland Blanchard
for the def in error

Wm W. Heaton 119.

pts.

Walter Durlam &
Abbott Ellis

Transcript of record

Filed Feby 22, 1862.

L. Leland

Clk.

Colks fees \$16.35

Pd. by J. J. Taylor

Depts. Atty.

SUPREME COURT OF ILLINOIS,

THIRD GRAND DIVISION.

APRIL TERM, 1862, AT OTTAWA.

ROBERT DURHAM & WALTER ELLIS }
vs. } *Error to Bureau.*
WILLIAM W. HEATON.

ABSTRACT OF RECORD.

PAGE
Of Record.

1 This was an action of ejectment brought by Heaton against Dunham
2 & Ellis. Declaration in usual form filed April 23d, 1858.

3 Land in controversy is the east $\frac{1}{2}$ of the sw $\frac{1}{4}$ of section 34 township 18
4 range 10 east of the 4th principal meridian.

5 Service does not show that defendants were in possession of the land.

6 Plea of general issue filed May 1st 1858.

7 Leave to amend declaration.

8 Trial by the Court and verdict for plaintiff.

9 Bill of Exceptions shows that the following evidence was offered for
10 plaintiff.

11 1st. Certificate of the Register of the Land Office at Springfield, showing
12 that Oliver Lindley purchased the land in controversy of the United
13 States on the 15th day of July 1835.

14 2d. Copy of deed from Oliver Lindley and Prissilla his wife, to John
15 Lindley for the same land, February 26th 1858. The defendants objec-
16 ted to the reading of the copy. The Court overruled said objection and
17 defendant then and there excepted.

18 Previous to reading the copy of said deed, plaintiff read his own affida-

19 vit, in which he stated that the original deed was lost as he was informed and believed; that said deed was not in his power to produce on trial; that said John Lindley was and had been for some years a resident of Knoxville in the State of Iowa. That plaintiff applied by letter and was informed by him that said Deed was not in his possession, and had been accidentally destroyed by fire while said Lindley resided in Tazewell County in this State. That one other deed made by said John Lindley to one James Barbour, for the premises in controversy, dated June 13th 1846 was a material part of his testimony in the case; that said deed is not in his power to produce on this trial; that when this suit was commenced said James Barbour was insane, and confined in the asylum in Jacksonville; that affiant believes he is still confined there; that Martin P. Sweet of Freeport is a conservator of said Barbour; that affiant had applied to him for deeds aforesaid, and was informed by him that said deeds were never in his possession, and he had never seen them; said that plaintiff knew of no other person who would likely have possession of said deeds, and he had no knowledge where they are.

That one other deed made by James Barbour to Tracy Reeves, dated July 23d 1846, for the premises in controversy, was a material part of testimony in this case; that said Tracy Reeves lived in said Bureau County; that plaintiff called upon said Reeves for said deed; Reeves informed him at first that he had the said deed, but has since informed plaintiff that after diligent search in all places where said deed would be likely to be found, he could not find the same, and that said deed was lost; that plaintiff himself searched the desk of said Reeves, where he was informed said deed would be found, various packages of deeds and other papers; could not find said deed and verily believes the same to be lost.

27 Plaintiff offered in evidence a certificate copy of the record of a deed from John Lindly, dated June 13th 1846, for the premises in controversy.

31 To the reading of which the defendant objected. The Court overruled said objection, and the defendants then and there excepted.

32 The plaintiff offered in evidence a certified copy of the record of the deed from James Barbour to Tracy Reeves, dated July 3d 1846, for the premises in controversy.

35 To the reading of which the defendants objected, the Court overruled said objection, and the defendants then and there excepted.

Plaintiff then read in evidence a deed for the premises in controversy, from Tracy Reeve to himself dated July 3d 1855.

38 The defendants admitted the possession of the land in controversy.

Plaintiffs rested.

40 Defendants read in evidence the depositions of W. A. Turney, who testified that he was Clerk of the Supreme Court of the 2d Grand Division

that on the records of the old Supreme Court of this State, there is a judgment in favor of William Dougherty *vs.* Oliver Lindley and Irwin B. Doolittle. A sworn copy of which was attached to the depositions, which is as follows :

47 At a Supreme Court of the State of Illinois, begun and held at Vandalia on Monday, the 11th day of September, A. D. 1837, to wit: on Saturday the 16th day of December, the following judgment was entered of record.

47 Here follows a judgment in due form in favor of William Dougherty *vs.* Oliver Lindley and Irwin B. Doolittle, for the sum of \$3,441.41, damages
49 and costs in that Court as well as in the Court below, which copy of judgment was also duly certified by the Clerk of said Court. Said witness
42 Turney further testified that there was no other judgment on the records of said Supreme Court, between the same parties.

43 There is a book in my office called an Execution Book, which it is supposed contains a record of all the executions issued upon judgments rendered by the old Supreme Court, and a minute of the returns made upon the execution. I find from said book that several executions were issued
52 upon the judgment aforesaid; a copy of said record is attached marked B, which shows execution issued on the foregoing judgment Dec. 26, 1837, with the following return. Received on the within execution \$200, March 31, 1838 Returned no property found, of which the money can be made,
March 26 1838. WILLIAM TRANY,
Sheriff, S. C.

44 Said witness further testified that he had made diligent search for the execution, which appears by the execution book to have been issued on the 26th Dec. 1837, and cannot find the same in my office; I believe it to be lost. There appears on page 372 of Record, Book G, of the record of said Supreme Court, letters of administration of which Exhibit C hereto attached is a copy.

52 Exhibit C shows letters of administration upon the estate of William Dougherty, who died intestate March 15th 1840, to Thomas Lewis public administrator, granted by James Adam, Probate Justice of the Peace of Sangamon County, of the State of Illinois, Aug. 23, 1842.

44 Said witness further testified that Exhibit D attached to his deposition, is a copy of the order of said Court immediately preceeding, and Exhibit E is a copy of the entry immediately following the records of the letters of administration aforesaid; Exhibit D is as follows :—Ordered that all causes heard and not decided, being continued under advisement, and that all other causes, motions and matters not otherwise disposed of, be continued until the next term of this Court.

55 Exhibit E is as follows: Monday 12th Dec. 1842, at a Supreme Court begun and held at Springfield on Monday the 12th day of December, in the year of our Lord one thousand eight hundred and forty ~~four~~ *two*.

Present the Hon. William Wilson, Chief Justice; Thomas C. Brown, Sidney Breake, Walter B. Scates, Samuel H. Treat, Stephen A. Douglas, John D. Caton.

- 45 Said witness further testified as follows : there is an execution with returns on and attached to it on file in my office, of which Exhibit marked F hereto attached is a true copy.
- 56 Exhibit F is a copy of an execution issued by E Peck, clerk of the Supreme Court of the State of Illinois, on the 8th day of July 1843, in favor of Thomas Lewis, administrator of William Dougherty deceased, and against Oliver Bindly and Irwin B. Doolittle for the sum of \$4113.56 damages, \$14,18 $\frac{3}{4}$ costs in the Circuit Court of Tazewell County and \$10,07 costs in said Supreme Court, on which is the following returns : Received this writ at 3 o'clock P. M., July 29th 1843.
- 57 There is paid on this execution by the purchase of property, the sum of \$1575, as per sheriff's return attached to this writ ; \$20, is applied in part pay as sheriff's fee, the remainder \$1555, is applied on the execution.
- WILLIAM B. DOOLITTLE.
- 58 Attached to said execution, is a levy by Stephen Smith, upon certain real estate, including the premises in controversy, as the property of Oliver Lindley ; the appointment of Richard C. Masters, James G. Forestal and Robert C. Masters, as appraisers, on the oath of the
- 60 appraisers and the valuation of property by them, the sw $\frac{1}{4}$ of section 34 aforesaid, was appraised at \$350. Said return further shows a proper advertisement of said land, and a sale of the same on the 26th day of August 1843, by said Sheriff. The said sw $\frac{1}{4}$ of section 34, was sold to said William B. Doolittle for \$300.
- 46 Said witness further testified that he had diligently examined the records in his office, and could find no other judgment in favor of William Dougherty or Thomas Lewis, administrator of William Dougherty, and against Oliver Smilley and Irwin B. Doolittle, than the one above stated ; and that if there had been any such judgment, he thinks from his researches among the records that he should have found it.
- 76 Defendants read in evidence without objection, a deed from Stephen Smith, sheriff of Bureau Co. Illinois, to William B. Doolittle, for the
- 80 premises aforesaid, reciting the execution and sale aforesaid. Defendants read in evidence a certificate of William A. Turney, clerk of the Supreme Court of the State of Illinois, for the 2d Grand Division under the seal of said Court, in which he certifies that he had examined the records of said Court, and that it appears from record book E, which contains the orders, opinions and judgments of said Court, that said Court commenced a session at Vandalia, on Monday Dec. 16th 1837 ; the record does not show any order of adjournment at that term, but the last order entered at that term is of the date of Monday Dec. 25, 1837, on page 61 of said record, is a general order of continuance for all cases undisposed of ; and the next order was on page 78 of said record book E, and is the order showing the commencement of June term 1838.
- 82 This was all the evidence.
- The Court found the issue for plaintiff, and defendants excepted.

ERRORS ASSIGNED.

- 1 The Court erred in suppressing the answers to instructions 3, 4, 5, 6, 7,
9 and 11, of the deposition of William A. Turney.
- 2 The Court erred in admitting in evidence copy of record of a deed from
Oliver Lindley to John Lindley.
- 3 And the copy of deed from James Barbour to Tracy Reeves.
- 4 And the copy of deed from John Lindley to James Baker.
- 5 In finding the issue for plaintiff.
- 6 In rendering the judgment.

719
Louchmann & Ellis

Ms

Horreum

Abstract

4
21

LIBRARY

United Ate. 23. 1862

Delmae
clerk

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SUPREME COURT OF ILLINOIS,

THIRD GRAND DIVISION.

APRIL TERM, 1862, AT OTTAWA.

ROBERT DURHAM,
vs.
WILLIAM W. HEATON.

BRIEF OF APRELLEE BY LELAND & BLANCHARD.

The supposed answers are to interrogatories in a former deposition; not the one in the record.

The proper foundation was laid to introduce the recorded copies of deeds in plaintiff's claim of title. Session laws of 1861, p. 174, this act was passed after the decision in 24 Ill. 186.

The judgment was not a lien in Bureau Co., attaching prior to the conveyance by the judgment debtor, Oliver Lindley.

If a judgment of the Supreme Court was a lien throughout the State the lien of the plaintiff died when, by reason of the death of the judgment creditor Dougherty, the judgment died.

Purple's Real Estate Stat. 328-9 & 338.
13 Ala. 167.
15 Ill. 337.

Though the judgment might have been revived by scire facias, in the name of the executor or administrator of Dougherty, it was not done, and the act of Feb. 19, 1841, (Purple's Real Estate Statutes, 338) was not retrospective in its operation, consequently the lost or abated lien, has not been revived by a revival of the judgment because the second section of the act only applies to future

not past deaths . Indeed it may be said that the whole act applies to future not past judgment.

2 Scam., 499.
1 " 335.
7 Iredell, 59.
2 Hill, 239.

The letters of administration to Thomas Lewis were not recorded *in the court*. The clerk of a court of record has no control of the record nor authority except as directed by the court, as the act of the court to place aught upon the record.

The execution was not supported by the judgment, but was materially variant from it and void, and the judgment nor execution are the one recited in the sheriff's deed. On the question of variance, see—

13 Ia. 251.
8 Iredell, 221.
7 Conn. 6.
2 Conn. 862.
1 Dev. & Bat. 586.
Hanlin, 330.

It was not competent to prove by parol evidence aliunde that the execution was issued on the judgment. It should appear on inspection to be the same substantially. 2 Conn. 462.

