

13917

No. \_\_\_\_\_

# Supreme Court of Illinois

Cannon

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vs.

Brown.

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the  
in  
all  
Gler  
the

State of Illinois  
Warren County 355 N. How F. M. Butler clerk  
of the Circuit Court of said County. Do Certify that  
the foregoing pages contain a full, true and  
correct copy of the proceedings had in the  
foregoing entitled case in the Warren Circuit  
Court as appears of record in my office  
In Testimony whereof I have hereunto  
set my hand and seal of our  
said Circuit Court  
this 3rd



...four hundred doll

3<sup>rd</sup>ly the

said fil...

The further sum of ... sixty six  
dollars &  $2\frac{1}{3}$  cents with ... interest

from the first day of April 1826 within one

hundred days from the date of the said decree & the like  
further sum of \$166.66 $\frac{2}{3}$  with interest as aforesaid

from the 1<sup>st</sup> day of April 1827 in one hundred and twenty  
days from the date of said decree and the like further  
sum of \$166.66 $\frac{2}{3}$  on the 1<sup>st</sup> day of April 1828



4<sup>thly</sup> The court erred that in decreeing that in  
default of such payments that the Master in  
should sell and convey the said premises &  
5<sup>thly</sup> The court erred in decreeing that the said  
plaintiff should pay one half of the costs &  
H or which and other errors of  
said record the said plaintiff  
said decree may be reversed.

M. H.



State of Illinois 3  
Warren County Circuit 3

Pleas before the Honourable N. H. Purple  
Judge of the fifth Judicial Circuit of the  
of Illinois, At a Circuit Court begun &  
held at the Court House in Mammouth (Sitting  
as a Court of Chancery) on the second Monday in  
the month of November (It being the tenth day  
of said month) In the year of our Lord one  
thousand eight hundred and forty five.

Present the Hon<sup>ble</sup>

N. H. Purple Judge etc.  
George Edmonds Jr. State's attorney pro se  
A. F. M. Butler Clerk  
John Brown Sheriff

Heretofore to wit on the 20th day of October in the year  
of our Lord one thousand eight hundred and forty five  
following Bill was filed in said the Clerk's office of  
said Circuit Court to wit

" State of Illinois 3 To the Honourable N. H. Purple  
Warren County 3 Judge of the Circuit Court, in and  
for the County of Warren, in Chancery sitting

Humbly complaining shews to your honor, your orator  
Anthony Cannon, That on the ninth day of October  
A. D. 1844 - your orator by written contract bargain  
ed and sold to John Brown, whom your orator prays may  
be made defendant to this Bill, the North west quarter  
of Section fifteen (15) of Township twelve North of Range  
three West of the 4th principal meridian containing  
one hundred and sixty acres, of land, and also sixty acres  
of land (Imbursed Land) situated and being in the South

West quarter of section three, of Township twelve North  
of Range three West, of the 4th principal meridian,  
Bounded as follows to wit, commencing at the South East  
corner of said quarter running North along said quarter  
section line to a line dividing said Anthony Cannon's  
land and a parcel of land sold to Joseph Graham, by said  
Anthony Cannon, following said west line in its  
meanderings so far west as that a line drawn parallel  
to the eastern line of said quarter section, will include  
said sixty acres of land, said parallel line to terminate  
at the Southern, East and west, line of said Quarter section  
And your orator in and by said contract, agreed to  
and with the said defendant, that he the said Anthony  
would do and perform the following named impr-  
ovements, or cause them to be done, on or before the  
first day of April the next ensuing - to wit -  
make the fences on the farm, on the said North  
west quarter section, eight rails high, by making  
up and putting up additional rails sufficient to  
said fences on said farm eight rails high as aforesaid  
- and also to seal overhead the roof of the Dwelling house  
on said quarter section, and lay the floor of the porch  
on the South side of said dwelling, house, all of said work  
was to be done in a good and workman like manner, on  
or before the first day of April the next ensuing -  
said ceiling and porch flooring were to be of good  
seasoned materials. And it was further agreed by  
the parties in and by said contract, that so soon as  
the conditions, therein after stated should be perform-  
ed by the said John Brown defendant, that then  
said Anthony Cannon, your orator should make and  
execute to said John Brown a good and general war-  
rant and deed for the said premises, in and by said

contract bargained and sold, and should prevent waste or injury to said premises during occupancy of the same, your orator further sheweth, that in & by said contract, the said John Brown agreed to and with your orator, that he would pay to your orator on the signing of said agreement the sum of Eleven hundred Dollars, and on or before the first day of April then next ensuing the further sum of four hundred dollars, in manner as follows to wit, Two horses at a fair market price and a two Horse Carriage, Wooden Springs & Harness complete at a fair market price, and the balance in cash, and further, that said Brown would then execute three several Notes of hand each for one hundred and <sup>50</sup>sixty six and two thirds cents, payable one, two and three years, after date, making in the aggregate, Two Thousand Dollars, as the sum total of said premises-- your orator states that it was further agreed by said parties, in said agreement that your orator should have the uninterrupted occupancy of the house and farm aforesaid until the said first day of April then next ensuing the date of said contract, and also the crop then on said farm and also the privilege of sowing in wheat a part of ground then broke up ready for sowing, East from the house, free of rent the coming crop-- all of which will fully appear by reference to the said contract, a copy of which is herewith filed & marked Exhibit "A" and prayed to be considered as part of this Bill--

Your orator states that said John Brown on or about the time of executing said contract paid to your orator the sum of Eleven hundred dollars, according to the meaning and intent of their said agreement-- And he the said John Brown hath altogether failed and



saw before David Turnbull a commissioned and qualified Justice of the Peace in and for said county of Warren State of Illinois. and was on the said first day of April AD 1845 and at all times since hath been ready & willing to make execute and deliver a Deed as aforesaid to said Defendant, conveying to him said premises upon his complying with the terms of said contract.

Your orator further states that on the — day of May 1845 He tendered said Deed, and again on the — day of October 1845 prior to filing this Bill he again tendered to said John Brown said Deed and requested & demanded said Brown to accept the same and to pay to your orator the said sum of four hundred dollars in manner, as in said agreement is stipulated & to execute his notes as aforesaid deducting any reasonable amount for any default on his part, which said defendant at each time, and at all times hath wholly failed & refused to do. — and your orator now is ready to produce said deed now in Court here, and hereby tenders and offers to deliver the same to the said John Brown, according to the terms & conditions of the said contract in execution of his part of said contract. your orator further states that notwithstanding by the terms of said contract & his understanding of its meaning at the time it was made. The rails to be made & hauled by him, were to be made of the timber on said premises; that your orator at the request of said defendant made them of his own timber & not of that on the premises aforesaid, which said timber so used and consumed in making of said rails & furnished to defendant as aforesaid, was of

great value, to wit, of the value of one hundred dollars - for which said Defendant has hitherto wholly failed & refused to make to your orator any payment or compensation whatever. - - -

And under consideration of the premises so &c your orator prays that your gracious writ of summons may be awarded to issue against the said John Brown defendant made to this Bill, of Complaint and that he may be compelled full true & direct answers to all and singular the premises; and your honor further prays that on a final hearing of this cause, the said John Brown may be decreed specifically to execute and perform his part of the said agreement, by paying to your orator the said purchase money due with interest thereon, and executing his three several notes, payable according to the intent of said agreement, & paying to your orator the value of the timber so found and furnished as aforesaid, by your orator in manner aforesaid. and that your orator may have such other and further relief in the premises as Equity and good conscience may require.

A. C. Harding  
Solicitor for  
Compt

3  
3  
3  
3  
3

Anthony Cannon  
By A. C. Harding

Anthony Cannon

vs 3 Bill for specific performance  
John Brown 3

The Clerk of said court will please issue summons as above to the Sheriff of Marrow County returnable No Term A.D. 1845, of said Marrow County Ill circuit court

A. C. Harding  
Solicitor for Complainant

And by leave of the Court, Complainant, comes and amends, his Bill herein, by reference to his title papers to the NW of sec. 15, T 13 N, R 3 W of 4 Principal Meridian refers, to the same as Eschitt's herein and made part hereof as exhibited. Marked C, D, E, F and G, H, which fully show and manifest his title thereto, and which will more fully appear reference being thereto had

Harding & Minshall  
for Complainant

And afterwards to wit on the 13th day of June AD 1846 the following answer of the Defendant was filed of Record which said answer is in the words and figures following to wit

"Anthony Cannon  
vs  
John Brown

3 Bill for specific performance  
3

The answer of John Brown defendant in the above entitled cause now depending in the circuit court of Marrow county in the state of Illinois.

This respondent now and at all other times saving and reserving to himself all and all manner of advantage of exception to the many errors, uncertainties, insufficiencies and imperfections in the said bill of complainant contained, for answer thereto, or so much and such parts thereof as he is advised it is material for him to make answer unto, says, that it is true, that the said contract for the sale and purchase of the said land

in the said bill mentioned, was made in the manner therein stated, but he most positively denies, that the said Complainant, complied with his part of the said contract, or that this respondent refused to comply with his part thereof, he, this respondent states that the facts in relation thereto are as follows, to wit: "When the said contract was made, this respondent resided in the State of Ohio, but intended to remove to and reside on the said land the Spring ensuing said purchase, that he, accordingly started from Ohio and expected & intended to arrive in this country on the said first day of April, but on account of unavoidable delays, he did not arrive at Squawka until the 3<sup>rd</sup> day of the said month of April, being three days after the said improvements and conveyances were to be made by the said Complainant and the payment to be made by this respondent that this respondent came by water and brought with him, the two horse carriage and one of the horses, which he had contracted to deliver to the said complainant, and that he sent the other horse by land, which arrived here a few days after the arrival of this respondent, as aforesaid and on the 10<sup>th</sup> day of said April this respondent having both of said horses, and the said carriage and harness, ready to deliver to the said complainant informed him thereof, and the 15<sup>th</sup> day of said month was then appointed for that purpose, this respondent accordingly on the said last mentioned day tendered and offered to deliver to the said complainant the whole of said property and to pay him the balance of the said instalments of four hundred dollars, and the said Complainant refused to

take the said property, according to the terms of the said contract on the ground that he was not bound to do so, inasmuch as it was not tendered to him on the 1st day of the said month although he was himself in default in making the said improvements, and the said conveyance. This respondent further answering says that the said fencing and the said ciling, so as aforesaid contracted to be done by the said Complainant was not thro' completed, nor has it since been completed by him, but on the contrary this respondent avers that there is on the south side of the said farm, about eighty rods, without any fence whatever, and that the ballance of the fencing was not completed, according to the terms of the said contract. This respondent further states that it is not true, that the said complainant ever tendered or offered to him a Deed conveying said land to him. He admits that he did, once or twice read to him such a deed but he never tendered or offered to deliver the same to him nor did he ever exhibit or offer to exhibit to him his title or an abstract thereof.

This respondent further states that he is informed and believes, that the said Complainant has not a clear title to said land, but that — Townsend and others hold an adverse outstanding title to the said quarter section on which the said farm is situated and that said outstanding title is paramount to and a better title than that of the said Complainant.

This respondent states that he has at all times been ready and willing to comply with his part of the said contract, and now is ready & willing, and

herby offers to do so as soon as the said Complainant shall perform and fulfil his part thereof.

This respondent states, that he caused the said horses Carriage and harness, tendered as aforesaid by him to the said Complainant, to be valued - that they were valued at the sum of \_\_\_\_\_ that he has kept the same ever since, and now have them ready to deliver to the said Complainant, so soon as he will accept the same and perform his part of the said contract, and now having fully answered he prays to be dismissed herein with his reasonable costs &c.

Subscribed and sworn to before me this 20<sup>th</sup> day of August A.D. 1846  
J. M. Butler Clerk

John Brown

And afterwards to wit on the 9<sup>th</sup> day of November 1846 the following replication of the Complainant was filed which said replication is in the words and figures following to wit:

"Anthony Cannon  
vs  
John Brown  
In the warm Circuit Court  
1846.

And the said Complainant Anthony Cannon comes and says, the matters and things contained and set forth in his bill of complaint, as the same are set forth are true in substance & in matter of fact. And that the matters and things contained in the answer of John Brown filed herein, contrary thereto are untrue, and the complainant is ready to

maintain and prove as this Court may order or direct

Harding & Marshall  
for Complainant

The following is Exhibit A. Referred to Complainant's Bill to wit,

"This article of agreement made and agreed upon by & between Anthony Cannon of the County of Warren and State of Missouri of the first part, and John Brown of the County of Shelby and State of Ohio, of the other part witnesseth, that the said Anthony Cannon of the first part, hath this day bargained & sold unto the said party of the second part, the north west Quarter of Section fifteen (15) Town twelve (12) R. three (3) west containing one hundred and sixty acres, and also sixty acres <sup>7</sup> less land, situate and lying in the south west Dr of Section no three (3) Town no twelve (12) Range three (3) west bounded and lying as follows commencing at the south E. corner of said Dr running north along said Quarter Section <sup>line</sup> to a line running west dividing between said Anthony Cannon's land and a piece of land sold to Joseph Graham by said Anthony Cannon, following said west line in its meanderings so far west as that a line drawn parallel to the eastern line of said quarter section will include said sixty acres of land said parallel line to terminate at the Southern, East and west line of said Dr. Section - and the said Anthony Cannon agrees to and with the said John Brown, that he the said Anthony Cannon will do and perform the following improvements or cause them to be done on or before the first day of April next, viz, make the fences on the farm on said north west Quarter

section eight rails high by making hauling and laying up additional rails sufficient to make said fences on said farm eight rails high as aforesaid and also to eil overhead the rooms of the dwelling house on said pr section and lay the floor of the porch on South side of said dwelling house, all of said work to be done in a good & workmanlike manner on or before the first day of April next. said ceiling and porch flooring to be of good seasoned material.

And it is further agreed by and between the parties to this contract, that so soon as the conditions herein after stated are fulfilled by the second party to this contract then the said Anthony Cannon will make and execute to the said party of the second part a good general warranty deed for the premises hereby bargained & sold and also prevent waste or injury to sd premises during his occupancy of the same— And the said party of the second part agrees to and with the said Anthony Cannon that he will pay on the signing of this agreement the sum of Eleven hundred dollars, and on or before the first day of April next the farther sum of four hundred as follows viz. two horses at a fair market price and a two horse carriage wooden springs & harness, complete, at a fair market price the balance of fifteen hundred to be paid in cash and three several notes of hand each for one hundred and sixty six dollars, sixty six & 2/3 cents payable on two & three years after date making in the aggregate two thousand dollars, as the sum total for said premises— and further agrees that the said Anthony Cannon shall have the unobstructed occupation of the House and farm aforesaid until the first day of April next ensuing, and

also the crop now on said farm and also the privilege  
of sowing in wheat a plot of ground now broke up  
ready for sowing east of the house free of rent the com-  
ing crop. In testimony whereof the parties to this con-  
tract have hereunto set their hands & seals this ninth  
day of October 1844

Attest

R Mc Gill

A. Cannon J<sup>r</sup>

A Brown J<sup>r</sup>

A True copy of the original article. "

And afterwards to wit on the 26th day of February 1847  
the following Deposition was filed which said  
deposition is in the words and figures to wit

"The Deposition of witnesses produced, sworn and examined  
at my office in Mammouth in the County of Warren and State  
of Illinois before me Amos F. Butler one of the Justices of the  
peace for said County in a certain cause now depending in  
the Circuit Court of Warren County and State of Illinois  
between Anthony Cannon Plaintiff and John Brown  
defendant on the part of the plaintiff.

James C. Porter of lawful age being produced sworn  
and examined on part of the plaintiff, made the  
following answer to the interrogatories following.  
Interrogatory first — were you present when the  
contract mentioned in Complainant's Bill was made  
between the parties to this suit. A. I was —  
Interrogatory 2<sup>d</sup> was the contract reduced to writing  
Answer. The contract was reduced to writing, and  
Exhibit A. shows the written contract, betw-  
-een the parties,

James C. Porter

Anthony M<sup>c</sup> J. Cannon of lawful age being produced sworn and examined, on part of the plaintiff made the following answers to the interrogatories following.

Interrogatory first. Will you state what improvements if any were made by Anthony Cannon on the NW of Section fifteen twelve N 3 W after October 1844 and at what time Answer. The principal part of the fencing was made eight rails high, there might have been some few lacking - All the rooms in the House were sealed over head except less than a half square about forty feet, all the floor of the porch on the south side of the house was laid, the work was done in a workmanlike manner and with good materials, the work was all completed before the fifth day of April 1843 except a very little sealing.

Interrogatory 2<sup>d</sup> Do you know of any offers made by plaintiff to the Defendant to complete the sealing. Answer. The complainant offered to complete all the work mentioned in the article, this was the last of April. I was sent to finish the job, and Mr Brown told me to not touch anything on the farm, until the complainant completed strictly with his conditions, which he had proposed to the complainant.

Interrogatory 3<sup>rd</sup> What was <sup>(objected to)</sup> said or done by the parties to this suit about the Carriage, Horses and Harness.

Answer. The complainant offered to take from Mr Brown through me - (the Compl<sup>t</sup> was unable to go) Two horses at Sixty dollars each, one was a gray, about six years old, and the other was a bay Mare about twelve years old. Brown said plff might have a wagon in place of a Carriage the plff offered eighty dollars for it

they had so agreed. I was present and heard the contract.

Interrogatory 8. Before the plff and defendant entered into writings about the farm, what was said about a adverse title to the Prairie part of the farm. Answer. Plff informed the defendant, that he had heard there was a tax title to the Prairie part of the farm, but that he was willing to give a warranty Bond against it, when they came to draw the title Bond plff agreed to warrant against the tax title

Interrogatory 9th How long had plff been in possession of the Prairie part of the farm, when did he buy it and go into possession of it. Answer. Plaintiff settled on the land I think in 1837, and purchased of William J. Turner in 1838. I am certain he settled there <sup>some time</sup> more than a year before he bought

Interrogatory 10th What settlements did plff make there, and who has been in possession since. Answer. He built a large double log house, stable, Corncrib, planted an orchard of Apples, Pear and Peach trees, and fenced the whole of it, and broke about eighty acres, and has continued in uninterrupted possession until April 1845, when he gave Mr Brown possession Mr Brown has been in possession since.

Interrogatory 11th Did you see title papers when, and what, to the above described land. Answer. I think in 1838 I saw the Patent from James Monroe President to one Tissero, I think that is the name for the NW 15, 13 N 3 W. his Deed to Emoch Hoit. I think

it was Enock, and his Deed to William J Turner and William J Turners Deed to plaintiff. I saw them in possession of the plaintiff, who claimed the land by this title up to this time

Interrogatory 13. of what value are the improvements made by said plaintiff

Answer. About twelve or fourteen hundred dollars

The title papers I spoke of are referred to as title papers 1. 2. 3 & 4

Cross examined by Defendants Counsel

Interrogatory 1st Are you a son of the Compt? and are you interested in the event of this suit.

Answer. I am a son of the Complainant. I am not interested in the event of this suit, any more than a legitimate child.

Question 2nd, Did you act as agent for your father in making or concluding the Contract between him and the Defendant or not. please state what share you had in the transaction. Answer. I did not act as agent in full after Mr Brown and father had been talking about contracting for the farm, they did not agree on that evening, on the next morning, father authorized me to go and see Mr Brown, I went, and told Mr Brown what father would do, and that was, that he would make the present fences on the Prains Quarters eight rails high, he would seal both the rooms overhead in the dwelling, and lay the porch floor for the sum of \$2,500.00 I do not remember acting as agent in any other instance, untill the contract was completed. I have nothing else to say in answer to this question

Question 3rd What did you do as agent for your father after the conclusion of the contract, state the whole fully and especially

he had not as much money as father wanted. Mr Brown said he was sorry he had bought the property, I told him that I had no doubt, but that Father was very sorry that he had seen him or sold him the property, he then asked me, If I could make him no turn by which I could or my Father take back the property, and release him, I told him that I did not know of any, but rather than they should engage in vexatious law suit I told him that If I could get some other person to take it and pay the same price, so that father would not loose by it, I could not make such an arrangement. I acted no longer as agent at any other time.

Question 4<sup>th</sup>. When was this last conversation, and where and who were present during the same.

Answer. It was some where along, about the middle of last of September 1845. It was at the place of Mr Brown now occupies. I dont remember of any persons being present, but myself & Mr Brown.

Question 5<sup>th</sup>. State the time when & where you were first appointed agent, and who were present at the making of the contract between your Father and Mr Brown, and where it was made.

Answer. I was appointed agent the day before the contract was made. the Reverend Porter, Alexander Brown, Robert McIlco were present at the making of the contract, there were others, but I dont recollect who they were, the contract was concluded at the Old Mr. Porters.

Question 6<sup>th</sup>. Was it not represented by you or your Father at the time of making the contract that there were 160 acres under fence upon the farm

Answer. I dont recollect of telling him that there was 160 acres under fence, I might have told him so, I do not

recollect of my Father's telling him that there was 160  
acres under fence.

Question 7th. Do you not recollect that your Father or  
yourself told Mr Brown before the contract was concluded,  
that there were 10 acres under fence in one field,  
70 acres in another, and 80 acres in another, answer you  
no. Answer. I never heard my Father say any thing  
my about it, to Mr Brown to my recollection, as for my  
self telling Mr Brown the specific number of acres in  
each lot, I don't recollect, I might have told him  
that there was 160 acres enclosed.

Question 8th. Were all the improvements on the NW 15. 12  
N 310. Answer. Yes Sir

Question 9th. You stated in <sup>answer to</sup> interrogatory 7th that  
Mr Brown was told by your Father, that the East fence  
was jointly owned with Mr Gilw, who lived on the adjacent  
farm, and that they had agreed to join fences  
now did your Father first ~~state~~ make the statement or  
was he not asked the question, as to the fact before  
making it. Answer. I heard Mr Brown speaking  
about it, whether my Father had told him so, I do not know.

Question 10th. of what state was Mr Brown a resident, at  
the time of making the contract aforesaid.

Answer. of the State of Ohio.

Question 11th. Was not the Spring of 1803 an unusually  
wet ~~year~~ and the travelling by land remarkably bad  
Answer. It was.

Question 12th. After the arrival of Mr Brown in the  
country, did not his son die on the next day, then  
after with the scarlet fever.

Answer. I heard so.

Question 13th. Did not your Father or you for him refuse  
to receive the property, under the stipulations of the

Contract. for the alleged reason that Mr Brown had not got here, or had not tendered it to him by that time at the time when Mr Brown first offered the same after his arrival. Answer No

Question 14th. Did he not offer you the property for your Father immediately upon its arrival, upon the contract. Answer. He told me I might take the property, I told him no, I had no authority, to take the property from him, no more than any other man.

Question 15th. In answer to interrogatory 8 you say that plaintiff informed Defendant that there was a tax title against the Prairie part of the farm but that he was willing to give a warranted Deed against it. When was that, the day of the Contract, or before Answer. It was the day or evening before the contract was concluded, objected to by Complainant, that the question does not assume correctly what the witness had testified to.

Question 16. When was that statement made, state the place and time of day, and the persons present. Answer. It was made in father's house, or the place that Mr Brown now lives in, that he had heard that there was a tax title on it. It was in the evening. The Rev Mr Porter was present, when that was said, Mr Porter was present and remarked, that old tax title was not worth a snuff, and all parties appeared to be satisfied.

Question 17th. Did you not appoint a certain day say on or about the 15th of April to meet with Mr Brown at Little York, for the purpose of receiving the property to be paid on the contract. Answer. No

Question 18th. Was not the Bay horse, Bay Mare, bearing and double harness offered or tendered to you or your Father at a proper valuation in 1805 if you say when and where. Answer. No

Question 19<sup>th</sup> Was not said property offered and if so how.

Answer: I dont know whether it was or not offered to my Father. Question 20<sup>th</sup> Please state how the meeting at Little York on the 15<sup>th</sup> of April between your Father and Mr Brown was brought about, and whether it was not for the purpose of valuing or receiving said property. Answer. Mr. Brown told me that he would meet with my Father about the 15<sup>th</sup> this is all I know about its being brought about. I carried no word as to valuation he sent the word by me he or my father started for Little York on that day. when I ~~met~~ Brown he sent the word by me, at that time he asked me to go and look at the property. I went and looked at the property, he told me that he had heard that my father would not take the property. I told him that I did not know whether he would or not. he then offered me the Horse and the Cart, I told him that I had no authority more than any other man to receive it. The Carriage he did not offer and because he wanted to put some repairs on it.

Question 21<sup>st</sup> Did not your Father refuse to receive said property upon the ground that Mr Brown had not tendered it before the first of April, and demanded the money in its place — Answer —

I never heard my Father refuse to receive it of Mr Brown. Question 22<sup>nd</sup> Was not your Father told you that the grounds of his refusal to take the property was that it was not brought here before, or on the first of April. Answer. I dont remember whether he told me personally or not. I heard my Father say and refuse to rent ground to several persons until after the third day of April, he assigned as a reason for not letting them have land, that if Mr Brown brought his team, as he expected, he

intended to work the ground himself, the lease did not come by the 3<sup>rd</sup> of April, he then let them have the land, Mr Burr, Mr Galloway and Mr James Bartow, and to Mr Snodgrass  
Question 23<sup>rd</sup> P. When was Mr Brown first informed by your Father, that there was a tax tillo against the land?  
Answer. The evening before the conclusion of the Contract.  
Question 24<sup>th</sup>. How do you happen to know the amount of the improvements made upon the land after October 1844 the number of rails made upon the land of Brown or others - the amount of the fencing made - please state from whom you had your information in each case.

Answer. I know because I helped to do the most of it. I paid for the making of 1500 Rails on Browns land or at least I settled the account and there was between us 4 and 500 made on other land, there was no new fencing made, Father was not bound to make any new fences, there was some 5 or 600 Rails put on the fencing that was already made, as to the rails made on Browns land I have the word of John Kitcher, and I saw him making the rails, I saw and helped John Kitcher making the rails on the other land, I settled the account with John Kitcher for making all the rails as my Fathers agent.

Question 25<sup>th</sup>. Did you not do most of the talking and bargaining about the sum to be paid for the Farm etc & the time and manner it should be paid  
If you, answer what part you had in the matter  
Answer. No Sir I dont think I did, I talked some I dont mind how much I talked, and what I did talk, I was not present when all the contracting was going on I dont know but I told my Father that

state by the several items how you make that sum  
Answer. The House I guess is worth 350 dollars the  
hard # 200.00 Breaking # 175 Stable and Smoke house  
# 50.00 Making hauling and laying up & finding timber  
for fencing 600# Question 30th Have you not offered to  
and consulted with Mr Brown about the settlement of his  
debt with your Father, if you state the same,

Answer. I think I have answered that question fully  
heretofore, I did by the instruction of my Father, deliver  
propositing to him Question 31st You say Mr Giles  
and your Father made a contract to join fences  
when was it, and where, and were you present, you also  
speak of the patent title you saw In whose hands  
was it at that time, and who exhibited it to you,  
for the NW of 15. 12 N 3 W

Answer, as to the date and place, I cannot re-  
-ollect, I was present, The Patent title of which I  
speak, was in my Fathers possession, my Father  
Exhibited it to me, at the time I speak of  
Question 32nd Do you not know that Mr Brown  
was on his first arrival anxious, willing and ready to  
tender the property mentioned in the contract to  
your father - Answer. Mr Brown told me  
that he wanted Father to take the property

Question 33rd When did you first own the farm, and  
when did you first ascertain, there was a tax title against it  
Answer. I never owned the farm, I never ascertained  
certain that there was a tax title until last fall, I had  
heard that there was a tax title before, all that I know  
about the tax title is, I noticed the Record of sales for  
taxes in this County, and found that it had been sold  
in 1832 in 1839 my Father entered it as reserant land and  
paid the taxes up to the time he sold it,

Reexamined by Plaintiff,

Question 1st Were the Horses Carriage and Harness which Brown had such as he represented them to be at the time the contract was made, if different state how Answer, The Horse was about such a horse as he represented him to be, the Mare was not he represented her to be 3 years old, and in fact to be the best Horse in Ohio, The Mare I considered to be 12 years old and was stiff, I believe she was from her appearance taking the stiff complaint that is common in this Country, I do not think the Carriage a two horse Carriage for it was too small for two horses and too large for one horse but had a tongue and shafts

Question 2<sup>d</sup> What price did Brown ask your Father for said property and what were they worth, Answer, The Gray horse \$75.00 the Bay Mare either 65 or 70 dollars, the Carriage and Harness, 120.00 dollars, I think the Gray Horse was worth about 50 or 55 Dollars, the Bay Mare about \$40 or 45 and the Carriage and Harness about \$50.00

Q<sup>ue</sup> 3<sup>rd</sup> Was there not an appraisement of said property by James Kils and others, and what was the sum agreed upon Answer 1st I heard that there was an appraisement, I heard Mr Brown say that the Carriage was appraised with the harness, at \$120.00 I also heard him say, that the Gray horse was appraised at \$75.00 and the Bay Mare at \$65 or 70

Question 2<sup>nd</sup> Was not Brown always ready to pay the balance of the installment after the property might be received by your Father, Answer I do not know, that he was or not, but I believe that I heard

him say at one time he was willing to pay the balance  
if Father would take the property at his price.

Re called by Plaintiff

Question 1st Did Brown ever tender the money to  
your father, answer, never to my knowledge

Q<sup>d</sup> were not all the rails except those made on  
Brown's made on hooking quarters

answer, they No, they were made on my fathers land  
Anthony M. Hancock

State of Illinois

Morgan County     I, A. M. Butler an acting Justice  
of the peace of said County and State, do hereby certify  
that James C. Porter and Anthony M. Hancock was  
by me first sworn, to testify the truth in relation to  
the matter in controversy, so far as they might be  
interrogated, and thereupon, I proceeded to examine  
said witnesses upon all the interrogatories propounded  
and the above Deposition was sworn to and signed by  
the Deponents on the 26th day of February A.D. 1847  
at my office in the Court — of said County.

Given under my hand and seal this 26th  
day of February A.D. 1847.

Justice fees and  
witness fees \$13.07 1/2

Justice

A. M. Butler (Seal)  
Justice of the Peace

And afterwards to wit on the 24th day of April A.D. 1847  
the following Deposition was filed, which said Deposition is  
in the words and figures following to wit:

"The Deposition of Witness produced sworn and examined  
at my office in the Town of Hannouth and State of Illinois  
before me Wm. M. Butler a Justice of the peace in and for  
said County, in a certain cause now depending in the Circuit  
of Warren County and State of Illinois between Anthony  
Cannon Plaintiff and John Brown defendant on the  
part of the Plaintiff.

William C. Maloy of lawful age being produced  
sworn and examined on part of the Plaintiff made the  
following answers to the interrogatories following:

Interrogatory first. Do you know the parties to this suit  
Answer A. Yes. Interrogatory second. Were you pre-  
sent at any time when the parties were together and  
did you see the Decd marked Exhibit "G" if you state  
the acts and conversation of the parties at the time,  
Answer I was present when they were together, at Mr  
Brown's, I believe it was some time in the spring of 1845  
Mr Cannon had a Decd with him, and I believe this  
Decd marked E & G, to be the Decd. I was requested by Mr  
Cannon to read the decd to Mr Brown, I read the Decd  
Mr Cannon wished to know how Mr Brown liked it, Mr  
Brown made some objection to the decd because the  
lines to the land were not specifically pointed out  
there were some other conversation between the  
parties which I cannot now recollect, the parties  
both appeared to be out of humor, and considerable  
said by both parties, which I do not recollect. I do

him say at one time he was willing to pay the balance  
if Father would take the property at his price.

Re called by Plaintiff

Question 1st Did Brown ever tender the money to  
your father, answer, never to my knowledge

Q 2d were not all the rails except those made on  
Brown's made on hooking quarters

answer they No, they were made on my fathers land  
Anthony M. Hancock

State of Illinois

Marion County     J. W. M. Butler an acting Justice  
of the peace of said County and State, do hereby certify  
that James C. Porter and Anthony M. Hancock was  
by me first sworn to testify the truth in relation to  
the matter in controversy, so far as they might be  
interrogated, and thereupon, I proceeded to examine  
said witnesses upon all the interrogatories propounded  
and the above Deposition was sworn to and signed by  
the Deponents on the 26th day of February A.D. 1847  
at my office in the Court — of said County.

Given under my hand and seal this 26th  
day of February A.D. 1847.

Justice for and  
witness Feb 13. 07 1/2

Justice

J. W. M. Butler Seal  
Justice of the Peace

recollect that Mr Caunon said he had a Deed for Mr Brown this was before I was asked to read it, & understood from the declarations of the parties and reading the Deed, that the Deed was for the land Mr Caunon sold to Mr Brown.

Interrogatory third. At the interview mentioned in your answer to 2<sup>d</sup> Interrogatory what was said about Carriage and Horses if any thing. Answer. They spoke of Carriage and horses. Mr Caunon proposed having the Carriage and horses appraised, and proposed to meet at Little York for that purpose, on a certain day Mr Brown after some considerable conversation about it agreed to meet Mr Caunon at Little York on the day proposed - as I at the time understood to have the property appraised - they did meet I believe, I was not present but saw them there.

Interrogatory fourth. Did you hear Mr Caunon demand of Mr Brown Note, a Mortgage and money, according to the contract, at the time the Deed was tendered. Answer. I do not recollect.

Interrogatory fifth. Was any thing said about payment for the land by Brown to Caunon.

Answer. I do not recollect further than they agreed on the price of the above mentioned property. It was to be a payment on the land.

Interrogatory sixth. How did Caunon propose to Brown the property should be appraised.

Answer. Caunon proposed to Mr Brown to choose one man and let Mr Brown to choose another, and if they could not agree, they two, to choose the third, Mr Caunon proposed to take the property, at whatever these men should say it was worth.

Interrogatory seventh. Do you know that Brown bought the property with him to Little York on the day set. Answer. I do not

know

Interrogatory Eighth? When you saw them at Little York, did you see any property with Brown.  
Answer. I did not.

Interrogatory ninth? Have you been informed by Brown whether he brought the Carriage and horses to Little York, that day or not. Answer, I have not.  
Interrogatory tenth. At the interview spoken of in answer to the 2<sup>d</sup> interrogatory, please state whether deed marked E & G, was tendered by Cannon to Brown.  
Answer. Mr Cannon said, Mr Brown I have your due ready for you, or something to that amount, and <sup>handed</sup> this same Deed (I believe it is) to me and requested me to read it, Mr Brown said nothing as I recollect till after I read the Deed, Mr Cannon asked Mr Brown how he liked it, he Brown, made some objections as to the terms, not being specifically defined, I do not recollect that he positively refused to receive it.  
Cross Examined

Interrogatory first. Where was the conversation spoken of by you, and where, and in what position, were the parties, during the said conversation, and who were present during the same? Answer. It was at Alexander Brown's, or near. I think it was in the spring of 1845. Mr Cannon and Mr Brown were standing on the ground, I was in my Buggy during the whole time. Mr Alexander Brown, Mr Foster & John McLaw.

Interrogatory second. Did Mr Cannon make <sup>a tender</sup> of said Deed marked Exhibit G to Mr Brown at that time or not please answer yes or nay? Answer. I stated before the amount of what Mr Cannon said, was about this, I have your Deed, or here is your Deed Mr Brown, and handed the Deed to me, and I read it by his request.

Interrogatory third? Did Mr Cannon offer the Deed to Mr Brown as a delivery. Please state what he did with it. Answer. I do not recollect of <sup>any</sup> other position or action in regard to the Deed, he retained it in his possession.

Interrogatory fourth? After you read the Deed to Mr Brown did Mr Cannon take it out of your hand, and make an offer of it to him said Brown, or not.

Answer. I do not recollect.

Interrogatory fifth? Did not Mr Brown state to Mr Cannon in said conversation, that the property had always been ready for him under the contract, and that he said Brown, had previously tendered the same according to law. Answer. I think he did.

Interrogatory sixth? After Mr Brown had objected to the want of specification of lines &c. in the deed you read, did Mr Cannon make any offer to correct the Deed in those particulars. Answer. I do not recollect.

Interrogatory seventh. When Cannon said he would take the carriage and horses, did he not name the price at which he said he would take them - if you, state what price was named for each article.

Answer. I do not recollect.

Interrogatory eighth? Did Cannon when he said he had a Deed for Brown offer it to him, or did he immediately hand it to you to read. Answer. I think he immediately handed it to me to read.

Interrogatory ninth? did not Mr Brown say that he was ready at any time to comply with his contract, and had tendered the property under the same, and that he (Cannon) had not complied with his part of the contract. Answer. I believe he said so.

Interrogatory tenth? Did not Mr Brown, tell Mr Cannon that the property had been appraised by James Gyles, John McCree, and George Moore disinterested men, and

State the amount of the appraisement, offering the same to him at the said appraisement. Answer, I do not recollect what was said about it.

Interrogatory eleventh, Did Mr Brown agree to take the property to Little York, or did he agree to meet Mr Cannon at that place. Answer, He agreed to meet Mr Cannon at that place, I do not recollect, that there was any agreement about the property as to its being taken there.

Interrogatory twelfth, Did not Mr Cannon say to you and others, that he was afraid to tender the Fee to Mr Brown because if he did so, he would never get his pay for his land. Answer, He never said so to me as I recollect. I do not know what he said to others.

Interrogatory thirteenth, Has not Cannon told you that Brown should never have the land unless he paid the cash for what was then due.

Answer, I do not recollect of his telling me so at all and I don't recollect hearing it told.

Interrogatory fourteenth, Did not Mr Cannon tell Mr Brown in your presence & that of Thomas Graham and Thomas Cannon in the fall of 1805 that he would not take the property of Mr Brown, but would have the cash. Answer, I think he did say something like that to Mr Brown at that time.

Interrogatory fifteenth, Upon what business was Mr Brown when you and Mr Cannon met him. Answer, I think he was starting to mill, and was about a mile from home.

Reexamined by Plaintiff.

Interrogatory first, Who else was present in November, and what was said and done in that interview.

Answer, Thomas Cannon and Thomas Graham were

present, I believe Mr Cannon handed Mr Brown. This said Deed marked Exhibit "C" and said to him about this Mr Brown here is your Deed, take it, and read it. Mr Brown did take it, and I believe read it. I think Mr Brown asked Mr Cannon, what he wanted him to do with it, and intimated that he had no objection to receive it at that time. Mr Cannon replied that the Deed was ready for him, and said he should have it when he paid him what he owed him, the deed was then handed back to Mr Cannon. Whether before or not I don't remember, they both appeared to be somewhat out of humour, after talking some little time. Mr Cannon turned round to go away, and after walking some few paces, turned back again held the Deed out in his hand and said Mr Brown, I again make a tender of this Deed to you - for fear you should think I had never made a tender. Mr Brown did not take it, and Mr Cannon turned round and walked away.

Interrogatory second, Did Mr Brown make any offer of payment of Money, Notes, Mortgage or property at the time of said last mentioned interview

Answer, I do not recollect of any offer.

Interrogatory third, Did Mr Cannon ask Mr Brown for propositions for settlement after he started away and came back. Answer, I think he did not.

Interrogatory fourth, Look at Exhibit C, and state who first settled the land mentioned in said Deed Answer, I know the land very well, and believe Mr Cannon first settled it.

Interrogatory fifth, Please state at what time Mr Cannon took possession of said land, how long he continued in the possession, and who is in possession now

Answer, It was either in 1838 or 1839, that Mr Cannon took possession by actual residence, Mr Cannon retained possession until he sold the land to Mr Brown, who now has possession. Interrogatory sixth, Do you know by what title Mr Cannon claimed to hold the land, if you state what. Answer, I cannot say, that I know, but I believe he held by regular chain of Patent title, but never saw the title till now, he told me, that he held by regular chain of Patent title

Re Cross examined

Interrogatory first, How far was Mr Cannon distant from Mr Brown, when he made the pretended tender you last spoke of. Answer, <sup>perhaps</sup> a Rod or two.

Interrogatory second, Did he come back from where he started, or did he merely turn around and make the offer. Answer, I think he walked a few paces, but whether he got back to where he started from, I do not recollect, I don't think he did.

Interrogatory third, Did he (Mr Cannon) wait to hear what Mr Brown would say, or did he not, immediately put the Jew in his pocket and leave.

Answer, I think he left immediately.

Interrogatory fourth, Had not Mr Brown, before that time, and in the same conversation, evinced a willingness to take the Jew, if he could get it.

Answer, I think he did.

Interrogatory fifth, When Mr Brown Offered the Jew at the last interview, did he not state to Mr Cannon that he would accept it, if he (Cannon) would tender it, and did not Cannon then reach for the Jew and take it out of Brown's hand, and put it in his pocket, and make away, and did not said Brown, then call the persons present to

witness, that he (said Brown) would accept said Deed and did not Caunow say you must pay me \$400.00 in cash, before you shall have it - Please answer particularly, Answer. Mr Caunow said there was his deed, Mr Brown then took it, and read it, and said he had no objections to it, or he said he was willing to take it, or something to that amount Mr Caunow then got the Deed, I dont recollect in what way - he took it and walked away - I think Mr Brown did then call upon persons present, to witness that he would accept the Deed, and, and that Mr Caunow said pay me what you owe me, and you shall have it -

Interrogatory Sixth. Did not Brown take some pieces of Gold out of his pocket and shake them in his hand, and say to Caunow, here is part of the money, and there is more where this came from, and also, that the property was ready, and had been at all times, since said Browns arrival in this County, according to contract if you, state what reply Caunow made, Answer. He took something out of his pocket, and shook it in his hand I do not know what it was, or what he said, I only remember, that he said, there was plenty more when this came from Mr Brown said something the amount that the property had always been ready,

Interrogatory seventh. When did this take place and where, and how far was it from Browns house, Answer. It was perhaps 30 Rods from Mr Browns house in the fall of 1845 Mr Brown was leaving his horse with a load of Turneps, was driving a four horse team, and sat on his horse the principal terms of the conversation

Interrogatory Eighth. Did Mr Caunow demand of Mr Brown, any notes, Mortgage or property upon the contract for the sale of said land, during said last

conversation. Answer, all the demand I heard made was Mr Cannon demanded what he owed him and he should have his due.

Interrogatory Ninth. Did you, Thomas Graham and Thomas Cannon, at said last interview, advise an amicable settlement of the difficulty, and did not said Cannon (plaintiff) say that he would not settle without the cash, and that he had said Brown when he wanted him. Answer, I believe all there did I did for my part - I believe there was something like that said by Cannon.

W. C. Maloy,

Richard W Cannon Examined on part of plaintiff  
Interrogatory first. State whether Mr Cannon made the fences, that were on the farm at the time he sold to Brown & Rails high? Answer, He did with exception of about 25 rails, there was some rails on the place, that were not laid up, the majority of the rails was made on his own land or about 1/30.

Interrogatory Second. At what time did Mr Cannon settle on the NW 15. 15 NW 3 NW or the farm he sold to Brown  
Answer, According to the best of my recollection it was in 1838, we built the house in the Spring of 1838 The rails he used on the land or some of them in 1837.

Interrogatory third. Under what title did Mr Cannon settle and hold the land. Answer, Under Patent title marked exhibit, C. D. E. F. & G. in this suit, he continued to occupy it until he sold it to Mr Brown.

Interrogatory fourth. Did you ever see the horses and Carriage spoken of in Exhibit A, if you state their kind and value.

Answer. The horses, I think at a fair market price would be worth about \$55.00 each, as to the Carriage I am a poor judge, I saw one of the same kind sold for \$110.00 I should think this one worth over \$50.00

### Crass Examined

Interrogatory first, Did Mr Brown ever request your father to make the rails on his (your father's) land?

Answer. I do not know that he did, but that was my impression.

Interrogatory second, Where did you get that impression, from Mr Brown or your Father

Answer. I got it from Father, from father telling me to go and get the rails there on his lands,

Interrogatory third, Did you or your Father see any timber on the land sold to Mr Brown after the sale by your Father to him?

Answer. I did not see any timber, nor do I recollect that Father did.

Interrogatory fourth, Do you not know, that timber was sold to Rockwell from said land, after the sale to Brown, if yea, state who sold it, and how much was sold.

Answer. I cannot give you a direct answer to that there was some timber sold to Rockwell, but how much I do not know, I think it would not exceed two sticks, and I am not positive, but it was before Mr Brown bought, we had got out some heavy timber for Rockwell before Father sold to Brown.

Franklin Kitcher made 1600 after the sale, they went to William Cannon, I took that many of my own making from Father's land and replaced them

the reason was I was owing William some rails, and was on the other side of the Branch from where he wanted to haul them

Richard Cannon

State of Illinois,

Warren County,

3<sup>55</sup>

I do hereby certify that William C  
Macy and Richard W Cannon was by me first sworn to  
testify the truth in relation to the matter in controversy so  
far as they might be interrogated, and thereafter I proceed  
ed to examine said witnesses upon all the interrogatories  
propounded by the parties and that the above depositions  
were sworn to, signed by the Deponees severally on  
the 24th day of April A.D. 1847, between the hours of 8  
o'clock A.M. and sunset of said day, at my office  
in Monmouth, Given under my hand and seal this  
24th day of April A.D. 1847.

Amos M. Butler J.P. (Seal)

Justice fus ob  
# 8. 653/4

And afterwards to wit on the 18th day of June A.D. 1847  
the following Deposition was filed to wit:

"The Deposition of Witnesses produced ~~and~~ sworn and  
examined at my office in Monmouth in the County of  
Warren and State of Illinois before me James D. McLean one  
of the Justices of the peace for said County, in a certain  
cause in Chancery, now depending in the Circuit Court  
of Warren County and State of Illinois between Anthony  
Cannon plaintiff and John Brown defendant on  
the part of the Defendant.

Robert McMill of lawful age being produced  
sworn and examined on part of the defendant made  
the following answers, to the interrogatories following  
Interrogatory first. Are you acquainted with the parties  
to this suit Answer. Yes Sir I am.

Question 2<sup>nd</sup> Were you present on or about the time of the  
contract between Cannon & Brown for the sale of the North  
West quarter of Section fifteen, Township 12 North Range  
three West, and also sixty acres of timber land on the  
South West quarter of Section three 12 North Range 3 West  
if you state the time and the conversation, and also state  
whether any thing was said concerning a tax title upon  
the North west quarter of Fifteen aforesaid by either party  
and what was the conversation that passed between them  
upon that subject.

Answer. Yes. I was present on the ninth day of  
October 1844 and here Cannon say that he could make  
as good a title as any man in the State to said land  
I did not hear him say any thing in relation to the  
tax title

Question 3<sup>rd</sup> Did or not said Brown ask said Cannon  
in presence of yourself and Samuel Leroy on the morning

of the 9th October aforesaid. Whether he said Cannon knew of the existence of a tax title on any of the lands about to be purchased of him by said Brown if you state what was said. Answer I do not recollect of any such question being asked.

Question 4th In answer to what question did Cannon state to Brown that he could make as good a title to said land as any man in the State. Answer. It was in relation to the price agreed on that the question came up  
Cross Examination

Question 1st Where did the referred conversation take place  
Answer. In Mr Cannon's House.

Question 2d. Had the parties Brown & Cannon as you understood from them, any prior conversation about their trade. Answer. I understood from Brown & Cannon that they had talked the matter over the day before and I was not present all the time during that day, when they had that conversation to wit the 9th October.

Question 3d What persons were present during the conversation which you heard. Answer. Samuel Leslie Alexander Brown James C Porter and Richard Cannon were present according to the best of my recollection

Robert McDev.

Alexander F Brown of lawful age being produced sworn and examined on part of the Defendant made the answers to the questions following

Question 1st are you acquainted with the parties to this suit. Answer. I am —

Question 2d. Were you present at any conversation or conversations on or about the time of the contract between Brown & Cannon for the sale by Cannon to Brown of the North West

quarter of Section Fifteen Township 12 North Range three West and also sixty acres of timber land on the South West quarter of Section three 12 North three West, if you state whether any thing was said, in any such conversation concerning a tax title upon any of said lands by either party, at what time such conversation occurred and what was said at the time upon such subject.

Answer. I was present on the evening of the 8th October 1844 when the price was agreed upon if the timber would suit, and was also present the next day when the timber was examined, and one hundred dollars was paid to bind the bargain. I heard Mr Cannon say more than once, that he could make as good a title to the said land as any man in the State.

Question 3<sup>d</sup>. Did you or did you not understand by the words of Mr Cannon (to wit) I can make as good a title to that land, as any man in the State, that he the said Cannon, intended said Brown to understand & believe that he had a good & perfect title thereto, and that there were no adverse titles or incumbrances thereon.

objected to by complainants Counsel.

Answer. I understood Mr Cannon from that language to represent to Brown that he had and could make a perfect <sup>title</sup> to said land. I heard nothing about adverse titles.

Question 4<sup>th</sup>. What brought about the conversation in which you say Cannon represented that his title to said land was perfect, and what sum did he claim the land to be worth by reason of the goodness of said title if any, please state fully the whole conversation.

objected to

Answer. My Father told Mr Cannon that there was a great difficulty in this Country about titles and that he wanted to get a place that he would have no difficulty about the title. Mr Cannon replied that he had and could make as good

a title as any man in the State of Illinois, and that he considered his place cheap at twenty five hundred dollars.

Question 5th Did you not hear in any of the conversation or conversations of or said Mr Cannon represent to Mr Brown, that the principal reason why he (said Cannon) asked the sum of \$25.00 for said lands was, that he said Cannon had a perfect and indisputable title thereto.

Answer That in what I understood Mr Cannon to say, that there were places in the country that could be got for less money, but perhaps, they could not make as good a title, or something to that effect if any conversation took place on the evening of the 9th when the writings were drawn I did not hear it, I was not there, I was absent during that time with Mr. McGill.

Question 6th In any such conversation did Cannon represent to Mr Brown, that there were 160 acres of said farm under fence, if so state whether there were 160 acres of said farm under fence at that time, or at the time of giving possession under said contract.

Answer, Mr Cannon said that the farm was fenced that is the whole quarter, he also told how the farm was divided, that there was forty acres in each of the two East fields, a pasture field of seventy acres on the west of the two East fields, and another little field by the house at the time of giving possession the whole 160 acres were not under fence. There was just 60 rods on the South line at the east end which was not fenced at all.

Question 7th, How many rails high was the fence around the balance of said farm.

Answer, On the South line running west, commenced

where there was no fence. there was 124 pannels that were screw rails high and 6 or 8 that were only five rails high. there were some three or four pannels down on the North side where a Stew entered and left the field so far as I noticed the fence was eight rails high around the balance of the farm.

Question 8th Did Cannon tell Browe in any of said conversations how much of said fence was partnership fence. if yea, state how much he said was partnership fence & to what person it belonged.

Answer. yea. Mr Cannon said there was partnership fence between him and Mr Giles on the East line.

Question 9th Was there at that time, on the South line any division fence between Cannon & Arthurs which was not then mentioned. if yea state how much and by whom it was made.

Answer. There was a division fence between Mr Cannon and Mr Arthurs on the South line, which I do not remember of being mentioned at that time about 60 rods or 124 pannels of which I understood by Mr Arthurs and others was made by Arthurs, that being the same fence mentioned as being only screw rails high. the balance of said division fence about 15 rods, I understood to have been made by Mr Cannon.

Question 10th, What portions of the porch and ceiling of the house on said farm was made before the first day of April 1845, and in what manner was the same executed. Answer. About half of the Porch floor was laid, and about one half of the ceiling on one room, the other rooms being finished on the 10th April 1845. a man was at work there at the time, who equipped the ceiling with the exception of <sup>about</sup> 3 1/2 or three feet

of the Building, and which is not yet completed the whole length of the row. I do not think that the work that was done was done in a workmanlike manner.

Question 11th. Did Brown offer and tender to said Cannon after his arrival in Illinois the property mentioned in said contract or not, if yes, state what property was tendered, what was tendered, when and where.

Answer, yes, he did tender two Horses and double Harness and a Carriage at Little York, in April 1845, the day I do not recollect, but it was after the tenth.

Question 12th. State upon what terms the said property was offered to said Cannon at said time, and for what reason said Cannon refused to take the same.

Answer. The property was tendered, and the parties were to agree upon the price if they could, if they could not agree, they were to leave it to others. Brown offered to leave it to any three men in Little York, they did not agree for the reason that Mr Cannon said he did not want the Carriage or the Harn. Mr Cannon said that Brown was behind the time in the Contract, he said <sup>that</sup> he was disappointed in getting the Horses at the time, he had rented out part of his ground, and did not require more than one horse, the Carriage he said he did not want at all.

Question 13th. Please state why said Brown was not present with said property against the time mentioned in the Contract (to wit) the 1st April 1845.

Answer. The reason we did not start from Ohio sooner was because the roads were so bad, that it would have been impossible to get along with any load at all and we started as soon as we <sup>that</sup> we could get along <sup>with</sup> our load & did not bring half a load.

Question 14th. Did not Brown send to Cincinnati by a

messenger to ascertain the cost of going to Illinois by water when it was found impracticable to go by land and did not that messenger report so great an amount of cost for the removal of said Brown and family and property by water as would absorb a <sup>portion</sup> of the means designed to pay for said place -  
objected to.

Answer. As the roads were so bad he did send to Cincinnati some one hundred miles for that purpose and found the cost of going by water would be so high that he was not willing to pay.

Question 15<sup>th</sup> When the tender of the property was made at Little York as aforesaid did or did not said Brown state to said Cannon that he was ready to pay and had the money so to do in his (Brown's) pocket what the said property should fall short upon valuation of the sum of \$400.00 if you state what reply said Cannon made thereto.

Answer. Yes when he made the tender of the property, he said there was the property, and that he had the money in his pocket to pay the balance to make out the payment of the \$400.00 I don't recollect the reply of Mr Cannon.

Question 16<sup>th</sup>. Did said Cannon ever make a tender of a Deed for said land to said Brown in your presence  
Answer. He did not.

Cross Examined.

Question 17<sup>th</sup> At how many conversations between Brown & Cannon were you present before the contract was executed. State how many, and at <sup>what</sup> times, and whether the title to said land was mentioned at each time.

Answer. I was present at three conversations between them, the first was about the 5<sup>th</sup> of October 1844 the

Second on the 8<sup>th</sup> and the third in the morning of the 9<sup>th</sup> of the same month, the title was not mentioned at the first conversation, at the second it was as stated in my direct examination, and at the third I have no recollection of there being anything said about the title when I was present.

Question 2<sup>d</sup> At what place did these several conversations take place, and who were present at the said times, beside Brown, Cannon and yourself.  
Answer. The first was in Mr Cannon's timber in the presence of Anthony Mc<sup>r</sup> Cannon and James Le Porter, the second was at Mr Cannon's house in the presence of the same persons, and Mr Cannon's three Daughters, the third was at Mr Cannon's house and on the way to his timber, and in the timber, in the presence of Robert Mc<sup>r</sup> Gill and Samuel Leslie.

Question 3<sup>d</sup> At which of the three conversations but was Cannon & Brown, did you hear the representations, which you have spoken of in answer to the second, third, fourth and fifth of the direct interrogations propounded to you. Answer, in the second conversation.

Question 4<sup>th</sup> Were you present all the time at those periods referred to. Answer. I was present all the time at the first and second, not all the time at the third, near enough to hear all that was said.

Question 5<sup>th</sup> Was Mr Brown the Defendant in this suit your Father.

Answer. He is. Question 6<sup>th</sup> Did Mr Brown and yourself examine the farm before the contract was made. Answer. We did a part of it, we were in one field and the pasture.

Question 7<sup>th</sup>. In which of the interviews before referred to did Mr Cannon, make the representations

Spoken of in answer to the sixth interrogatory.  
Answer. It was in the second, and all the conversation  
I heard about the farm being fenced was at that  
time. Question 8th Did you at any time after  
Mr Brown had taken possession of the farm, hear  
him say that Mr Cannon had sent his son to lay  
up the fence. If you state what time, said Brown told  
you this, and all the conversation he had with you  
about it. Answer. In the latter part of the Spring  
or first part of the summer of 1805, I think my Father  
told me that Mr Cannon sent his son Richard to  
lay up ~~the~~ <sup>some</sup> rails that was on the ground, that  
had not been laid up. my Father stated at the same  
time to me, that he had been advised not to have any  
more work done by the Cannon's upon the said prem-  
ises. I don't recollect of my Father's telling me about  
any conversation between him and Richard Cannon  
but I know that the rails were not laid up at  
that time by Richard. they were rails that had  
been used about the stack yard.

Question 9th Have you ever worked any at the carpenter  
business. Answer. I have not.

Question 10th Who was present at the time that Mr Brown  
tendered Mr Cannon in Little Fort the said horses, Carriage and  
Harness. Answer John M. Saw, Joseph McLerrey  
and myself, were present, having been called as  
witnesses by Mr Brown and many others.

Question 11th Did Brown at said time set any price on  
said property and insist on Cannon's allowing him his  
price for it. Answer he did not.

Question 12 What was the character and condition  
of the horses at that time

Answer one was a mare nine years old, she was some

Stiff from standing on the Boat as I supposed and that was one reason why Cannon objected to taking her. beside he said he did not want her any how. the horse was a very good horse which Cannon said he was willing to take at a fair price.

Question 13th In what manner was said personal property brought to this country from Ohio.

Answer. The horse came by land, and the balance was brought by water.

Question 14th Was there any money tendered by Mr Brown to Mr Cannon at Little York at the time the property was tendered? Answer. Father told him he had the money in his pocket, but did not offer it to him.

Question 15th By what conveyance did your father come from Ohio to Illinois. Answer. He came by water from Cincinnati to Oquawka.

Question 16th At what time did your Father take possession of the farm. Answer. on the fourteenth or fifteenth of April 1845.

Question 17th At the time the bargain was made for the purchase of the land, what did Mr Brown describe the character of the horses to be, which he would pay Cannon in the contract.

Answer. He described one horse which he actually brought and offered to him at Little York, and he described the other which he would bring him as being a mare 6 years old the Spring of 1845 of common size and likely to look at, which he said, he was told by the man he bought her of was with foal by one of the best horses he knew of.

Question 18th Did Mr Brown ever offer to Mr Cannon such a mare as the one he described to him. Answer. he did not.

The Examined

Question 1st Please state how many rails there were as near as you can about the Stock yard, which you understood from your Father, Richard Cannon came to lay up, and which was spoken of by you in your answer in cross interrogatory tenth eighth, and how much fence eight rails high the same would make.

Answer there was not over one hundred if that many and if that number would make about 12 panels of fence. Question 2d. Were there sufficient additional rails made and hauled upon said farm by said Cannon to make the fence thereof 8 rails high from the time of making the contract to the time of taking possession if any were made and hauled. State how many.

Answer There was not enough to make the fence 8 rails high. I never saw any others except those spoken of, about the Stock yard. Question 3rd. Please state if said Cannon in any of the conversations mentioned by you stated the number of acres broken upon said farm, if you state how many he said were broken, and how many acres were actually broken at that time

objected to because it is new matter, introduced. Answer. At the time of the second interview my Father asked him how many acres were broken on said farm. Mr Cannon said there was about 90 acres, the two forty acre fields had been broken up, and Garden Spot near the house of perhaps 1/2 an acre and perhaps an acre in the past, and small fields near the house where I suppose they had been securing their plows.

Question 4th What was the character of said breaking. objected to.

Answer. On the North East forty acre field there was two acres which had meadow broke which had grown up to prairie grass, and which my Father got broke over again

he was forced to have it broke again in order to cultivate it and there was an acre and a half in the south east field which had never been broken at all.

Question 3<sup>rd</sup> Please state why your Father did not offer Cannon the mare spoken of in your answer to cross interrogatory No 17 & 18. Answer. The reason was that she could not be brought. She was so forward with foal. She would have foled before she could have got here.

Question 6<sup>th</sup> Was the Mare tendered to said Cannon before refused to by you in lieu of the one mentioned above as valuable an animal for use or sale, as the other. Answer the Mare tendered to said Cannon, was more valuable than the other for either sale or use.

Question 7<sup>th</sup> You say in your answer to cross interrogatory No 12 that the Mare tendered to Cannon was some stiff at the time. Please state whether said stiffness was permanent or transitory, and whether the mare was injured by the same. Answer. The stiffness was only about 10 days and did not injure the Mare.

Question 8<sup>th</sup> you say in your answer to cross interrogatory No 15 that your Father came by water from Cincinnati to Aquawka. please state how much if any of the property tendered he brought with him, and what was his motive for coming in that manner. Answer. He brought the Carriage Mare and Horses, by water. the motive for coming in that manner as I understood from him at that time was to get here in time for the contract.

Question 9<sup>th</sup> Did said Brown send any portion of his property from Ohio to Minor by land. If you state how much he sent by land.

Answer. He sent six head of horses, one four horse waggon a halfload for said team.

Re Cross. Examined

Question 1<sup>st</sup> State whether the Mare tendered to Cannon by Brown was with foal or not. if may state whether that was not ~~the~~ <sup>one</sup> reason assigned at the time by Cannon for not receiving her, as he expected and wanted a mare with foal Answer. She was not with foal Mr Cannon said to Mr Brown that this was not the kind of a Mare that he had described to him. he said he had understood that this mare was not with foal, but he expected to have got one that was with foal. Mr Brown replied that this mare was not with foal.

Question 2<sup>d</sup> State what proportion of this property Mr Brown brought from Ohio by water and by land. Answer. I have already stated what he brought by land. he brought by water one horse carriage & harness a two horse waggon the most of his beds and bedding, and most of his household and kitchen furniture there were two four horse loads and nearly one two horse load of the property brought by water

Question 3<sup>d</sup> What was the value of the Mare described by Brown to Cannon, and in what manner did Brown dispose of her, and what did he get for her, and what was the value of the mare tendered to Cannon, and what did Brown give for her, objected to.

Answer. The Mare described was worth fifty dollars. he traded her for the mare he tendered to Cannon now owned. the mare tendered to Cannon was worth Sixty five dollars

Re. Re Examined

Question 1<sup>st</sup>. What was the value of the balance of the property tendered to Mr Cannon. State separately.

Answer. the horse was worth seventy five dollars, and would bring that now. carmag. was worth 85 or 90 dollars, the harness was worth 15 or 20 dollars.

Question 2<sup>d</sup> how did the parties happen to meet at Little

York, at the time mentioned in answer to direct interrogatory 11th and by whom appointed, and did said Suthorn my Carriage meet said Brown in pursuance of said appointment Answer, on the 10th of April 1845 the team arrived and Anthony McManus was present and did look at the horse and he agreed with my Father that he & the Complainant would meet at Little York on the day spoken of, and they did meet according to agreement

Question 3<sup>d</sup> Was the carriage tendered the same kind which Brown stipulated to furnish to Cannon.  
Answer. It was.

Alexander P. Brown

John McGaw of lawful age being produced sworn and examined on part of the Defendant, made the following answers to the questions following.

Question 1<sup>st</sup> Pleas state whether any fence on the East side of the South line of the N.W. quarter of 15. 12. S 3 N. 4 was made on the 1<sup>st</sup> of April 1845 if any was lacking how much. Answer. There was no fence on the east end of that line for 60 rods in May 1845.

Question 2<sup>d</sup> Are you acquainted with said quarter section and do you know whether or not any fence existed on the east end of said South line at any time between 9th of October 44 and May 1845

Answer. I am acquainted with said quarter and have reason to believe that there was no fence there between those periods.

Question 3<sup>d</sup> Do you know how many of the rails were lacking on the South line of the said quarter section to make the same 8 rails high in May 1845. if you state how many.

Answer. I do. There were 127 panels seven rails

high. there was 7 pannels either 5 or 6 rails high. the balance of that string of fence. if there was any more up. was complete. there were 1133 rails lacking on the South line of said quarter.

Question 3<sup>d</sup> objected to

Question 4<sup>th</sup> How your knowledge of said quarter section will you state whether the rails which were required to make said fence 8 rails high on said South line were in said fence on the 1<sup>st</sup> day of April 1845 or not. Answer they were not.

Question 5<sup>th</sup> Was the fence on the North side of the farm complete where a line passed through the same. if not state what deficiency existed therein.

Answer. It was not complete, there were about three pannels which I supposed was thrown down by water at one place. the other place where the line passed through the fence I did not notice.

Question 6<sup>th</sup> Was the floor of the porch laid and the ceiling done complete on the 1<sup>st</sup> day of April 1845. Please state particularly the work done to each. the materials used whether good or not and the kind of workmanship.

Answer they were not. Mr Cannon was at work about the 1<sup>st</sup> of April upon the ceiling which was not then finished the materials used for the ceiling were not good the workmanship of the same was not good. I cannot say what time the work was done in the porch precisely. the materials used in the porch were not good the workmanship was very rough.

Question 7<sup>th</sup> Describe the kind of materials used for the porch and ceiling. Answer. The porch floor was oak I believe partially seasoned there were several auger holes in the boards the ceiling was composed of Black walnut boards partly and the rest of Pine, seasoned. the boards were about 9 or 10 inches wide

Question 8<sup>th</sup> Do you know of any tender of property by Brown to said Cannon in the Spring of 1815. If you state when and where such tender took place, what property was tendered & its value, and what took place at that time, and who were present. Answer I do, on or about the 14<sup>th</sup> day of April as well as I remember, it was at Little York. There was a carriage a set of harness and a horse & mare. The carriage was worth 50 dollars the harness \$15.00 the horse \$75 and the mare \$60. Mr Brown met with Mr Cannon there and told him he had brought over that property. Mr Cannon remarked that he Mr Brown was rather late with the property. Mr Brown and Mr Cannon went out to where the property was. Mr Cannon examined the property and remarked that he did not want the carriage and the mare, he said, he would like to have one horse, but was not willing to take that one at the price Mr Brown asked for the horse. Mr Cannon's father said that he would not take the carriage and mare at all, because he did not need them and did not consider he was bound to take them. Mr Brown called on myself and Mr Jos. McCreery who was present and said to Mr Cannon, that there was the property, he would tender it to him in the presence of these witnesses. Mr Cannon said that he would not take it, there was something said about leaving it to me, but I do not remember the words used. Alexander P Brown was also present, there were others passing about, I do not recollect who they were.

Question 9<sup>th</sup> Were you present at any other meeting at which the parties were endeavoring to settle, If you state when, where and what was said, and how between them & who were present.

Answer I was. It was some time after the first meeting and was at Little York. I understood the parties

to agree that they had both met for the purpose of settling  
Mr Brown remarked to Mr Cannon that he had come over for  
that purpose Mr Cannon enquired of Mr Brown if he had  
brought the property there Mr Brown answered that he had  
not, there was something said after that concerning a Deed  
to the land Mr Cannon remarked that he had a good Deed  
for the land. Mr Brown then made some remark on the Deed  
but I do not remember what it was Mr Cannon said that he  
had the Deed with him and intended to make a tender of  
it to Mr Brown, he drew so mentioning out of his pocket  
wrapped in Brown paper and laid it on the Stone during  
the time he was doing this, there was conversation passed  
between them relative to the original contract, which I  
then read to them at their request.

Question 10th Did Mr Cannon make at that time a tender  
of any Deed for said land to Mr Brown

Answer, he did not. Question 11th Who got that something  
wrapped in brown paper which lay upon the Stone, Mr Brown  
or Mr Cannon. Answer, Mr Cannon got it.

Question 12th Was Mr Cannon requested at that conversation  
by Mr Brown to make the 60 rods of fence on the South line  
before spoken of by you and to furnish the balance, so  
as to make the whole 8 rails high, and to complete the  
work upon the house, if you state what reply Mr Cannon made  
objected to

Answer, There was some conversation between them  
about the improvements, but I do not remember  
what it was.

Question 13th Have you ever heard Brown tell  
Cannon in these conversations the property was always  
ready for him, if you state it

Answer, I have, at the second meeting they had  
when I was present at Little York Mr Brown told Mr

Canon that the property was ready for him at any time, and that he was willing and anxious to settle with him according to the article of agreement between them. Mr Canon made some remarks in reference to Mr Brown's being to late. I do not remember what they were.

### Craps Examined

Question 1<sup>st</sup> At what time did you first examine the fences about the N. W. 15. 12 N 3 W.

Answer. It was the 21<sup>st</sup> of May 1845 that I examined the fences particularly on the South Side of the farm in company of Alexander Brown. Previous to that time during the month of March and the 1<sup>st</sup> week of April I paced the farm frequently.

Question 2<sup>d</sup> Do you form your opinion of the condition of the fences on the South side of the farm from your observation in March & April or your particular <sup>examination</sup> of it in May. Answer. I formed my opinion from both.

Question 3<sup>d</sup> Do you not know that there were rails laying on the ground by the South fence at the time you made the examination.

Answer. I saw rails on the ground by the South fence but I think it was after that time.

Question 4<sup>th</sup> Are you certain there were no rails lying on the ground at the time you made said examination.

Answer. To the best of my knowledge there was not.

Question 5<sup>th</sup> Were there any rails laying on the ground near the North line of fence when you examined it referred to in your answer to <sup>the</sup> 5<sup>th</sup> question of the direct examination. Answer. there were a few rails

lying on the ground near the North line of fence that had been washed from the North end of the West line of fence. I do not know how many.

Question 6<sup>th</sup> Did you examine particularly the

work and materials on the Porch and Ceiling, and if you did it not correspond with the work and materials of the balance of the House. *objection*, Answer. I did, the Ceiling was not of so good material as the Ceiling of the other rooms, the ceiling of the East room is the Ceiling which I now speak of which was not so good as the ceiling in the West room. I think the floor in the porch did not hardly correspond with the rest of the house.

Question 7<sup>th</sup> What was the West room ciled with Answer. With lime I believe

Question 8<sup>th</sup> What the best material to Cile with or better than Black Walnut. Answer. I would prefer to black Walnut

Question 9<sup>th</sup> How many Sugar holes referred to in your answer to 7<sup>th</sup> question direct examination were there in the porch floor Answer. There was several. I do not know the No I think as many as nine or ten.

Adjourned until Jan 16<sup>th</sup> 1847. 8 o'clock A.M.

Question 10<sup>th</sup> At the conversations referred to by you between the parties at Little York did not Mr Cannon converse freely with Mr Brown respecting the matters in dispute between them. Answer. I thought he did.

Re-examined

Question 11<sup>th</sup> Was there any given price fixed by Mr Brown for the property tendered at Little York in your presence to Mr Cannon and below which he refused to let Mr Cannon have said property. *Plff objects*

Answer. If there was I do not remember any thing about it; Question 12<sup>th</sup> Was the porch floor laid level or not. If not, at what point was it highest, at the outside or next to the house, and was it laid a square joint or tongued and grooved. *Plff objects*

Answer. From observation it did not appear

to be level, but to be 2 or 3 inches higher on the out side, or the side from the house. I cannot. I cannot say whether it was laid with a square joint or tongued and grooved.

Re Cross Examined

Question 1st Please state particularly at what time you first discovered the porch to be in the condition you describe in your last answer.

Answer. I cannot say precisely the time, but it was during the Spring of 1845.

Question 2<sup>d</sup> Please state whether the porch was framed into the house or had two sills and if the latter could it not at very little, and what expense have been raised to a proper position.

Answer. It had two sills as well as I remember I suppose that with five dollars expense it could have been raised.

Re. Re Examined

Question 1st Are you a house Carpenter, objected to.

Answer. I have worked at that business some.

Re. Re. Cross Examined

Question 1st At the time of the two conversations at Little York, above referred to or at one and which of them did Mr Cannon offer to take of Mr Brown a young man even if she was not broke, objected to.

Answer. At the time of the conversation when the property was at Little York there was something said about young horses, by Mr Cannon. I do not remember what it was.

John P. McGraw

Thomas Graham of lawful age being produced sworn and examined on part of Defendant made the following answers to the interrogatories following.

Question 1<sup>st</sup> Are you acquainted with the parties to this Suit  
Answer. I am Question 2<sup>d</sup> Do you know of any tender made  
by defendant Brown to Mr Cauman of any property. If you  
state when & where said tender was made, and what  
property was tendered. Answer. I do not know whether  
you would call it a tender or not, he offered Cauman two  
horses, Carriage and harness, in my presence, it was in  
the month of September I believe in 1845 at Mr Cauman's  
house. Question 3<sup>d</sup> Describe the property so tendered  
Answer. There was a Carriage that was calculated for  
either one or two horses, and harness for two horses, suitable  
for the same, a gray horse I would suppose him to be  
about 15 hands high, and heavy made, the other was  
a bay Mare I would think she was about 16 hands high  
and well made

#### Cross Examined

Question 1<sup>st</sup> What was the value of the property spoken  
of by you in your answer to the 3<sup>d</sup> interrogatory direct  
examination. Answer. I put the gray horse at \$75.  
the bay Mare at \$60.00 the harness at \$15.00 I believe I would  
not put the Carriage to more than seventy dollars.

Question 2<sup>d</sup> How old were the horses, and had the harness  
been much used. Answer. I cannot tell you.

Question 3<sup>d</sup> Did you examine particularly the property so  
said to be tendered

Answer. Yes I looked at it frequently

Question 4<sup>th</sup> Were the horses apparently sound, and of not  
what were the diseases or defects apparent.

Answer. there was nothing wrong with the horses, that I know  
of at the time he offered them to Mr Cauman

Question 5<sup>th</sup> Was you acquainted with the condition of  
the horses when they were first brought to the State by  
Mr Brown, if you state what was their condition at such time.

Answer. As it respects the gray horse. I know nothing about him. I saw the Bay Mare a few days after in my field and she appeared to me to be a little stiff  
Question 6th What was the conversation between the parties at their meeting at Mr Cannon's house in September 1843. Answer. in the first place Mr Brown told Mr Cannon that he and I had come up to try to effect a compromise and that he had fetched the horses and Carriage which he wanted him to take and he had the money in his pocket to pay him the balance Mr Cannon replied that he would not take the property without having it appraised that he was willing to pick a man and Mr Brown a man and if the two could not agree for them to pick a third and Mr Brown agreed to that with one exception, and that was he thought the horses ought to be appraised at what horses was selling for in the Spring. I think he said there was two dollars difference between the Spring and fall, then I think Mr Brown observed if they went into these measures that it would be necessary to enter into a Bond so that each party would stand to the decision Mr Cannon observed so to. I don't recollect which mentioned it first. they then both agreed to enter into a Bond but they differed in respect to the items to be entered in the Bond Mr Cannon wished to know if he wanted any thing entered only wherein he had failed in coming up to the article Mr Brown said he did. that he wanted the arbitrators to take into consideration that vacancy in the fence in the South side of the farm and Mr Cannon he objected to that but that he was willing to have the article before the arbitrators, and then Mr Brown replied that it was of no consequence

unless all these items were inserted in the bond. Mr  
Cannon wished to take about a week to study on the matter  
and way to let Brown know in that time.

Re Examined.

Question 1<sup>st</sup> When Mr Brown first proposed enter-  
ing into Bond as stated by you above, was it or not  
for the purpose of appraising the horses, carriage  
and harness, and settling the sum Cannon should take  
there at— Answer. It was.

Question 2<sup>d</sup> After  
Brown's proposition to enter into bond was made was  
there or not conversation about arbitrating all the  
matters in dispute between the parties, and did or  
not said Brown propose then to said Cannon to enter  
into either a special Bond or the arbitration of certain  
matters in dispute or a general bond for the arbitration  
of all. Answer. There was.

A remembrance of Mr Brown's  
speaking of a Special Bond and a general, both.  
Question 3<sup>d</sup> Did Mr Brown ever admit in said convers-  
ation that by the article said Cannon was not oblig-  
ed to fill up the vacancies in the fence on the South  
line & make it 8 rails high—

Answer. No he always contended that Mr Cannon  
was obliged to put that fence there.

Question 4<sup>th</sup> Do you or not know whether Mr Cannon  
at the end of the week he took to consider of it refused  
or neglected to enter into a Bond as aforesaid

Answer. I know nothing about it.

Question 5<sup>th</sup> On that conversation did Mr Cannon  
require security upon the notes mentioned in the article  
or not. If you state what reply was made by Mr Brown

Answer. I don't recollect what Mr Cannon said  
about security on the notes, but I recollect that Mr  
Brown said that he could give security if required.

Re Cross Examined.

Question 1st How came Mr Brown to be speaking about security on the notes.

Answer I do not recollect.

Question 2<sup>d</sup> What was told you by Anthony Mc Cannan in reference to his fathers willingness or unwillingness to enter into the bond spoken of in the last 4th direct interrogatory, and if any thing when and where did he tell it to you. objected to by Deft.

Answer At my own Stack yard about the end of a week or perhaps two or three days after the end of the week after the above meeting in September 1845 Mr Anthony Mc Cannan and Richard Cannan came along to the aforesaid Stack yard and Anthony Mc Cannan stated that Mr Brown might put any thing he pleased into the Bar.

Re Re examined

Question 1st Was Mr Brown present at that time

Answer, he was not.

Thomas Graham.

John Kitchen of lawful age being produced sworn and examined on part of Defendant made the following answer to the interrogatories following

Question 1st Did you ~~or~~ or after the 9th October 1844 make any rails or cut down any trees by the direction of Anthony Cannan upon the sixty acres of timber land on the W. S. 12 N 30 W If you state how many rails were made thereon and <sup>how many</sup> trees were cut down and the value of the rails & timber

Answer 1st I did make some rails on that tract under the direction of Mr Cannan I cant tell how many there were Seven small trees cut under the same direction it was either in the latter part of February

or first of March 1845 I am not able to state the value of the rails and timber I suppose the way rails were selling they would not be worth more than four dollars.

Question 2<sup>d</sup> Do you know of Mr Cannon cutting other timber upon said tract of land after said 9<sup>th</sup> October 1844, or any other person cutting for him & under his direction If you state what timber was cut & the value of it. Answer, I do not.

Question 3<sup>d</sup> Were the sawn trees cut by you as aforesaid good building timber and valuable for that purpose if you. what was the value for that purpose.

Answer, they were good for small building being from 1 foot to 15 inches in diameter and we generally got about an average of 20 feet in cuts from each tree. I do not know what they would be worth for building timber.

Question 4<sup>th</sup> Is small building timber scarce on said tract. Answer, It is

#### Cross Examined

Question 1<sup>st</sup> Are the sawn trees mentioned by you all that you cut, and which you estimated to be worth for rails, four dollars. Answer, These are all that I cut. Question 2<sup>d</sup> Were not those sawn trees cut to make rails to put on Mr Brown's farm.

Answer, Mr Cannon told me that they were

John Kitcher -

Cornelius H Kitcher being produced sworn and examined on part of Defendant made the following answers to the interrogatories following

Question 1<sup>st</sup> State whether you know of any timber being cut on the Co aces of timber on the W 3-12 & 3-17 sold by Cannon to Brown, by or under the

direction of Anthony Cannon after the 9th day of October 1844 If you state what timber was cut and by whom, its description and value and to what use it was applied

Answer. I do know of timber being cut by his orders. It was in the latter part of the winter of 1844 & 45 there was seven trees cut as before mentioned by my Father and there was two more cut that I helped to cut, and one that I did not help cut the last was cut before I went upon the land. I do not know whether it was cut by Mr Cannon's <sup>direction</sup> or not but I helped to hew it under Mr Cannon's direction and also one of the others, the other was not hewed the sticks were from 15 to 20 feet long from each tree there was two of them that would have squared a foot each, the other perhaps two inches, they were worth \$0.50 each. It was got out for Rockwell

Answer objected to by Eff

Question 2<sup>d</sup> Were there other persons in the habit of coming on said timber land while you were there during the period referred to, if you state how much and its value.

Answer There was one two horse waggon load was taken during the time I was there which was a well off and one. I suppose it was worth three bits or half a dollar

Cross Examination

Question 1<sup>st</sup> Please state what the sticks referred to in your answer were worth standing in the timber and what were they worth when hewed

Answer. I suppose the way timber was selling for <sup>that</sup> time, they were worth from \$1.75 to \$1.87 standing in the timber, and when hewed, worth

two dollars and fifty cents.

The Examined  
Question 1st Was building timber of that size, very  
scarce on that tract. If you ~~was~~ was it not more  
valuable to the owner of the land on that account  
objected to by Jeff.

Answer. It was tolerable scarce on that tract &  
suppon it was more valuable on that account.

C. F. Kitchen

State of Illinois  
Warren County 3<sup>80</sup> I James D. McLean a Justice  
of the peace within and for said County do hereby  
certify that the foregoing depositions of Robert  
McGill, Alson P. Brown, John P. McLean, Thomas  
Graham, John Kitchen Franklin Kitchen were  
sworn to, and signed by the said deponents before  
me and in my presence on the 14th 15th and 16th  
days of June A D 1847, at my office in <sup>the town of</sup> Mountaintop  
in said County between the hours of 8 o'clock AM  
of the 14th and 7 o'clock PM of the 16th of said days  
Given under my hand and seal the 19th  
day of June A D 1847.

Justice Jus 46

7/28, 1847

J. D. McLean J. P. Clerk

And afterwards to wit on the 7th day of July A D 1847  
the following Deposition was filed in the Clerk's office  
of said Court, which said deposition is in the words  
following to wit

"The Deposition of Witnesses produced sworn and examined  
at the house of James C. Porter, in the County of Warren and  
State of Illinois before me W. C. Maloy a Justice of the Peace of  
said County in a certain cause now depending in the

Circuit Court of Warren County and State of Illinois on  
the Chauncy side thereof between Anthony Cannon  
plaintiff and John Brown Defendant. on the part  
of the Defendant.

James C. Porter of lawful age being produced sworn  
and examined on part of the defendant, made the  
following answers to the interrogatories following

Interrogatory first. Are you acquainted with the parties  
to this suit. Answer. All are.

Interrogatory 2<sup>d</sup> Were you present at any conversation  
or conversations on or about the time of the contract  
between Cannon & Brown for the sale of the North  
West Quarter of section fifteen. Township 12 N Range 3  
West. and also sixty acres of timber land on the  
South West Quarter of Section (3) thru 13 North Range  
(3) thru West. if you state the time, the place and  
the conversation or conversations & also what was  
said in relation to title (upon the North West Quarter of  
section (15) aforesaid) by either party.

Answer - I was present at a conversation between  
the parties on the 8<sup>th</sup> of Oct. A. D. 1844 that was the  
time at which they came to a verbal contract  
or agreement about the said land it was at the  
house of Mr Cannon, own house in Warren County,  
Mr Cannon offered Mr Brown his land for twenty  
five hundred dollars, Mr Brown told him he would  
give him \$200.00 for said land, he said that was as  
much as he could give for any place, and he would  
have to give part of that in trade, Mr Cannon asked  
him what kind of trade he wished to give, Mr Brown  
answered that he would give a couple of horses &

Carriage. afterwards Mr Cannon proposed that he would perform such work, or make such improvements on the place viz. he would split the two rooms over head & lay the porch floor at the South of the house, that he would make the fences over around the place eight rails high firmly Mr Cannon came to the conclusion that he would take \$200.00 for the said land & give possession on or before the first day of April 1845 in consideration of which Mr Brown promised to give him \$1100.00 in hand & deliver the horse & carriage at a fair market price, and the balance of \$400.00 in cash on or before the first of April 1845 & give the notes of \$166.66 each due at three annual payments after the first of April 1845 Mr Brown told Mr Cannon that there was a great deal of difficulty he understood with regard to good titles in this military tract of land and he was growing old and did not wish to purchase a law suit when he purchased a piece of land & asked Mr Cannon if there were any tax titles on No 15 Mr Cannon answered that he had a good title that he had the original patent. Mr Cannon said that Mr Brown ought not to be so hard with him, he knew he Mr Brown could get land for less money but he could not get land with as good a title for the same money & as good land.

Interrogatory 3<sup>rd</sup> Did you understand the words No 15 to refer to the North West quarter of 15-12-13. W Answer. It did.

Interrogatory 4<sup>th</sup> Was this conversation about tax titles before or after the verbal agreement for said land was closed. Answer. It was before.

Interrogatory 5<sup>th</sup>. Did said Anthony Cannon during that conversation about tax titles say whether there

was as he had learned a tax title to said NW 15. 15<sup>th</sup> N  
3<sup>rd</sup> W or not -

Answer. he did not in my hearing. I never knew  
there was a tax title on that Quarter for a year after  
wards. Interrogatory 6<sup>th</sup>. Who were present during  
that conversation besides Mr. Brown, Cannon and  
yourself, Answer. There was Anthony Mc Cannan  
& Alexander P. Brown

Int 7<sup>th</sup> Did you on said 8<sup>th</sup> of Oct during said  
conversation say in the presence of the parties &  
Anthony Mc Cannan & when tax titles was spoken  
of during the same that tax titles were not worth a  
snuff. Ans. I did not.

Inty 8<sup>th</sup> Did you say at that time that an old tax title  
was not worth a snuff,

Ans. I do not recollect of saying anything about tax titles  
what ever at that time

Int 9<sup>th</sup> If said Anthony Cannon had during said  
conversation & while you & Anthony Mc Cannan were  
present told Mr Brown that there was a tax title on said  
NW of 15 would you have heard it or not.

Ans. I was present during the conversation & I did not  
hear it

Inty 10<sup>th</sup> Did Mr Brown say any thing during  
that conversation about buying the land unless  
Cannon would take part of his pay in property, & what  
did he say about it

Ans. Mr Brown said that he could not <sup>give</sup> \$2000.00 for  
a place unless he could put in some property

Int 11<sup>th</sup> Are you acquainted with said North West  
Quarter of 15 if yes what is the character of the land  
Ans. I am acquainted with the North West of 15. It is  
a very rich soil. in a wet season, some parts of it are

rather wet for cultivation

July 15<sup>th</sup> Did Brown inquire of said Cannon during said conversation whether said NW. of 15 was fenced or not. if you state what was said by said Cannon upon the subject of fencing

Ans Mr Brown did inquire of Mr Cannon & Mr Cannon told him that the Quarter was fenced in four fields. two fields containing 40 acres each & a pasture lot containing about 70 acres. a lot below the stable containing about 10 Mr Brown asked Mr Cannon if Mr Giles did not own a part of the east line of fence. Mr Cannon answered he did & that Mr Giles's part was staked & ridged Mr Brown & J. P. Brown & myself went & looked at the fence, the east line that was in partnership spoken of before for the purpose of seeing how much of it belonged to Mr Giles. July 13<sup>th</sup> Did Cannon speak of any other partnership fences on said farm. than that of Mr Giles. ans he did not. that I heard.

July 14<sup>th</sup> Were there any other partnership fences at that time beside that of Mr Giles if you state what. ans There was Mr Arthurs & Mr Cannon had a fence in partnership the south line of that Quarter viz; the NW of 15 as Mr Arthurs told me

July 15<sup>th</sup> Was there any deficiency in said south line of fence. if yes. how much. ans. There was. a part of the fence wanting. say fifty or sixty rods on the east end of the said south line but whether Mr Cannon or Mr Arthurs was to build that. I do not know

July 16<sup>th</sup> Which field was this deficient in fence ans. It was the south east field being cultivated land

July 17<sup>th</sup> At what time did said Brown arrive in this County in 1845

and what circumstances if any prevented him from seeing Cannon at an earlier date.

ans I am not certain whether it was the 3<sup>rd</sup> 4<sup>th</sup> or 5<sup>th</sup> of April, but it was about that time Mr Brown came to my house, his little son was very low with the scarlet fever & died the second morning after he arrived. It was on Friday morning & he was buried on Saturday Oct 18<sup>th</sup> Was the carriage contracted for shown by you to Anthony M<sup>d</sup> Cannon shortly after its arrival, if you state whether said Cannon did or did not say that it fitted the description given by Mr Brown to the Complainant

ans It was some time after Mr Brown arrived & on the day his teams arrived by land Anthony M<sup>d</sup> Cannon was passing here, he & I looked at the carriage the curtains of which Mr Brown had just varnished & had him show down here & he Cannon said it was about such a Carriage as the contract called for

Oct 19<sup>th</sup> At what time was the ceiling of the rooms of the dwelling house so far as done finished, how much if any remains undone, what the quality of the materials used for ceiling & porch floor, & how much of said porch floor is laid & what the quality of the work please state fully in relation thereto

ans I do not know at what time the ceiling of the rooms so far as done were finished, there is a little strip perhaps two squares of the ceiling not finished in the East room, the ceiling of the west room is lime & the East room Lime & black walnut & the porch floor was of Sycamore & oak the porch floor is laid to where it is weather-boarded, the work was rather rough it bulged up & run the water in towards the house, there were a good many auger holes in the boards, with

which the porch floor was laid, the other part of the porch which was weatherboarded on the west end & south side, about one half the porch I suppose was calculated for a room, was laid with punchony, & ras ceiling over head, the porch floor the East end of it, was laid with square joints & the punchony floor was laid down as such are usually laid in this country any opinion with respect to that room on the porch is that it was calculated for a room.

Q<sup>uest</sup> 20<sup>th</sup> Were you present during the making of the within contract between the parties, if you state as near as you can the conversation between them as to the same.

A<sup>ns</sup> I was present at that time & the conversation was on the same subject as on the evening before

Q<sup>uest</sup> 21<sup>st</sup> Was there any thing said between the parties on that evening before the writings were signed upon the subject of the title to the North West of 15 if you state what was said.

A<sup>ns</sup> There was, there was some conversation about some thing between the parties an some conversation about a new bargain & Mr Cannon told his son Anthony that he might do as he pleased he did not care whether Mr Brown took the place or not, it was good land & he had and could make as good a title as any man in the State of Illinois, & did not like to be rode over or something to that amount.

Q<sup>uest</sup> 22<sup>nd</sup> Do you know what No of trees were cut on said timber land between the making of the contract & the first day of April 1845 if you please state the amount & probable value

A<sup>ns</sup> I was passing through the timber & discovered some trees that had been lately cut down & two pieces of

The timber were hewed & yet on the ground 89  
Stumps whose trees had been lately cut making  
clew in all. this was some time in March 1815  
that I passed through & saw the trees cut. I do  
not know the make of timber. they were white  
oaks. principally, from 15 to 18 inches in diameter

Crop Examined

Q<sup>u</sup>est 1<sup>st</sup> Did you go with Mr Brown to examine  
the Cannon farm, before he purchased it & if you  
how many times,

Ans<sup>r</sup>. I went with Mr Brown to Mr Cannon's before  
he purchased it, to see if his place was for sale  
this was the first time, we learned at his house that  
he was in the timber, we went to see Mr Cannon  
we looked at the timber, we went through it and  
had some conversation about the timber, we did  
not examine the prairie Dr at that time, we  
understood that Mr Cannon was anxious to  
sell & wished Mr Brown should go and see  
him again & going we went through his  
pasture which was on the South West part of  
said Dr said to contain about 70 acres of land  
we arrived at the house & from the house we went to  
see the East line of fence to see how much of it  
belonged to Mr Giles & from that to the house as it  
was growing late in the evening

Q<sup>u</sup>est 2<sup>nd</sup> Did you make any other, and what  
examination of the farm in company with Mr  
Brown, Ans<sup>r</sup> I did not.

Q<sup>u</sup>est 3<sup>rd</sup> Did Mr Brown ask Mr Cannon at said time  
or either of them to show him the farm  
Ans<sup>r</sup> That I recollect of, if he had, he would have  
done it I know. the next morning, after the verbal

contract. Mr Cannon went with Mr Brown & showed him the timber land.

Q<sup>u</sup>st 4<sup>th</sup> Did or not Mr Brown make inquiries of you respecting the condition of said farm if you did you describe it to him.

A<sup>n</sup>s He did & I did describe it to him.

Q<sup>u</sup>st 5<sup>th</sup> Have you not been for many years & how long an intimate acquaintance & friend of Mr Brown and are you not connected to him by marriage

A<sup>n</sup>s I have been an intimate acquaintance with Mr Brown from my earliest recollection & I was a brother-in-law by marriage. but am not now

Q<sup>u</sup>st 6<sup>th</sup> At the time you first visited Mr Cannon in company with Mr Brown & learned that Mr Cannon was in the Grove did not Mr Brown inquire of Richard Cannon a son of the complainants with respect to the inclosure of the farm & if you ~~state~~ what answer was made. (objected to)

A<sup>n</sup>s If he did I am not conscious of it. he inquired the price & said it was more than he could give, that he could not give that for any land.

Q<sup>u</sup>st 7<sup>th</sup> Did he not at this time inquire of said Richard about the condition of the farm, the number of the fields their character &c. (objected to)

A<sup>n</sup>s If he did I have no recollection of it at all Mr Brown said that was more than he could give & there was no use in talking about it.

Q<sup>u</sup>st 8<sup>th</sup> The consequence of the remark made by Mr Brown, last alluded to by you, did or not you forbear to impress your mind with the conversation, immediately preceding that remark

A<sup>n</sup>s I know from the acquaintance with Mr Brown I formerly had with Mr Brown & from what he had told

one after he had come to this country. I knew that he would not buy land at that price & hence I did not tax my memory as I would have done otherwise with what passed.

Sept. 9<sup>th</sup> Are you certain that the answer alluded to by you in reference to the inclosure of the farms, in your answer to the 12<sup>th</sup> direct Question was made by the Complainant & not by his son Richard and I am certain it was made by the Complainant for Richard was not there.

Sept. 10<sup>th</sup> At the time you first visited Mr Caum in company with Mr Brown what conversation took place between Mr Brown & Richard Caum in reference to the condition of the farms. (objected to)

Ans. If there was any I do not recollect it

Sept. 11<sup>th</sup> At either of the conversations spoken of by you between Mr Brown & Mr Caum was there anything said about tax Receipts or about old tax titles

Ans. There was some conversation with respect to an old tax title on the timber at one of the meetings, with regard to an old tax title that was on the timber, there was a conversation as near as I can recollect, to this effect that there had been another tax title obtained since that time & I or some other person remarked that the new tax title would hold it

Sept. 12<sup>th</sup> Are you certain this conversation was in reference to tax titles on the timber & not on the NW of 15  
12 or 3, 17

Ans. I understood it to be in reference to the timber

Sept. 13<sup>th</sup> At the time Mr Brown purchased said farms did you or not know of the deficiency in the East part of the South line of fences

Ans. I knew the Spring before he purchased that

there was a deficiency in the fence there was a part of it not built say 70 or 80 rods but Mr. Adkins was building at the fence making & hauling rails there at that time & told me that he was going to have a fence

Q<sup>uest</sup> 14<sup>th</sup>. Was it understood by the parties at the time of the said sale of land to Mr. Brown, that Mr. Cannon was to ceil the room on the porch as well as the two in the dwelling house

ans. There was nothing said with respect to the room on the porch that I heard. Mr. Cannon offered to ceil the rooms of the dwelling house

Q<sup>uest</sup> 15<sup>th</sup>. Did you understand from the conversation of the parties at the time, the rooms of the dwelling house to include the room of the porch.

Ans. I did not. I understood that the two rooms was to be ceiled & the porch floor to be laid

Q<sup>uest</sup> 16<sup>th</sup>. What was the width & length of the space unciled at, in the East room the time Mr. Brown took possession

ans. I dont know perhaps two square

Q<sup>uest</sup> 17<sup>th</sup>. At which of the meetings of the parties spoken of by you did Mr. Cannon agree to do the ceiling. Ans. It was at the second & third both, there was a dispute at the third meeting, with regard to the ceiling Mr. Brown understood that when Mr. Cannon had engaged to ceil the rooms which he did the evening previous to include the sides & ends of the house as well as overhead Mr. Cannon understood it to include only overhead, & they both agreed to leave it to me whatever I understood they would submit to & I understood it as did Mr. Cannon, that it meant only overhead

Q<sup>uest</sup> 18<sup>th</sup>. Had Mr. Cannon agreed to do this ceiling

before the \$100.00 bonus money was paid,  
Ans I did not see the bonus money paid,  
Qut 19<sup>th</sup> Did Mr Cannon agree to do the cutting before  
Mr Brown commenced writing the contract

Ans Mr Cannon agreed to do the work that is mention-  
ed in the contract on the evening of the 8<sup>th</sup> of Oct 1844

Qut 20<sup>th</sup> Did not the said farm well adapted to the  
growth of both grain & grass, Ans It is.

Qut 21<sup>st</sup> What was said by Mr Brown at the time of said  
purchase about the mare agreed to be delivered by  
him on said contract.

Ans He said the mare was a small animal,  
nearly made & that she was with foal to a horse of  
good stock as he had been informed by the man  
from whom he had received her as he had traded for  
her that season.

Qut 22<sup>nd</sup> Did not Anthony M<sup>c</sup> I Cannon at the  
time you showed him the carriage object that it  
did not appear to be either a one or a two horse  
carriage & that it was too light for a two horse & too  
heavy for a one horse carriage

Ans He did not object he remarked that the Carriage  
was about as the contract was, but he said he thought  
it was almost too heavy for a one horse carriage & too  
light for a two horse carriage

#### Re examined

Qut 1<sup>st</sup> Did Mr Brown know of the deficiency in the South  
line of fence at the time of the purchase aforesaid.

Ans I do not know, I told Mr Brown nothing about it  
Qut 2<sup>d</sup> Was the Carriage aforesaid of the description of  
the one in the contract & State the value thereof.

Ans To the best of my judgment it was & I would  
suppose the value of such Carriages with the harness to be

one hundred and twenty dollars.

Q<sup>uest</sup> 3<sup>rd</sup> Did said Brown before purchasing make any inquiry of you as to whether there was an adverse title to said place if you state the conversation.

A<sup>ns</sup> Mr Brown on the evening of the 8<sup>th</sup> as we were coming from Mr Cannon's to this place asked me if I knew if there was any tax title on North West of 15 13<sup>th</sup> N 3<sup>rd</sup> W. I told him I thought not. He then asked me if I thought Mr Cannon would tell if there was such a title on said place, he said that he pruned his title <sup>always</sup> too much. I answered so far as I was acquainted with Mr Cannon he was a man of veracity, and was in good standing in the associate Church, the agreement at this time was partially made if Mr Brown killed the timber, when he would go and see it in the morning he was to take the place.

Re Cross Examined

Q<sup>uest</sup> 1<sup>st</sup> How was the porch floor to be laid, was it to be tongued and grooved or square joints  
A<sup>ns</sup> I understood the porch floor was to be laid with good seasoned lumber in a workmanlike manner & with a square joint.

Re Direct examined

Q<sup>uest</sup> 1<sup>st</sup> Was the material used for laying said porch floor seasoned or not. A<sup>ns</sup> I do not know.

Q<sup>uest</sup> 2<sup>nd</sup> State what is the value of the Dwelling house on the North West of 15. 13<sup>th</sup> N 3<sup>rd</sup> W. and what the value of the orchard thereon. (objected to)

A<sup>ns</sup> I should be sorry to give more than \$50.00 for the house for my use, the orchard I would suppose to be worth \$20.00

Samuel C. Porter.

State of Illinois J. M. C. Maly a Justice of the  
Warren County 3 peace in & for the County aforesaid  
do hereby certify that the above Deposition was sworn to  
& signed before me on the 29<sup>th</sup> day of June A.D. 1867. at  
the house of James C. Porters in the County & State aforesaid  
J. M. C. Maly J. P. of W. Co Ill

John McCrary of lawful age being produced sworn  
& examined on the part of the defendant, made the  
following answers to the Interrogatories following.

Int 1<sup>st</sup> Are you acquainted with the parties to this suit  
Ans. Al Ans. Int 2<sup>nd</sup> Do you know of any transfer  
of property being made by said John Brown to said  
Cannon in the year 1845 if yea, state when & where  
said property was tendered & the description of said  
property so tendered

Ans. Mr Brown tendered some property to Mr Cannon  
at Little York, I think in the month of April, I dont  
think it was very far from the middle of the month  
the property tendered consisted of a gray horse, bay  
Horse & Carriage & Harness, for two Horses.

Int 3<sup>rd</sup> Did said Cannon refuse or accept said  
Carriage horses & Harness. Ans. He refused them.

Int 4<sup>th</sup> Did said Brown or not propose at that  
time to said Cannon to have the said property appr-  
aised by disinterested men & agree to pay the balance  
to make \$400.00 in money after such appraisal if yea  
state what passed on the Subject.

Ans. As high as I can recollect Mr Brown proposed to  
Cannon to have it to any three men in Little York  
to say what the property was worth, He then agreed  
to pay the balance in money to make out the payment  
that was due at that time, I think Mr Cannon

said he would take the horse, but the mare and Camia - go. he did not want, & was not willing to choose appraisers to value the whaw.

Crazy Examined

Q<sup>u</sup>est 1<sup>st</sup> What was the consideration of the mare at that time with respect to health, soundness age &c. and I cannot say.

Q<sup>u</sup>est 2<sup>nd</sup> Was you present with the parties all the time they were together at Little York, & if not how long were you with them.

A<sup>n</sup>s<sup>er</sup> I was not, but was with them not more than fifteen minutes

Re. Direct Examined

Q<sup>u</sup>est 1<sup>st</sup> Did Camia give any reason why he would not accept of said property, if you state what those reasons were.

A<sup>n</sup>s<sup>er</sup> I do not recollect.

Joseph M. Carey

State of Illinois

Warren County B. S. M. C. Malley a Justice of the peace in & for the County aforesaid do certify that the above deposition was sworn to & signed before me on the 29<sup>th</sup> day of June A. D. 1847 at the house of James C. Porter in Warren County & State aforesaid

M. C. Malley J. P. W. Co. Ill.

Georg S. Moore of lawful age being produced sworn and examined on the part of the defendant made the following answers to the interrogatories following

Q<sup>u</sup>est 1<sup>st</sup> Did you at the instance of John Brown defendant to this suit examine & appraise a certain carriage & harness a gray horse & a Bay mare if you state when & where said appraisement was made, and the value of

James C. Potters in Warren County, Missouri  
M. C. Hally, J. F. M. Co. Ill

James Bills of lawful age being produced  
sworn and examined on the part of the Defendant made  
the following answers to the interrogatories following

Int 1<sup>st</sup> Did you at the instance of the Defendant  
John Brown appraise any property in the Spring  
of 1805 of you describe the property appraised, the  
time & place of such appraisement & the value of  
the property.

Ans<sup>r</sup> We did we appraised a Carriage for either  
two horses or one and harness for two horses also a Gray  
horse & a bay mare, it was on the 23<sup>rd</sup> of April 1805  
at George Morris house the Carriage & Harness  
we appraised at \$120.00 the horse at \$75.00 & the  
mare at \$60.00

Int 2<sup>nd</sup> Had said Brown after his arrival in  
this County any other Carriage & harness, Gray  
horse & bay mare, than those above mentioned and  
is that the property which had been previously  
appraised by said Brown to said Cannon.

Ans<sup>r</sup> I never knew him having any but the  
one Carriage & harness after he came here, I think  
he owned another old Bay horse beside this, the  
harness & Carriage first described I believe was the  
same he had tendered to Mr Cannon, though I was  
not there.

Int 3<sup>rd</sup> Describe particularly the Gray horse &  
bay mare appraised by you, as to age color size  
&c. Ans<sup>r</sup> We concluded the Gray horse was six years  
old an Brown Gray color, probably 14 hands 3 inches high

heavy built & well made, the mare was taller I would say 15 or more hands high of a bright bay color heavy made in proportion we called her nine years old

### Grass Examined

Q<sup>nt</sup> 1<sup>st</sup> Do you not think that the Carriage & harness were valued too high by you in your appraisal above mentioned

A<sup>nt</sup> I have thought so since, my opinion now is that we ought to have valued it at about \$100 or

Jas Giles

State of Missouri

Warren County 3 J. M. C. Malley a Justice of the peace in and for the County of said, do hereby certify that the above Deposition was sworn to & subscribed before me by Jas Giles on the 29<sup>th</sup> day of June A. D. 1857 at the house of James C. Porter in the County, State of said

J. M. C. Malley J. J. of W. Co. State of Mo.

William Cannon of lawful age being produced sworn and examined on part of the Defendant made the following answers to the interrogatories following

Q<sup>nt</sup> 1<sup>st</sup> Did you in the winter or spring of 1845 cut any rails or timber on the 60 acres of timber land contracted to be sold by Anthony Cannon the complainant to John Brown defendant if yew. State how many rails & what timber & when you got them & by whose authority

A<sup>nt</sup> I did get some rails upon what I supposed to be on the 60 acres if my recollection serves me right it was 150 & 160 rails. I suppose I might say I got some timber for fire wood say 3 or 4 loads in

course of the Spring. It being laps or tops. I think I got the rails in the month of March I believe I had the authority to get the rails from my Father Anthony Cannon

Q<sup>u</sup> 2<sup>nd</sup> What was the value of the rails & timber so got and the rails were of the value of \$5.00 per hundred the value of the wood I cannot give

Q<sup>u</sup> 3<sup>rd</sup> Did you hear Anthony Cannon say previous to the arrival of Brown in this country, that he would not take the property mentioned in the contract if said Brown was behind the time set.

A<sup>n</sup> I did hear Anthony Cannon say with regard to the property that Mr Brown had been very tight with him and that he Mr Brown intended to comply exactly with his bargain & that he Mr Brown would make Mr Cannon comply. Mr Cannon then stated that he was to take property from Mr Brown on the contract and if he did not come on by the first day of April that he would feel himself under no obligation to take the property  
William Cannon

State of Illinois  
Warren County     3  
I, W. C. Haley do hereby certify that the above deposition was sworn to and signed by William Cannon in my presence on the 29<sup>th</sup> day of June A. D. 1864, at the house of James C. Posters in the County of Warren & State of aforesaid  
W. C. Haley J. P. W. Co. Ill

James F. Arthur of lawful age being produced sworn and examined on the part of the Defendant made the following answers to the interrogatories following,

Ques<sup>t</sup> 1<sup>st</sup> Are your acquaintances with the parties to this suit and I am,

Ans<sup>r</sup> 2<sup>d</sup> State if you know what deficiencies were in the fence on the East end of the South line of the North West Quarter of Section 15. 13. N 3. W at the time of the sale, of the said NW Q<sup>r</sup>. of Section 15. by Sutherland Cannon to Defendant, and what if any was deficient at the time defendant took possession of said premises and There was no fence for Eighty Rods on the East End of the South line, there was rails hauled that I had hauled to make about 90 rods of fence on the said Eighty Rods which I put up into fence before Brown arrived in this County said 90 rods of fence I made new rails high leaving 60 Rods of said <sup>50 rods</sup> fence without either ~~fence~~ <sup>rails</sup> or fence on said line

Ques<sup>t</sup> 3<sup>rd</sup> State what height the fences on the West half of said South line was at the time of Brown taking possession of said premises to whom said fence belonged and whether any part thereof was built higher after Brown took possession as aforesaid.

Ans<sup>r</sup> There was forty rods or thereabouts of fence on the West half of the South line that was six rails high staked and ridged which makes it seven rails high. There was about fifty single panels of fence on said line that was only seven rails high thos forty Rods or thereabouts which was staked & ridged belonged to me, I hauled and put up by Sutherland Cannon's direction about 52 or 53 rails on the the 50 single panels above mentioned after said Brown took possession, which fifty single panels belonged to Mr Cannon Plaintiff.

Ques<sup>t</sup> 4<sup>th</sup> At what time were the above 52 or 53 rails laid up as above stated, were they old rails or new

when procured, and what height did they make said  
50 single pannels

And I believe it was between the middle & the  
last of April 1845 they were old rails. I got them  
in a pile near the middle of the South line on said  
land sold by Cannon to Brown near where a Stack yard  
had been they made the said 50 single pannels 8 rails  
high I believe

Q. What is the value of the Dwelling house on said  
North West of 15 and what the value of the orchard  
thereon and what the value of the Stable Lute house  
& crib, please state as near as you can.

A. The Dwelling house worth about \$250.00  
the orchard I do not know the value of the Stable  
house & crib, I suppose to be worth about  
\$2000

State of Missouri  
Warren County  
James F. Arthur  
J. M. C. Maloy a Justice of the  
peace in & for the County of said Do hereby certify  
that the above deposition was sworn to & signed before  
me by James F. Arthur on the 29th day of June  
A. D. 1847 at the house of James C. Porters in Warren  
County, Missouri

M. C. Maloy J. P. of Mo. Ill "

Justice and witness  
for \$ 24.05 3/4 cents "

And afterwards to wit on the 10th day of May A. D. 1848  
The following Bill of Exceptions were filed in said  
Court which Bill together with the record of the Court  
filed heretofore November 15. 1847. are in the words and  
figures following, to wit:

Anthony Cannon  
vs  
John Brown

Be it remembered, that on the trial of this cause in addition to the Depositions in the case the Complainant exhibited and showed a regular and connected title to the land in the Bill mentioned from the patent thereof to himself, and the defendant exhibited and showed that the said OT 15. 12. N 3 W was on the 4th day of March 1834 sold by the Clerk of the County Commissioners Court of the County of Warren State of Illinois to E. Townsend for the State tax of 1833 and that the same was on the 20th day of November 1836 conveyed by said Clerk to the said purchasers, upon which the Court enters the following Decree,

Anthony Cannon  
vs  
John Brown

Bid for specific  
performance.

John Brown  
vs  
Anthony Cannon

Comp Bid to record  
Contract &c.

This cause having been submitted to the Court for decision in vacation by the consent of parties upon the Bill Cross Bid answers Applications exhibits and depositions and the Court having now diligently examined the same doth order and adjudge and decree that the complainants John Brown except except as herein after excepted be dismissed without prejudice to any other subsequent proceeding in law or equity which may hereafter be instituted upon

the covenants in a certain Deed exhibited and  
referred to in said Cannon's original bill executed  
by said Cannon & wife to the said John Brown and  
dated the 14<sup>th</sup> May A.D. 1845 marked Exhibit, G, and  
it is further ordered adjudged and decreed that  
the said Deed above mentioned together with all  
the title papers exhibited by complainant to the orig-  
inal bill be deposited with the Master in chancery  
for the County of Warren for the use of the said  
John Brown to be delivered to him upon the said  
Brown's complying with the stipulations and terms  
in this decree hereinafter mentioned and set forth  
and it is further ordered adjudged and decreed  
that the said John Brown pay to the said Anthony  
Cannon two horses - one two horse carriage with  
wooden springs and one two horse harness at a  
fair market price to be appraised and valua-  
ed by John Brown the present Sheriff of Warren County  
within seventy days from the date of this decree and  
also within the same period of time pay to the  
said Anthony Cannon in cash the sum of <sup>(4 00)</sup> ~~Four~~ hun-  
dred dollars deducting deducting the price or  
value of the said horses carriage harness appraised as  
aforesaid. If the <sup>said</sup> horses and carriage shall not  
be paid as aforesaid, then the said sum of <sup>(4 00)</sup> ~~Four~~ hun-  
dred Dollars shall be paid in cash within the period  
aforesaid, and it is further ordered adjudged and  
decreed that the said John Brown pay to the said  
Anthony Cannon the further sum of one hundred  
and Sixty Six dollars & Sixty Six & 2/3<sup>rd</sup> cents with  
Six percent interest from the first day of April 1846  
in one hundred days from the date of this decree  
and the like further sum of \$166.66 2/3 cents with

Interest as aforesaid from the 1st day of April 1867  
in one hundred and Twenty days from the date  
of this decree, and the like further sum of \$166.66<sup>2/3</sup>  
cents on the first day of April A.D. 1868. The said sever-  
al sums being the amount ascertained by the  
court of the unpaid purchase money due upon  
the contract in the complainants Cannons original  
bill described. It is further ordered adjudged  
and decreed that upon the payment of the said  
several sums of money and property herein before  
mentioned by the said Brown to the said Cannon  
that the said sums so deposited as herein before direc-  
ted to be delivered over to the said John Brown and  
the title to the said premises in said contract last  
before referred to be from the date of the said Decree  
from said Cannon and wife to said Brown vested in  
the said John Brown according to the terms and conditi-  
ons of the said Decree, and it is further ordered ad-  
judged and decreed that if default shall be made  
in the said several payments or either of them  
that the premises mentioned in complainants  
original Bill or so much thereof as shall be neces-  
sary to make the sum which according to this de-  
-ree shall so remain due and unpaid shall be sold  
by the Master in Chancery of Warren County after  
giving such notices as are required to be given upon  
Sheriffs Sales or execution, and the said Master in  
Chancery shall upon such sale or sales make to  
the purchaser or purchasers a deed for the premises  
so sold and make report of his proceedings to the  
next term of this court after such sale, It is further  
-er ordered adjudged and decreed that each party  
pay one half the costs of these proceedings, and that

Executions against them respectively issue therefor

N. H. Purple

It is further ordered adjudged and decreed that either party have leave to appeal from this decree in 21 days after notice of the filing the same with the clerk of the circuit court on giving bond conditioned as the law directs with security to be approved by said clerk and further that the said Anthony cannot be enjoined from the further prosecution of the said ejectment suit in excerpts cross bills mentioned until the further order of the court, and that for the purposes of said injunction above the said excerpts bills be retained

Nov 6, 1847.

N. H. Purple

To which decree the defendant excepts and prays that his bill of exceptions may be signed sealed and made part of the record, which is accordingly done

N. H. Purple (Seal)

And heretofore to wit on the 1st day of December A. D. 1847 the following Bond was made filed & approved in said cause, which said Bond is in the words and figures following to wit

" Know all men by these presents That John Brown Robert McGill Samuel Miller and David Graham are held and firmly bound unto Anthony Cairns, in the penal sum of Two Thousand dollars, for the payment of which, well and truly to be made, we, bind ourselves, our heirs, executors and administrators jointly, severally and firmly by these presents: Witness our

hands and seals, this 1st day of December Anno Domini  
one thousand eight hundred and forty seven.

The Condition of the above obligation is such; That  
whereas Anthony Cannon did on the 6th day of  
November 1847, in the circuit court, within and  
for the County of Warren and State of Illinois recover  
a judgment against the above bounden John Brown  
for the sum of Nine hundred dollars, with six  
per cent Interest on \$166.66<sup>2</sup>/<sub>3</sub> from the 1st day of  
April 1846 and the same Just on \$166.66<sup>2</sup>/<sub>3</sub> from the 1st  
day of April 1847 and the costs of suit, from which  
judgment of said circuit court the said John Brown  
has prayed for and obtained an appeal to  
the Supreme Court of said State. Now of the  
said John Brown shall duly prosecute his said  
appeal with effect, and shall moreover pay the  
amount of the judgment, costs, interest, and damages  
rendered and to be rendered against him in case  
the said judgment shall be affirmed in said  
Supreme Court, then the above obligations  
be null and void, otherwise to remain in full  
force and virtue.

Approved by me at my  
office in Uniontown this  
1st day of December A.D. 1847  
Chas. M. Butler clerk,

John Brown *JB*  
Robert McDill *JB*  
Samuel Miller *JB*  
David Graham *JB* "

And by consent of the parties It is ordered that  
the appeal be taken to the Supreme Court held at  
Springfield in the second division.