

14344

No. _____

Supreme Court of Illinois

Jennings.

vs.

Jennings.

71641  7

STATE OF ILLINOIS,
SUPREME COURT,
Third Grand Division.

No. 66

14344

1862

Jennings
to
Jennings

10007

ABSTRACT OF RECORD.

LOVINA JENNINGS,
vs.
ELIZABETH JENNINGS, et, als. } *Appeal from Rock Island County.*

15-6-17
The defendants in the above cause having previously appeared, Complainant filed her Amended Bill of Complaint in the Circuit Court of Rock Island County, in August 1860, J. H. Howe, presiding. Defendants appeared and filed a demurrer to the Amended Bill, which was sustained and the Amended Bill dismissed at the January Term, 1861. Complainant excepted to the ruling of the court in sustaining the demurrer and dismissing the bill and prayed an appeal to this court and caused the same to be duly perfected.

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Complainants' Amended Bill sets forth that she is the widow of John Jennings who died May 3d, 1857, in said Rock Island County; that said John Jennings was a son and heir-at-law of David Jennings who died January 29, 1856, in said county; that said David Jennings at the time of his death, was the owner in *fee simple*, of real estate in said county, to-wit: One hundred acres on the east end of the south west quarter of section (31) T. 18 N. R. (2) east of the 4th P. M., in said county, and of other property both real and personal; that Elizabeth Jennings, is the widow of said David Jennings; that said David Jennings died testate, leaving a Will, made part of Bill of Complainant; that said Will was filed, proved and recorded in the Probate Court of said county, Feb. 7th 1856; that by said will the said David Jennings devised unto the said John Jennings, the above described real estate, upon the condition that the said John Jennings—together with one Thomas Jennings, who is also a son and heir-at-law of the said David Jennings, and to whom was devised other real estate in said Will mentioned—should support and take good care of their mother, the said Elizabeth Jennings, during her life time; that upon the death of the said David Jennings, the said John Jennings by virtue of the said will entered upon and took possession of the above described real estate and continued in the peaceable possession thereof till his death aforesaid, and made permanent and valuable improvements thereon by and with the consent of the said Elizabeth Jennings, and from the time of the death of the said David Jennings, took good care of the said Elizabeth Jennings, and treated her with great kindness and affection and furnished her with all the food and raiment that she desired until the time of his death; that there was no issue of the marriage of Complainant with the said John Jennings; that by the laws of the State of Illinois, upon the death of the said John Jennings, at least an undivided one-half descended to Complainant; that at the time of the death of the said John Jennings, Complainant was on a visit to her relatives and friends in the State of Pennsylvania, but upon hearing of the death of her said husband, immediately returned to said Rock Island county, and arrived at her home, the residence of the said John Jennings, within about two weeks after his death; that Complainant immediately upon her return home, in a kind and respectful manner, offered to take good care of the said Elizabeth Jennings during her life time, in the same manner and style that her husband had previously done, and that she was ready, able and willing so to do. That said John Jennings died intestate and that E. H. Johnson was duly appointed Administrator of his estate, June 10, 1857; that said E. H. Johnson as Administrator aforesaid, and for and on behalf of Complainant immediately upon his appointment, aforesaid, offered in a respectful manner, to take good care of the said Elizabeth Jennings, during her life time, in the manner required by the Will; that always since the death of her husband, Complainant has been ready, able and willing to take care of the said Elizabeth Jennings and hereby now offers to take care of her in the manner required by the Will.

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That the said David Jennings by his Will gave the said Elizabeth Jennings power to sell the said real estate only upon the express condition that "the said John Jennings and Thomas Jennings should fail to give her a good support."—That the said Elizabeth Jennings well knowing that said John Jennings did after the death of the said David Jennings, and until the death of the said John Jennings, support and take good care of her, and well knowing that after the death of said John Jennings, Complainant as the widow of the said John Jennings, was able and desired and offered to continue to support her, did soon after the death of said John Jennings, unlawfully and forcibly expel Complainant from the said premises and every part thereof, and ever since has kept Complainant out of the possession

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of said premises and every part thereof. And that upon the 31st day of August, 1857 by Warantee Deeds, did unlawfully and fraudulently convey the said one hundred acres to David B. Jennings, Thomas Jennings and Andrew Jennings, to one of them forty acres, to the others thirty acres each. That said David Jennings, Thomas Jennings and Andrew Jennings did then each and all of them well and fully know that said conveyances were wrongful, unlawful and fraudulent.

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The Bill prays that all the above parties be summoned as defendants and required to answer the Bill, and that upon a final hearing thereof, the Court would order, adjudge and decree, the said above mentioned conveyances to be cancelled and held for nought; that Complainant by proper decree may be placed in possession of said premises upon the same terms that her husband possessed them, and that Complainant may be allowed to take care of and support the said Elizabeth Jennings, and that she may be allowed all the rights and privileges enjoyed by her husband in his life time under said will, and for general relief.

Appellants Brief

Leoline Jennings

vs

Elisabeth Jennings

et als

Supreme Court

April Term 1861

This suit involves the construction of the last Will & Testament of David Jennings -

In the construction of a Will the intention of the Testator to be derived from the entire Instrument, generally, and in case the different sections or clauses thereof will not admit of the same construction or conflict with each other the last clauses control.

The intention of the Testator in this case as appears from a proper construction of the Will is to devise the property in question to his son John Jennings upon the condition that he together with his other son Thomas Jennings should take good care of & support their mother during her lifetime - and to provide his wife with the means of support before the death of the Testator therefore the title to the property in question by the terms of the Will, vested in his son John

Jennings
Wills 523

Jennings upon the condition that he should support his mother as above set forth. John Jennings became possessed of the title to the property in fee simple subject to a condition subsequent - Upon the death of John Jennings, he having performed the condition attached to the title during his lifetime, the title to the property descended to his heirs at law still subject to the same conditions.

The title to the property having descended to John Jennings's heirs of whom the Appellant is the principal one the question arises, how are they to be divested of it? Clearly, the only way in which they can be divested of the title to the property without their consent is by a sale of the property by said Elizabeth Jennings in accordance with the provisions of the Will - The said Elizabeth Jennings derives no title to the property by means of the Will as we have seen it was only the intention of the Testator to provide her with the means of support & for that purpose & no other gave her the power to sell

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126 Jennings

the property in question only in case it might become necessary for that purpose & this is all the interest that she has in the property.

The Bill shows that during the lifetime of the said John Jennings, he took good care of & supported his mother to her entire satisfaction & that upon his death his heirs at law, Appellant, was ready & willing & offered to continue to support her in the same manner & style that her husband had done & as was required by the Will. She was taken care of & her support furnished her as long as she would receive it & offered her after she refused to receive it & she is offered to her by this Appellant. The Deponent admits the truth of the Bill and on this hearing the above facts are conclusive.

The condition therefore in which she might exercise the power given her by the Will, to sell the property has never come & the conveyances & sales made are entirely null & void - the grantees therein taking the conveyances with a full knowledge of all the facts as appears from the Bill.

It may be contended that the property

was devised by the Will upon a personal trust which no one but John Jennings could perform but we claim that such would not be a reasonable construction of the Will. If as we claim the intention of the Testator was simply to provide his wife with the means of support it can make no difference whether such support is furnished by John Jennings or by John Jennings heirs; while if it was also the intention of the Testator to vest his property in his son John on the condition aforesaid then it must have been his intention that it should descend to John's heirs in case of his death, still subject to the same condition.

Even if the natural tenderness & affection of a son towards his Mother was the cause of the devise of this property to the son, yet it will not be claimed that in case of the death of the son his natural kindness & affection could be restored to the Mother by her conveying the property in question contrary to the provisions of the Will.

The Demurrer to the Bill admits that as good a support is offered her by the sons heirs as was furnished by the son himself during his lifetime - so the matter can in no wise improve her condition by selling the property & therefore the intention of the Testator to provide her with a good support can in no wise be better carried out by allowing her to sell the property in question - which is an additional reason why it was not the intention of the Testator to allow her to sell the property in such a case as this. The son is dead and a sale of the property by his matter will not restore him to her - It also appears from the Bill that the son spent some years made lasting & valuable improvements on the property during his lifetime - to which his heirs ought in Equity to be entitled, which is a consideration worthy of notice in a Court of Equity.

But if the Court should be of the opinion that Appellant is not entitled to the property or any interest therein under the Will, the question then arises what becomes of it - on Johns

death. It certainly does not vest
in said Elizabeth Jennings as we
have endeavored to show that she
has no interest in it except upon
a certain contingency which the
Bill shows has never happened—
We claim that it must therefore
revert to the heirs at law of the
Deceased. John Jennings was heir
at law of the Deceased & appellant
is his widow & therefore on his
at law of the said Deceased &
entitled to an interest in the
property under the statute of descent,
which interest she is entitled to
reclaim under the general prayer for
relief in her Bill

It is very desirable that
the Court should construe the
Will in this case as a guide to
future proceedings in the case
unless they enter a final
decree here —

A. Webster
Atty for Appellant,

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2213
Jennings 66
vs
Jennings }

Argument for
Appellant

Filed Apr 17. 1861
A. Ireland
Clerk

A. Webster
atty for Appellant

Copy
Pleas before the Honorable J. B. Howe Judge of the
Sixth District of the State of Illinois at a term of the Circuit
Court begun and held at the Court House within and for the
County of Rock Island and State aforesaid on the second Monday
the fourteenth day of January A.D. 1861

Be it Remembered that on the twenty fifth day of
April in the year of our Lord One thousand Eight hundred
and fifty nine a writ of Summons was sued out of the
office of the Clerk of the Circuit Court aforesaid which was
and is in words and figures as follows To wit

State of Illinois The People of the State of Illinois
Rock Island County To the Sheriff of Rock Island County
Greeting

We Command you to summon
Elizabeth Jennings David B Jennings Thomas Jennings and
Andrew Jennings if to be found in your County, personally
to be and appear before the Circuit Court of said County on the
first day of the next term thereof, to be holden at the Court House
in Rock Island on the second Monday in the month of May
next to answer to a bill of Complaint, filed in our said
Circuit Court on the Chancery side thereof against them
by Lorina Jennings. And Have you then and there this
writ and make due return thereon in what manner you
execute the same. Witness Quincy McNeil, Clerk of our Circuit
Court and the Seal thereof affixed at Rock Island this 25th day of April
in the year of our Lord one thousand Eight hundred and fifty nine

Seal
Clerk

Quincy McNeil clerk

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which said writ of Summons was duly returned with the following indorsements thereon in words and figures as follows to wit "I Have served the within Summons by delivering a copy to the within named Elizabeth Jennings David B Jennings and Thomas Jennings this 28th day of April AD 1859

M D Merrill Sheriff of
Rock Island County by
C A McLaughlin Deputy"

"And also

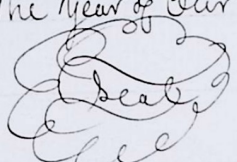
"I Cannot in my County find the within named Andrew Jennings April 29. AD 1859

M D Merrill Sheriff of Rock Island County
By C A McLaughlin deputy

And afterwards to wit on the 7th day of July in the year of Our Lord one thousand Eight hundred and fifty nine the following writ of Summons was sued out of the office of the Clerk of the Circuit Court aforesaid which was and is in words and figures as follows to wit

State of Illinois) The People of the State of Illinois
Rock Island County) To the Sheriff of Jo Davies County
Greeting We Command you to Summon Andrew Jennings Impleaded with Elizabeth Jennings, David B Jennings and Thomas Jennings - if to be found in your County personally to be and appear before the Circuit Court of said Rock Island County on the first day of the next term thereof to be holden at the Court House in Rock Island on the second Monday

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in the month of September next to answer a bill of Complaint
filed in our said Circuit Court on the Chancery side thereof against
him by Lovina Jennings. And have you then and there this
writ and make return thereon in what manner you Execute the
same Witness Quincy McNeil Clerk of Our Circuit Court
and seal thereof affixed at Rock Island this 7th day of July in
the year of Our Lord One Thousand Eight hundred and fifty nine.
 Quincy McNeil Clerk

Which writ of Summons was duly returned into the bail
office of the Clerk of the Court aforesaid with the indorse-
ment in words and figures as follows To Wit

"I have served the within Summons by delivering a copy
to the within named Andrew Jennings

Wm H Conlee Sheriff of Adams County
per J M Conlee Deputy July 21st 1859

And Afterwards to wit on the Thirtieth day of August
in the year of our Lord One Thousand Eight Hundred and
Sixty The Complainant appeared by her Attorneys
and filed or caused to be filed in the Office of the Clerk
of the Circuit Court aforesaid her certain Bill of Complaint
which is in words and figures as follows to wit

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State of Illinois To the September Term A.D. 1860
Rock Island County, ^{2^d} of the Circuit Court of said
County & State

4.

To the Honorable John H. Home
Judge of said Court in Chancery sitting
Your Petitioner Lovina ^{Jennings} of said
County respectfully represents unto your
Honor that she is the widow of the late
John Jennings who died on or about
the 3rd day of May, ¹⁸⁵⁷ in said Rock
Island County - That the said John
Jennings was a son & heir at law
of one David Jennings who died on
or about the 29th day of January A.D. 1856
in said County - That the said David
Jennings was in his lifetime and at
his death the owner in Fee Simple
of the following described real estate
situate in said County to wit
one hundred acres on the east
end of the South West quarter of
Section northy-one (31) in Township
no. nine (9) north of Range no
two (2) east of the fourth P. M.
together with other property both real
and personal estate. That the
said David Jennings died testate
having during his lifetime made &
executed his Last Will & Testament.

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a copy of which is hereto attached
marked Exhibit "A" and is hereby
made a part of this Petition -

That one Elizabeth Jennings of said
County (and whom your Petitioner prays
may be made a party defendant
to this Petition) was & is the widow
of said David Jennings; that the
said David Jennings by his last
will & testament devised unto the
said John Jennings the said above
described real estate upon the
condition that he, said John Jen-
nings should together with one
Thomas Jennings, who is also a son
& heir at law of the said David
Jennings & to whom he devised
certain other real estate in said
Will & testament described support
& take ^{good} care of his wife the said
Elizabeth Jennings during her lifetime.
That the said Will & testament
was on the 7th day of February 1856
filed for record & recorded in
Volume "A" at page no. 206 of Wills
in said County & that the same
was then & there duly proved before
The Court of Probate of said County -

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Your Petitioner further represents unto
your Honor that under & by virtue of
said last Will & Testament at the
death of the said Daniel Jennings, the
said John Jennings entered into &
took possession of the said above
described One Hundred acres of land
That the said John Jennings remained
in & kept peaceable possession of said
real estate during his lifetime & until
his death before mentioned and made
lasting & valuable improvements thereon
by & with the consent of the said Elis-
abeth Jennings - That the said John
Jennings during his lifetime after the
death of the said Daniel Jennings supported
& took good care of the said Elisabeth
Jennings, that the said John Jennings
all of the time until his death after
the death of said Daniel Jennings treated
the said Elisabeth Jennings with great
kindness and affection & furnished her
with all the food & raiment care
& attention which she needed and
& treated her in all respects with
great kindness & maternal care -
That by the laws of the State of Illinois
at least are included one half of the
said One hundred acres of real estate

*

in the same manner & style as the
said John Jennings had theretofore done
that your Petitioner was then & there
ready able & willing & there & there
offered in a kind & respectful
manner to support & take good
care of her the said Elisabeth
Jennings during her natural life
as the said John Jennings had there-
fore done, that the said C^t & John
son as administrator aforesaid
and for and on behalf of your Pe-
titioner did at once after he was
appointed administrator aforesaid
kindly & in a peaceful manner
offer to support and take good
care of the said Elisabeth Jennings.

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decided to your Petitioner upon the death
of her husband the said John Jennings -
That there is not nor ever has
been any child or children as the issue
of the said marriage of your Petitioner
with said John Jennings, that at the
time of the death of the said John
Jennings your Petitioner was on a visit
to her relatives & friends in the State
of Pennsylvania but immediately on
hearing of the death of her said husband
returned to said Rock Island County
and arrived at her former home the
residence of the said John Jennings at
his death within about two weeks
after the death of said John Jennings
That said John Jennings died intestate
that E. H. Johnson Esq on the 10th day of
June AD 1857 was duly & lawfully appointed
the administrator of the estate of
the said John Jennings & on the 6th
day of July AD 1857 filed a duly approved
bond as such administrator
That your Petitioner at once upon her
said return home from her said visit
offered to continue the support & to
take good care of the said Elizabeth
Jennings during her natural life in
the manner & style as the said John

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Jennings was by said Will required to do. That your Petitioner has always since the death of said John Jennings been ready able & willing to support & take good care of the said Elizabeth Jennings and has after offered in a kind & peaceful manner so to do & now hereby offers so to do according to the terms of said last Will & Testament and in the same manner as the said John Jennings was by said Will required to do - That the said C^t Johnson as said Administrator and for & on behalf of your Petitioner has after since the death of said John Jennings kindly offered to take good care of the said Elizabeth Jennings during her natural life as the said John Jennings was by said Will required to do. Your Petitioner further represents to your Honor that the said David Jennings in & by his said last Will & Testament gave the said Elizabeth Jennings the power & right to sell the said one hundred acres of real estate only upon the express condition therein contained to wit, "If the said John Jennings together with the said Thomas Jennings should fail to give her said Elizabeth Jennings a good support

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Your Petitioner further represents to your Honor that the said Elisabeth Jennings well knowing that the said John Jennings did after the death of the said Daniel Jennings and until his said John Jennings death, support & take good care of her said Elisabeth Jennings & also well knowing that your Petitioner as the widow of the said John Jennings was able & willing & would continue to support & take good care of her said Elisabeth Jennings, did a few years after the death of the said John Jennings wrongfully, unlawfully & fraudulently & expell your Petitioner out of & from the possession of the said one hundred acres of real estate & every part thereof and that the said Elisabeth Jennings has hitherto all the time since the death of the said John Jennings unlawfully, wrongfully & fraudulently kept your Petitioner out of & from the possession of the said real estate & every part thereof. And your Petitioner further represents unto your Honor that the said Elisabeth Jennings did on the 31st day of August A.D. 1857 by a marriage deed fraudulently, wrongfully

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and corruptly sell a conveyance to Daniel B Jennings of Rock Island County (whereas your Petitioner prays may also be made a party defendant to this Bill) thirty acres of the said one hundred acres of real estate described as follows to wit commencing at sixty rods east from the north west corner of the South west quarter of section no. thirty-one (31) Township no. nineteen north of Range no. two east, thence running ~~west~~ ^{east} thirty rods, thence running south one hundred & sixty rods thence running west thirty rods, thence north one hundred & sixty rods to the place of beginning, and that the said Daniel B Jennings well knew that the said conveyance to him was wrongful & unlawful & fraudulent, and that the said Elizabeth Jennings died on the 31st day of August A.D. 1857 by a warrantee deed wrongfully & unlawfully & fraudulently conveying other forty acres of the said one hundred acres to one Thomas Jennings of Rock Island County (whereas your Petitioner prays may be made a party defendant to this Bill) described as follows to wit commencing at the south east corner of the South west quarter of Section no. thirty-one (31) Township no. nineteen

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width of range no two east - running
 thence west forty rods, thence north
 one hundred & sixty rods, thence
 east forty rods - thence south one
 hundred & sixty rods to place of
 beginning, and that the said Thomas
 Jennings then well knew that the said
 last mentioned conveyance to him
 was wrongful, unlawful & fraudulent,
 and your Petitioner further represents
 unto your Honor that the said Elizabeth
 Jennings did on the 31st day of August
 A.D. 1857 by a warrantee deed unlawfully,
 wrongfully & fraudulently convey the
 remaining thirty acres of the said
 one hundred acres to one Andrew
 Jennings of said Rock Island County
 and your Petitioner prays may also
 be made a party defendant to this Bill
 and that the said Andrew Jennings
 well knew that the said conveyance
 to him was unlawful, wrongful, and
 fraudulent.

Your Petitioner in view of the great
 wrongs & frauds herein before named
 & in as much as she cannot have
 obtained full adequate & complete remedy
 therefrom at law & in as much as
 said matters are only removable in a

Court of Equity prays that a process of subpoena may be issued out of the office of the Clerk of said Court against said Elizabeth Jennings, Thomas Jennings, David B Jennings & Andrew Jennings, commanding them to appear before said Court on the first day of the said Term to fully & without prevarication or evasion answer this Bill (but not under oath their oath being hereby expressly waived) & that on the final hearing of this Bill your Honor may well judge order & decree that the said conveyances by the said Elizabeth Jennings to the said Thomas Jennings, David B Jennings & Andrew Jennings be cancelled, annulled & held for naught & that your Petitioner may be authorized and allowed by proper decree of your Honor to enter into possession of said land upon the same terms & conditions that the said John Jennings during his lifetime occupied & possessed the same, and that your Petitioner may be permitted to support & take good care of the said Elizabeth Jennings & receive & enjoy all the rights which the said John Jennings his heirs or assigns could have or enjoy under & by virtue of said last Will & Testament

would that your Petitioner may have such
utter & further relief as equity & good
conscience may require as to your
Honor shall seem meet & proper &c

Knex Reed & Webster } Leonine Jennings
Solicitors for Plaintiff } Complainant

Copy of Will referred to in above Bill
(A)

Know all men that I David Jennings
being old & infirm - knowing that my
time in this state of things is short
I hereby make my last Will & Testa-
ment - First;

I will to my wife all my real estate
& personal property, in a ward all
that belongs to me, to have the disposing
of in any way that will best
support her while she lives, but if my
sons - John & Thomas take good care
of their Mother her lifetime they
shall have the farm on which we live
between them, but if they should fail
to give her a good support she can
sell the land or any part of it to
support herself. But if John & Thomas
consent with these conditions they
can take possession of the land im-
mediately after my death. It is my

will that John should have one hundred acres on the east end of the South West quarter of Section (31) Township nineteen two east, and Thomas to have sixty acres on the west end of the same quarter, also forty acres of the South East quarter of the same Section, which will make one hundred acres to each one - and further what money or property may be left at my wife's death besides the above described land & fixtures horses & wagon I wish it to be equally divided among my other children namely Rachel, Andrew, David, Elizabeth & Sarah. It is also my will that John W & David B Jennings shall be executors of the estate to do the necessary business thereof. Given under my hand & seal this eighteenth day of February One thousand eight hundred & fifty-two

Witness -

Daniel Jennings

{ Thomas Crawford }
 { Rachel Wainwright }

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And afterwards to wit on the 4th day of March A.D. 1861
The Defendants by their solicitors Wilkinson & Pleasant
appeared and filed with the Clerk of the Court aforesaid their
Certain Demurrer to the Bill of Complaint of the Complain-
ant which demurrer was and is in words and figures
as follows

State of Illinois } Rock Island County Circuit Court
Rock Island County } in vacation after January Term A.D. 1861

The ~~first~~^{joint} and several demurrers of Elizabeth Jennings
Thomas Jennings David B Jennings and Andrew Jennings
Defendants to the amended bill of Complaint of Lovina Jennings
Complainant.

These defendants by protestation not confessing any of
the matters or things in said Complainants said amended
bill of Complaint set forth to be true in manner and form as
therein charged say they are advised by Counsel that there
is no matter or thing in said amended bill of Complaint
contained good and sufficient in law to call on these
defendants to answer the same, but that there is good
cause of demurrer thereunto, and therefore these defendants
do demur thereto and say that the said amended bill
of Complaint if true contains no matter of Equity
whereon this Court can ground a decree or give said
Complainant relief. Wherefore and for divers other
errors imperfections and insufficiencies in the said
amended bill and appearing on the face thereof these
defendants do demur as aforesaid, and crave judgment
of this Honorable Court whether they shall be compelled

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further to answer the said amended bill and pray to be
hence dismissed with their costs &c
Wilkinson & Pleasants
Sols^r for said def^s

And afterwards in vacation after the Jan^y Term AD 1861
The Cause coming on to be considered by the Court on the
Demurrer of the dependants and the Court being fully
advised in the premises entered its decision by indorsement
on the Demurrer aforesaid as follows

" March 14. 1861 "

" Cause examined & Considered & the Demurrer Sustained
J^r H Howe "

And afterwards to wit on the Tenth day of April AD 1861
There was filed in the office of the Clerk of the Court aforesaid a
certain paper writing on which was the indorsement in words
and figures as follows to wit "We agree that this order shall
be entered as of Jan^y 7/61

"Wilkinson & Pleasants Sols^r for Def^s"

which order so filed was and is in words and figures
following to wit

State of Illinois }
Rock Island County }
Rock Island County }
Rock Island County Circuit Court
of January Term 1861

Lerina Jennings }
vs }
Elizabeth Jennings and Others }
In Chancery

at this day came the Complainant by Webster her Solicitor

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and the defendants by Wilkinson & Pleasants their solicitors and the said complainant having filed her amended bill herein in pursuance of the leave given by the Court for that purpose. It is now by the agreement of said parties by their said solicitors ordered that the defendants & each of them have leave to plead answer or demurr to said amended bill in the vacation succeeding the present term and if the said defendants or any of them shall demur to said bill that the matters thereon arising shall be heard and determined by the Judge of this Court in vacation with like effect as if heard and determined in term time, and that the Order of said Judge thereon shall be entered of Record as of the present term. And now on the 14th day of March 1861 in vacation after the January Term aforesaid came the aforesaid parties by their solicitors and the said defendants having on the fourth day of the present month filed their demurrer to Complainant's amended bill by agreement of said parties by their said solicitors the matters arising upon the said demurrer are now submitted to the Judge of said Court for hearing and determination and the said Judge having heard the same and being now sufficiently advised in the premises, it is ordered and adjudged that the said demurrer be sustained and that the complainant take nothing by her said bill and that the same be dismissed.

To which said Order of said Court in sustaining said demurrer and dismissing said amended bill the said Complainant by her solicitor then and there excepted & prayed an appeal to the Supreme Court, and the same is

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herely allowed on Condition that the said Complainant file an appeal Bond in the penal sum of One Hundred dollars with George Leslie as security, by the 15th day of April next. And that this order be entered of Record as of the January Term of said Court last past.

And in Conformity with the Order of the Court as above, the Complainant by her Solicitor on the Tenth day of April Filed with the Clerk of the Court aforesaid in his Office in the City of Rock Island her certain Appeal Bond which was and is in words and figures as Follows To wit

Know All men by These presents that we Lovina Jennings and George Leslie are held and firmly bound unto Elizabeth Jennings David B Jennings Thomas Jennings and Andrew Jennings in the penal sum of One Hundred dollars for the payment of which well and truly to be made we bind ourselves our heirs and administrators jointly severally and firmly by these presents Witness our hands and seals this 2^d day of April A^D 1861

The Condition of this above obligation is such that whereas The said Elizabeth Jennings David B Jennings Thomas Jennings and Andrew Jennings did at the January Term A^D 1861 of the Rock Island County Circuit Court in the State of Illinois, recover a judgment against the above bounden Lovina Jennings for costs in a certain Chancery Suit in said Court pending between the parties

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aforesaid, from which said judgment the said Lovina Jennings has taken an appeal to the Supreme Court of the State of Illinois. Now if the said Lovina Jennings shall prosecute her appeal with effect & shall pay whatever judgment may be rendered by the Court upon dismissal or trial of said appeal then the above obligation to be void otherwise of full force and effect

Lovina Jennings
George Leslie



State of Illinois
Rock Island County } I Edward H Bousman Clerk
of the Circuit Court in and for the County & State aforesaid
herby Certify that the above is a correct copy of the
proceedings had in the Court aforesaid in the Cause
of Lovina Jennings

vs

Elizabeth Jennings and others as appears of record
in my Office

Witness my hand and the Seal of said
Court hereto affixed at my Office in the
City of Rock Island this 12th day of April
A.D. 1861

Edward H Bousman
Clerk



State of Illinois
Third Judicial District

of the April Term 1861
of the Supreme Court of the
said State, at Ottawa

Louise Jennings

Appellant

vs
Elisabeth Jennings

et als. Appellees

And now comes the
Appellant in the above entitled
cause by Attorney her Solicitor and
assigns for error - on the foregoing
Record - The order of the court below
in sustaining the Demurrer to, and
in dismissing the Bill of Complaint,

A. Webster

Solicitor for Appellant

And now comes the said appellees by
Wilkinson & Pleasants their attorneys
and say that in the record and
judgment aforesaid, there is no such
error as that complained of by the
said appellant, and this they the
said appellees submit to this Honorable
Court and pray that the judgment
of said Circuit may in all things
be affirmed, and that they may
renew their costs herein

Wilkinson & Pleasants
attys for appellees

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Jennings
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Jennings

Filed April 17, 1861
S. Island
Ch.

S. P. W.