

14561

No. 14561

Supreme Court of Illinois

Armstrong

vs.

Armstrong

STATE OF ILLINOIS,

122
SUPREME COURT,

Apr. Term 1844
THIRD GRAND DIVISION.

(Reprinted)

No.

207

122

J. W. Middleton & Co., Stationers, 196 Lake St.

For the Hon. Judge Beckwith

Jameson & Morse, Printers, Chicago.

IN THE SUPREME COURT,

THIRD GRAND DIVISION, APRIL TERM, A. D. 1864.

JACOB ARMSTRONG,	} <i>In Chancery.</i>
<i>Appellant,</i>	
vs.	
MARY ARMSTRONG,	
<i>Appellee.</i>	

POINTS AND AUTHORITIES OF THE APPELLANT.

I.

In cases of divorce the statute provides as follows :

“When a divorce shall be decreed, it shall and may be lawful for the court to make such order touching the alimony, and maintenance of the wife, the care, custody and support of the children, or any of them, as from the circumstances of the parties and the nature of the case, shall be fit, reasonable and just. And in case the wife be complainant, to order the defendant to give reasonable security for such alimony and maintenance, or may enforce the payment of such alimony and maintenance in any other manner consistent with the rules and practice of the court, and the court may, on application, from time to time, make such alterations in the allowance of alimony and maintenance, as shall appear reasonable and proper.”

R. S., Chapter 33, entitled “Divorces,” Sec. 6.

The words alimony and maintenance, seem to have been used by the Legislature in almost synonymous terms, and both mean, as applied to the wife—on a divorce being granted—the support and maintenance of the wife, which the court may enlarge and diminish from time to time, on application, as the conditions and circumstances of the parties shall require.

Burrill's Law Dictionary, vol. 1, page, 611.

Wheeler vs. Wheeler, 18 Ill. R., 39.

Blackstone's Com., 3, 94.

As defined by numerous and reliable authorities, "alimony" is maintenance, offered to the wife, when the husband refuses to give it; or when his improper conduct compels her to separate from him. It is not a portion of his real estate to be assigned to her in fee-simple, subject to her control, or to be sold at her pleasure, but a provision for her support, to continue during their lives, or so long as they live separate.

Martin J., in Wallingsford vs. Wallingsford, 6

Harris & Johnson, 485.

Parsons vs. Parsons, 9 *N. H.*, 309.

Woolridge vs. Lucas, 9 *B. Monroe*.

There is no fixed rule as to the amount of alimony, but it is in the discretion of the court; yet such a discretion is not an arbitrary but a judicial discretion, and which may be inquired into on appeal.

Bishop on Marriage and Divorce, Chap. 29, sec. 603.

Foote vs. Foote, 22 *Ills. R.*, 425.

The general rule is, in regard to permanent alimony, that the wife is entitled to support, corresponding to her rank and condition in life and the fortune of her husband, and when she is compelled to the separation or divorce by the wrongful conduct of the husband, and his delinquency is established, she should be liberally supported. Yet it is not the design of the law that she should be supported in idleness, but that, as when the marriage relation existed, she should contribute her services in aid of the family establishment.

Bishop on Marriage and Divorce, Chap. 29, Sec. 603.

Foote vs. Foote, 22 *Ills. R.*, 425.

The appellant submits and insists, that in the absence of any ecclesiastical court in this State, a Court of Equity, by reason of its equitable powers, has no power to grant either divorces, or decree alimony, except as such power has been conferred upon it by the statute. And that it is by virtue of the statute alone, and not by virtue of any equitable powers resting in the court, as a Court in Chancery, that a Court of Equity has power to grant either divorce or make any order for the alimony and maintenance of the wife; and in making the provisions, ~~the Legislature has~~ for such alimony and maintenance of the wife, ~~The Legislature has not~~, nor was it designed to confer upon the courts of this State any greater or different powers, to provide for the alimony of the wife, on decreeing a divorce, than was originally vested in the ecclesias-

tical courts of England. On a divorce being granted (except when the marriage was void *ab initio*), the ecclesiastical courts of England had the power to make such orders, touching the alimony of the wife, as, from the circumstances of the parties, and the nature of the case, should be fit, reasonable and just; and from time to time to make such alterations in the allowance of alimony on the application of either party, as should appear reasonable and proper. If the Legislature of this State had designed to empower the Circuit Courts of this State, on the granting of a divorce, when the wife was complainant, to decree to the wife for her alimony and maintenance, portions of the real estate and money, in gross, of the husband, why did they provide that the said courts should have power on application, from time to time, to make alterations in the allowance of alimony and maintenance, and also if she were divorced for the fault or misconduct of her husband, she should not thereby lose her dower or the benefit of any jointure?

Bishop on Marriage and Divorce, Chap. 2, Secs.

21, 22, 23 and 24
Camp vs. Morgan, Ind. Eq. R., 91, 98.
Perry vs. Perry, 2 Paige, 501.
Davol vs. Davol, 13 Mass., 264.

The statute makes no provisions, nor confers any power upon the courts of this State, to make any other order, after granting a divorce, than touching the alimony and maintenance of the wife, the care, custody and support of the children, or any of them; and to enforce the payment of such alimony and maintenance, in case the wife is complainant, by ordering the complainant to give reasonable security for such alimony and maintenance, or in any other manner consistent with the rules and practice of the court; a power no greater, or in any manner different from that vested in the ecclesiastical courts of England, so far as the question of alimony is concerned.

The statute gives the court no power to set off to the wife any portion of the husband's real estate, in fee simple, subject to her absolute control and disposal: but merely gives the courts power to compel the husband to provide, securely to the wife, in case of a divorce, proper and reasonable support and maintenance. Yet it is admitted that in case of the delinquency of the husband, such support and maintenance should be liberal; but not such as should enable her to live in idleness and luxury; for such is not the design of the law, as has been well said by Judge Caton in *Foot v. Foot*, 22 Ill. R., 425, but such as should enable her to live as comfortably, and with no more exertion and rigidity of economy, than if she were living in happiness with her husband.

In Kentucky, Tennessee, Alabama, and in some other of the United States, the courts of such States are expressly authorized by statute, on pronouncing the decree of divorce, to regulate and order the division of the estate, both real and personal, of the husband, in such manner as to the court shall seem just and proper. Yet without such express power conferred upon the court by the statute, the courts of such states would have no such power.

Bishop on Marriage and Divorce, Chap. 27, Sec. 563.

Davol vs. Davol, 13 Mass., 264.

The statute provides that the court may, on application, from time to time, make such alterations in the allowance of alimony, and maintenance, as shall appear reasonable and proper. Such being the case, if the court has the power, and thus sets off to the wife a portion of the real estate of the husband, absolutely in her own right, and in fee simple, and compels the husband to make such conveyance, and also to pay her a sum of money in gross, and the wife receives the property and money, and so improvidently uses the same that she eventually loses all of the property thus acquired, what limit is there to the court's power or conscience? May it not again, notwithstanding the improvidence of the wife, set off another portion of the real estate of the husband, and again dive deep into his pockets, and resources, and lavish his little remaining all upon an improvident wife; and although that little all may have been acquired by the husband's industry subsequent to the divorce and first allowance of alimony, for his own and the support of the children who have chosen or been permitted by the court to remain with him, and thus constitute the court an instrument of vindictive tyranny and oppression, as against the fallen husband? Such, it is contended, is neither the letter nor the spirit of the law. It is the province of the court to administer and enforce the law as made; not to make new laws, or to change the laws of the descent of property in advance of Legislative enactments authorizing the same.

Almond vs. Almond, 4 Randolph, 662.

Wallingford vs. Wallingford, 6 Harris & Johns., 486.

In the case of *Bergen vs. Bergen, 22 Ill. R., page 189*, the Court says: "Although it is usual to regard the income of the delinquent husband as the fund out of which alimony is to be decreed, it is by no means universal. A portion of the estate may be decreed. In the case of *Bursler vs. Bursler, 5 Pickering, 427*, the Court went beyond the income of the husband, and ordered a sale of the delinquent husband's estate."

The case of *Bursler vs. Bursler*, 5 *Pickering*, 427, the Court will see, on inspection, was this: The wife made application for an increase of alimony, on account of the illness of the wife requiring extraordinary expenses. The husband's real estate was worth \$2100; his personal property \$300, and his debts amounted to about \$600. His income from his real estate was about \$42, and from his labor about as much more. The Court simply remarked in that case, that the situation of the petitioner required extraordinary expenses, and if the parties had not been divorced, the respondent would have been morally obliged to spend more than his income, and to sell part of his real estate, to pay those expenses, and his improper conduct ought not to excuse him from doing what by his marriage contract, it would have been his duty to perform. And the Court, therefore, ordered the allowance to be increased from \$30 to \$60 a year, but did not order any sale of the delinquent husband's estate, but left it entirely to the husband to decide whether he would have to sell his real estate or not.

And further, in the case of *Bergen vs. Bergen*, a division of the property of the husband was made by the assent and approbation of the husband, and the Supreme Court, very properly, would not disturb such decree on error.

In the case of *Stewartson vs. Stewartson*, 15 *Ill. R.*, 145, the wife, applying for the divorce, held lands in her own name, forty acres of which had been purchased with her own money, and forty acres had been purchased with the funds of the husband, and the Court, very properly decreed that she should retain the forty acres purchased with her funds; but that the wife should convey to the husband the forty acres purchased with his funds. Also that the husband should pay the wife \$30 per year as alimony, which with rental of the forty acres retained by her, made her income \$70 per year, while the husband's income, after deducting the \$30 per year, would be but \$90 per year, and on appeal, the Supreme Court refused to disturb the decree, but said they considered the allowance liberal, considering the incomes of both.

In the case of *Wheeler vs. Wheeler*, 18 *Ills. R.*, page 39, a decree of divorce was rendered against the husband on default, the husband being beyond the jurisdiction of the Court, and having taken all of his personal property with him, and nothing but the real estate of the husband was left, out of which the wife could be supported; and the Supreme Court refused to disturb the decree, as no evidence was before it, and they would, therefore, presume it was sufficient to authorize the decree. For

ought that appeared to the Court, the real estate was held in trust by the husband, and bought with funds of the wife.

The ecclesiastical courts of England, in granting alimony, confined themselves to the income of the husband, taking into account all the sources from which it is derived; also the income of the wife in her own right, arising from her separate estate, and in such cases the amount of alimony allotted ranges from one-half, which is the highest, down to two fifths to one-third of the united income of both parties.

Cook vs. Cook, 2 *Phillimore*, 40, (1 *Ecc'l R.*, 178.)

Smith vs. Smith, 2 *Phillimore*, 235, (1 *Ecc'l R.*, 244.)

Street vs. Street, 2 *Addams*, 1, (2 *Ecc'l R.*, 195.)

Durant vs. Durant, 1 *Haggard*, 528, (3 *Ecc'l R.*, 231.)

Kempe vs. Kempe, 1 *Haggard*, 532, (3 *Ecc'l R.*, 233.)

Bishop on Marriage and Divorce, Chap. 29, Sec's 605, 607, 611, 612, and 617.

In the calculation of the husband's income, the estimated value of all marketable securities must be included; also reversionary property; but not a mere ~~exception~~ ^{of pullancy}. The amount of capital embarked, or the particulars of partnership concerns ought not to be stated, but only the income.

Bright's Husband and Wife, Vol. 2, page 358.

Higgs vs. Higgs, 3 *Haggard*, 472, (5 *Ecc'l R.* 186.)

The Court also takes into consideration, any separate income, of which the wife may be in receipt, whether arising from separate property, or pin money, or from an allowance secured to her by a deed of separation.

Bright's Husband and Wife, Vol. 2, page 359.

De Blaquiere vs. De Blaquiere, 3 *Haggard*, 322, (5 *Ecc'l R.*, 126.)

If the wife's separate income is adequate, no allowance of alimony is made.

Bright's Husband and Wife, Vol. 2, page 359.

Bishop on Marriage and Divorce, Chap. 27, Sec. 562.

And the usual method of computation is, to add the wife's annual income to her husband's, consider what, under all the circumstances, should be allowed her out of the aggregate; then from the sum so determined deduct her separate income, and the remainder will be the annual allowance to be made for her alimony.

Bishop on Marriage and Divorce, Chap. 29, Sec. 611.

Cook vs. Cook, 2 Phillimore, 40, (1 Ecc'l R., 178.)

Street vs. Street, 2 Addams, 1, (2 Ecc'l R., 195.)

Durant vs. Durant, 1 Haggard, 528, (3 Ecc'l R., 231.)

The evidence in the case shows that the husband, the appellant, owned a farm in Palmyra or ~~Ga~~ Grove, in Lee county, of from 120 to 130 acres of land; 40 to 60 acres of which was plough land, and the remainder timber land; and forty acres of land bought of Albert Jennes, and rented to Eastwood; and some four or five pieces of wild land, mostly prairie; and some six or seven houses and lots in Dixon, Lee county, all of which property above-mentioned, is worth from eight to ten thousand dollars.

That he owns a horse and buggy worth from one hundred and seventy-five to two hundred and ten dollars, and has due him from different persons, about twenty-four hundred dollars, besides having realized from a sale at his farm, between two and three hundred dollars; and is in debt to the amount of about five thousand one hundred dollars. That he is receiving from rents of his houses in Dixon, about two hundred and forty-four dollars per year; and the interest from debts due him amounts to about one hundred and sixty-six dollars per year, so that his annual income from all his property, both real and personal, except his farm and the forty acres bought of Jennes, and rented to Eastwood, of which the evidence of the rental value, making no deductions for the payment of taxes, insurance, and other outgoings, would be about \$410.

The evidence also shows that the wife, the appellee, has in her own right, a house and lot in Dement's addition to Dixon, Lee county, worth from \$1,000 to \$1,200, purchased with funds of the husband, except as to about \$600 paid by the wife for the balance of the purchase money, at the time the property was conveyed to her, or in trust for her. That she has \$300 at interest, at ten per cent. That she keeps a dairy of three cows, and has a life annuity of \$250 a year from the estate of a deceased

brother; and that her annual income in her own right from the rents of her house and lot, interest money and annuity, is from \$350 to \$400.

There is no evidence, showing, or tending to show, the circumstances of the parties in society, and their social position in life, or the wants or requirements of the wife for her proper alimony and maintenance, except that the evidence generally discloses plainly enough, that both parties are laboring people, and enjoy good health, and that the wife has, between the time that the husband left the house, where they lived, and went on to his farm, and the time of filing her bill in this cause, or between the years 1858 and 1861, from her income, after supporting herself, been enabled to accumulate and deposit in bank, and keep at interest, several hundreds of dollars.

And from a review of the whole evidence, it is very evident, that the court below, in determining the question of alimony, did not take into consideration the circumstances of the parties, and their social position; the amount of property and resources of the husband, and his ability to pay the sum that the court awarded against him; or in other words, the wants of the wife, and the circumstances of the husband, as is asserted to be the rule, by Judge Caton, in *Foot v. Foot*, 22 Ill. R., 426.

If the court was induced to make the allowance it did, on account of the delictum of the husband, it is vindictive, and unwarranted by the proof and circumstances of the parties, who, from the testimony of Sarah E. Armstrong, their own daughter, taken before Harvey E. Morgan, and on pages 156 to 175, of the Record, in this case, some time in the early part of the summer of 1858, quarreled and separated, and that after that time, the parties lived together but a very short time; and that it was after such separation, and while the husband was living alone, that the delictum on the part of the husband is alleged and proved to have been committed.

II.

The appellant further submits, that it was erroneous for the court below to render a judgment or decree against the appellant, and in favor of the solicitors of the appellee, for the sum of \$200, for their fees for services rendered to her in the prosecution of her bill of complaint. There was no suit pending in the court between the appellant and Messrs. Barge & Footke, said solicitors. They were not parties to the bill of complaint, and no such claim was set up in the bill of complainant, for said

Barge & Fofke, and that the rendering of such decree was unwarranted by the pleadings and evidence in the case, and was wholly illegal; besides the husband is not liable to the legal advisers whom the wife may employ, either in prosecuting or defending a divorce suit.

Bishop on Marriage and Divorce, Ch. 27, sec. 571.

Dorssy vs. Goodnow, Wright, 120.

Shelton vs. Pendleton, 18 Conn., 417.

Wing vs. Hurlbut, 15 Verm., 607.

III.

It is further insisted, by the appellant, that the court erred in decreeing, that, after the filing of a copy of such decree in a foreign county, for record, the same and the sums of money therein adjudged, should be a lien upon all and singular the goods and chattels, lands and tenements, and real estate of the appellant, situate and being in such foreign county.

The statute provides: That all decrees given in causes in equity in this state, shall be a lien on all real estate, respecting which such decree shall be made; and whenever, by any decree, any party to a suit in equity, shall be required to perform any act other than the payment of money, or to refrain from performing any act, the court may in such decree order that the same shall be a lien upon the real or personal estate, or both, of such party, until such decree shall be fully complied with; and such lien shall have the same force and effect, and be subject to the same limitations and restrictions as judgments at law.

R. S., Chap. 21, Entitled Chancery, sec. 45.

The decree rendered by the court below was, so far as the question of alimony and solicitors' fees are concerned, except as to the conveyance of the real estate therein named, a decree for the payment of money, which the statute by intendment excludes from being made a lien upon real estate, except to the extent, and under the same limitation as a judgment at law, the lien of which extends only to the county in which it is rendered.

R. S., Chap. 21, Entitled Chancery, sec. 14.

" " " " " " 45.

Bustard et al. vs. Morrison et al., 1st Scam., 235.

The statute gives the court power to order the defendant, where the wife is complainant, to give reasonable security for alimony and maintenance, or to enforce the payment of such alimony and maintenance in

any other manner, consistent with the rules and practice of the court; but it gives the court no power to render the filing of a copy of the decree in a foreign county for record, a lien upon all the property, both real and personal, of the appellant, situate in such foreign county.

R. S., Chap. 33, Entitled Divorces, sec. 6.

Bustard et al. vs Morrison et al., 1st Scam., 235.

The proper order, it is contended, would be, in such cases, to order that the defendant secure the payment of the alimony decreed, either by the giving to the complainant a mortgage upon real estate, or other security, and that he be enjoined from transferring or disposing of his property, until such mortgage or security be executed and delivered, and that on the execution and delivery of such mortgage, or security, such injunction be dissolved, and the lien created by the decree removed.

Errissman vs. Errissman, 25th Ill. R., 136.

The decree in this case makes the filing, for record, of a copy of the decree in Lee county, where the appellant lives, and where all the property of the defendant lies, except a lot or two of wild land, a lien upon all the property of the appellant, both real and personal, in said county, and makes no provision whatever for such lien being removed, until he has fully executed the decree, by conveying the real estate, and paying all sums of money as therein adjudged; thus completely tying the hands of the appellant, and in reality disabling him from performing the decree, by selling or disposing of any of his property to enable him to raise funds to pay the same with.

IV.

The decree of the court below gives the care and custody of the child, Mary Frances Armstrong, to the appellee, but makes no provision that the appellee shall support such child, or that any support shall be given said child, although the court decreed the appellee a large sum of money in gross, and five lots of ground, with the buildings and improvements thereon, in North Dixon, Lee county, Illinois, and notwithstanding the extraordinary allowance of alimony granted to the wife, by the court, the husband is still left liable for the support of the said child, besides the son, Jacob, committed to his custody by the court.

For the seventh error assigned, it is contended that the court had no power for enforcing the payment of the sums of money decreed; to decree to the complainant an attachment against the body of the defendant; the decree being as to the payment of such sums of money, a monied decree; and by virtue of the decree, a debt is declared to be due the complainant from the defendant, unless from the allegations contained in the bill, and sustained by the evidence, the grounds for the attachment are brought within the exceptions contained in the fifteenth section of the thirteenth article of the State Constitution, and no such grounds having been made or shown to the court, from the pleadings or evidence, the rendering of such decree by the court, was error.

In the matter of Jesse Smith, 16 Ill. R., 347.

Safford vs. Low, 20 Ill. R., 152.

Geo. P. Goodwin
Atty for Appellant

(For page Book etc.)
207
Supreme Court
Good Handwritten
April Term 1834

Jacob Armstrong
Appellant
vs

Mary Armstrong
Appellee

Point & Authorities
of Appellee

Filed April 28, 1834
L. Leland
Clerk

14561

George H. Woodson
Atty for Appellee

Supreme Court,
Third Grand Division.

April Term A. D. 1864.

Jacob Armstrong. Appellant,
vs. Mary Armstrong. Appellee. { Appellate from
Rock Island.

The counsel for appellee further submits, in written argument, that the record, which in this case, is in the case of a bill of exceptions, purports to show the evidence, fails to state that it contains all the evidence in the case, and in absence of such a statement, the presumption is that there was sufficient evidence to sustain the decree of the court below for alimony. Hence, the judgment or decree of the court below, ~~should~~ should, for this, if for ~~no~~ ^{or anticipatory} other reason, be affirmed. The affidavit of Ira C. Wilkinson does not cure the defect. The sufficiency or insufficiency of the evidence being one of the principal points in controversy in this case, the record, which, in this case, is the same as a bill of exceptions, should expressly state that it contains all the evidence. In support of these positions, we cite The Trustees of Elizabeth Town vs. Loper, 23 Ill. 90. Warner vs. Carlton, 22 Ill. 415.

Bayer & Houbre
Attys for appellee.

No. 207-122

Supreme Court.

Third Grand Division

April Term A.D. 1864

Jaime Armstrong. Appellant

vs.

May Armstrong. Appellee.

Appeal from Rock Island

Argument for Appellee

Filed May 3^d 1864.
S. Island
Clk.

Bayer & Lumber
Attys for Appellee

SUPREME COURT OF ILLINOIS,

THIRD GRAND DIVISION

APRIL TERM THEREOF, A. D. 1864.

JACOB ARMSTRONG,	}	<i>Appeal from Rock Island.</i>
<i>Appellant,</i>		
<i>vs.</i>		
MARY ARMSTRONG,		
<i>Appellee.</i>		

BRIEF AND POINTS FOR APPELLEE.

At the Nov. term of the Lee county Circuit court, A. D. 1862, appellee, complainant below, obtained a divorce from appellant, defendant below. Cause—adultery committed by defendant. Allegations of the bill—drunkenness and desertion for the space of two years, cruelty and adultery. Defence was abandoned on the trial. Hon. W. W. Heaton, judge of the Lee county Circuit court, being of counsel, this cause was tried before the Hon. Ira ~~N~~^O Wilkinson, judge of the Rock Island county Circuit court, and a jury. Defendant ordered to pay complainant \$20 per month as temporary alimony. At the February term of the Lee county Circuit court, A. D. 1863, by agreement of the parties, cause was charged to Rock Island. At the January term of the Rock Island county Circuit court, A. D. 1864, defendant was ordered to pay complainant alimony of the amount and in the manner mentioned in said decree, from which decision the defendant has taken this appeal.

In support of the decision of the court below, appellee relies upon the following points and authorities:

I.

Appellant, by his counsel, concedes, both in his assignment of errors and in his brief, that appellee is entitled to, and should receive alimony from appellant. See appellant's brief and 8th assignment of errors.

II.

Alimony will be granted in proportion to the wants of the party asking it, and the ability of the person who is to pay it; and in case of the delinquency of the husband, such support and maintenance should be liberal. The conduct of the parties should be taken into consideration in determining the amount of alimony.

Stewartson vs. Stewartson, 15 Ill. 145.
Foote vs. Foote, 22 Ill. 425.
Wheeler vs. Wheeler, 18 Ill. 39.
Bergen vs. Bergen, 22 Ill. 189.

III.

The appellant being the owner of real and personal property to the amount of \$22,000, free from all incumbrance, and having an annual income of \$2,200, the amount of alimony granted by the court below to appellee is not excessive, but scarcely adequate to the maintenance and support of the appellee.

See testimony and decree.

IV.

Unless this court can see that manifest injustice has been done, it will not disturb the decree of the court below on a question of alimony.

Stewartson vs. Stewartson, 15 Ill. 145.
Foote vs. Foote, 22 Ill. 425.
Wheeler vs. Wheeler, 18 Ill. 40.

V.

The decree of the court below requiring appellant to convey certain real estate to appellee in fee simple, is not erroneous.

Stewartson vs. Stewartson, 15 Ill. 145.
Wheeler vs. Wheeler, 18 Ill. 39.
Bergen vs. Bergen, 22 Ill. 189.

VI.

It was not error in the Court below to make the decree for alimony, and the sums of money therein mentioned, a lien upon the real and personal estate of the defendant below.

Foote vs. Foote, 22 Ill. 429.
Stewartson vs. Stewartson, 145.
Errissman vs. Errissman, 25 Ill. 138.

VII.

It was not error in the Court below to decree that defendant pay complainant's solicitors the sum of \$200 as their reasonable fees for services rendered in the prosecution of complainant's bill of complaint.

Bishop on Marriage & Divorce, §613, §571, §572.
Belcher vs. Belcher, 6 Eng. Ecc. 372.
Story vs. Story, Walk. Mich. 421.
Daiger vs. Daiger, 2 Md. Ch. 335.
Coles vs. Coles, 2 Md. Ch. 341.
Mayman vs. Jayman, 2 Md. Ch. 393.

Wood vs. Wood, 2 Paige Ch. R. 113.

VIII.

It was not error in the court to decree that defendant pay complainant the sum of \$2750, in the manner and at the times expressed in said decree, as a portion of complainant's alimony.

Stewartson vs. Stewartson, 15 Ill. 147, 148.
Bergen vs. Bergen, 22 Ill. 189.
Foote vs. Foote, 22 Ill. 429.

IX.

There is no fixed rule governing the amount of alimony. It is discretionary with the court. The usual rule is, to regard the income of the delinquent husband as the fund out of which alimony is to be decreed. But a portion of the estate may be decreed.

Bergen vs. Bergen, 22 Ill. 189.
Bursler vs. Bursler, ~~5 Ill. 127.~~ 5 Pick. 427.
Wheeler vs. Wheeler, 18 Ill. 40.
Cooke vs. Cooke, 1 Eng. Ecc. R. 178.
Smith vs. Smith, 1 " " 244.
Otway vs. Otway, 1 " " 203.

Bishop on Marriage & Divorc. § 562, § 619, § 623.

X.

In England divorces *a vinculo matrimonii* are not allowed by law; hence all questions concerning alimony there have arisen upon divorces *a mensa et thoro*. The English cases, and many of the sections in Bishop on Marriage and Divorce, cited by counsel for appellant, refer to alimony upon divorces from bed and board. But as the only divorce granted by the laws of this state is a divorce from the bonds of matrimony, these authorities are irrelevant to the case now under consideration.

Clarke et al. vs. Lott et al., 11 Ill. 105.
Bishop on Marriage and Divorce, §621, §622.

XI.

The refusal of the Circuit Court to decree that complainant should maintain and support the minor child, Mary Frances

Armstrong, was not erroneous. It is the duty of the father to provide for the support and education of his own children.

Cowles vs. Cowles, 3 Gilm. 442.
Foote vs. Foote, 22 Ill. 427.
Bergen vs. Bergen, 22 Ill. 189.

XII.

The evidence shows that complainant had a legacy from a deceased brother of \$250 per annum, which defendant received and used from 1842 until 1858, amounting in all to \$4,000, and which defendant has never restored to complainant. And for aught we know, the court below only endeavored to return a portion of this money to complainant by the decree which is now sought to be reversed, and which it was proper and lawful for the court to do. See Abstract, p. ~~211~~ 22. Record. 211.

Stewartson vs. Stewartson, 15 Ill. 145.

Bishop on Marriage & Divorce, § 620, 262.

XIII.

The record shows that defendant never paid the temporary alimony decreed to complainant by the court below, at the Nov. Term A.D. 1862. See pp. 264 and 270 of Record.

XIV.

The depositions taken before Harvey Morgan, Esq., were not used nor offered on the trial of the divorce, nor upon the trial of the question of alimony. See p. 114 to 192 of Record.

XV.

Defendant should pay all the costs.

Thatcher vs. Thatcher, 17 Ill. 66.

BARGE & FOUKE,
Attorneys for Appellee.

SUPREME COURT,**Third Grand Division,****APRIL TERM THEREOF, A. D. 1864.**

JACOB ARMSTRONG

vs.

MARY ARMSTRONG.

} *Error to Rock Island.*

BRIEF.

BARGE & FOUKE,Attorneys for Appellee.

*Filed April 29 1864**L. Leland Clerk*

In the Supreme Court of Illinois,
THIRD GRAND DIVISION.

APRIL TERM, A. D. 1864.

JACOB ARMSTRONG,
APPELLANT,
vs.
MARY ARMSTRONG,
APPELLEE. } *Appeal from Rock Island Cir. Court.*

ABSTRACT OF RECORD.

Record p.	
1	<i>Placita.</i>
2 to 9	Original bill of complainant below.
10	Summons.
11 to 15	Demurrer of Defendant below to parts of bill.
15, 16	Answer of defendant below as to remainder of bill, admits marriage, cohabitation, birth of children, but denies kindness and forbearance
17	on part of complainant to the defendant; denies intoxication and drunkenness of defendant; denies that defendant has real and personal property to the amount of \$20,000 to \$30,000, or that his income is from
17	\$2,000 to \$3,000 per year, as alleged; denies that complainant is in need of money and funds, as alleged in bill.
18	Amended bill of complaint alleges marriage of complainant with
19	defendant in December, A. D., 1838, cohabitation, birth of Sarah E. Armstrong, aged at the time of filing original bill, seventeen years, Jacob Armstrong, aged ten years; and Mary Frances Armstrong, aged at said time, seven years. That during her cohabitation with defendant, she managed his household affairs with prudence, and at all times treated him with conjugal kindness and forbearance.

19 That for two years prior to filing the original bill, to-wit: two years prior to November 12, A. D., 1861, defendant had been habitually drunk and intoxicated.

19 That defendant during the years 1856, '57, and '58, commenced and continued a course of unkind, harsh, and tyrannical treatment towards complainant, in the presence of their children, and out of their presence.

20 That on or about July 15th, 1858, defendant rushed upon complainant, dragged her from the dining-room, and struck her upon the face so violently as to knock her down and render her insensible for a long time, &c., and that defendant, after such treatment, left the house and remained absent some six or seven months.

20, 21 That defendant has enticed away from the house their two children, Sarah E. and Jacob Armstrong, and alienated their affections from her to such an extent, that they treated her indifferently and unkindly.

21 That defendant, after he had struck complainant as above-mentioned, left complainant, and remained away from complainant for six or seven months, calling occasionally during that period at the house where they resided, and that in the month of January, A. D., 1859, he left her entirely, and has not since lived or cohabited with her.

21 That since the last mentioned period he has failed and neglected to provide her with means of support, and that as far as he is concerned, she was destitute of the means of subsistence; that she has all of said time had the custody and control of said child, Mary Frances Armstrong, and that he has failed and refused to provide for said child's wants, and that she has been supported and taken care of wholly by her.

21 That she has been, and is dependent upon her own labors and the charity of her friends for her and said Mary Francis' support and maintenance.

22 That she is informed and believes that on or about the 12th day of August, A. D., 1858, the defendant committed adultery at Dixon, in the county of Lee, with one Mrs. Stevens.

22 That she is informed and believes that on or about the 5th day of September, A. D., 1858, at the town of Palmyra, in said county, defendant committed adultery with said Mrs. Stevens, and at various other times during said year 1858.

23 That she is informed and believes that on or about the 15th day of January, A. D., 1859, the defendant, in the city of Chicago, in said State, committed adultery with a public prostitute in a house of ill fame, but whose name, and the particular house, she is not informed of, and cannot state.

23 That she is informed and believes that on or about the 10th day of July, A. D., 1860, at Palmyra, in said county of Lee, the defendant committed adultery with one Mrs. Enesy, and that at various other times
24 during said year said defendant committed adultery with said Mrs. Enesy, at some other place.

That she has not voluntarily cohabited with the defendant since her discovery of his acts of adultery.

24 That she has been informed, and believes that defendant, on or about the seventh day of May, A. D., 1861, in the city of Chicago, committed adultery with a public prostitute in a house of ill fame, whose name and house she is not informed of, and cannot state, and that she has not voluntarily cohabited with him since her discovery of such acts of adultery.

25 That the defendant is the owner of a large amount of real estate, situated in the counties of Lee and Carroll, in the State of Illinois, and in the State of Iowa: that he is also the owner of a considerable amount of personal property, rights and credits, the value of which she is not informed, but that she believes he is seized and possessed of real and personal property to the amount of from \$20,000 to \$30,000, and that his annual income is from \$2,000 to \$3,000.

25

26

- 26, 27 Prays for summons to issue to Sheriff of Lee county, &c.
- 27 *Jurat.*
- 28, 29 Answer of defendant to amended bill of complaint, admits marriage and cohabitation, and birth of children, as alleged in amended bill.
- 29 Denies that during all the time of cohabitation complainant conducted herself with propriety and decorum, or managed his household affairs with prudence and economy; or that she at all times treated him with conjugal kindness and forbearance.
- 29 Denies cruelty, harsh and tyrannical treatment on his part towards the complainant.
- 30 Denies that on or about the 15th day of July, A. D. 1858, after dinner of said day, he rushed upon the complainant, clinched her hand upon the table and dragged her from the room, and struck her upon the face, and all unkind or cruel treatment on his part towards her; but admits that on or about that time he left the house in which they lived, and remained away therefrom six or seven months.
- 30, 31 Denies that defendant has endeavored to, or has alienated the affections of said two oldest children, Sarah E. and Jacob Armstrong from her, so that they treat her indifferently and unkindly.
- 31 Admits that in the month of January, A. D. 1859, he left the complainant, and has not since lived or cohabited with her.
- 31 Denies that since the period last named, he has failed and neglected to provide the complainant with means of support, or left her destitute, as far as he is concerned, of means of subsistence.
- 31 Admits complainant has all of said time had the custody and control of said Mary Frances, but denies that he has failed and refused to provide for her wants, or that said Mary Frances has been supported and taken care of wholly by complainant.
- 32 Denies that complainant has been and is now entirely dependent upon her own labors and the charity of her friends, for her own and the said Mary Frances' support and maintainance as in bill alleged; but on the contrary avers the fact to be that ever since the time that defendant left complainant as aforesaid, the defendant has permitted complainant

32 to occupy the house and lots of land owned by defendant, in North Dixon, in said county of Lee, and formerly occupied by said defendant and complainant, while they lived together as husband and wife, besides two other lots of land of said defendant adjoining the same, on one of which there is a good house free of rent, expense or charge, on which said lots of land there are near to said house, two good gardens, in which the said complainant annually raises more vegetables than she needs for her own and said Mary Frances' use; that she keeps a dairy of three cows, from the milk of which she annually makes more butter than she needs for her own and said Mary Frances' use; and from time to time every year therefrom has large quantities of butter to sell in market.

33 That on or about the 6th day of June, A. D. 1860, and prior to that time, defendant being the equitable owner of a house and lot in Dement's Addition to Dixon, in said county of Lee, to wit: lot four in block 10, and the house thereon, at which time defendant held a contract or bond for a deed to same, on which contract defendant had then paid the greater portion of the purchase money, in all about the sum of \$1,800, and on which said contract there then remained due of the purchase money about the sum of \$575.

33 That defendant directed and caused a deed to said premises to be made and delivered to her or to some one for her sole and separate use and benefit, on her paying to Mr. Jellett, owner of the same, the balance
34 of said purchase money so due, amounting to about the sum of \$575; which sum she paid or caused to be paid out of her own funds, on the execution of said deed, for her sole use and benefit as aforesaid.

34 That complainant, since the receipt of said deed as aforesaid, has been in possession of said property by her tenants, and received rents therefrom to the amount of about one hundred dollars per annum.

That complainant has been since the time he left her, and now is, in the receipt annually of the further sum of \$250, from the estate of her deceased brother, which sum of two hundred and fifty dollars, the complainant by will of said deceased brother, is entitled to receive annually from her deceased brother's estate, during her natural life.

34 That complainant has large sums of money at interest, and has ever since he so left her been in the habit of loaning money at interest from time to time; and that the amount of her income from money so loaned at interest, is from one hundred to one hundred and fifty dollars per year.

- 35 That after paying all her family expenses from year to year, she has, from all the different sources of her annual income, such an excess that she is enabled to loan out at interest, per year, from three to five hundred dollars.
- 35 Denies that defendant has, since said intermarriage with complainant, committed adultery at divers times and places, or that on or about August 20th, 1858, at Dixon, in said Lee county, he committed adultery with one Mrs. Stevens, as alleged in bill.
- 35 Denies that defendant, on or about September 5th, 1858, at Palmyra, in said Lee county, or at any place or places in said county, committed adultery with said Mrs. Stevens, as in bill alleged.
- 36 Denies that defendant, on or about the 15th day of January, A. D. 1859, in Chicago, county of Cook, and State of Illinois, committed adultery with a prostitute, as in bill alleged.
- 36 Denies that defendant, on or about the 10th day of July, A. D. 1860, at Palmyra, in said county of Lee, committed adultery with Mrs. Ennesy, *alias* Mrs. Enesy, as in bill alleged.
- 36 Denies that defendant, on or about the 15th day of September, A. D. 1860, at Palmyra, in said county of Lee, or at other times during said year, at said Palmyra, or at any other place or places, committed adultery with said Mrs. Ennesy, or Mrs. Enesy, as in bill alleged.
- 37 Denies that defendant, on the 7th day of May, A. D. 1861, in the city of Chicago, committed adultery with a prostitute, at a house of ill-fame, as in bill alleged.
- 37 Denies that he is the owner of a large amount of real estate situate in Lee and Carrol counties, and in the State of Iowa, or that he is the owner of a considerable amount of personal property, rights and credits, or that he is seized and possessed of real and personal property to the amount of from \$20,000 to \$30,000, or that his annual income is from \$2,000 to \$3,000, as alleged in bill.
- 37 Denies that complainant is in need of funds to support herself and her child Mary Frances, or that she has not means wherewith to defray the expenses of her said suit.
- 38 Avers that the complainant has sufficient separate property of her own, and an annual income therefrom adequate to her own and the said

Mary Frances' support, and to enable her to defray the expenses of the prosecution of the suit.

39, 40 Petition for *ad interim* alimony ; alleges defendant to be the owner of property to the amount of \$20,000 : that he has an income of about \$2,000 per annum ; and prays that defendant be required by the order of court to pay the complainant a reasonable sum for her support during the pendency of her suit, and a sum necessary to enable her to prosecute her said suit.

41 Replication of complainant to answer of defendant to her amended bill.

43 to 51 Interrogatories and cross interrogatories attached to commission to take depositions of Jonas M. Johnson and Calistia Johnson.

53 Verdict of the jury.

MARY ARMSTRONG, }
 vs. } *Divorce.*
 JACOB ARMSTRONG. }

We, the jury in the above entitled cause, find the defendant guilty of the adultery with Mrs. Albert Stevens and Mrs. Ennesy, *alias* Mrs. Enesy, as charged in the bill of complaint herein.

S. H. FAILEY, *Foreman.*

54 to 64 Depositions of James M. Johnson and Calistia Johnson, not used on the hearing as to the question of alimony, &c.

TESTIMONY.

65

JAMES B. CHARTER'S DEPOSITION.

66

Testimony for complainant. Age 30. Residence Dixon, Lee county Illinois. Knows defendant. Is not acquainted with the pecuniary circumstances, or the amount of property that defendant may be worth.

67

Has no knowledge of his own of any property of defendant, either of lands, personal property, money or credits. Has no knowledge of any kind ; has no knowledge more than any other individual. *Can't* answer whether defendant has some real estate or lands which he pretends to own, as he does not know what he pretends to own. Can only speak of one piece of property, the same being situated in the city of Dixon, near the arch on main street, and consisting of two brick houses and one lot, both worth fifteen hundred dollars. Defendant's interest in same is about one thousand dollars. Knows of no other of his own

68 knowledge. Has no knowledge from any other source of property de-
 69 fendant claims to own. Has no knowledge but what has been communi-
 cated to him as counsel for defendant. There is one piece of property
 which has been sold, over which defendant has no control. Witness has
 had legal title to a lot in Dixon, which has been sold to Mr. Riley, but
 the papers have not yet been made out. Witness purchased a piece of
 property of defendant for which he gave him his note for five hundred
 and fifty dollars. Knows of no other he can speak to, for the rea-
 son that it came to his knowledge as counsel. Has no notes or cred-
 its placed in his hands by defendant for collection. Objects to answering
 70 the question, whether if the relation of attorney and client did not exist,
 he could testify to other property than he has testified to.

Cross-Examination. The defendant acquired his interest in the
 property near the arch on Main street, in the city of Dixon, referred to
 in direct examination, by the foreclosure of a mortgage and sheriff's
 sale. Believes it is stated in a Bill for Review, wherein Isaac Means is
 71 complainant, and Jacob Armstrong, William Armstrong and others are
 defendants; that defendant had parted with his interest in same, and
 William Armstrong is the owner of whatever interest in same defendant
 claimed to have. Isaac Means also claims an interest in the property
 subject to the mortgages and trust deeds, that have been already fore-
 closed in this court. That the validity of such sale is in litigation in Lee
 county Circuit Court. Does not know whether the defendant is now the
 72 owner or holder of the note for \$550, he gave him, on the purchase of a
 piece of property from him. Knows of the defendant's owing debts to
 the amount of eighteen hundred dollars, to Moses Morse, of Burlington,
 Vermont, and to Andrew McPherson^{son} about one thousand dollars.

Direct Examination resumed. The knowledge of none of the facts
 testified to by him, was obtained or derived by him in the relation of
 attorney to defendant. Has never seen William Armstrong, believe it is
 set up in the Bill of Review that he is a brother of defendant.

STEPHEN S. WILLIAMS.

73, 74 *Testimony for Complainant.* Age 39; residence Dixon, Lee county,
 Illinois. Knows defendant. Does not know of any property of any
 nature or kind of defendant's.

CHAMPION FULLER.

75 *Testimony for Complainant.* Age 36; residence Dixon, Lee
 county, Illinois. Knows defendant. Does not know of any real estate
 that defendant owns or claims to own at this time, nor within a year

76 from that time. Has heard the defendant speak of a farm that defend-
 ant said he was leaving, or leaving a place and coming to Dixon in the
 spring. Does not know that defendant owns or claims to own a farm in
 Palmyra, Lee county. Has heard him claim to own a farm in Palmyra
 77 inside of two years; don't know whether he has disposed of that farm or
 not; nor how many acres are in it. Don't know what it is worth.
 Knows that defendant has claimed to own a house at end of bluff this
 side of brick yard, on road from Dixon to Grand De ~~Louza~~. Don't know
 78 of his own knowledge whether he has disposed of it. Said house would
 not be worth to witness over \$150. Does not recollect that he knows of
 any other real estate that defendant owns or claims to own. Has no
 knowledge of any real estate of defendant, the title of which is in some
 other person. Does not know of any real estate that defendant has put
 out of his hands for the purpose of covering same.

79 That defendant claims to have an interest in two claims on the
 docket, and against witness, amounting to about one hundred and fifty
 dollars.

BENJAMIN C. DESHON.

80 *Testimony for Complainant.* Age 33; residence Dixon, Lee
 county, Illinois. Knows the parties. Knows of no real estate that de-
 fendant owns or claims to own. Witness lives in house known as the
 Jenkins' house. Defendant collects the rent for the house. Don't know
 who owns it. Pays \$100 rent per year for the house. The property is
 81 not worth over \$600. Knows of two places that defendant receives rent
 from, and the place where defendant's wife now resides, is known as the
 Armstrong place. Don't know whether defendant owns them or not.
 The place known as Armstrong place is not worth over \$400. William
 Sprague, and up to as far as witness knows, Russell L. Fowler live in
 the other places mentioned.

WILLIAM SPRAGUE.

82 *Testimony for Complainant.* Age, 47; residence, Dixon, Lee coun-
 ty, Illinois; knows a man by the name of Armstrong; don't know
 whether his name is Jacob or not; if it is the same man that he hires a
 house of, his name is Jacob. The house he hires of him is situated on
 Second street, in Dixon, and he pays him eighty-four dollars rent for it
 per year. The premises are worth \$800, perhaps.

Cross-Examination.

83 Does not know whether defendant owns the house; knows nothing
 more about it than that he hired it of him, and pays him the rent; is not
 well acquainted with the value of real estate in said city.

RUSSELL L. FOWLER.

83 *Testimony for Complainant.* Age, 33; residence, Dixon, Lee county, Illinois; knows defendant; lives in Dement's addition to Dixon, and as far as he knows, the house where he lives belongs to defendant; defendant collects the rent; witness paid him \$84 the first year, and paid
84 him this last year \$60 rent for same: that to the best of his knowledge the premises are worth six or seven hundred dollars.

Cross-Examination. Don't know that defendant owns the premises; he claims to own them. Can't say that he is acquainted with the value of real estate in the neighborhood where he lives.

ELIAS B. STILES.

85 *Testimony for Complainant.* Age, 40; residence, Dixon, Lee county, Illinois; knows defendant; was at defendant's the other day; defendant owned, then, three stacks of rye; tried to buy them; was at a sale the other day, and suppose that defendant was entirely sold out; does not know who advertised the property for sale, nor who claimed to
86 own the property sold at sale; knows that there were some hogs sold; does not know that defendant was conducting that sale as his own; it was his opinion that defendant was conducting it; does not know the amount of the sale; the sale took place where defendant lives, known as
87 Harvey Morgan place; don't know who has the title to the place; a basket-maker pretends to own it; he supposed defendant owned, or claimed to own it, but did not know anything about it; was of opinion that he owned it, because he lived there; defendant never told him, nor did he ever hear defendant say that he owned it; his impression was, that said farm was assessed in defendant's name, but don't know anything about it; thinks he has paid taxes for defendant, but don't know
88 anything about the property; his opinion, from what he had heard talked about it, is, there were about one hundred and thirty acres in the farm; should think it was worth \$30 per acre; knows of no other farm in town of Palmyra, except the Harvey Morgan farm, that the defendant owns, or pretends to own; is acquainted with the premises in Dixon at present
89 occupied by William Sprague,—that they are worth \$600,—are worth \$600 as a residence; does not know the premises where Russel Fowler lived; does not know of any other real property of defendant, or in which he has or claims an interest; has heard that defendant claimed to have an interest in those two houses this side of the arch, and the house Deshon lives in on the other side of the river; does not know who has the title to them; has heard that defendant claimed to own them; has heard that they are in ~~liquidation~~ ^{litigation} in some way; knows of no real property owned, or claimed to be owned, by the defendant anywhere in the
90

State of Illinois, except Lee county; supposes defendant had some real estate in Iowa; has got an impression from defendant that Smith deeded him some property in Iowa, the title to which was not good; does not know, nor has ever heard of William Armstrong; does not know of any property owned by defendant, the title to which was in his brother; does not know of any personal property that defendant owns; does not know of any moneys, credits, promissory notes, mortgages, or evidences of indebtedness of any kind, owned, or claimed to be owned, by defendant, or in which he claims an interest; does not know but that he owes defendant something less than \$10.

Cross-examined. Supposed defendant owned the Harvey Morgan place, referred to in his direct examination, but does not know anything about the title; its cash value would be \$30 per acre; does not know that defendant was to own the Harvey Morgan place, if he paid for it, or that he has never paid for it; does not know who owns the house where William Sprague lives; does not know whether defendant owes any debts; knows that defendant was sued on some large claims; does not know whether he has paid them, or not; thinks the amount of one claim was about \$2,300; knows of no other claim.

WILLIAM W. TILTON.

Testimony for Complainant. Age, forty-five; residence, Palmyra; am acquainted with Jacob Armstrong.

Int. 3. Do you know anything of a sale of personal property that Armstrong had some time during the past winter?

Question objected to by counsel for defense.

Ans. I do know of such a sale.

Int. 4. Do you know what property was sold at that sale?

Question objected to by counsel for defendant.

94 Ans. I do not know that I could mention everything. I was crier at the sale.

Int. 5. Do you know what was the amount of the sale?

Ans. I do not know.

Int. 6. What were the terms of the sale?

Question objected to by defendant's counsel.

Ans. I know that there was a credit, but I do not remember the time.

Int. 7. Do you not remember that the terms were, on all sums under five dollars, cash; on all sums over five dollars, a credit of twelve months was to be given. The purchaser giving note with approved security?

Objected to by counsel for defendant.

Ans. It is my impression that that was so. I will not be positive about it.

Int. 8. Will you give a statement of the different articles that were sold, and the amounts that each sold for?

Question objected to by counsel for defendant.

95 Ans. I think there was one span of horses that was knocked down at one hundred and fifty odd dollars. There were, if I recollect right, three or four head of cattle: one sold for about fifteen dollars; another for about seven dollars. There were some hogs sold. I don't recollect the number. I think that I can bring to mind now about thirty-four hogs; some fifteen went between two and three dollars apiece; some ten, four dollars apiece. I think there was a one or two-horse buggy sold. My impression is it sold for about thirty dollars. It is guess work. One set of harness was sold, I think, and one set I think was not sold. There were some plows and drag—two plows I think. One sold for ten, the other for thirteen. Drag sold for five dollars, I think. One small stack of Hungarian grass sold for five dollars, I think. There were some little things sold that it would not pay to enumerate.

Int. 9. Did you ever hear Armstrong say how much he got for three stacks of rye, referred to by Stiles?

Objected to by counsel for defendant.

Ans. I heard Armstrong say that he sold one of them for eight dollars.

96 Int. 10. Do you know of any other property, either real or personal, or moneys or credits, that Armstrong owns, or claims to own, or has, or claims to have, any interest in?

Ans. Of my own personal knowledge I do not; all that I can say is that I assessed the property.

Objected to by counsel for defendant.

Int. 11. What farm do you refer to that you say you assessed in his name?

Ans. The Harvey Morgan farm.

Int. 12. What town are you Assessor of?

Ans. Palmyra township.

Int. 13. Who were the clerks at Armstrong's sale.

Question objected to by counsel for defendant.

Ans. Mr. Hine was one, John Williamson was another. I am confident I saw one or two more; cannot remember their names.

Cross-Interrogatories.

97 Int. 1. Do you know whether Jacob Armstrong was the owner or not of the property that you have testified that you assessed in his name?

Ans. I do not from own personal knowledge.

Direct Examination resumed.

Int. 14. How long has Armstrong lived on that farm, and has he not pretended or claimed to own it?

Ans. About three years that he has been in possession. I think, from a conversation that I had with him, he told me that he did not own it.

Int. 15. Do you know that he ever sold it.

Ans. I do not.

MICHAEL RYAN.

- 98 *Testimony for complainant.* Age, 23; residence, Palmyra, Lee Co.,
 Ills.; has known defendant about three years, complainant two years and
 three months; all he knows about defendant's property is, he went to Mt.
 Carroll to pay taxes for himself, last June; and he paid taxes on 80 acres
 of land for defendant, situated between Mount Carroll and Savannah;
 99 between five and six miles from Mount Carroll; was told that lands were
 selling there from eight to ten dollars an acre; tax receipt was in defend-
 ant's name, and to the best of his belief, the defendant owned the land,
 then; don't know who owns it now. Has not bought any land or town
 100 lots of defendant. The defendant had a sale of personal property in No-
 vember, a year ago; don't know of any other property, cattle, cows and
 horses; can't tell the number were sold at said sale. Defendant had, last
 summer a year ago, land in Palestine Grove; does not know whether he
 has it now or not. He offered it for five or six dollars per acre; does not
 know number of acres of said land, but something over a hundred; is
 mostly prairie; there is some, not much, timber on it. At the time that
 101 witness lived with defendant, defendant had money due to him so he
 heard defendant say; whether it has been paid to him or not, don't
 know; can't tell the amount of same; has mentioned all he knows before.

ALBERT JENNIS.

- 102 *Testimony for complainant.* Age, 45; residence, Palmyra, Lee
 county, Illinois; has known defendant about two years, complainant,
 eight or nine years. He sold defendant, last fall, 40 acres in Palmyra, in
 section 15. Defendant wanted to trade with witness, a year ago last winter,
 for his land, some land in Palestine; thinks defendant said there were
 about one hundred and sixty or seventy acres; would not be positive
 about that; the forty witness sold him, was worth \$20 per acre; thinks
 the land in Palestine, was worth about \$3, per acre. Defendant offered
 103 to trade his land before witness sold to him. Defendant proposed to trade
 for the land that witness lived on, forty acres of which he still owns; he sold
 defendant one forty; does not know of any other lands or real estate be-
 longing to defendant; does not know of any personal property, goods or
 chattels, or moneys, or debts, or credits, belonging to, or due defendant.

JOHN O'NEIL.

- 104 *Testimony for complainant.* Age, 59; residence, Palmyra, Lee
 county, Illinois; has known parties ten or twelve years; knows of no
 lands or real estate belonging to defendant, except the place where he
 now lives, and does not know whether he owns that or not; witness bor-
 rowed some money, when he was building, of defendant, and gave him

105 a mortgage on eighty acres of his land; and when the time expired, was not able to make the payment, and defendant sold the eighty. The next he knew, James Charters had the title to it; and he, Charters, gave him five years to redeem it; and gave him a bond for a deed. Defendant bought for witness a span of horses, and the horses and money he borrowed, amounted to about \$650; at the rate of thirty-five and twenty-five per cent.; some times one, and some times the other rate; can't tell to whom the notes were drawn; thinks to Charters; knows of no other indebtedness, unless what he, defendant, got at the sale; does not know whether he got that.

106 *Cross-examination.* Executed the mortgage referred to in direct examination, to defendant, about five years this summer, when he borrowed the money, or some of it; had borrowed some before; gave notes at the time, to defendant; thinks the property was sold at the Court House, two years ago last fall.

107 *Direct examination resumed.* That Charters said the money referred to in direct examination, was with him with whom he was to settle; that he, Charters, was the one to give a clear deed of witness' place; that defendant had nothing to do with it; can't tell who is the beneficial creditor to whom he owes the money, because he did not read the notes when they were drawn.

WILLIAM N. MORDEN.

108 *Testimony for complainant.* Age, 38; residence, Palmyra, Lee county, Illinois; has known both parties about ten years; supposes that he owes defendant some money; does not know anything about any other; the amount that he owed was about \$460. The indebtedness becomes due the 14th of June, three years from next June, with interest at ten per cent.

THOMAS ENOS.

109 *Testimony for complainant.* Age, 23; residence, Buffalo Tp., Ogle county, Illinois; has known defendant three months; does not know complainant; does not know of any land or real estate, or personal property, or moneys, debts, or credits, belonging to, or due defendant, except one house that he has sold, and don't know whether he got pay for it or not.

SANFORD B. PARKHURST.

110 *Testimony for complainant.* Age, 36; residence, Dixon, Lee county, Illinois; has known defendant about nine or ten years; does not know complainant; that about six years ago, defendant inquired of witness

- 111 about some land that he said he owned in Polk county, Iowa; that defendant had talked with him occasionally, as he had seen him, up to last fall. There were five hundred and sixty acres of that land; does not know what its present value is, or whether he owns it now or not; thinks that the last talk he had with him, was sometime last fall; thinks he asked defendant whether Mrs. Smith had signed the deed to him; thinks that his reply was, she had; that was about the extent of their conversation; that, as he recollects, defendant has not in such conversations mentioned to him, about any one but himself owning said land. The land is
- 112 located in the north-east corner of Polk county, or near the corner; is pretty fair prairie land; has no means of knowing its present value.

114 to 192 Depositions of Thomas Scallan, Sarah E. Armstrong, and others, taken before Harvey E. Morgan, a justice of the peace in and for the county of Lee, not used or presented on the hearing as to the questions of alimony, &c.

JAMES B. KENNEDY.

- 195 *Testimony for Defendant.* Age, 42; residence, Dixon, Lee county, Illinois. Has known defendant about three years, and complainant about one year. That he, witness, pays the complainant rent, taking receipts in her own signature. He pays her rent for the use of her house in Dement Town. Has paid her eight and also six dollars per month. That complainant says that she owns the house, and defendant said that she owned it. That he first paid rent to defendant, but now pays to her. Is still occupying the house and paying rent to complainant for the same at the rate of six dollars per month.

WILLIAM UHL.

- 197 *Testimony for Defendant.* Age, 41; residence, Dixon, Lee county, Illinois. Has known defendant some six years, and complainant since last August. That last August, he, witness, paid complainant interest on a note that she held against him, which he presumed she obtained from Mr. Harrington, which note is against witness, and in amount a little over \$300.00. That about three weeks ago she proposed selling witness
- 198 the note, as it would not be due until August coming. The note bears interest at ten per cent.

Cross-Examination. Can not tell whether she owns the note at this moment, or not; she did some three weeks ago, when she was at my house, in regard to the beneficial ownership. She stated that she was very much in need of money, and could not see how she could get along without selling it.

JOSEPH BALL.

199 *Testimony for Defendant.* Age 36; residence Dixon, Lee county, Illinois. Have known defendant some eight years, and complainant some two years.

Int. 3. Do you know of any property, real estate, monies, credits, evidence of indebtedness, rents and profits, income which the complainant Mary Armstrong, has, owns, or proposes to own or receive in her own right? If yea, state the same particularly.

200 Ans. I know of some real estate in Dement Town in this city, the sale of which I negotiated between Mr. Jillett, of Chicago and Mrs. Armstrong. Jellet came to me some two years ago, and told me he had some property in Dement Town upon which some six hundred dollars were to be paid by Jacob Armstrong, and wished me to attend to the matter for him. I afterwards went to see Mr. Armstrong, to know if he could pay the six hundred dollars. He said that he could not, but as he had paid considerable on the property, he would like his family to get the benefit of what he had paid; and that the old woman, meaning Mrs. Armstrong, had money, and if she liked to pay the six hundred dollars she could have the property. I then sent for Mrs. Armstrong and told her what Mr. Armstrong had proposed. She finally agreed that she would pay the money if it could be so arranged that Armstrong would not have anything to do with it. Some time in June, 1860, I had a deed made to Mr. Coyne in trust for her, and upon the payment of six hundred dollars by Mrs. Armstrong, I gave her the deed, and it is now recorded.

Int. 4. State whether said real estate has any improvements on the same, and if so, what?

Ans. There is a house upon it, in which Mr. Kennedy resides, as I believe.

201 Int. 5. What would be the value of said real estate, and the improvements on the same?

Ans. I never saw the property, but Mr. Jellet told me in the conversation referred to, that it was worth some sixteen or seventeen hundred dollars, if I recollect right.

201 Int. 6. Do you know of any other property, monies, credits or evidences of indebtedness, which the complainant Mary Armstrong owns or claims to own in her own right?

Ans. Nothing but what, as the former attorney of Mrs. Armstrong, I would be precluded from showing, and I know of nothing for certain.

Int. 7. Do you know in] whose house the complainant, Mary Armstrong, has resided for the last two years, and now resides, and whether during that time, or now, pays any rent for the use of the same. If yea, state the same particularly.

Ans. I know that she resides in the house belonging to her husband; whether she pays any rent for the same, I do not know.

202 *Cross Examination.* Int. 1. What is the present value of the property in Dement town, which you speak of as belonging to the complainant?

Ans. Having never seen it, I can form no idea.

WILLIAM F. ATCHISON.

204 *Testimony for Complainant.* Age, 38; residence, Wilton Junction, Muscatine county, Iowa.

Has known the parties to this suit since 1845; within that time lived with them two years.

204 Int. 3. Are you acquainted with the pecuniary circumstances of the defendant? If yea, declare the same fully, and your means of knowledge.

Ans. Yes, I have been acquainted with him, and lived with him that time, and know considerable of his business.

Int. 4. State if you know what property the defendant owns, either real or personal.

205 Ans. I suppose he owns the lot that he lives on; he told me so, and that he had a deed for it, and had paid for it; it is in Lee county, Palmyra township; I do not know how many acres there is of it; I believe there is one hundred or one hundred and forty acres; he told me so. I do not know the description; know the lot where it is. He owns a horse and buggy, or did a short time ago, or did when I was there a little over a month ago. He owns a lot of bees. That is all the property that I know of his having in 1862. I know of William Martin paying him money for interest on money loaned; I do not know how much money was loaned. I mind a little more property—one house and two

lots in North Dixon, that he got of John Daley this summer—the one that Richard Daley, John Daley's son, lives in on north side of the river; also a house belonging to Mr. Armstrong, that he got of a man by the name of Duffy, who lives on this side of the river. A man by the name of Scallian pretends to father the house—but he does not own it; he is paid for his trouble in fathering the house; it is a bogus fixin; Mr. Armstrong owns it, and receives the rent from Philip Reiley. Yes, there is a house by the name of Harris House, in Dement town, that Mr. Armstrong owns. There is another house that Mr. Armstrong got of Alexander Smith—a brick house down here. He used to own two lots up by the cemetery; whether he owns them now, I cannot tell. He owned a lot and house that he got of a man by the name of Hanson, down at the lower arch of the Illinois Central, below the railroad, and west of the track; whether he owns it now, I have not heard him say. There is another house, that a man by the name of John Lisle lived in, that he owned in 1859; whether he owns it now, or not, I do not know. In Morrell town, in 1859, he owned a brick house, that he got of one Jennings, or Jeness, I don't know which, for a debt account at the brick yard; but who owns it now, I cannot tell. There is a house and lot, that generally goes by the name of the Jenkins house, that Deshon lives in; Armstrong owns it. There are three houses and five lots where Mrs. Armstrong lives; Armstrong owns them; three lots with houses, and two vacant lots, are together. He used to own, in 1859, two lots in ^{Warrick} ~~Barron~~ county; one is an eighty acre lot, the other one hundred and sixty acre lot; I do not know whether he owns them now; he told me then that he did. He owns some land down in Palestine; how much it is, I don't know. He owns some land out toward Freeport; I do not know what county it is in, whether in Stephenson or Carroll, or either of them, I don't know; but it is up that way. I believe Mr. Armstrong told me that he had some land between Palmyra and Sterling; I think it was a forty. Then he has forty acres more that he got from Albert Jennings, or Jeness, that is leased to Reuben Eastwood—and Mr. Hine, I understood, drew the lease for him. He had, in 1859, a section of land, all but eighty acres, in Iowa, Black Hawk county; he got it from James A. Smith. He got another one hundred and sixty acres of Thomas Shay, in 1858.

207 Int. 5. State in what State and county this last mentioned one hundred and sixty acres is?

Ans. It is in the State of Iowa; I do not know the county.

Int. 6. State, if you please, the value of property that you have mentioned, if you know, beginning with the item, "one horse and buggy,"

and ending with the one hundred and sixty acres of land mentioned as bought of Thomas Shay, and mentioned in your answer to the previous interrogatory.

Question objected to by counsel for defendant.

Ans. Well the value of any property I don't know, except the horse and buggy, as I do not consider it my business. The horse is worth one hundred and ~~ten~~ ^{thirty}, I believe. *the horse cost my husband and ten dollars*

Int. 7. State if you know the value of the houses and lots where Mrs. Armstrong lives?

Question objected to by counsel for defendant.

Ans. I do not know the value of any property he has, except the horse and buggy.

Int. 8. State whether or not Armstrong, the defendant, has ever stated to you, or in your presence, the value of any of the property you, in your previous answers, have testified concerning; if yea, state which of the property, and the value thereof?

Question objected to by counsel for defendant.

Ans. Well, he has told me pretty much what all his property cost him, but I cannot remember what it is, except the horse and buggy.

Int. 10. Do you know William Armstrong, and what relation he sustains to the defendant, if any, and where he resides?

Ans. I do not know him, but I understand from Mr. Armstrong that he is his brother, and he resides in New York State.

Int. 11. Have you ever had any conversation with the defendant concerning the transfer of his property, or any portion of it, to said William Armstrong; if yea, state the same fully.

Ans. He told me that he had put, or given a judgment, or some other papers, that fixen of eight thousand dollars, into his brother William's hands to keep for him, so that folks could not skin him, and he thought that it could never be hunted up, by putting it in his hands, because he was a man that was rich, done business, and lent money him-

209 self. If it would be hunted up that he would ^{lose} ~~have~~ it all; his brother would not swear a lie for it. Mr. Armstrong sent a letter with the paper, and the receipt came back all right, but no letter with it.

Int. 12. State whether or not you had any conversation with the defendant, concerning the transfer of his property, or any portion of it, to any other person than William Armstrong; if yea, state the same fully.

209 Ans. Yes, Thomas Scallion fathers the Duffy House for him. The deed, I understand, was in Scallion's name, got from the Sheriff at Sheriff's sale: also, Stiles, James Charters, and Mrs. Bridget Hall; whatever property is in Mr. Stiles or Mr. Charters I cannot tell, any more than Armstrong said that it was all right, they would do him justice; they were true blue to him; they were Masons. Mrs. Bridget Hall, I understand from Mr. Armstrong, he told me so, he gave her the deed of the one hundred and sixty acres that he got of Thomas Shay, in Iowa, to keep it safe, so that they could not skin him, that he borrowed some money of her, and he gave her a deed, and that made it all safe.

Int. 13. State if you know how long Armstrong has lived in the State of Illinois, and when he came here?

Ans. I cannot state when he came; I think he has been here some eight or ten years.

210 Int. 14. State if you know what was the condition of the defendant's pecuniary circumstances when he came to the State of Illinois?

Question objected to by counsel for defendant.

Ans. About the best I know, he told me that after he bought the farm up here, and paid for it, and the team, and everything, he had four thousand dollars left.

Int. 15. Do you know how much he paid for the farm; if yea, state the same?

Question objected to by counsel for defendant.

210 Ans. I do not know how much he paid for it, or how much he got for it when he sold it.

Int. 16. Do you know the source or sources from whence the defendant obtained or derived the money mentioned in the answer to the previous interrogatory, or any portion of it; if yea, state the same fully?

Question objected to by counsel for defendant.

211 Ans. Yes; I know of some money coming from Mrs. Armstrong's brother to Mrs. Armstrong. Two hundred and forty dollars a year. George Coyne, a brother to Mrs. Armstrong, died in May, 1842, and willed her two hundred and fifty dollars a year while she lives. James Coyne, brother to the deceased and Mrs. Armstrong, executor of George Coyne's last will and testament, told me in 1845, that he had sent the money up to his sister Mary, and he lived in New York, in Clarkson street, and I heard Mr. Armstrong acknowledge getting this money thro' his wife from his brother-in-law, and received it up to 1856 or '57, and I understand from both parties, that since the year 1858, at the time they had the falling-out, she lifts the money herself, and Armstrong don't get it.

Int. 17. State if you know what was done with the money. The two hundred and fifty dollars a year, or who received the benefit of it previous to the year 1858?

Question objected to by counsel for defendant.

Ans. That I can't tell.

Cross Interrogatories. Int. 1. What business are you engaged in, and what is your profession, and what relation, if any, do you sustain to the complainant, Mary Armstrong?

Ans. My business is railroading. Well it appears, and I never found out to the contrary, that she is my mother's sister.

Int. 2. Have you been engaged in railroading during the past summer and fall?

212 Ans. I have not been engaged in railroading since the last of May last.

Int. 3. What business have you been engaged in during the last summer and fall?

Ans. I worked at carpenter work for Armstrong some, and built a barn in Wilton Junction for John F. Robinson.

Int. 4. Have you at any time had any conversation with the complainant, Mary Armstrong, or her counsel, Messrs. Barge & Fiske, or

either of them, respecting getting admissions or procuring evidence to be testified to by you in this case?

Ans. I deny it. The like was never asked of me to do by none of the three.

Int 5. Have you not during the last summer and fall, under the disguised garb of friendship for defendant Armstrong, and with the assurance that you would not testify against him in this case, sought to procure admissions from him concerning his property?

Ans. I did not; everything he told me voluntarily and willfully. He wanted to know what I would prove for him against the damned old crab, and he stated to me a part of what he wanted I should prove, and I will prove it for him yet, if it is required.

213 Int. 6. Have you not been promised money or other compensation, if by your testimony the complainant Mary Armstrong succeeded in getting a divorce, and a large amount of alimony allowed her?

Ans. The like was never hinted to me, in any manner whatever; I have proved what I have proved voluntarily.

213 Int. 7. Have you not previous to this examination, been requested by complainant's counsel, Barge & Foyke, or either of them, to examine the records of Lee county, for the purpose of testifying to the property of Jacob Armstrong?

Ans. I deny it. I have no knowledge, only what Jacob Armstrong told me himself concerning his property. I don't concern other people's business in this case or any other.

Int. 8. State if you know when the farm referred to by you in your 14th direct interrogatory, was purchased by the defendant?

Ans. I do not know. It was after the year 1845. The time they were driving piles on the Illinois Central across the river, he took me up to a sale on his farm; he told me that that was his old farm; he did not own the farm then, he had sold it to a man by the name of Woodford.

214 *Direct Examination Resumed.* Int. 18. Do you know of any attempts that the defendant has made, either of your own knowledge or from what defendant has said or done to induce or entice any witness or witnesses on the part of the complainant, not to testify against the defendant in this cause?

(Question objected to by counsel for defendant.)

Ans. Mr. Armstrong told me that he would find some one the money, to treat Mike Ryan and Mrs. Campbell, so that they would shut up their mouth and not hurt him. That is all that I can say distinctly.

JOHN DALEY.

215 *Testimony for complainant.* Age, 54; residence, Palmyra; has known parties since year 1851; knows of two lots and a house defendant has over the river, that witness sold in July last. Suppose he has other property; don't know where it is; has often heard defendant talk of other property, but cannot describe it; does not know much about his personal property; has seen him drive a horse and buggy; don't know whether it was his or not. The property witness sold defendant, is in North Dixon, block 51, lots one and two. When witness owned it, last summer, he
216 valued it at \$1,200. He received for it \$1,225; thinks there was another parcel of land went with it; the east half of lot one, block 51, in Dixon; thinks defendant's horse and buggy worth one hundred and fifty to one
217 hundred and seventy-five dollars; knows of no moneys, notes, credits, or other evidences of indebtedness due, or owing defendant. Has often heard defendant talk about his farm, where he lives; has been on it; does not know that he has got any more; does not remember of his telling him of his having more; has often heard him say that he had houses and lots, in town here, he was receiving rent for; can't tell where they are; does not
218 know number of acres in farm on which defendant resides. It is improved about as well as any of our farms around, and about six miles from town.

Cross-examination. A. J. Daley, a son of witness, now occupies the house and two lots sold by witness to defendant. The house and two lots were so sold to defendant, in settlement of an account that witness was
219 owing defendant; can't tell what was the cash value of said house and lots, at time of sale; don't know that they could have been sold at time of sale, for over six hundred dollars; don't think that they could have been sold for cash right down.

SOLOMON FENDER.

220 *Testimony for complainant.* Age, 51; residence, Palmyra; has known defendant six or seven years; knows that defendant claims forty acres of land, got of Albert Jenniss, and the farm where he now lives, and his horse and buggy he had seen him driving; that he called it his,
221 that is all; that he is not in any manner indebted to defendant; does not recollect that he ever had any deal with him, nor does he know of any one else being indebted to him.

JOHN O'NEIL.

222 *Testimony for complainant.* Has, since he was examined before,
on April 28, 1862, paid defendant \$100; thinks it was on the 4th of this
month; paid the money towards redeeming mortgage on eighty acres of
his land; is indebted to him; when he settled with him, he was to pay to
him \$1,000; does not know but it was to James Charters, as he was the
223 man who was to give witness a deed. The \$1000 was paid towards re-
deeming the land. He was to pay ten per cent. interest on the indebted-
ness. The settlement was made a year ago last spring.

JOSEPH BALL.

224 *Testimony for complainant.* Age, 38; residence, North Dixon;
has known defendant eight or nine years, complainant, two or three
years; does not know of any real estate, personal property, moneys or
credits, or other evidences of indebtedness, belonging to, or in which de-
fendant claims any interest; that some time in June, 1860, he negotiated
with Mr. Gillett, of Chicago, for complainant, the purchase of what he
believed to be the same premises defendant had paid some hundreds of
dollars on, and being desirous that the property should be kept in the
family, he, defendant, requested him to see complainant, to see if she
would not pay the balance due on the premises, and take a deed in her
own name; that he stated the proposition to complainant, to which she
agreed, and on or about June 6th, 1860, she drew nearly \$600, out of
Stiles' Bank, it might have been more, and it might have been less; which
money witness paid for complainant, receiving a deed from said Gillett,
to one John Coyne, in trust, for complainant; that is all he knows about
the case.

WILLIAM W. HEATON.

225 *Testimony for Complainant.* Age, 48; residence, Dixon. Knows
parties; has known them ten or twelve years.

Int. 3. Do you know of any real estate, personal property, promis-
sory notes, rights or credits, which the defendant owns in his own name,
or is the equitable owner of? If yea, state the same fully.

(Question objected to by counsel for defendant.)

Ans. I do not know that he owns anything equitably that he does
not own in his own name; I know that he has a farm that he claims to
own, on which he lives; I know that he did own, or claim to own, a
house in Dement town, known as the Harris House; I do not remember
the description of any other town property. I was Trustee in relation

226 to the Harris property, and made a sale of the same for his benefit. I sold, some years ago, another house and lot; I do not now remember when it was, or who the parties were; I know that Mrs. Armstrong is living on some town lots, and that Mr. Armstrong once lived there with her. I don't know anything about the title. Armstrong holds the legal title to some five or six hundred acres of Iowa land, which has been equitably transferred, for the judgment of an old debt of some twenty-five hundred dollars due the Chicago Marine and Fire Insurance Company. That is all the real estate that I now recollect of his owning. I know of personal property that he owns, or claims to own—a horse and buggy. He also carries a gold watch and chain—supposed to be his. I do not recollect anything else in way of personal property. As to notes: he holds my notes, I presume, for about one thousand dollars, and interest, and at the rate of interest Mr. Armstrong charged, there was, some time ago, some fifteen hundred dollars due him. He owes me an account for legal services—may be two or three hundred dollars. He owes Heaton and Goodwin five or six hundred dollars, and Heaton and Atherton over six hundred dollars, which it is agreed by and between the parties, shall be applied on my note to Armstrong. I do not know of any other notes or accounts due Armstrong, or that he claims to own, of my own knowledge. All other knowledge that I have is from statements to me made confidentially, as his attorney, in the relation of attorney and client.

227

TIMOTHY SULLIVAN.

228 *Testimony for Complainant.* Age, 35; residence, Dixon; has known defendant from four to five years; saw the complainant for the first time to know her Saturday. Does not know of any lands or lots that defendant owns. Defendant claims to have an interest in or has witness' note for two or three hundred dollars, which defendant got in trust for some land; don't know but it is paid, it ought to have been paid; at least one hundred and fifty-five dollars was paid, thinks balance is paid. Does not know that defendant has any claim against witness' house and lot. He does not own any house and lot in town; does not live in his own house. The claim on the land that witness spoke of, is all that he knows of. The land witness refers to, is eighty acres of land in Dixon township; can't give description. The defendant has witness' note and trust deed against the land for \$300, of which he has paid \$155; the remainder should be paid before this; thinks it is. Does not know the value of the eighty acres of land. Does not know of any other indebtedness owing to the defendant.

229

REUBEN MORRILL.

230 *Testimony for Complainant.* Age, 60; residence, Dixon; knows the
parties. Knows of no property whatever that defendant owns, or claims
231 to own, nor of any indebtedness due the defendant, and does not owe
defendant one cent.

JOHN H. ~~HARRIS~~ ^{Callan}.

Testimony for Complainant. Age, 38; residence, ~~Callan~~ ^{Groff} Grove.
Knows parties. Defendant claims the farm where he lives, and has a
horse and buggy there; don't know if it is his. Bought a horse and
cow of him about two years ago, and a year ago bought four hogs of him,
232 and lately he paid defendant eighty dollars cash, and the balance he has
done a good deal of work for, for him. Has not settled with defendant
and does not know how they stand; defendant may owe him some and
he may owe defendant some. Paid defendant the \$80 about a week or
so ago. Did the work, the most of it, last year. The farm on which he
lives is in ~~Groff~~ ^{Groff} Grove, and there are fifty or sixty acres of it plow land,
233 the balance is timber. Thinks there are in all one hundred and twenty
acres. Does not know of any more land belonging to defendant. Does
not know any other personal property belonging to defendant, or that he
claims to own.

THOMAS ~~SEAMAN~~ ^{Callan}.

234 *Testimony for Complainant.* Age, 65; residence, Palmyra; knows
parties; defendant eight or ten years, complainant about twenty-five
years. Knows some personal property, a horse and buggy and harness,
and a watch the defendant owns or claims to own; also a fifty dollar
note had from a cousin of witness. Has no recollection of defendant's
telling him that James Charters had any notes belonging to him. Does
not know of Charters having any of his notes of his own knowledge.
Knows of some real estate. Defendant claims the farm where he lives
235 in Palmyra, and forty acres bought of Albert Jenness in ~~Callan~~ ^{Callan} Grove,
somewhere. There are some houses in North Dixon defendant speaks
of owning.

HUGH SMITH.

Testimony for Complainant. Age, 53; residence, Dixon. Knows
parties. Owes defendant \$200, that is about all he owes him, and it is
236 secured by deed of trust, given on that piece he owns up the river at
end of bluff, where the old brick yard is, on which there is a story and
one half house frame, on road from Dixon to Grand Detour. It is a
three-cornered lot. He bought the property of defendant. Traded him
eighty acres of land. Can not tell how much the property bought of

237 defendant is worth. A man by the name of Morrell now lives on the
 eighty he traded defendant; don't know who owns it. Thinks he traded
 the eighty to defendant three years ago this fall. Does not know of any
 land, lots, farms or houses, that belong to defendant, or which he claims
 to own, or of any notes or accounts that are owing or due to defendant.

JASON C. AYERS.

238 *Testimony for Complainant.* Age, 27; residence, Dixon. Knows
 defendant; does not know complainant; is a land agent and commercial
 broker. Has been in the land agency some four years, and has some
 knowledge of the value of land in this State and Iowa. The value of
 239 medium quality of prairie land, in Polk county, Iowa, would depend on
 its location. It would range from one dollar to ten dollars per acre.
 Land of the above quality situate in the northern or northeastern part or
 eastern part of Polk county, Iowa, being improved, would be worth from
 one to three or four dollars per acre.

Prairie land in Blackhawk county, Iowa, should say would be worth
 from one to five dollars per acre. Should not be competent to say what
 timber land in said county would be worth, not having dealt in it. It is
 more valuable than prairie usually. Supposes he knows the house in
 Dixon, Lee county, Illinois, that William Sprague lived in last summer,
 a brick house. Supposes it worth \$1500. Does not know which house
 in North Dixon Deshon lives in. Does not know the place in which the
 240 complainant lives. Is not acquainted, he thinks, with lot four block fifty-
 one in North Dixon. Knows the two brick houses on two lots on First
 street, east of the railroad in city of Dixon; has never noticed them
 particularly, does not know the value. Might guess at their value;
 should say from twelve to sixteen hundred dollars. Don't know the
 value of west half of southwest quarter of section 5, town 19, north
 241 range 10, east of 4th P. M., and west half of lot one of N. W.; of section
 5 there would be 120 acres, and in section six there would be 120 acres.
 Does not know its value.

JOHN DEMENT.

Testimony for Complainant. Age, 59; residence, Dixon; knows
 the parties. Thinks the house in Dement's addition to the town of Dix-
 242 on, known as the ^{Carls} ~~Harris~~ house, in which Mr. Fowler lived last year,
 worth \$800; the house, lot and barn immediately east of the Harris
 house, where Capt. Cheney's family now reside, and known as the Chip-
 man house, he is acquainted with, and it is worth from \$1,000 to \$1,200.
 Is acquainted with the lot on which are two brick houses on south side
 of First street, immediately east of the railroad, in the city of Dixon,
 and thinks located as they are, worth fifteen or sixteen hundred dollars.

243 There are no improvements at all on lot 4, block 82, in the city of Dixon, and the lot is worth about \$75. Does not know who owns the small brick house at south end of the old Free Bridge, in Morrill's addition to Dixon. Does not know the amount of ground. The house is probably worth one hundred dollars. Good unimproved arable land in Bureau county, Illinois, is worth from five to twenty dollars per acre.

244 *Cross-Examination.* When witness gave value of Harris house, Chipman house, the two brick houses, and the other lands, he gave it as cash value in currency, in greenbacks or other currency.

JOHN DEMENT.

246 *Testimony for Defendant.* Age, 59; residence, Dixon, Illinois; knows parties. Is acquainted with the value of real estate and property in Dixon, and in Dement's addition to Dixon. Knows the house in Dement's addition to Dixon that James T. Kennedy resided and now resides in; does not know some of facts assumed in question; does not know who owns the house; should say that a fair valuation of the house and lot would be from one thousand to twelve hundred dollars.

Cross-Examination. It is his opinion that the cash valuation of that property at this time, is one thousand dollars.

OWEN FINNEGAN.

248 *Testimony for Defendant.* Age, 63; lives in North Dixon; knows parties. That the owners of a brick or wooden house on a lot situated at end of bluff, this side of brickyard, on road from Dixon to Grand Detour, at the present time, are Tom and Hugh Smith; that he, witness, once owned it. He bought it about two years ago, coming May, of Hickey & O'Neil, of Chicago: bought it in for Tom Smith, and he was to have it when he paid witness the money. When he bought it two years ago, coming May, he bought it for its present owner, Tom Smith.

Cross Examination. Can't tell that Tom and Hugh Smith own the property, only that Hughey Smith is living there; that is all he knows about his concerns; a man twenty miles off might own it for what he knows.

RICHARD JOURDAN.

250 *Testimony for Defendant.* Age, 54; residence, North Dixon: knows the parties: does not know of any property belonging to complainant, except three cows, two of which cows he knows belong to complainant; the third is around there, and she feeds her in the stable with the rest.

251 *Cross-Examination.* Complainant had one cow two years ago; the other she had a year ago last summer; the other he had seen around her premises, and going into her barn for about three months.

CHARLES RUXTON.

252 *Testimony for Defendant.* Age, 29; residence, Dixon. Has known the parties nearly six years; does not know of any monies or rents that the complainant now has; but knows that she has, at different times the past five years, deposited sums of money at the bank of E. B. Stiles, in her own individual name as follows, to-wit:

On the 5th day of May, 1858.....	\$252 50-100
“ 28th “ April, 1859.....	253 12-100
“ 6th “ July, 1859.....	250 00
“ 29th “ October, 1859.....	265 17-100
“ 7th “ January, 1860.....	273 00
“ 30th “ April, 1860.....	279 00

253 That on the majority of the above sums, she was paid, and she received interest, at the rate of ten per cent. per annum; perhaps upon all; cannot state particularly, but he knows of Stiles having, on the 7th of June, 1860, paid the complainant between six and seven hundred dollars, which was composed in part of principal and in part of interest.

254 *Cross Examination.* He distinctly recollects of complainant's making the deposits, and he refreshed his memory as to dates and amounts, from an account showing what certificates of deposit were issued from the office of E. B. Stiles; refreshed his memory by request of defendant, who subpoenaed him as a witness in this case. The account is in the ledgers of E. B. Stiles, and he has no authority to produce the books without his consent. Is engaged in keeping books and acting as clerk for E. B. Stiles. He does not refuse to bring the books; he has no authority. The money of which he has been speaking is not now on deposit with E. B. Stiles.

255 *Direct Examination resumed.* Has been engaged as clerk and keeping the books of E. B. Stiles, in his banking office, since the spring of 1857. The entries in the books from which he refreshed his memory were not entirely made by him as such clerk or book-keeper. Mr. Peterson, another clerk of Mr. Stiles, kept the ledger, and witness the journal, so that he, Peterson, posted into the ledger from witness' entries in the journal.

WILLIAM W. TILTON.

256 *Testimony for Defendant.* Age, 47; residence, Palmyra. Knows defendant; does not know complainant. Knows the property known as

the Harvey Morgan farm or place, in Palmyra, Lee county, Ill., where defendant lives. Only knows the value of real estate and farms in its neighborhood by what he paid for land in same neighborhood. He bought land in same neighborhood for \$20 per acre, in trade; has not known of any cash value for land in that section for the last year and one-half or two years. Knowing the situation of said farm as well as he does, he would not pay over fifteen or eighteen dollars per acre for it. Only knows the forty acres of land bought by defendant of Albert Jenness, and its value, as he has had occasion to assess it a couple of years; is not acquainted with the value of lands in its neighborhood.

Cross Examination. The land he purchased for \$20 per acre was not all improved; a part was improved, but all good tillable land; purchased the land two years ago last spring; there were no buildings on it.

Transcripts of Record from Lee County Circuit Court.

Decree recites, that the cause was set for hearing on amended bill, answer and replication: that the questions of fact arising therein be referred to a jury for inquiry: that a jury was duly empaneled, and after hearing the evidence, returned a verdict that the defendant thereon was guilty of the acts of adultery with Mrs. Stevens and Mrs. Ennesy, as charged in the complainant's bill of complaint therein: that the marriage contract heretofore existing between the complainant and defendant, was, by said court, dissolved and annulled; and that the questions of alimony, and the custody of the children, were reserved for further consideration and decision, at some future term of said court;

That complainant and defendant, retain respectively, the children then in their custody; and that the defendant pay to the complainant for temporary alimony, the sum of twenty dollars per month, to be paid on the first day of each month, beginning on the first day of January, thereafter.

Order for a change of *venue* to the county of Rock Island.

Decree upon the questions of alimony, and the custody of children, made at the January Term of the Rock Island Circuit Court, for the year 1864, recites:

That said cause was heard by said court, upon the amended bill, answer, replication, and verdict of the jury upon the questions of divorce, had and determined in the Circuit Court of Lee county, and upon the testimony taken, returned and filed in the cause:

207

Amst

vs

Amatio

Abchac

Filed April 20.

L. L.

207

Mary Armstrong

Jacob Armstrong

Record

Filed April 20. 1884

L. Leland
Clerk

82:00

1
Pleas before the Honorable Ira O Wilkerson Judge
of the Sixth Judicial District of the State of Illinois
at a Term of the Circuit Court begun and held
at the Court House in the City of Rock Island within
and for the County of Rock Island and State
aforesaid on the second Monday the 11th day of
January A.D. 1864 being a change of Venue from
Lee County in the Cause of Mary Armstrong vs
Jacob Armstrong

Present Honorable Ira O Wilkerson Judge
Charles A McLaughlin Sheriff
Robert Thompson Dep^y Clerk

Be it remembered that at the Circuit Clerks
Office of Lee County in the City of Dixon and
State of Illinois on the 12th November A.D. 1861. a
Bill for divorce was filed; And which afterwards
to wit on the 13th of May A.D. 1863. was filed in the
Circuit Clerks Office in the City of Rock Island
County of Rock Island and State aforesaid and
which is in the words and figures following to wit.

State of Illinois }
Lee County } In the Lee County Circuit Court

of the November Term A.D. 1861,

To the Honorable William H. Heaton Judge of the Lee
County Circuit Court and of the Twenty second Judicial
Circuit of the State of Illinois: In Chancery sitting

Complaining sheweth unto your Honor your Oratrix Mary Armstrong of the County of Lee and State of Illinois, that on or about the Eighth day of December AD 1838, at the City of New York in the State of New York, she was duly joined in marriage to Jacob Armstrong, her present husband, now of the County of Lee and State of Illinois, and that on or about the 15th day of May AD 1850, they removed to the County of Lee and State of Illinois aforesaid where they have ever since resided, and that they have continued to live and co-habit together as such husband and wife, until the time hereinafter mentioned

And your oratrix further shews that during the time she so lived and cohabited with the said Armstrong, she had three children by him yet living to-wit- Sarah C. Armstrong aged seventeen years, Jacob Armstrong aged ten years, and Mary Francis Armstrong aged seven years; And that during all the time of said cohabitation she conducted herself with propriety and proper decorum; managed the household affairs of her said husband with prudence and economy, and at all times treated her said husband with kindness and forbearance.

And your oratrix further shews unto your Honor that during the greater part of the time of said cohabitation it was the practice of said Armstrong to keep intoxicating liquor in his house and to use it constantly; that for the last eight years of said cohabitation it was the practice of said Armstrong to drink to excess

3 and for the four years^{past} it was his practice to come home intoxicated, and sometimes to stay away from his home all night, in consequence of excessive intoxication; that for the two years last past he has been habitually drunk and intoxicated -

Your oratrix further shows, that the said Jacob Armstrong continuing to disregard his marriage vow, and his obligation to treat your oratrix with kindness and conjugal affection, during the years 1856, 1857, and 1858, commenced and continued a course of unkind, harsh and tyrannical treatment towards your oratrix both in the presence and out of the presence of their said children, until the time said Armstrong, deserted your oratrix as hereinafter mentioned and set forth

And your oratrix further shows that on divers occasions within the periods last mentioned said Armstrong was guilty of such cruel and inhuman treatment of your oratrix as to render it unsafe and improper for her to cohabit with him. That on or about the 15th day of July A.D. 1858, after dinner of said day the said Jacob Armstrong rushed upon your oratrix and clenched the hand of your oratrix upon the table, dragged your oratrix from the dining room into an adjoining room, and then and there struck your oratrix with his fist upon the face of your oratrix upon the nose so violently as to knock her down and to render her insensible for a long space of time; that upon your oratrix becoming again sensible of her condition and rising from off the floor the said Armstrong ran away from the house, and did not

4 return for the space of six or seven months; that your
oratrix immediately upon recovering from the present
effects of said blow proceeded to the office of one
Edwin McKim an Acting Justice of the Peace, in and
for said Lee County, to make complaint against said
Armstrong for an assault and battery upon your oratrix
that the said Justice examined your oratrix's face &
found it black and blue, but being a personal friend
of said Armstrong, refused to issue a warrant for the
arrest of said Armstrong and endeavored to dissuade
your oratrix from proceeding further.

Your oratrix further shows that said Armstrong
further to wound the feelings of your oratrix and to
render her unhappy and to cruelly torment her, did
on or about the latter part of the month of July AD 1858,
tell to one Mrs Alanson Smith of the City of Dixon and
divers other persons that he had no respect for your
oratrix; that he had married her for money, and that
if he had known at the time he so married your oratrix
that she had no money, he would never have married
her, or words to that effect, and divers other matters
and things tending to render your oratrix unhappy and
miserable.

Your oratrix further shows, that after the said
Armstrong had so struck your oratrix as aforesaid
he left your oratrix and remained away for the space
of six or seven months; during that period calling
occasionally at the house in which he and your
oratrix had resided; that in January AD 1859, he
left entirely and has not since lived with your

5. oratrix: that since the period last mentioned he has wholly and entirely failed to provide your oratrix with any means of support whatsoever, leaving your oratrix entirely destitute, as far as he is concerned of any means of subsistence: that said Armstrong at or about the period last mentioned prohibited the merchants of the City of Dixon to wit, B.C. Deshon, James McKimney, Enoch Wood and others from trusting your oratrix on his account: That your oratrix has all of said time had the custody and control of the said child Mary Francis Armstrong, and that the said Jacob Armstrong has failed and refused to provide for the wants of the said Mary Francis, and she has been supported and taken care of wholly by your oratrix. Your oratrix further states that she has been and is now entirely dependent upon her own labor and the charity of her friends for her support.

Your oratrix further shows that the said Armstrong in order to harass and cruelly treat your oratrix, has endeavored and succeeded in enticing away from the home of your oratrix the two oldest of your oratrix's said children, Sarah E and Jacob Armstrong and has endeavored to and your oratrix fears has succeeded in alienating the affections of the said children from your oratrix.

And your oratrix further shows unto your Honor that she is informed and believes and therefore charges the fact to be, that said Armstrong, still further disregarding the solemnity of his marriage vow,

6
6 hath since the marriage of your oratrix with him as aforesaid, committed adultery at divers times and places; and especially that the said Armstrong on some day or days during the months of July or August of the year AD 1858, but on what particular day or days your oratrix is ignorant, at the City of Dixon in the County of Lee aforesaid, did commit adultery and have casual connection with one Mrs Alanson Smith; and that the said Armstrong at various other times during said year AD 1858, committed adultery and had casual connection with the said Mrs Alanson Smith, at the City & County last aforesaid, or at some place or places within the said County.

Your oratrix further shows, that she is informed and believes and therefore charges the truth to be, that the said Armstrong so disregarding the solemnity of the marriage now as aforesaid hath since your oratrix's said intermarriage with him, committed adultery at divers times and in various places, and especially that the said Armstrong on some day or days in the month of September or October in the year 1858 in the town of Palmyra, in said Lee County, did commit adultery and have casual connection with one Mrs . Stevens then and there living upon the farm of said Armstrong; and that the said Armstrong did at various other times during the year AD 1858, commit adultery and have casual connection with the said Mrs Stevens at the place last aforesaid or at some other place or places within said County of Lee.

Your oratrix further shows that she is informed

7
and believes and therefore charges the truth to be, that the said Armstrong further disregarding the solemnity of the marriage vow as aforesaid, hath since said time last mentioned, Committed adultery at divers times and various places and especially that the said Armstrong on some day or days in the month of August or September AD 1858 in the City of Dixon in said Lee County did commit adultery with one Mrs Campbell and have carnal connection with her, and that the said Armstrong did at various other times during the year 1858 commit adultery and have carnal connection with the said Mrs Campbell at the place last aforesaid, or at some other place or places within the said County of Lee.

Your oratrix further states that the said Jacob Armstrong is the owner, either in his own name or that of some other person for him, of a large amount of real Estate, situated in said Lee County the particular description of which your oratrix is unable to give: that he is also the owner of a considerable amount of personal property, the value of which your oratrix is not informed. But your oratrix states and verily believes that the said Armstrong is seized and possessed of real and personal property to the amount of from \$20,000 to \$30,000: and that his annual income is from \$2,000 to \$3,000.

Your oratrix further shows that she is in need of money and funds to support herself and her said child Mary Francis Armstrong; and that she has no means wherewith to enable her to defray the expenses of the prosecution of this suit.

8
In tender consideration whereof and inasmuch as
your oratrix is . in the premises at and
by the strict rules of the common law and can only
have relief in a Court of Equity where matters of this
kind are properly relievable and cognizable. To the
end thereof that the said Jacob Armstrong may with-
out oath (his answer under oath is this hereby
sworn) full, true, direct and perfect answer make to
all and singular the premises, as fully as if the
same were here again repeated and he thereunto
particularly interrogate; and that the said marriage
between your oratrix and the said Jacob Armstrong
may be dissolved and a divorce thereof decreed by
this Honorable Court in pursuance of the Statute in
such case made and provided, that the said Jacob
Armstrong may be compelled by a decree of this
Honorable Court to make proper and suitable provis-
ion for the support and maintenance of your oratrix
and her said children, as well during the pendency
of this suit as afterwards, and that he may also provide
necessary means to enable your oratrix to prosecute the
suit; that the permanent custody of said children
may be decreed by said Court, and that your oratrix
may have the care, custody and education of the
said children of the said marriage confided to
her, and that your oratrix may have such further
or such other relief in the premises as shall be ag-
reeable to equity and good conscience and as to said
Court shall seem meet.

May it please your honor to grant to your

9
Oratrix the peoples most gracious writ of summons.
issuing out of and under the seal of said Court
directed to the Sheriff of said Lee County Command-
ing him to summons the said Jacob Armstrong to
personally be and appear at the next term of this
Court to be holden on the Fourth Monday of November
AD 1861. to answer all and singular this your orat-
rix bill of Complaint and to stand by and abide
whatever order or decree this Court may make in
the premises, agreeable to the usage and practice
of this Court. And your oratrix will ever pray &c
Bonge & Fouke Solicitors }
And of Counsel for Comp } Mary Armstrong

State of Illinois }

Lee County } Mary Armstrong being first duly
sworn deposes and says that she
has heard the foregoing bill of Complaint read and
knows the contents thereof, that all matters stated to
be upon personal belief, the same are true, that as to
all other matters and things, she verily believes the
same to be true, And farther saith not.

Subscribed sworn to before }

me this 12th day of November } Mary Armstrong
AD 1861. }

Harry Morgan }
Justice Peace }

10

And be it further remembered that afterwards to wit, on the said 12th day of November AD 1861, there was issued from the Office of the Circuit Clerk of said Lee County a Summons in Chancery which are in the words and figures following to wit:-

State of Illinois }
Lee County } p.

The People of the State of Illinois to the Sheriff of said Lee County-Greeting:

We command you that you summon Jacob Armstrong if he shall be found in your County, personally to be and appear before the Circuit Court of said Lee County, on the first day of the next Term thereof, to be holden at the Court House in Dixon, in said Lee County on the fourth Monday of November AD 1861 to answer unto Mary Armstrong in her certain bill of Complaint filed in our said Court on the Chancery side thereof.

And have you then and there this writ, with an endorsement thereon, in what manner you shall have executed the same.

Witness Benjamin F Shaw Clerk of our said Court, and the seal thereof at Dixon this twelfth day of November AD 1861.

Benjamin F Shaw Clerk
Mr Joseph Ball D.C.

And afterwards to wit on the back of said Summons is the following endorsement to wit:

Served the within summons on the within

11 named Jacob Armstrong by reading the same to him in the presents and hearing and by leaving a copy of the same with him on the 12th day of November.

Dated at Dixon this 12th day of November 1861.

Fees Copy 25-

Luns 50

Travel 25-

Ret. $\frac{10}{\$1.00}$

Ad Porter Sheriff

By D Porter Deputy

And be it further remembered that afterwards to wit; on the said 15th day of February AD 1862 there was filed in the Office of the Circuit Clerk of said Lee County in the City of Dixon, State of Illinois a Demurrer and Answer.

And which said Demurrer and Answer afterwards to wit on the 13th day of May AD 1863. was filed in the Office of said Circuit Clerk of Rock Island County, in the City of Rock Island State aforesaid, which is in the words and figures following to wit:-

State of Illinois } Lee County Circuit Court
County of Lee } ^{3^{SS}} February Term AD 1862

Mary Armstrong }

vs.

Jacob Armstrong }

In Chancery

The Demurrers of Jacob Armstrong
Defendant to parts of the bill of Complaint of
Mary Armstrong Complainant and the answer of

12 said Jacob Armstrong Defendant to the remainder
of the said bill of Complaint.

This Defendant by protestation not
Confessing or acknowledging re all or any of the alle-
gations and charges of Cruelty, unkindness or in-
human conduct on the part of Defendant towards
said Complainant, and of said Complainant apply-
ing to one Edwin W. Heine for a warrant re doth
demur thereto and for cause of demur sheweth, that
the same Multifarious and do not show any legal
grounds for granting the prayer of said Complainant
as in said bill sought and prayed for. Wherefore
this defendant demands the judgement of this
Honorable Court whether he shall be compelled to
make any further or other answer to all such
allegations and charges therein contained, and
as to all such Allegations and charges to be
hence dismissed with his reasonable costs in this
behalf sustained

Geo Rhodwin
Defts Solicr.

This Defendant also by protestation not con-
fessing or acknowledging all or any of the alle-
gations and charges of desertion by Defendant
or defendants deserting himself from Complain-
ant & of Defendants not having provided said
Complainant with means of support, and of Defendants
having prohibited certain Merchants therein named
from trusting said Complainant, and of Defendants
having estranged away and alienating the affections

13 of her daughter Sarah E. Armstrong from said Complainant doth demur thereto and for cause of demur sheweth, that the same are Multifarious and do not show any legal ground for granting the prayer of Complainant therein sought and prayed for. Therefore this defendant demands the judgement of this Honorable Court whether he shall be compelled to make any further or other answer to all such allegations, and charges therein contained, and as to all such allegations and charges prays to be hence dismissed with his reasonable costs in this behalf sustained.

Geo R Goodwin

Defts Solicitor

This defendant also by prolixation not confessing or acknowledging all or any of the allegations and charges of Adultery in said bill alleged and charged to have been committed by Defendant with one Mrs Maureen Smith demurs thereto and for cause of demur sheweth That the same are not specifically charged with certainty as to time and place. That Complainant does not positively aver that the adultery charged therein was committed without her consent, Concurrence, privity or procurement; or that she has not voluntarily cohabited with the Defendant since the discovery of such adultery; Wherefore this Defendant demands the judgement of this Honorable Court whether he shall be compelled to make any further or other answer to all such

14 Allegations and charges therein contained and
as to all such Allegations and charges prays to
be hence dismissed with his reasonable costs in
this behalf sustained Geo R Goodwin
Defts Solicr

This defendant also by protestation not
confessing or acknowledging &c all or any of
the Allegations and charges of Adultery in said
bill alledged and charged to have been committed
by defendant with one Mrs Sterns demands
therein and for cause of demurr sheweth that the
same are not specifically charged with certainty
as to time place and person. That Complainant
does not positively aver that the adultery charged
therein was committed without her consent, con-
nivance, privity or procurement or that she has
not voluntarily cohabited with the defendant
since the discovery of such adultery. Wherefore
this Defendant demands the Judgement of this
Honorable Court, whether he shall be compelled
to make any farther or other answer to all
such Allegations and charges therein contained
and as to all such allegations and charges
prays to be hence dismissed with his reason-
able costs in this behalf sustained

Geo R Goodwin
Defts Solicr

This Defendant by protestation not confess-
ing or acknowledging &c all or any of the allega-
tions and charges of Adultery in said bill

15-
13th alleged and charged to have been committed
by Defendant with one Mrs Campbell
demurs thereto and for cause of demurrer shew=
eth that the same are not specifically charged
with certainty as to time, place and persons That
Complainant does not positively aver that the
Adultery charged therein was committed without
her consent, connivance, privity, or procurement, or
that she has not voluntarily cohabited with the
Defendant, since the discovery of such adultery.

Wherefore this Defendant demands the Judgment
of this Honorable Court whether he shall be com=
pelled to make any further or other answer to
all such allegations and charges therein contained
and as to all such Allegations and charges
prays to be hence dismissed with his reasonable
costs in this behalf sustained.

Geo P Goodwin
Defts Solicr

And as to the residue of the said bill this
defendant not waiving his said demurrer, but
relying thereon and saving and reserving to
himself now and at all times hereafter all and
all manner of benefit and advantage of exception
which can or may be had to the residue of the
said bill of Complaint for answer, thereto or to so
much thereof as this defendant is advised is
in anywise material or necessary for him to
answer unto answers and says, that he admits
that the said Complainant was duly joined

16 in marriage to him, that the said Complainant and the said defendants removed to the County of Lee and State of Illinois where they have since resided and lived and cohabited together as husband and wife as in said bill alleged. This defendant also admits it to be true that while the said Complainant so lived and cohabited with this defendant had the three children by him, who are yet living to wit- Sarah E. Armstrong, Jacob Armstrong, Mary Francis Armstrong, that the ages of said Children are correctly stated as in said bill alleged, but this defendant denies that during all the time of said cohabitation the said Complainant conducted herself with propriety and proper decorum, or that she managed the household affairs of this defendant with prudence and economy, and at all times treated this defendant with kindness and forbearance as in said bill alleged.

And this defendant further answering denies that during ~~the greater~~ part of the time of said cohabitation it was not the practice of this defendant to keep intoxicating liquor in his house and to use it constantly, or that for the last eight years of said cohabitation it was the practice of this defendant to drink to excess and for the four years last past it was his practice to come home intoxicated and sometimes to stay away from his home in consequence of excess -

177
intoxication, or that for the two years last past this defendant has been habitually drunk and intoxicated, as in said bill alleged-

This defendant further answering denies that he is the owner either in his own name or of some other person for him of a large amount of Real Estate situated in said Lee County or that he is the owner of a considerable amount of Personal property, or that he is seized and possessed of Real and Personal property to the amount of \$20,000 to \$30,000 or that his annual income is from \$2,000 to \$3,000 as in said bill alleged,

This defendant further answering denies that the said Complainant is in need of money and funds to support herself and her said child Mary Francis Armstrong; or that the said Complainant has no means wherewith to enable her to defray the expense of the prosecution of this suit as in said bill alleged,

And this defendant having fully answered the said Complainant's said bill of Complaint, except such parts thereof, as the said defendant has hereinbefore demurred to, humbly prays to be hence dismissed with his reasonable costs and charges in that behalf most ungrudgingly sustained-

Geo P Goodwin
Counsel & Solicitor
for Defr

Jacob Armstrong
By Geo P Goodwin
his Atty,

18 And be it further remembered that afterwards
to wit on the 12th day of November A. D. 1862. There
was filed in the office of said Lee County
Circuit Court, and afterwards in the office
of the said Circuit Clerk of said Rock
Island County to wit. on the 13th day of May
A. D. 1863 an amended bill of complaint in the
words and figures following to wit:

State of Illinois } ss. In the Lee County ^{Court} Circuit
Lee County } of the November Term A. D. 1862

To the Hon William W. Heaton Judge of the Lee County
Circuit Court, and of the Twenty Second
Judicial Circuit of the State of Illinois in
Chancery setting:

Complainant sheweth unto your Honor
your oratrix Mary Armstrong of the County
of Lee & State of Illinois, that on or about the
eighth day of December A. D. 1838. at the City of New
York. in the State of New York. she was duly
joined in marriage to Jacob Armstrong her
present husband. now of the County of Lee &
State of Illinois, and that on or about the fifteenth
day of May A. D. 1850. they removed to the County
of Lee and State of Illinois aforesaid where they have
ever since resided and where they have co-
habited and lived together as such husband and
wife. until the time hereinafter mentioned,

19 And your oratrix further shows that during the time she so lived and cohabited with the said Armstrong she had three children by him yet living: to wit: Sarah. E. Armstrong aged, at the filing of her original bill herein. Seventeen years. Jacob. Armstrong aged ten years, and Mary Francis Armstrong aged at said time seven years. And that during all the time of said cohabitation she conducted herself with propriety and proper decorum, managed the household affairs of her said husband with prudence and economy, and at all times treated her said husband with conjugal kindness and forbearance.

And your oratrix further shows unto your Honor that the said Armstrong disregarding his marital vows to act towards your oratrix in a kind and husbandlike manner and to conduct himself with propriety as a man and a husband, has for the two years last past preceding the filing of the original bill of your oratrix herein to wit: the 12th day of November A.D. 1861. been habitually drunk and intoxicated.

Your oratrix further shows unto your Honor that the said Armstrong, continuing to disregard his marriage vow and his obligation to treat your oratrix with kindness and conjugal affection, during the years 1856, 1857 and 1858, commenced and continued a course of unkind, harsh and tyrannical treatment towards your oratrix both in the presence and out of the presence of their said

20 children. untill the time said Armstrong deserted your oratrix as hereinafter mentioned and set forth.

And your oratrix further shows that on divers occasions within the period last mentioned said Armstrong was guilty of such cruel and inhuman treatment of your oratrix as to render it unsafe and improper for her to cohabit with him. that on or about the fifteenth day of July A.D. 1858. after dinner of said day the said Jacob Armstrong rushed upon your oratrix, clenched her hand upon the table dragged your oratrix from the dining room into an adjoining room and then and there struck her upon the face so violently as to knock her down and to render her insensible for a long space of time. that said cruel and inhuman treatment had the effect of making the parts of her face so struck black and blue, and said parts continued in that condition for a long space of time. that said Armstrong after cruel and inhuman treatment left the house of your oratrix and remained absent some six or seven months.

Your oratrix further shows that said Armstrong in order to harass and cruelly treat your oratrix has endeavored to and succeeded in carrying away from the house of your oratrix the two oldest of your oratrix said children. Sarah E. and Jacob. Armstrong, and has endeavored to and succeeded, in alienating the affections of the said

21 children from your oratrix, to such an extent that the said children treat her indifferently and unkindly, which treatment causes your oratrix great grief and affliction

Your oratrix further shows that after said ~~strong~~ strong had so struck your oratrix as here in before mentioned, he left your oratrix and remained away for the space of six or seven months, during that period calling occasionally at the house in which he and your oratrix had resided, that in the Month of January A.D. 1859 he left her entirely and has not since lived or cohabited with your oratrix.

That since said period last mentioned he has wholly and entirely failed and neglected to provide your oratrix with any means of support whatsoever, leaving your oratrix entirely destitute as far as he is concerned of any means of subsistence, that your oratrix has all of said time had the custody and control of the said child Mary Francis, and that the said Armstrong has failed and refused to provide for her wants and she has been supported and taken care of wholly by your oratrix.

Your oratrix further shows that she has been and is now entirely dependent upon her own labors and the charity of her friends for her own & the said Mary Francis support and maintenance

And your oratrix further shows unto your Honor, that she is informed and believes and therefore charges the fact to be, that the said Armstrong, so disregarding the solemnity of his marriage vow as aforesaid hath since your oratrix intermarriage with him as aforesaid committed adultery at divers times and places, and especially that the said Armstrong on or about the twentieth day of August A. D. 1858 at the City of Dixon, in the County of Lee & State of Illinois, did commit Adultery and have carnal connection with one Mrs Stevens, wife of one Albert Stevens, but the christian name of said Mrs Stevens, your oratrix does not know.

And your oratrix further shows that said Armstrong further disregarding his marital vows, did as your oratrix is informed and believes and therefore charges the fact to be, on or about the fifth day of September A. D. 1858, at the Town of Palmyra in the County of Lee & State of Illinois, commit adultery and have carnal connection with the said Mrs Stevens, wife of the said Albert Stevens, and that the said Armstrong, did at various other times during the year A. D. 1858 have carnal connection and commit adultery with the said Mrs Stevens wife of the said Albert Stephens, at the Town and County last aforesaid or at some place or places in said County.

And your oratrix further shows that since the filing of her original bill herein, she has been informed and verily believes, and therefore

23 charges the fact to be, that said Armstrong continuing to disregard the solemnity of his marriage vows, did on or about the fifteenth day of January A.D. 1859 in the City of Chicago, in the County of Cook & State of Illinois, commit adultery, and have carnal connection with a public prostitute whose name is unknown to your oratrix, in a house of ill fame in said City, but which particular house your oratrix is not informed and therefore cannot state.

And your oratrix further shows unto your Honor that since the filing of her original bill herein, your oratrix has been informed and verily believes and therefore charges the fact to be that said Armstrong continuing to disregard the solemnity of his marriage vow, did on or about the 10th day of July A.D. 1861, at the town of Palmyra, County of Lee & State of Illinois, commit adultery and have carnal connection with one Mrs Emery, alias Mrs Emery, a jewelry peddler, whose first name is to your oratrix unknown.

And that on or about the fifteenth day of September A.D. 1861, the said Armstrong continuing to disregard his marriage vow, did commit adultery and have carnal connection with the said Mrs Emery alias Mrs. Emery, at the town of Palmyra in the County of Lee & State of Illinois and that the said Armstrong did at other times during the said year A.D. 1861, commit adultery and have carnal connection with the said

24 Mrs Lunsy alias Mrs Lunsy at the town and County last aforesaid, or at some other place or places in said County,

And your oratrix further shows unto your Honor, that she has not voluntarily cohabited with said Armstrong since the discovery by her of the commission of the said acts of adultery or either of them by the said Armstrong and that such adultery was committed by the said Armstrong without the consent, concurrence, privity or procurement of your oratrix.

And your oratrix further shows unto your Honor that since the filing of her original bill herein, she has been informed and verily believes and therefore charges the fact to be, that said Armstrong continuing to disregard the solemnity of his marriage vows, did on or about the Seventh day of May AD 1861 in the City of Chicago, in the county of Cook and State of Illinois, commit adultery and have carnal connection with a public prostitute, whose name to your oratrix is unknown, in a house of ill fame in said City, and which particular house your oratrix is not informed and therefore cannot state.

And your oratrix further shows unto your Honor, that she has not voluntarily cohabited with said Armstrong since the discovery by her, of the commission of the said act or acts of adultery, or either of them by the said Armstrong and that such adultery was committed

25- by the said Armstrong. without the consent, connivance, privity or procurement of your oratrix.

Your oratrix further shows unto your Honor that the said Armstrong is the owner either in his own name or that of some other person or persons for him, of a large amount of real Estate situate in the Counties of Lee and Carroll in the State of Illinois, and also in the State of Iowa. the particular description of which your oratrix is unable to give, and that he is also the owner of a considerable amount of personal property, rights & credits. The value of which your oratrix is not informed, but your oratrix states and verily believes that said Armstrong is seized and possessed of real and personal property to the amount of from \$20,000 to \$30,000 and that his annual income is from \$2,000 to \$3,000. Your oratrix further shows that she is in need of money and funds to support herself and her said Child Mary, Francis, and that she has no means wherewith to enable her to defray the expences of the prosecution of this Suit.

In tender consideration whereof and forasmuch as your oratrix is remediless in the premises, at and by the strict rules of the Common Law of Equity where matters of this nature are properly cognizable and relevant to the end therefore that the said Jacob Armstrong may, without oath (his answer under oath being hereby expressly waived) full, true direct and perfect

26 answer make to this your oratrix amended bill of complaint in the premises as fully as if the same were here again repeated and he thereunto specially interrogated. And that the said marriage between your oratrix and the said Jacob. Armstrong may be dissolved and a divorce thereof decreed by this Honorable Court in pursuance of the Statute in such case made and provided, that the said Jacob Armstrong may by decree of this Honorable Court, be compelled to make suitable and proper provision for the support and maintainance of your oratrix and her said Child Mary Francis as well during the pendency of this suit as afterwards; and that the said Armstrong may also be compelled to provide necessary means to enable your oratrix to prosecute this suit. That the permanent custody and controule and maintenance of all of said Children may be decreed by this Court. And that your oratrix may have the care custody and education of her said Children confided to her. And that your oratrix may have such further or such other relief in the premises as to your Honor shall seem meet, and which shall to equity and good conscience appertain.

May it please your Honor to grant unto your oratrix the Peoples most Gracious writ of Summons, issuing out of and under the seal of this Court directed to the Sheriff of Said See County, Commanding him to summons the said Jacob Armstrong, to personally be and appear

27
27 at the next term of this Court to be begun & holden
at Dixon in Said County on the fourth Monday of
November A.D. 1862, to answer all and singular, this
your oratrix amended bill of complaint, and to
stand to and abide whatever order or decree
Court may make in the premises, agreeable to the
usage & practice of this Court. And your oratrix
will ever pray &c

Bargo & Foulke

by Counsel }

Mary. Armstrong

State of Illinois }

Lee County }

Mary Armstrong being duly

sworn deposes and says that

she has heard the foregoing amended bill of complaint
read and knows the contents thereof, that all mat-
ters stated to be upon personal knowledge are true
that as to all other matters and things therein sta-
ted she verily believes the same to be true, and
further saith not.

Subscribed and sworn to

before me this Eleventh

day of November A.D. 1862,

Wm. Townsend Justice of the Peace

Mary. Armstrong

And be it further remembered that afterwards to wit: on the 21st day of November A.D. 1862 there was filed in the office of said Lee County Circuit Court and afterwards in the office of said Circuit Clerk of said Rock Island County to wit: on the 13th day of May A.D. 1863 an Answer to an amended bill of complaint in the words and figures following to wit:

State of Illinois } Lee County Circuit Court
County of Lee } S.D. November Term A.D. 1862

Mary. Armstrong }
vs } In Chancery
Jacob. Armstrong }

The answer of Jacob Armstrong defendant to the amended bill of complaint of Mary Armstrong complainant

This defendant now and at all times hereafter saving and reserving to himself all manner of benefit and advantage of exception to the many errors and insufficiencies in the complainant's ^{said} amended bill of complaint contained, for answer thereto or unto so much or such parts thereof as this defendant as is advised is natural for him to make answer unto, he answers and says, that he admits that the said complainant was duly

29. Joined in marriage to him, and that on or about the fifteenth day of May A.D. 1830 they removed to the County of Lee and State of Illinois where they have ever since resided, and where they have lived & cohabited together as husband and wife until the time thereafter in said amended bill mentioned and this defendant further answering admits that while they so lived and cohabited together the said complainant had three children by him yet living and that their names and ages are correctly stated in said amended bill, but this defendant denies that during all the time of said cohabitation she the said complainant conducted herself with propriety and proper decorum; or managed the household affairs of her said husband with prudence and economy, and at all times treated her said husband with Conjugal Kindness and forbearance as in said amended bill of complaint is alleged.

This defendant further answering denies that during the years 1836, 1837 and 1838 he commenced and continued a course of unkind, harsh and tyrannical treatment towards said complainant both in the presence of and out of the presence of their said children, in manner and form as in said amended bill alleged.

This defendant further answering denies

30

that on divers occasions within the period last mentioned he said Armstrong was guilty of such cruel and inhuman treatment of said complainant as to render it unsafe and improper for her to cohabit with him, and that on or about the fifteenth day of July A.D. 1858 after dinner of said day, he said Jacob. Armstrong rushed upon said complainant - clinched her hand upon the table, dragged her from the dining room into an adjoining room and then and there struck her upon the face so violently as to knock her down and to render her insensible for a long space of time, or any space of time, or that the parts or any part of her face were so struck at any time by this defendant as to render them black and blue, or that any part or parts of the said complainants face were at any time either made black and blue, or continued for any space of time black and blue, by any blow or blows inflicted thereon by this defendant, or by any cruel and inhuman ~~treatment~~ treatment of this defendants whatsoever. but this defendant admits that on or about the time in said amended bill alleged he left the house in which he and said complainant were residing and remained away therefrom some six or seven months

This defendant further answering denies that to harass and cruelly treat said complainant he has endeavored to and succeeded in

31 enticing away from the house of said complainant the two oldest of said complainants said children Sarah. E. and Jacob. Armstrong; or that he endeavored to and succeeded in alienating the affections of the said children from said complainant to such an extent that the said children treat her indifferently and unkindly so as by such treatment to cause said complainant great grief and affliction as in said amended bill alleged.

This defendant further answering, says that he admits that in the month of January A.D. 1859. he left her said complainant entirely and has not since lived or cohabited with her as in said amended bill alleged.

This defendant further answering denies that since said period last mentioned he has wholly and entirely failed and neglected to provide said complainant with any means of support whatever or left said complainant entirely destitute as far as he is conversed of any means of subsistence.

This defendant admits that said complainant has all of said time had the custody and control of the said Child Mary. Francis. but this defendant denies that he has failed and refused to provide for her wants or that the said Mary. Francis has been supported and taken care of wholly

32 by said complainant and as in said amended bill alleged.

This defendant further answering denies that she said complainant and has been and is now entirely dependant upon her own labors and the charity of her friends for her own & the said Mary Francis support and maintenance as in said amended bill alleged. but on the contrary this defendant avers the facts to be that ever since the time that this defendant left the said complainants as aforesaid, this defendant has permitted the said defendant to occupy the house and lots of land owned by this defendant in North Dixon in said County of Lee & for imple occupied by this defendant and the said complainant while ^{together as husband and wife} they lived, besides two other lots of land of this defendants adjoining the same on one of ~~of~~ which there is a good barn free of rent expence or charge, on which said lots of land there are near to said house two good gardens in which the said complainant annually raises more vegetables than she needs for her own and the said Mary Francis use. that she keeps a dairy of three Cows from the milk of which she annually makes more butter than she needs for her own and the said Mary Francis use, and does from time to time every year have there from large quantities of butter to sell

That on or about the Sixth day of June A.D. 1860, and prior to that time this defendant being the equitable owner of a certain house and lot of Land in Dements Addition to the town of Dixon in said County of Lee to wit. Lot No four (4) in Block No Ten (10) and the house thereon at which time this defendant held a contract on bond for a deed to the same, from one Edward L. Gillett of Cook County in the State of Illinois, and on which said contract or bond for a deed this defendant had then paid the greater portion of the purchase money, in all about the sum of Eighteen Hundred Dollars, and on which said contract or bond for a deed there then remained and unpaid of said purchase money about the sum of Five hundred and Seventy five Dollars this defendant directed and caused the said Gillett to make execute and deliver to the said complainant and to some one for her sole use and benefit a deed to the same on the said complainants paying to him the balance of said purchase money so due amounting to about the sum of Five hundred and Seventy Five Dollars, which said sum the said complainant and accordingly on or about the Sixth day of June A.D. 1860 did pay or cause to be paid to the said Gillett from her own funds and received a deed to the said property

34 which said deed conveyed the said property to one James Coyne of Staten Island in the State of New York in trust, that the said Coyne should hold the title to the said premises for the sole and exclusive use, benefit, behoof, and advantage of the said complainant; and that the said complainant and her assigns should have the use and possession of said premises and receive the rents, issues, and profits of the same to her and their sole and exclusive use and benefit.

And this defendant further avers that the said complainant since the receipt of said deed as ~~of~~ ~~the same~~ aforesaid has been in the possession of said property by her tenants and also has been in constant receipt of the rents of the same which said rents have amounted to an annual income of about one Hundred dollars.

This defendant also further avers that the said complainant has been since the time he so left her as aforesaid and now is in receipt annually of the further sum of two hundred and fifty dollars from the estate of a deceased Brother and which said sum of two hundred and fifty dollars the said Complainant is entitled by the will of her said deceased brother to receive annually from her said deceased brother's estate during her natural life.

That the said complainant has large sums of money at interest; and has been

35 been since the time this defendant left her as aforesaid in the habit of loaning money at interest from time to time, and that the amount in some of the said complainants from money so loaned at interest is from one hundred to one hundred and fifty Dollars.

And this defendant further avers that after paying all her family expences from year to year, from all the different sources of her annual income she has left therefrom such an excess that she is enabled to leave out at interest per year from three to five hundred dollars.

This defendant further answering denies that since that since said complainant said in-ter marriage with him as aforesaid, he has committed adultery at divers times and places, or that he said Armstrong on or about the twentieth day of August A. D. 1838, at the City of Dixon in the County of Lee State of Illinois did commit adultery and have carnal connection with one Mrs. Stevens: wife of one Albert Stevens as in said amended bill alleged

And this defendant further answering denies that on or about the fifth day of September A. D. 1838 he did at the town of Palmyra in the County of Lee State of Illinois commit adultery and have carnal connection with the said Mrs. Stevens wife of the said Albert Stevens at the town and County last aforesaid

36 or at any place or places in said County as in said amended bill alleged.

This defendant further answering denies that he did on or about the fifteenth day of January A.D. 1859 in the City of Chicago in the County of Cook & State of Illinois, Commit adultery and have carnal connection with a public prostitute in a house of ill fame in said City as in said amended bill alleged.

This defendant further answering denies that he did on or about the 10th day of July A.D. 1860 in the town of Palmyra County of Lee & State of Illinois commit adultery and have carnal connection with one Mrs Ensey alias Mrs Ensey a jewelry pedler as in said amended bill is alleged.

This defendant further answering denies that on or about the fifteenth day of September A.D. 1860 this defendant did commit adultery and have carnal connection with the said Mrs Ensey alias Mrs Ensey at the town of Palmyra in the County of Lee & State of Illinois or that he said Armstrong did at other times and during the said year A.D. 1860 commit adultery and have carnal connection with said Mrs Ensey alias Mrs Ensey, at the town and County last aforesaid or at any other place or places in said County as in said amended

37 bill alleged.

This defendant further answering denies that this defendant did on or about the Seventh day of May A. D. 1861, in the City of Chicago in the County of Cook and State of Illinois commit adultery and have carnal connection with a public prostitute in a house of ill fame in said city as in said amended bill alleged

This defendant further answering denies that he is the owner & either in his name or that of some other person or persons for him of a large amount of real Estate situated in the Counties of Lee and Carroll in the State of Illinois, or in the State of Iowa, or that he is also the owner of a considerable amount of personal property, rights & credits or that he said Armstrong is seized and possessed of real and personal property to the amount of from \$20,000 to \$30,000 or that his said Armstrongs annual income is from \$2,000 to \$3,000 as in said amended bill alleged.

This defendant further answering denies that the said complainant is in need of money and funds to support herself and her said child Mary Francis; or that she has no means wherewith to enable her to defray the expenses of the prosecution of this suit, but on the

38
38 contrary this defendant avers that the
said complainant has sufficient separate
property of her own, and an annual in-
come therefrom adequate to her own and
the said Mary Francis support, and to en-
able the said complainant to defray the
expences of the prosecution of this Suit.

And this defendand having fully answered
the said ^{and said amended bill of complaint} complainant, humbly prays to be
hence dismissed &c

Geo. P. Goodwin
Counsel & Solicitor
for sepr

Jacob. Armstrong

29

And be it further remembered that afterwards to wit on the said 10th day of February AD 1862 there was filed in the office of the Circuit Clerk of said Lee County in the City of Dixon State of Illinois. And afterwards to wit on the 13th day of May AD 1863 was filed in the office of the Circuit Clerk of Rock Island County in the City of Rock Island and state aforesaid A Petition for Ad interim Alimony &c which is in the words and figures following to wit-

State of Illinois	3	
Lee County	3	In the Lee County Circuit Court
		of the February Term AD 1862
Mary Armstrong	3	
vs		
Jacob Armstrong	3	

To the Honorable William W. Heaton Judge of the Lee County Circuit Court of the Twenty second Judicial Circuit of the State of Illinois

The petition of the above named Complainant respectfully sheweth: That the said Complainant did at the November Term AD 1861, file her bill in this Court against the said defendant Jacob Armstrong to obtain a decree dissolving the marriage solemnized between your petitioner and the said defendant because of the drunkenness and adultery of the said defendant and his cruelty to and desertion of your petitioner. That the said Armstrong caused his appearance to be entered by a Solicitor of this Court at the said

40 November Term AD 1861.

That your petitioner has been informed and
verily believes the said Complainant has Real Estate
and Personal Property to a large amount and amply
sufficient to enable him to advance thereout to your
petitioner, such sums as may be necessary to support
her and her youngest child now in her custody, during
the pendency of this suit, and for the purpose of
carrying on this suit and defraying the costs and
expenses of carrying on the same. That your petitioner
is informed and believes that the said defendant is
the owner of property to the amount of (\$20,000)
Twenty Thousand Dollars, and that his annual
income is about (\$2,000) Two Thousand Dollars.

Your petitioner therefore prays that the said
x defendant may, by an order of this Court, be required
to pay to your petitioner a reasonable sum for her
support and maintenance during the pendency of
this suit, and such sum or sums as may be necessa-
ry to enable your petitioner to prosecute this suit and
to pay the necessary costs and expenses thereof.

And for such other or further relief in the premis-
es as to your Honor may seem meet

And your petitioner re-

State of Illinois }
Lee County } 3

Mary Armstrong

Mary Armstrong the petitioner herein being duly
sworn says that the matters stated in the above petition set forth
are true to the best of her knowledge information & belief

Subscribed & sworn to before me this 10th day of February AD 1862 } Mary Armstrong
Henry Morgan }
Justice Peace }

41 And be it further remembered that afterwards to wit
on the 24th day of November A.D. 1862 there was filed
in the office of the Circuit Clerk of said Lee County
in the City of Dixon and State of Illinois, and afterwards
to wit on the 13th day of May was filed in the office of the
Circuit Clerk of Rock Island County in the City of
Rock Island and State aforesaid a Replication
which is in the words and figures following to wit:-

State of Illinois }
Lee County } 3

In the Lee County Circuit Court of the
November Term A.D. 1862.

In Chancery,

The Replication of Mary Armstrong Complainant
to the Answer of Jacob Armstrong defendant, to the
Amended Bill of said Complainant,

This repliant saving and reserving to herself now
and at all times hereafter all and all manner of
benefit and advantage of exception which may be had
or taken to the manifold insufficiencies of the said
Answer, for replication therunto, says that she will
aver, maintain, and prove her bill of Complaint to
be true, certain and sufficient in the law to be
answered unto, and that the said Answer of the
said defendant is uncertain, untrue, and insufficient to
be replied unto by this repliant, without this, that any
other matter or thing whatsoever in the said Answer
contains, material or effectual in the law to be replied
unto, and not herein and hereby well and sufficiently
replied unto, Confessed and avowed, traversed or denied

4. 42 is true: all which matters and things this repliant is
and will be ready to aver, maintain and prove, as this
Honorable Court shall direct, and humbly prays as in
and by her said Amended bill she has already prayed

Borge & Foulke
Couns Solicitors

43

And be it further remembered that afterwards to wit on the 24th day of November AD 1862 there was filed in the office of the Circuit Clerk of said Lee County in the City of Dixon & State of Illinois And afterwards to wit on the 13th day of May AD 1863. was filed in the Office of the Circuit Clerk of Rock Island County in the City of Rock Island and State aforesaid a veridicus which is in the words and figures following to-wit-.

State of Illinois }
Lee County. } M.

In the Lee County Circuit Court
Of the November Term AD 1862.

Mary Armstrong }
vs }
Jacob Armstrong } Divorce

Interrogatories to be propounded to
Jonus M Johnson of Golden City in the County of Jeff-
ersow in the Territory of Colorado, a witness in the
above entitled cause on the part of said Complain-
ant, under and by virtue of the Commission hereto
annexed.

First Interrogatory,

What is your name, age and place of residence?

Second Interrogatory,

Do you know the parties of this suit, and if you,
how long have you known them.

Third Interrogatory,

Do you know anything about the respondent, Jacob
Armstrong's habits, as to temperance and sobriety during

6
44 the last four years? If yes, state fully and particularly all you know concerning the same.

Fourth Interrogatory,

Are you acquainted with the manner and ~~cause~~ of treatment of the said Jacob Armstrong since the Spring of A.D. 1858? If yes, state fully what said treatment has been?

Fifth Interrogatory,

Have you ever heard said Jacob Armstrong state the reason why, or the causes which induced him to marry the said Complainant Mary Armstrong? If yes, state fully all you have heard him say concerning the same and the time when you so heard him.

Sixth Interrogatory,

Did you ever hear any conversation between the parties to this suit concerning the marriage relations the ~~and~~ length or duration of said marriage relations and the intentions and purposes of the defendant upon the dissolution or determination of said relations between them? If yes, state fully and particularly what said conversation was, the statements made by said defendant Jacob Armstrong, and the time and place when the same occurred, if any such conversation was had.

Seventh Interrogatory,

Do you know any other matter or thing touching the matter in controversy that may tend to the advantage of the Complainant? If yes, declare the same as fully and at large as if you had been particularly interrogated thereto.

Berge Strake,

Solicitor for Complainant

7
45
State of Illinois }
Lee County }^{d.}

In the Lee County Circuit Court
Of the November Term AD 1862

Mary Armstrong }
vs }
Jacob Armstrong }

Divorce

Interrogatories to be propounded to
Clytia Johnson of Golden City in the County of
Jefferson in the Territory of Colorado, a witness in
the above entitled cause on the part of said Com-
plainant under and by virtue of the Commission hereto
annexed,

First Interrogatory

What is your name, age and place of residence,

Second Interrogatory, Are you a Quaker?

Do you know the parties to this suit, and if you,
how long have you known them?

Third Interrogatory, Are you acquainted with the manner and
course of treatment of the said Jacob Armstrong towards
the said Mary Armstrong since the Spring of AD 1858?
If yes: State fully what said treatment has been?

Fourth Interrogatory, Have you ever heard the said Jacob Arm-
strong state the reasons why, or the causes which induced
him to marry the said Mary Armstrong? If yes, state
fully all you have heard him say concerning the
same and the time when you so heard him,

Fifth Interrogatory Did you ever hear any conversation between
the parties to this suit concerning their marriage relation
the length or duration of said marriage relation and the
intentions and purposes of said Jacob Armstrong upon

46 the dissolution or determination of said relation between them? If yes, state fully and particularly what said conversation was, the statements made by said Jacob Armstrong, and the time and place when and where the same occurred, if any such conversation was had.

Sixth Interrogatory, Did you see the Complainant Mary Armstrong at anytime during the month of July or August in the year AD 1858? If yes, What was the appearance of her face at the time when you so saw her, and what was the cause thereof?

Seventh Interrogatory, Do you know any other matter or thing touching the matter in controversy that may tend to the advantage of the Complainant, Mary Armstrong? If yes, state the same as fully and particularly as if you had been particularly interrogated thereto.

Berge & Fouke

Complainants Solicitors

State of Illinois

Lee County

In the Lee County Circuit Court
Of the Summer Term AD 1862.

Mary Armstrong

vs.

Divorce,

Jacob Armstrong

To Jacob Armstrong Esq.

Respondent in the above entitled cause.

Sir - Please to take notice that on the 12th day of July AD 1862, at 9 o'clock A.M. the

47 Complainant in the above entitled suit will apply to the Clerk of the said Court at his Office in Dixon in said Lee County for the purpose of suing out a Commission directed to Mark L. Blunt Esq. as Commissioner residing at Golden City, in the County of Jefferson in the Territory of Colorado, to take the depositions of Jonas M. Johnson and Clytia Johnson residents of Golden City in the County of Jefferson and Territory of Colorado, to be read in evidence upon the trial of this cause now pending in said Court; and that a copy of the interrogatories to be propounded to the said witnesses on the part of said Complainants as hereto.

You are requested to join in said Commission, and file Cross Interrogatories to accompany the same, in case you see fit.

Dated at Dixon in the County and State aforesaid this 2nd day of July, A.D. 1862.

Borge Fouke,
Complainants Solicitors

State of Illinois } In the Lee County Circuit Court
Lee County } of the November Term A.D. 1862.

Mary Armstrong }

vs

Divorce

Jacob Armstrong }

Cross Interrogatories to be propounded to Jonas M. Johnson of Golden City in the County of Jefferson in the Territory of Colorado.

Cross Interrogatory 1st If in answer to the third direct Interrogatory you should state that you know any-

10 4 8 thing about the respondent Jacob Armstrong's habits as to temperance and sobriety during the last four years you will state particularly when you acquired such knowledge, how often you have seen said Armstrong during the last three years if it all, and where you have ^{so} seen him; how often you have seen him the last two years if it all, and the times and places you have so seen him; how often you have seen the said Armstrong during the last year and when and where you have so seen him, And Also whether you have had any acquaintance with said Armstrong as to his habits for temperance and sobriety since you left the State of Illinois.

Cross. Interrogatory 2nd

If in answer to the Fourth direct Interrogatory, you should state that you are acquainted with the manner and course of treatment of the said Jacob Armstrong toward the said Mary Armstrong since the Spring of AD 1858, you will state particularly when and where you have known of the manner and course of treatment of the said Jacob Armstrong towards the said Mary Armstrong and how you know it, and whether of your own knowledge or from hearsay.

Cross Interrogatory 3rd

If in answer to the Fifth direct interrogatory you should state that you ever heard the said Jacob Armstrong state the reason why or the cause which induced him to marry the said Complainant, Mary Armstrong you will state particularly

11
49 the time & place and circumstances under which said statement was made & who was present besides yourself and said Armstrong.

Cross Interrogatory 4th.

If in answer to the sixth direct interrogatory, you should state that you ever heard any conversation between the parties of this suit, state fully & particularly what was said by Complainant Mary Armstrong as well as by the defendant Jacob Armstrong, in said conversation & who were present if any one besides the parties to this suit & yourself.

Cross Interrogatories to be propounded to
Olypetia Johnson of Golden City in the County
of Jefferson in the Territory of Colorado.

Cross Interrogatory 1st.

If in answer to the Third interrogatory you should state that you are acquainted with the course and manner of treatment of Jacob Armstrong towards the said Mary Armstrong since the Spring of 1888, state the time or times place or places and how you have known it & whether you state it from your own knowledge or from hearsay.

Cross Interrogatory 2nd.

If in answer to the Fourth direct interrogatory you state you have heard Jacob Armstrong, state the reasons why, or causes which induced him to marry said Mary Armstrong, you will state fully and particularly the time or times when place or places where you so heard him make such statement or statements.

30 who was present besides yourself Jacob Armstrong,
Cross Interrogatory 3rd

If in answer to the Fifth direct inter-
rogatory you should state that you had ever heard
any conversation between the parties to this suit
concerning their marriage relation you will state
particularly and fully all that there was said
by the said Complainant Mary Armstrong as well
as by the defendant Jacob Armstrong in said
conversation who was present besides said parties
yourself if any one.

Cross. Interrogatory 4th.

If in answer to the sixth direct inter-
rogatory you should undertake to state what was
the cause of the appearance of the face of the
Complainant Mary Armstrong, at the time referred
to in said interrogatory you will state particularly
how you know the cause.

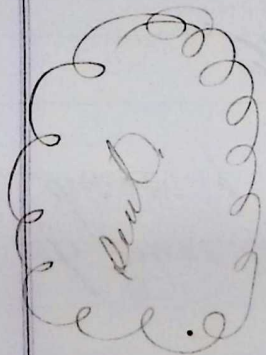
Circuit Court Dedimus

State of Illinois }
Lee County } 3^{rs}

The People of the State of Illinois: To -
Mark L. Blunt Esqr of Golden City, in the County
of Jefferson and Territory of Colorado: Greeting:
Whereas it has been represented to us that Jonas M
Johnson and Cyprian Johnson, residing at Golden
City, in the County of Jefferson in the Territory of
Colorado aforesaid, are material witnesses in a
certain cause now depending in our Circuit Court

34 in and for the County of Lee aforesaid, between Mary Armstrong Plaintiff and Jacob Armstrong Defendant, and that the said witnesses reside at Golden City aforesaid, without the said State of Illinois, and that their personal attendance cannot be procured at the trial of the said cause: Now know ye that we, in confidence of your prudence and fidelity have appointed your Commissioner to examine the said witnesses and do therefore authorize and require you to cause the said witnesses to come before you at such time and place as you may therefor designate and appoint, and diligently to examine the said witnesses on the oath or affirmation of the said witnesses by you first duly in that behalf administered, and faithfully to take the deposition of the said witnesses upon all interrogatories inclosed with or attached to these presents, both on the part of the said Plaintiff and of the said Defendant and none others; and the same when thus taken, together with this Commission and the said Interrogatories, to certify into our said Circuit Court with the least possible delay.

Witness Benjamin F Shaw Clerk of said Court, and the seal thereof at Dixon in said County this Twelfth day of July AD 1862 - Benjamin F Shaw Clerk
By L. A. Dime, Deputy,



52 Territory of Colorado.
Jefferson County

Bill of Costs for taking Depositions
of Jonas M & Calista Johnson in Case of Mary
Armstrong vs. Jacob Armstrong.

Witness Fees of J M Johnson	2.00
do do Calista Johnson	2.00
Taking Depositions, 2300 words.	5.40
Certifying Depositions	1.50.
Postage	1.27
	<u>10.17</u>

Mark S Blunt, Commissioner

Golden City, Colorado Terr
October 18, 1862,

53

And be it further remembered that afterwards to wit: on the 10th day of December AD 1862 there was filed in the office of the Circuit Clerk of Lee County, in the City of Dixon, and state of Illinois

And afterwards to wit on the 13th day of May AD 1863. was filed in the office of the Circuit Clerk of said Rock Island County in the City of Rock Island and State aforesaid a verdict which is in the words and figures following to wit:—

Mary Armstrong }
 vs. } Divorce,
 Jacob Armstrong }

The ~~jury~~ in the above entitled cause find the defendant guilty of the Adultery with Mrs ~~Albert~~ Albert Stevens and Mrs Emery alias Mrs Emery as charged in the bill of Complaint herein

S H Fairley Foreman

And be it further remembered that afterwards to wit on the 24th day of November AD 1862, there was filed in the office of the Circuit Clerk of said Lee County in the City of Dixon and State of Illinois, and afterwards to wit on the 18th day of May AD 1863 was filed in the Office of of the Circuit Clerk of Rock Island County in the City of Rock Island and State aforesaid the Depositions of Jonas M Johnson and Calista Johnson which are in the words and figures following to wit:-

Territory of Colorado }
 Jefferson County } 34

The Depositions of Jonas M Johnson and Calista Johnson of the County of Jefferson and Territory of Colorado, witnesses of lawful age produced, sworn, and examined upon their Corporal oaths, on the Eighteenth day of October in the year of our Lord One thousand, eight hundred and sixty two at the house of the said J M Johnson in the town of Golden City in the County of Jefferson and Territory of Colorado, by me, Mark L Blunt a Commissioner duly appointed by a Veridicus Protes-

17. 53

Subpoena issued out of the Clerk's office of the Circuit Court of Lee County in the State of Illinois, bearing Teste in the name of Benjamin F. Shaw, Clerk of said Court, by his Deputy L. A. Divine with the Seal of the said Court affixed thereto, and to me directed as such Commissioner for the examination of the said Jonas M & Calista Johnson, as witnesses in a certain suit, and matter in controversy, now pending and undetermined in the said Court wherein, Mary Armstrong is plaintiff and Jacob Armstrong is defendant on behalf of the said Complainant as well upon the cross interrogatories of the said defendant as on the interrogatories of the said Complainant, which were attached to the said Commission, and upon none others. The said Jonas M & Calista Johnson being first duly sworn by me as witnesses in the said cause previous to the commencement of their examination to testify the truth as well on the part of the plaintiff as the defendant in relation to the matter in controversy between the said plaintiff and defendant so far as they should be interrogated.

Interrogatories propounded to the said Jonas M Johnson, a witness produced and sworn as aforesaid on the part of the said Complainant, with his answers thereto, as follows:-

Interrogatory First. What is your name, age and place of residence?

Answer to First Interrogatory. Jonas M Johnson; forty eight (48) years; Golden City, Jefferson County, Colorado Territory.

56
Interrogatory Second; Do you know the parties to this suit, and if yea, how long have you known them?

Answer to Second Interrogatory, Yes: seven or eight years previous to April 12, 1859.

Interrogatory Third. Do you know anything about the respondent, Jacob Armstrong's habits as to temperance and sobriety, during the last four years. If yea, state fully and particularly all you know concerning the same.

Answer to Third Interrogatory. Yes, his habits in 1858 & 1859 were intemperate, he would sometimes get so drunk that he could not get home. I have known Mrs Armstrong to come to my store after him, to take him home. He would get somewhat intoxicated every night.

Interrogatory Fourth. Are you acquainted with the manner and treatment of the said Jacob Armstrong since the Spring of AD 1858? If yea, state fully what said treatment has been.

Answer to Fourth Interrogatory, Yes. (don't think he treated her as a husband should treat his wife) I remember of being at Armstrongs house sometime in the summer of 1858, and saw Mrs Armstrong in the garden: her face was black and blue; it appeared to have been bruised: talked with her, she appeared to be in trouble. I saw her again in a day or two; her face still had marks upon it; Saw Jacob Armstrong same day I first saw Mrs Armstrong with the black blue face, and he told me he and his wife had had a brush and he had left home.

Interrogatory Fifth, Have you ever heard the said Jacob

19 57 Armstrong state the reasons why or the causes which induced him to marry the said Complainant Mary Armstrong? If you, state fully all you have heard him say concerning the same and the time when you so heard him.

Answer to Fifth Interrogatory, Yes, have heard him say that he married her for money - that he would get rid of her - that there were plenty of young ones he could pick up. At the time, I thought him joking, but Mrs Armstrong seemed to take it in earnest. She was always kind and obliging to her husband. Don't recollect the particular time, as our families were visiting each other often. Have heard him say he did not marry for love - and I think he liked money more than his wife. Think it was July 1858.

Interrogatory Sixth, - Did you ever hear any conversation between the parties to this suit concerning their marriage relations, the length or duration of said marriage relations, and the intentions and purposes of the defendant upon the dissolution or determination of said relations between them. If you, state fully and particularly what said conversation was, the statements made by said defendant Jacob Armstrong and the time and place, when the same occurred, if any such conversation was had.

Answer to Sixth Interrogatory - Don't remember the conversation referred to

Interrogatory Seventh - Do you know any other matter or thing touching the matter in controversy, that may tend to the advantage of the Complainant?

20 58 If you, declare the same as fully and at large as if you had been particularly interrogated thereon.
Answer to Seventh Interrogatory - Remember that in the Winter of 1857 & 1858, Jacob Armstrong told me that his drinking too much and their money matters were the causes of the difficulties between himself and his wife.

Cross interrogatories and answers thereto by the said Jonas M Johnson, witness: on the part of the defendant in the before mentioned cause.
Exp Interrogatory First - If in answer to the third direct Interrogatory you should state that you know anything about the respondent, Jacob Armstrongs habits as to temperance and sobriety during the last four years, you will state particularly when you acquired such knowledge, how often you have seen said Armstrong during the last three years if at all, and where you have so seen him; how often you have seen him the last two years; if at all, and the times and places you have so seen him, and also whether you have had any acquaintance with said Armstrong as to his habits for temperance and sobriety since you left the State of Illinois.

Answer to Exp Interrogatory First - I have done considerable business of different kinds with the said Armstrong, have been away from home with him in summer of 1858, for a week at a time, have not seen him since the 9th of April 1859. Don't know anything about him since I left Illinois.

21 *Cross Interrogatory Second.* — If in answer to the Fourth direct Interrogatory you should state that you are acquainted with the manner and ^{course of} treatment of the said Jacob Armstrong toward the said Mary Armstrong since the spring of A.D. 1858, you will state particularly where and where you have known of the manner and course of treatment of the said Jacob Armstrong towards the said Mary Armstrong and how you know it, and whether of your own knowledge or from hearsay.

Answer to Interrogatory Second: — In the spring of the year 1858, myself and wife used to visit Armstrong and his family quite often, and Armstrong and his wife used to visit my family quite as often. On one of these occasions I heard him say in presence of his wife and mine, that he did not know about marrying for love, for his part he married for money. Know this of my own knowledge.

Cross Interrogatory Third. — If in answer to the Fifth direct Interrogatory you should state that you ever heard the said Jacob Armstrong state the reason why or the causes which induced him to marry the said Complainant, Mary Armstrong, you will state particularly the time and place and circumstance under which said statement was made & who was present besides yourself and said Armstrong.

Answer to Cross Interrogatory Third. — Cannot recollect the particular time, my wife and Mrs Armstrong were present, The circumstance which occasioned him to make the said statements was a conversation

22 Ql. which took place about Alanson Smiths losing his wife and marrying his hired girl.

Cross Interrogatory Fourth - If in answer to the sixth direct Interrogatory you should state that you ever heard any conversation between the parties to this suit, state fully, and particularly what was said by Complainant Mary Armstrong, as well as by the defendant Jacob Armstrong, in said conversation who were present, if any one besides the parties to this suit and yourself.

Answer to Cross Interrogatory Fourth - I dont remember the conversation referred to

Jonas M Johnson.

Interrogatories propounded to the said Calista Johnson, a witness produced and sworn as aforesaid on the part of the said complainant, with her answers thereto, as follows:-

Interrogatory First, What is your name, age residence?

Answer to First Interrogatory, Calista Johnson; Forty (40) years; Golden City; Jefferson County, Colorado Territory.

Interrogatory Second, Do you know the parties to this suit, and if yea, how long have you known them?

Answer to Second Interrogatory, Yes; for six or seven years.

Interrogatory Third - Are you acquainted with the manner and course of treatment of the said Jacob Armstrong towards the said Mary Armstrong since the spring of AD 1858.? If yea, state fully what said treatment has been,

23 Answer to Third Interrogatory. Yes, I don't think that he treated his wife properly - his language towards his wife was not becoming a husband.

Fourth Interrogatory. - Have you ever heard the said Jacob Armstrong state the reasons why, or the cause which induced him to marry the said Mary Armstrong? If yes, state fully all you have heard him say concerning the same, and the time when you so heard him.

Answer to Interrogatory Fourth. Yes; think it was, in June A.D. 1858, that I heard him say that he married her for money and not for love.

Fifth Interrogatory. Did you ever hear any conversation between the parties to this suit concerning their marriage relations, the length or duration of said marriage relations, and the intentions and purposes of the said Jacob Armstrong upon the dissolution or determination of said relation between them? If yes, state fully and particularly what said conversation was, the statements made by Jacob Armstrong, and the time and place when & where the same occurred, if any such conversation was had.

Answer to Interrogatory Fifth - Don't remember such a conversation.

Sixth Interrogatory - Did you see the Complainant Mary Armstrong at any time during the month of July or August, A.D. 1858? If yes, what was the appearance of her face at that time when you so saw her, and what was the cause thereof?

Answer to Interrogatory Sixth. Yes, her face was black.

62 and blue. She did not tell me the cause herself but I went to Nicholas Pickels house the same night, and Mrs Pickle told me that Jacob Armstrong was boarding with her, that Mr Armstrong & his wife had had a bust, and he was not going to stay at home any more.

Seventh Interrogatory. Do you know any other matter or thing touching the matter in controversy that may tend to the advantage of the Complainant, Mary Armstrong? If yes, state the same as fully and particularly interrogate thereto.

Answer to Interrogatory Seventh - Don't remember anything particular -

Cross Interrogatories and answers thereto by the said Calista Johnson, witness, on the part of the defendant in the before mentioned cause.

Cross Interrogatory First - If in answer to the Third Interrogatory you should state that you are acquainted with the course and manner of treatment of Jacob Armstrong towards the said Mary Armstrong since the spring of ad 1855, state the time or times, place or places and how you have known it, and whether you state it from your own knowledge or from hearsay.

Answer, to Cross Interrogatory First. Don't remember the time particularly, as we were visiting each other.

Cross Interrogatory Second - If in answer to the Fourth direct interrogatory you state you have heard Jacob Armstrong state the reasons why or causes which induced him

4
25-63

to many said Mary Armstrong, you will state fully and particularly the time or times when, place or places where you so heard him make such statement or statements who was present besides yourself and Jacob Armstrong.

Answer to Cross Interrogatory Second - Think it was in June, 1858, my husband and Mrs Armstrong were present and her children.

Cross Interrogatory Third. - If in answer to the Fifth direct Interrogatory you should state that you ever heard any conversation between the parties to this suit concerning their marriage relation you will state fully and particularly all there was said by the said Complainant, Mary Armstrong as well as by the defendant Jacob Armstrong in said conversation and who was present besides yourself and said parties, if any one.

Answer to Cross Interrogatory Third - Don't remember the conversation referred to.

Answer Interrogatory Fourth. If in answer to the Sixth direct Interrogatory you should undertake to state what was the cause of the appearance of the face of the Complainant Mary Armstrong at the time referred to in said Interrogatory you will state particularly how you know the cause

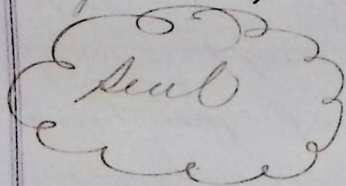
Answer to Cross Interrogatory Fourth - I don't know the cause of my own knowledge.

Calista Johnson.

Q4
26 Territory of Colorado }
Jefferson County } S.S.

I Mark L Blunt of the
County of Jefferson and Territory of
Colorado a Commissioner duly appointed to take
the depositions of the said Jonas M Johnson and
Calista Johnson, witnesses whose names are subscri-
bed to the foregoing depositions, do hereby certify
that previous to the commencement of the examina-
tion of the said Jonas M, and Calista Johnson, as
witnesses in the said suit between the said Mary
Armstrong, Plaintiff and Jacob Armstrong, defendant,
they were duly sworn by me to testify the truth in
relation to the matters in controversy between the
said Mary Armstrong Plaintiff, and the said Jacob
Armstrong defendant, so far as they should be
interrogated concerning the same; that the said
depositions were taken at the house of the said
Jonas M Johnson, in the town of Golden City in the
County of Jefferson, and Territory of Colorado, on the
eighteenth day of October, A D 1862; and that after
said depositions were taken by me ^{as} aforesaid, the
interrogations and answers thereto as written down
were read over to the said witnesses; and that there-
upon the same were signed and sworn to by the said
* opponents Jonas M & Calista Johnson before me, the oath
being administered by me, at the place and on the
day and year last aforesaid

Mark L Blunt, Commissioner.



65

And be it further remembered, that on the 11th day of Decr 1852 there was filed in the office of the said Circuit Court of Lee Co. and afterwards to wit on the 8th 13th of May A.D 1863 in the S^d Circuit Clarks office in the City of Rock Island County & State aforesaid the following description in the words & figures following to wit.

State of Illinois } In the Lee County Circuit Court February Term A.D 1862.

Mary Armstrong

vs

Jacob Armstrong

In Chancery

To the Honourable William W. Hutton Circuit Judge for the 22nd Judicial Circuit in and for the State of Illinois in Chancery

The undersigned who was appointed heretofore by an order of the said Court duly entered a special notice in the above entitled cause to take proofs on part of complainant and defendant on motion by complainant for ad interim alimony to prosecute the suit above entitled, would respectfully report to your Honour that in pursuance of such order he did procure the attendance of the witnesses and did on the 15th day of February A.D. 1862

66

and from day to day thereafter, after duly swearing the several witnesses hereinafter named to tell the truth the whole truth and nothing but the truth - did take the proofs hereinafter written as follows, James B. Charters first being duly sworn on this 15th day of February AD 1862 deposed as follows - to wit -

Int 1st

What is your name age and place of residence

Ans

My name is James B. Charters, my age is thirty my residence Dixon Lee County Illinois.

Int 2nd

Are you acquainted with the defendant in this Cause

Ans.

Yes Sir

Int 3rd

Are you acquainted with the pecuniary circumstances of the defendant as to the amount of property that he may be worth.

Ans

No Sir

Int 4th

Do you know of any property that the defendant owns either of lands personal property monies or credits if you state the same
(Objected to by counsel for Defendant)

Answer

I have no knowledge of my own

Int 5th

If you have any knowledge of any kind

Q⁷ concerning the same from whence is it derived
(5th question objected to by defendant)

Ans. I have no knowledge of any kind, I have no knowledge more than any other individual.

Inter 6th Do you ^{not} know that defendant has some real Estate or lands which he pretends to own,
(Inter 6th objected to by counsel for defendant)

Answer I could not answer that question, for I do not know what he does pretend to own.

Inter 7th Do you ^{not} know of any single piece of land or Farm that he pretends to own.
(Inter 7th objected to by counsel for Def^t)

Answer From my own knowledge I can only speak of one piece of property that he has interest in from my own knowledge.

Inter 8th State what the character of the property you speak of is. Real Estate

Inter 9th State where the property is when situated & what the value of same is if you know.

Answer The property is situated in the City of Dixon being situated near the Arch on Main Street in the City of Dixon, consisting of two brick houses and one lot, both worth now fifteen hundred dollars and his interest I should say is about one thousand dollars.

Inter 10th Do you know of any other piece of Real Estate that the defendant claims to own.

Answer I do not of my own knowledge

Inter 11th Have you any knowledge derived from any other source of any other real estate that the defendant claims to own

(Inter 11th objected to by defendant)

Answer I have no knowledge from any other source of property that the defendant claims to own.

Inter 12th Have you any knowledge of any Real Estate the title to which is in some person other than the defendant but which the Defendant in fact owns or claims to have an interest in.

Answer I cannot answer that question I have no knowledge but what has been communicated to me as counsel for the defendant

Inter 13th Have you the title to any property which is in yourself but which in fact belongs to the Deft?

Answer There is one piece of property of which there has been a sale over which the defendant has no control

Inter 14th Did you ever have the legal title to any property

69 which in fact belonged to the defendant —
if you how long ago did you have such title
and in what manner has it been divested,
(Inter 14th objected to by counsel for defendant)

Answer I have had the legal title to a lot in Dixon
the number of which I do not know. I cannot
exactly say what time the title to which has
been divested within a month by a sale of
the same to a Mr Riley who keeps a whiskey
establishment but the papers have not yet been
made out

Inter 13th Do you know of any money or credits that the
defendant owns if you state from whom owing
and what their amounts.

Answer I purchased a piece of property from Mr Arm-
strong for which I gave my note to the amount of
Three hundred and fifty dollars, I know of no
other that I can speak to for the reason that
it came to my knowledge as counsel.

Inter 16th Have you any notes or credits which the defendant
has placed in your hands for collection, if you
state their amounts and by whom owing.

Answer I have none

Inter 17th If the relation of attorney and client did not

70 exist between you and the defendant, or there any other lands personal property monies or credits besides those already testified to by you belonging to the defendant concerning which you could give any information about.

(Inter 18th Objected to by counsel for defendant)

Answer I object to answering the question

Cross examination

Cross Inter 1st Do you know how the defendant acquired the interest in the property that you speak of in your answer to the ninth direct interrogatory that you speak of as being situated near the arch on Main Street in the City of Dixon

Answer It was acquired by virtue of foreclosure of a mortgage and Sheriff's sale

C. Inter 2nd Do you not know of defendants having parted with all such interest long since and that ^{one} ~~the~~ William Armstrong is the owner of whatever interest the defendant may have had or at any one time claimed to have had.

Answer I believe it is so stated in a Bill for Review wherein Isaac Means is complainant and Jacob

71 Armstrong and William Armstrong and others are defendants

Cross Inter 3rd Who else claims interest in that property if you know

Answer Isaac Means

Cross Inter 4th To what extent does Isaac Means claim interest in it if you know

Answer He claims it subject to these mortgages and Trust Deeds that have already been foreclosed in this Court

Cross Inter 5th State whether or not if you know the validity of the sale under the foreclosure of the ~~sale~~ that you speak of is in litigation in the suit that you speak of if yes in what Court is such suit pending

Answer The validity of such sale is in litigation in Lee County Circuit Court on the Chancery side thereof.

Cross Inter 6th Do you know whether the Defendant is now the owner or holder of the promissory note for Five hundred and Fifty dollars that you speak of having given him on the purchase of a piece of property from him in your direct examination

72
Answer

I do not

Cross Inter^yth Do you know of the defendants owing
^{any debts}
if you state in what amount or amounts
and to what person or persons he is owing the
same.

Answer I do ~~not~~ know of the defendants owing debts
to Moses Morse Burlington Vermont the sum
of about Eighteen hundred dollars; to Andrew
McPherson in the sum of about one thousand dollar.

Direct examination resumed

Inter¹⁸th Has the knowledge of any of the facts concern
ing which you have testified to on ^{your} cross exam
ination been obtained or derived by you in your
relation as attorney to the defendant

Answer It has not.

Inter¹⁹th Do you know William Armstrong and what
relation exists between him & defendant

Answer I do not, ~~I have never~~ I have never seen him
I believe as is set up in the Bill of Review
that he is brother to the defendant

Sworn to and subscribed

James Blewett

before me this 15th February AD 1862

73 The deposition of Stephen S Williams a witness produced by complainant and being duly sworn deposed and testified as follows.

Inter 20th What is your name age and place of residence

Answer My name is Stephen S Williams my age is thirty nine I reside in Dixon Lee County Illinois

Inter 21st Are you acquainted with the defendant in this case

Answer I am

Inter 22nd Do you know of any Real Estate that the defendant owns or claims to own.

Answer I do not know of any

Inter 23rd Do you know of any personal property monies or credits goods and chattels which the defendant owns or claims to own or have any interest in

Answer I do not

Inter 24th Do you know of any Real Estate that the defendant claims an interest in.

Answer I do not

Inter 25th ⁷⁴ Do you not know that the defendant owns
or claims to own a Farm or an interest in a
Farm ~~Tolson~~ situated in the Town of ^{Palmyra} Tolson
~~son~~ County of Lee and State of Illinois
(Inter 25th objected to by counsel for depts)

Answer I do not know

Inter 26th Do you know of any interest that the defendant
has or claims to have in any lands or other real
Estate that the defendant or any one for him may
have purchased at any tax sale.
(Inter 26th objected to by counsel for defendants)

Answer I do not

Inter 27th Have you any knowledge or information of any
Real Estate the title to which is in some person
other than the defendant, but which the defen-
dant in fact owns or claims to own or to have
some interest in

Answer I have not

Subscribed and Sworn
before me this 15th day of
February A.D. 1862
Wm W D Wolf
Jfael Mester

S S Williams

Champion Fuller a witness produced by com

73rd Plaintiff filed duly sworn deposed as follows

Inter 28th What is your name age and place of residence

Answer My name is Champion Fuller my age thirty six years or thereabouts my residence Dixon Lee County Illinois

Inter 29th Do you know the defendant in this suit

Answer Yes

Inter 30th Do you know of any Real Estate either Farms Houses, ^{or} ~~and~~ Lots that the defendant owns or claims to own or to have some interest in

Answer I do not sir at this time

Inter 31st (Inter Do you know of any Real Estate of the character mentioned in interrogatory 30th that the defendant owned or claimed to own or have an interest in within a year from this time.

(Inter 31st objected to by counsel for def^s)

Answer I do not know that I do within a year.

Inter 32nd Does not the defendant or has he not within

76 a year claimed to own or to have some interest in the farm in the town of Palmyra in the county of Lee upon which he now resides or within a short time been residing.

(Inter 32 objected to by counsel for deft^d)

Answer I heard him speak of a farm that he told me that he was leaving ~~or~~ having a place and coming to Dixon in the spring

Inter 33rd do you not know that the defendant owns or claims to own the farm in Palmyra, referred to preceding interrogatory do you not know it to be a fact.

Answer I do not

Inter 34th do you not know that he has claimed to own the farm referred to in two preceding interrogatories

(Inter 34th objected to by counsel for Deft^d)

Answer Yes I have heard him claim to own a farm upon ⁱⁿ Palmyra, not within a year that I recollect of.

Inter 35th Within what time has he claimed to own it

Answer Inside of two years

Inter 36th Do you know whether he has disposed of that farm or not

Answer I do not know any thing about it

Inter 37th Do you know how many, or about how many acres the farm contains

Answer I do not

Inter 38th Does the farm contain more than two hundred acres

Answer I don't know

Inter 39th Do you know how much or about how much the farm is worth

Answer I do not

Inter 40th Do you know whether or not Armstrong owns or claims to own or has owned or has claimed to own a certain Brick or wooden house on a Lot situated at the end of a Bluff this side of the Brick yard on the road leading from Dixon to Grand De Tour
(Inter 40 objected to by counsel for defendant)

Answer I know that he has claimed to own a brick house near brick yard.

78
Inter 41st Do you know whether he has ever disposed
of the said house or not

Answer of my own knowledge I do not

Inter 42nd about how much are said house and lot
worth,

(Inter 42 objected to by counsel for def^t)

Answer It would not be worth to me over one hun-
dred and fifty dollars

Inter 43rd Do you know of any other Real Estate that
the defendant owns or claims to own or has
owned or claimed to own within two years
last past.

(43rd objected to by counsel for defendant)

Answer I do not recollect that I do

Inter 44th Have you any knowledge of any Real Estate
the title to which is in some person other than
the defendant but which the defendant in
fact owns or claims to own or has or claims
to have an interest in.

Answer I do not

Inter 45th Do you know of any Real Estate that Arm-
strong has put out of his hands for the purpose

79 of covering up the same

Answer

I do not

Inter 46th Do you know of any personal property either goods or chattels monies or credits which the defendant owns or claims to have an interest in

Answer

There is a demand against me that he claims to have an interest in, there are two claims on the docket and I am under the impression that the two amounted to about one hundred and fifty dollars

Subscribed and sworn before
me this 15th day of February A.D. 1862

William Wolcott

Champion Fuller

Spind Master

Benjamin C. Deshon being by me first duly sworn on the 28th day of March A.D. 1862 deposed as follows

Inter 47th What is your name age and place of residence

Answer My name is Benjamin C. Deshon my age thirty three years my place of residence Dixon Lee County, Illinois.

Inter 48th Are you acquainted with the parties to this suit

80
Answer

I am

Inter 49th Do you know any Real property that defen-
dant claims to own or owns

Answer

I do not

Inter 50th In what house in Dixon do you reside

Answer In the house known as the Jenkins house

Inter 51st Who collects the rent for the house in which
you live

Answer

Jacob Armstrong

Inter 52nd Who owns that house

Answer

I do not know

Inter 53rd How much rent do you pay per year

Answer

One hundred dollars

Inter 54th How much in your opinion ^{are} the prop-
erty ^{premises} worth

Answer

They are not worth over six hundred dollars

Inter 55th Do you know of any other places that he

81 owns or pretends to own.

Answer I know of two places that he receives rent from and the place where his wife now resides is known as the Armstrong place I do not know whether he owns them or not

Inter 56th What is the place known as the Armstrong place worth

Answer It is not worth over four hundred dollars

Inter 57th Who resides in the other two houses

In one William ~~Sprague~~^{Sprague} and up to as far as I know Russel L Fowler lives in the other.

Subscribed and sworn to

before me this 28th day of
March AD 1862.

Benj C Deshon

WWD Wolf

Shard Master

William Sprague produced as a witness by complainant being by me first duly sworn on the 28th day of March AD 1862 deposed as follows.

What is your name age & place of Residence

Inter 58th My name is William Sprague my age is forty seven years my place of residence is Dixon Lee County Illinois.

Inter 59th ⁸² Do you know Jacob Armstrong

Answer I know a man whose name is Armstrong
I do not know whether his name is Jacob or
not.

Inter 60th What do people call him generally

Answer I never heard people call him only in Court
if it is the same man that I hire a house of
his name is Jacob

Inter 61st Where is the house situated that you hire of
him and what do you pay him a year for it.

answer Situated on Second Street in Dixon and I
pay him Eighty four dollars pr year for its
rent

Inter 62nd What are said premises worth

They are worth Eight hundred dollars perhaps

Cross Interrogatories

Cross Inter 1st Do you know whether Jacob Armstrong
owns the house in which you live

Answer I know nothing more about than that I
hire it of him and pay him the rent

Cross Inter 2nd Are you acquainted with the value of Real Estate in this City

Answer I am not well acquainted

Subscribed and sworn before
me this 28th day of March 1862

Wm W D Wolf
Special Master

Wm Sprague

Russel L Fowler being produced as a witness in the part of complainant being first duly sworn by me on the 28th day of March AD 1862 deposed as follows.

Inter 63rd What is your name age and place of residence

Answer My name is Russel L Fowler my age Thirty Three my residence Dixon Illinois

Inter 64th Do you know the defendant

Answer

I do

Inter 65th What part of Dixon do you reside and in what ^{whose} house do you live

Answer I live in Dements addition to the City of Dixon and as far as I know the house belongs to Jacob Armstrong

84
Inter 66th who collects the rent for said premises and how much do you pay per year for them

Answer Jacob Armstrong collects rent I paid eighty four dollars the first and this last year I paid sixty dollars.

Inter 67th what are said premises worth

answer I should say to the best of my knowledge they are worth six or seven hundred dollars

Cross Examination

Cross Inter 1st Do you know that Jacob Armstrong owns the premises

Answer I do not know that he owns it, he claims to own it

Cross Inter 2nd are you acquainted with the value of Real Estate in the neighbourhood where you live

Answer I cannot say that I am

Subscribed and sworn to

Before me this 28th day of

March A.D 1862

Wm W D Wolf

Spirit Master

Russel Le Fortlee

85
^{Elias}
Elias B Stiles a witness produced and sworn
on the part of complainant, being sworn on this
5th day of April A.D. 1862 deposed as follows

Inter 1st What is your name age & place of residence

Answer My name is ^{Elias} Elias B Stiles my age forty
my place of residence Dixon Lee County Illinois

Inter 2nd Do you know the defendant

Answer I do

Inter 3rd Do you know of any property that the de-
fendant owns either of lands personal prop-
erty monies or credits, if you do state the
same

Answer I was at Armstrongs the other day he own-
ed then three stacks of Rye, I tried to buy
them I was at a sale the other day and
supposed that he was entirely sold out.

Inter 4th Do you know who advertised that property
for sale I do not

~~Do you know who claimed to own the property~~
~~sold at that sale~~
Answer I do not

Inter 5th Do you know who claimed to own the prop-
erty sold at that sale.

86
Answer

I do not

Inter 6th what property was sold at that sale

Answer I know that there were some hogs sold

Inter 7th Do you not know that Armstrong was conducting that sale as his own
(Objected to by counsel for Plaintiff)

Answer I dont know

Inter 8th What is your opinion about the matter from what you saw there

Answer My opinion was that he was conducting it

Inter 9th Do you know what the amount of the sale was

Answer I do not

Inter 10th Where did the sale take place

Answer It took place where he lives known as the Kearny Morgan place

Inter 11th Who owns or claims to own that place where he Armstrong lives, or did live at the time of the sale

87

Answer I do not know who has the title to it,
a Basket maker pretends to own it

Inter 12th Do you not know that Armstrong did
^{now owns,}
own or claim to own it.

Answer I supposed that Armstrong owned it or
claimed to own it but I don't know anything
about it.

Inter 13th On what did you form your opinion that
Armstrong owned it.

Answer Because he lived there

Inter 14th Did not Armstrong ever tell you that he
owned it or did you ever hear him say
that he owned it

Answer No

Inter 15 Have you ever known of his ^{exercising} ~~claiming~~
acts of ownership over it such as paying
taxes &c and do you not know that the
said farm was assessed in his name
(objected to by counsel for defendant)

Answer My impression is that it is assessed in
his name I don't know anything about
it. I think I have paid taxes for Armstrong

88 but dont know anything about the property

Inter 16th How many acres are there in that farm

Answer My ^{impression} ~~opinion~~ from what I heard talked about it is that there are about one hundred and thirty acres.

Inter 17th what is that farm worth pr acre

Answer I should think it was worth thirty dollars pr acre

Inter 18th Do you know of any other farm in the Town of Palmyra except the farm known as the Harry Morgan farm that the defendant owns or pretends or claims to own

Answer I do not

Inter 19th are you acquainted with the premises in Dixon at present occupied by William Sprague

Answer I am

Inter 20th what are those premises worth

Answer Six hundred dollars

Inter 21st What are the premises worth as a residence

Answer Six hundred dollars

Inter 22nd Do you know the premises where Russel Fowler lived

Answer I do not

Inter 23rd Do you know of any other Real property that Armstrong owns or claims to own or has an interest in or claims to have an interest

Answer I do not - I have heard that Armstrong claimed to have an interest in those two houses this side of the arch and the house that Deshon lives in on the other side of the River

Inter 24th Do you know who has the title to those - Do you know that Armstrong ever had the title to them

Answer I do not - I have heard that he claimed to own them - I have heard that they are in litigation in some way

Inter 25th Do you know of any Real property that the defendant owns or claims to own any where else in the State of Illinois except Lee County or any in the State of Iowa

90
Answer

None any where ^{else} in the State of Illinois except
Lee County I supposed that he had some
Real Estate in Iowa

Inter 26th Did you ever get any information from Armstrong
concerning any property that he had in Iowa
and if so what was that information

Answer I have got an impression from Armstrong
that Smith deeded him some property the title
to which was not good

Inter 27th Do you know or have you ever heard of Wil-
liam Armstrong

Answer No

Inter 28th Do you know of any property the title to
which was in Armstrongs brother but which
the defendant owns

Answer No Sir

Inter 29th Do you know of any personal property that
Armstrong the defendant owns

Answer I do not

Inter 30th Do you know of any moneys or credits Prom-
issory Notes Mortgages or evidences of indebtedness

91 of any kind that Armstrong owns or claims to own or has or claims to have an interest in

Answer No Sir - I do not know but what I owe Armstrong something less than ten dollars

Inter 31st Do you know of any evidences of indebtedness that Armstrong owned that he has placed in the possession of some other person but which he really controls No -

Cross Examination

Cross inter 1

Do you know whether Jacob Armstrong ever owned or had the title or does now own or have a title to the Harvy Morgan place referred to in your direct examination

Answer I supposed that he owned it but do not know any thing about the title

Cross Inter 2nd What would that place be worth at a cash value

Answer Thirty dollars per acre

Cross Inter 3rd Do you not know that Jacob Armstrong was to own the Harvy Morgan place if he paid for it ^{and} but that he has never yet paid for the same
(Question objected to by counsel for plaintiff)

92
Answer

No I do not

Cross Inter 4th Do you know who owns the house where William Sprague has referred to in direct examination

Answer

I do not

Cross Inter 5th Do you know whether Jacob Armstrong owes any debts
(Question objected to by counsel for ptff)

Answer

No

Cross inter 6th Do you know of any one having any debts or claims owing or due from Jacob Armstrong

Answer

I know that Armstrong was sued on some large claims, I do not know whether he has paid them or not

Cross Inter 7th Do you remember the amounts of the claims

Answer

I think the amount of one was about twenty three hundred dollars

Cross Inter 8th Do you know of any other claim

Answer

I do not

Subscribed and sworn to

93 before me this 5th day of
April AD 1862

Elias B Stiles

William W D Wolf

Spencer Master

William W Titton a witness produced by
complainant being first duly sworn de-
posed as follows

Inter 1st What is your name age and place of res-
idence

My name is William W Titton my age forty
five years my residence Palmyra

Inter 2nd Are you acquainted with Jacob Armstrong

Answer I am

Inter 3rd Do you know anything of a sale of personal
property that Armstrong had sometime
during the past winter
(Question objected to by counsel for Deft)

Answer I do ^{not} know of such sale

Inter 4th Do you know what property was sold at
that sale

(Question objected to by counsel for deft)

94
Answer

I do not know that. I could mention everything I was over at the sale

Inter 5th

Do you know what was the amount of the sale

Answer

I do not know

Inter 6th

What were the terms of the sale
(Question objected to by depts counsel)

Answer

I know that there was a credit but I do not remember the time

Inter 7th

Do you not remember that the terms were on all sums under five dollars cash, on all sums over five dollars a credit of twelve months was to be given the purchaser giving note with approved security
(objected to by counsel for deft)

Answer

It is my impression that that was so, I will not be positive about it.

Inter 8th

Will you give a statement of the different articles that were sold and the amounts that each sold for
(Question objected to by counsel for deft)

Answer

I think that there was one span of horses

95 that was knocked down at one hundred and fifty odd dollars. There were if I recollect right three or four head of cattle one sold for about fifteen dollars another for about seven dollars. There were some hogs sold. I don't recollect the number I think that I can bring to mind now about thirty four hogs some fifteen went between two and three dollars a piece, some ten four dollars a piece. I think there was a one or two horse Buggy sold, my impression is it sold for about thirty dollars, it is guess work, one set of harness was sold I think, and one set I think was not sold, there were some plows and drag. Two plows I think, one sold for ten, the other for thirteen, drag sold for five dollars I think, one small stack of Hungarian Grass sold for five dollars I think. There was some little things sold that it would not pay to enumerate.

Inter 9th Did you ever hear Armstrong say how much he got for three stacks of Rye referred to by Stiles.
(Objected to by counsel for deft)

Answer I heard Armstrong say that he sold one of them for eight dollars

96
Inter 10th Do you know of any other property either
Real or personal or Monies or credits that
Armstrong owns or claims to own or has or
claims to have any interest in.

Answer Of my own personal knowledge I do not,
all that I can say is that I ^{assessed} ~~supposed~~ the
property

Answer (objected to by counsel for deft.)

Inter 11th What farm do you refer to that you say
you assessed in his name

Answer The Harvey Morgan farm

Inter 12th What Town are you assessor for

Palmyra Township

Inter 13th Who were the clerks at Armstrongs sale
(Question objected to by counsel for deft.)

Answer Mr Hein was one John Williamson was
another I am confident I saw one or two
more Cannot remember their names

Cross Interrogatories

Cross Inter 1st Do you know whether Jacob Armstrong
was the owner or not of the property that

97 you have testified that you assessed in
his name

Answer I do not from my own personal knowledge

Direct examination resumed

Inter 14th How long has Armstrong lived on that
farm and has he not pretended or
claimed to own it

Answer about three years that he has been in
possession I think From a conversation
that I had with him he told me that
he did not own it.

Inter 15th Do you know that he ever sold it

Answer I do not

Subscribed and sworn to

before me this 5th day of
April A.D. 1862

W W Tilton

William W D Wolf
Spirit Master

Michael Ryan a witness produced on the
part of complainant in the above entitled
cause being by me first duly sworn on the
28th day of April A.D. 1862 deposed as
follows

98
Inter 1st What is your name age and place of residence

Answer My name is Michael Ryan my age twenty three years my place of residence is in The Town of Palmyra Lee County Illinois

Inter 2nd Do you know the parties to this suit and how long have you known each of them

Answer I know Mr Armstrong about three years have known Mrs Armstrong two years and three months

Inter 3rd Do you know any lands Real Estate goods chattels personal property belonging to the defendant Jacob Armstrong if you Yea, state the same fully

Answer All I know about his property is I was going last June to Mt Carroll to pay taxes for myself and I paid taxes on Eighty Acres of land for him Armstrong

Inter 4th Where is the land situated on which you paid taxes for Mr Armstrong as you stated in your answer to the last interrogatory and what is the value of said land

Answer The land lays between Mt Carroll and La.

99 vannah between five and six miles from
Mt Carroll I was told that lands were
selling there from eight to ten dollars an
acre

Inter 5th In whose name was the Tax receipt made
and who was then or is now the owner of
said land

Answer Tax receipt was in M^r Armstrongs name
To the best of my belief M^r Armstrong owned
it then he paid Taxes upon it I cannot
swear who owned it Dont know who owns
it now

Inter 6th Have you bought any land or Town Lots
of defendant Armstrong within the last
two years if yea state when and for what
sum of money

(Question objected to by counsel for deft.)

Answer I have bought no land or town lots from
M^r Armstrong

Inter 7th Do you know of any other personal property
belonging to M^r Armstrong if so state the
same fully

Answer He had a sale of personal property some
time November a year ago Dont know of

100 any other property

Inter 8th What property was sold at the sale you speak of in your answer to the last interrogatory

(Question objected to by counsel for deft)

Answer Cattle cows and horses cant tell the number

Inter 9th Do you know of any other land or Real Estate belonging to the defendant if so state fully what they are where situated and the value thereof

Answer He had last summer was a year ago land down in Palestine Grove and I do not know whether he has that now or no, he offered it for five or six dollars an acre

Inter 10th How many acres are there in the land on the lot you speak of in your answer to last interrogatory and what is the character of said land, is it prairie or timber

Answer Dont know how many acres something over a hundred mostly prairie some timber not much timber on it.

Inter 11th Do you know of any monies debts or credits due and owing to the defendant if yes