

No. 14396

# Supreme Court of Illinois

Wood et al

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vs.

Nicholson

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STATE OF ILLINOIS,  
SUPREME COURT.

Third Grand Division

No. 814236

Wood

vs.

Nichols

188

293

1  
State of Illinois  
La Salle County

Pleas Proceedings and  
Judgments, held and taken in and  
before the La Salle County Court, in the  
state of Illinois, at the Court House in  
Attawis in said county of La Salle of June  
Term thereof, to wit, on the seventh day of  
June A.D. 1858, and of the Independence  
of the United States of America the  
eighty second.

Present, Hon John C. Champlin Judge  
Philo Lindley Clk.  
Erie L. Waterman Sheriff

Be it remembered that heretofore to wit  
on the seventh day of June A.D. 1858, Donald  
Nicholson, by W. H. L. Wallace his attorney  
filed in the office of the clerk of said  
La Salle County Court, his certain  
declaration in ejectment, and notice,  
which are in the words and figures  
following to wit.

State of Illinois  
La Salle County, & County Court thereof  
To the June Term 1858.

Donald Nicholas plaintiff in  
this suit by W. H. L. Wallace his atty  
complains of Sylvester W Wood, Daniel Ward  
& David Ward, defendants in this suit, of  
a plea of trespass and ejection.

It is that the said plaintiff  
on the twenty fifth day of May A.D. 1858  
to wit at the county aforesaid, was possessed  
of a certain messuage and tenement  
with the appurtenances, which are worth  
not exceeding one thousand Dollars, and  
are known and described as Lot  
number eight (8) in Block number ten  
(10) in Richey addition to Marselles in  
said county, which said premises the  
said plaintiff claims in fee, and being  
so possessed the said defendants afterwards  
to wit on the twenty eighth day of  
May A.D. 1858, entered into said prem-  
ises, and ejected the plaintiff therefrom  
and holds and retains the possession  
of said premises from said plaintiff  
to his damage one hundred Dollars

whereof he sues &c

W. H. G. Wallace  
atty for self.

Mr. Sylvester Wood, Daniel Ward & David Ward  
Sirs.

Take notice that the  
above declaratin, with a copy whereof  
you are now herewith served and which  
copy this notice is subjoined, will be  
filed in the county court of La Salle  
County and State of Illinois, on the first  
day of the next term thereof, to be held  
at the Court house in Ottawa in said  
County on the 7<sup>th</sup> day of June next, that  
on filing said declaratin a rule will  
be entered in said court requiring you  
to appear and plead to said declaratin  
within twenty days after the entry of  
such rule, and if you neglect so to  
appear and plead a judgment by default  
will be entered against you, and the  
plaintiff will recover possession of the  
premises named in said declaratin

May 29, 1858.

Yours &c

Donald Nicholam  
by W. H. G. Wallace  
his atty.

State of Illinois  
La Salle County

Nicholas Beffel of  
Marseilles in La Salle County being duly  
sworn, says that on the 29<sup>th</sup> day of May  
A.D. 1858, he personally served upon  
Sylvester W Wood, Daniel Ward and  
David Ward all of said county a  
declaration & notice of which the within  
is a true copy according to the best of  
my knowledge, by delivering the same to  
each of them.

Nicholas Beffel

Sworn and subscribed before  
me a Notary Public in said  
County this 29<sup>th</sup> of May A.D. 1858  
C. J. Hathaway, Not. Pub

Great Seal

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And afterwards to wit, on the tenth day of June A.D. 1858, being one of the days of the June Term 1858 of said Court, certain proceedings in said cause were had and entered of record in said court in the words and figures following to wit.

Donald Nicholas

vs.

Sylvester W. Wood,

Daniel Ward & David Ward

Ejectment

This day comes the plaintiff by Wallace his attorney and on his motion it is ordered that the defendants plead herein in twenty days.

And thereafter to wit on the thirtieth day of June 1858, said defendants by Oliver C. Gray their attorney filed in the office of the clerk of said court a plea of the general issue in said cause, which is in the words and figures following to wit:

State of Illinois } In the County Court  
La Salle County, } thereof, vacated  
after June Term A.D. 1858.

Donald Nicholson

<sup>n.</sup>  
Sylvester W Wood

Daniel Ward and

David Ward

} Ejectment,

And now come  
the said defendants, and defend the  
wrong and injury, when and where &c  
and say that they are not guilty of  
the said supposed ejectment, and  
trespasses in the said plaintiff's declara-  
tion mentioned, nor either of them, and  
if this the said defendants put  
themselves upon the country.

Oliver C. Gray  
atty for Defdts

And afterwards to wit on the fourteenth  
day of September, A.D. 1858 being one of the  
days of the September Term 1858 of said  
La Salle County Court, certain further  
proceedings were had and entered of  
record in said Court in said cause in  
the words and figures following to wit.

Donald Nicholson

<sup>vs.</sup>  
Sylvester W. Wood, Daniel  
Ward & David Ward

Ejectment

This day comes  
the plaintiff by Wallace his attorney  
and the defendants by Gray their  
attorney and by agreement of parties  
hereto a jury is waived and this  
cause submitted to the court for trial,  
and thereupon the court having  
heard the evidence and the arguments  
of counsel doth find the issues joined  
in favor of the plaintiff, and that the  
said plaintiff is seized in fee simple of the  
premises mentioned in said declaration, that  
is to say Lot number eight (8) in Block number  
Ten (10) in Richeys addition to the town of  
Marseilles in said county, and that the  
same are worth less than one thousand  
dollars, and that the said defendants are  
guilty of unlawfully withholding the  
possession thereof from said plaintiff.

Whereupon the defendants by their  
said attorney enter their motion for a  
new trial herein, which motion, after  
hearing the arguments of counsel is  
overruled by the court to which ruling

of the court the defendants then and there  
excepted.

Therefore it is considered by the  
court that the said plaintiff have and  
recovered of and from the said defendants  
the possession of said premises, and  
also his costs and charges by him  
herein expended, and that he have  
a writ of possession for said premises,  
and an execution for said costs.

Whereupon the defendants pray an  
appeal herein which is allowed upon  
their entering into a bond in the sum  
of One Hundred dollars with Oliver G  
Gray as security, said bond to be filed  
in forty days from the last day of  
this term of this Court.

And afterwards to wit on the 17<sup>th</sup> day of  
September A.D. 1858. the same being one of  
the days of the September term 1858 of said  
La Salle County <sup>Court</sup>, said defendants by their  
said attorney filed in the office of the  
Clerk of said Court their Bill of Exceptions  
in said cause, which is in the words  
and figures following to wit.

State of Illinois }  
La Salle County }  
County Court, thereof  
September Term 1858

Donald Nichols

vs.

Ejectment.

Sylvester Ward  
Daniel Ward and  
David Ward

Be it remembered that on the trial of this cause, before the judge thereof, a jury being waived by agreement of parties, the plaintiff to maintain the issues on his part, offered in evidence the record of the judgment for taxes and proceedings, at the June Term A.D. 1853 of the LaSalle County County Court, after having proven by E. L. Horvick Deputy Clerk of said court that said record formed a part of the record of said court. The defendants then and there objected to the reading of said record in evidence; the court overruled the said objections and admitted said record in evidence, and to this decision of said court in the premises, the defendants then and there accepted

(Copy of Record)

"State of Illinois,  
La Salle County, ss.

Pleas before the county  
court of the County of La Salle in the State  
of Illinois, at a regular term of said court  
in and for said County of La Salle comm-  
enced and held on Monday the seventh  
day of June A.D. 1852.

Present, Henry G. Cottow Judge  
R. Eaton Goodell Sheriff &  
J. W. Raymond Clerk.

State of Illinois )  
                  n. )  
John. Doe & others ) Suit for Taxes.

Whereas Benjamin B.  
Yellows Treasurer of said County returned to  
the Clerk of the County Court of said County  
on the 14<sup>th</sup> day of May 1852 the following  
tracts and parts of tracts of Land, Town Lots  
and parts of Town Lots, as having been  
assessed for taxes by the assessors of the several  
Towns of said County of La Salle for the year  
A.D. 1851, and that the taxes thereon remain  
due and unpaid on the day of the date

of said Treasurers return, and that the  
respective owner or owners have no goods  
and chattels within the said County,  
on which the Town Collectors could levy  
for the said Taxes interest and costs, due  
and unpaid on the following described  
Tracts, and parts of Tracts of Land, and  
Town Lots and parts of Town Lots, to wit:

State of Illinois }  
La Salle County } 21

A List of Land and  
Town Lots, reported and returned to the  
Treasurer of the County of La Salle in the  
State of Illinois, by the several Collectors  
of revenue of Towns in said County for  
the year 1851, the Taxes upon which remain  
unpaid, the collectors in the Town wherein  
said Lands and Lots lay, not having  
been able to collect the same, and each  
of said collectors having delivered to said  
Treasurer an account of the Taxes so  
remaining due, and having severally  
made oath to the account so rendered  
that the sums mentioned in such account  
remain unpaid, and that he has not  
upon diligent enquiry been able to discover  
any Goods or Chattels belonging to or in

possessor of the person so charged with  
 or liable to pay the same, wherem he  
 could levy the same.

Richey Addition to Marseilles

Names of Owners	Part Lot	Lot	Blk	Valuation	Total Tax	Costs
Unknown		8	10	5	12	04

State of Illinois }  
 La Salle County } of Benjamin B. Jellows,  
 Treasurer, and ex officio collector of the  
 county of La Salle, state of Illinois do hereby  
 give notice that I will apply to the county  
 court of La Salle County at the June term  
 thereof to be holden in the Court House  
 in the town of Ottawa in said county &  
 state on the first Monday of June next, for  
 judgment against the above described  
 Lands and town lots for the taxes, interest  
 and costs due thereon for the year 1851  
 and also for an order to sell the said  
 lands and town lots for the ~~the~~ satisfaction  
 thereof, and on the second Monday in June  
 next, all the lands & town lots, against  
 which judgment shall be pronounced,  
 and for the sale of which an order  
 shall be made, will be exposed to

to public sale at the door of the court  
 House, in the town aforesaid, for the  
 amount of taxes, interest and costs. Said  
 sale will commence at 10 o'clock in the  
 forenoon, and continue from day to day  
 until all of said lands and town lots  
 are sold.

The costs for advertising each tract  
 of land is twelve cents, and each town  
 lot four cents, the whole cost when  
 sold will be on each tract of land fifty  
 five cents, and on each town lot  
 twenty one cents.

B. B. Fellows

Treasurer and Ex officio Collector of La Salle County

State of Illinois  
 La Salle County  
 This is to certify that  
 the foregoing list of lands and town lots  
 on which Taxes remain due and unpaid  
 for the year 1851, in the County of La Salle  
 and State of Illinois, was published in  
 the Ottawa Free Trader, a weekly news-  
 paper, printed at Ottawa, La Salle County  
 Illinois, on the first day of May 1852  
 being over four weeks previous to the  
 first Monday in June, that the number  
 of copies of said list corresponded with

the number of copies of said paper issued  
for that week, and that such list  
is a literal copy of the manuscript  
copy furnished by the Treasurer

William & Moses Osman Publishers

Ottawa May 13<sup>th</sup> 1852.

State of Illinois

La Salle County

ss. I Benjamin B. Fellows  
Treasurer of the said County

of La Salle, do solemnly swear that the  
foregoing is a true and correct record  
of the delinquent lands and town lots  
within the County of La Salle, as returned to  
me by the several collectors of the Towns  
in said County, and upon which the  
taxes have not been subsequently paid  
to me, since the said return for the  
year therein set forth, that the taxes now  
remain due and unpaid, and that  
due notice for judgment and of sale  
has been given as required by law.

B. B. Fellows.

Subscribed and sworn before  
me this eighteenth day of May

A.D. 1852

Samuel W. Raymond Clerk

\*It is considered by the Court that judgment be and is hereby entered against  
the several tracts & parts of tracts of land and town lots and parts of town  
lots in the name of the State of Illinois on the sum annexed to each tract  
(land, town, lot, or part of town) and the sum of four dollars (4.00) cents  
for costs against each tract of land, making up all the sum of highest day cents for  
costs, and also the further sum of seven teen (17) cents for costs against each town lot,  
making thereby one (21) cents for costs against each town lot.

And whereas, due notice has been given  
of the intended application for a judgment  
against said lands, and town lots, and  
no owner hath appeared to make defense  
or show cause why judgment should not  
be entered against the said lands and  
town lots for the taxes interest and costs  
due and unpaid thereon for the year 1857,  
being the amount of taxes interest and  
costs severally due thereon, and for which  
said lands and lots are chargeable, and  
it is ordered by the court that the said  
several tracts and parts of tracts of land  
town lots and parts of town lots, or so  
much thereof as shall be sufficient of  
each of them to satisfy the amount  
of taxes interest and costs annexed  
and charged to them severally be sold  
as the law directs

Henry G. Cotton

The plaintiff then offered in evidence the  
Precept dated June 5th, 1852, issued out  
of said court to the collector, upon the  
said judgment, the record of said pre-  
cept having been first identified as  
forming a part of the records of said  
court, by the said Witness E. L. Bernick

Deputy clerk. The defendants then and there objected to the record of said precept, and proceedings thereon being read in evidence. The court overruled the said objections, and admitted said Record in evidence, and to the decision of the court in that behalf, the defendants then and there accepted.

(Copy of said Precept)

State of Illinois }  
La Salle County } Pleas before the County  
Court of the County of La Salle and State  
of Illinois, at a regular Term of said Court  
in and for said County of La Salle, commen-  
ced and held on Monday the 7<sup>th</sup> day  
of June A.D. 1852

Present Henry G. Cottin Judge  
A. Eaton Goddell Sheriff  
Samuel W. Raymond Clerk

State of Illinois }  
La Salle County } The People of the State of  
Illinois. To the Treasurer  
& Collector of said County. Greeting.

State of Illinois }  
 John Doe and others } Suit for Taxes

Whereas Benjamin B. Fellows Treasurer of said County returned to the clerk of the County Court of said County on the 14<sup>th</sup> day of May 1852, the following tracts and parts of tracts of land, Town lots and part of Town Lots, as having been assessed for taxes by the assessors of the several towns of the said County of La Salle for the year A.D. 1851, and that the taxes thereon remain due and unpaid on the day of the date of said Treasurers return, and that the respective owner or owners have no goods and chattels within the said County in which the Town collectors could levy for the said taxes, interest & costs due and unpaid on the following described <sup>and parts of tracts</sup> tracts of land, and Town lots and parts of Town lots to wit.

State of Illinois }  
 La Salle County } A list of Lands and Town  
 lots reported and returned to the Treasurer of the County of La Salle in the State of Illinois, by the several collectors of revenue of Towns in said County for the year 1851

The taxes upon which remain unpaid  
 The collector in the town where said  
 lands and lots lay not having been  
 able to collect the same, and each of  
 said collectors having delivered  
 to said Treasurer an account of the  
 taxes so remaining due, and having  
 severally made oath to the accounts so  
 rendered that the sums mentioned in  
 such account remain unpaid, and  
 that he has not upon diligent enquiry  
 been able to discover any goods or  
 chattels belonging to or in possession  
 of the person so charged with, or liable  
 to pay the same, whereon he could  
 levy the same.

Name of Owners	Richey's Addition to Marseilles					
	Part lot	Lot	Blk	Value	Tax	Costs
Unknown		8	10	5	12	04

State of Illinois }  
 La Salle County } I Benjamin D. Sellows  
 Treasurer and ex officio collector of the  
 County of La Salle and State of Illinois,  
 do hereby give notice that I will apply

to the county Court of La Salle County as  
the time herein thereof, to be holden at the  
Court House in the Town of Ottawa in said  
County and State, on the first Monday  
of June next for judgment against the  
above described lands and town lots, for  
the taxes, interest and costs due thereon  
for the year 1851, and also for an order  
to sell the said lands and town lots,  
for the satisfaction thereof, and on the  
second Monday in June next all the  
lands and town lots against which  
judgment shall be pronounced, and  
for the sale of which an order shall be  
made, will be exposed to public sale  
at the door of the Court House in the  
Town aforesaid for the amount of taxes,  
interest and costs due thereon, said  
sale will commence at ten o'clock in  
the forenoon, and continue from day to  
day until all of said lands and town  
lots are sold.

The costs for advertising each tract of  
land is 12<sup>c</sup> and each town lot four cents,  
the whole cost when sold will be on each  
tract of land fifty five cents, and on each  
town lot twenty one cents.

B. B. Sellers  
Jes<sup>r</sup> and Ex officio collector of La Salle County

State of Illinois }  
La Salle County } This is to certify that the  
foregoing list of lands and Town lots,  
on which taxes remain due and unpaid  
for the year 1851, in the County of La Salle  
and State of Illinois, was published in  
the Ottawa Free Trader, a weekly newspa-  
per, printed at Ottawa La Salle County  
Illinois, on the 1<sup>st</sup> day of May 1852,  
being over four weeks previous to the  
first Monday in June 1852, that the  
number of copies of said list corresponded  
with the number of copies of said paper  
served for that week, and that such  
list is a literal copy of the manuscript  
copy furnished by the Treasurer

William & Moses Osman Publishers  
Ottawa May 13, 1852.

State of Illinois }  
La Salle County } I Benjamin B. Sellows  
Treasurer of the said County of La Salle do  
solemnly swear that the foregoing  
is a true and correct record of the  
delinquent land and Town lots within  
the County of La Salle as returned to  
me by the several collectors of the  
Towns in said County, and upon which

The taxes have not been subsequently paid to me, since the said return for the year therein set forth, that the taxes now remain due and unpaid, and that due notice of application for judgment and of sale has been given as required by law.

B. B. Jellous

subscribed and sworn before me this 18<sup>th</sup> day of May A.D. 1852

Saml W. Raymond clerk

And whereas due notice has been given of the intended application for a judgment against said lands and town lots, and no owner hath appeared to make defense or shew cause why judgment should not be entered against the said lands and town lots, for the taxes interest and costs due and unpaid thereon for the year 1851. Whereupon it is considered by the Court that judgment be and is hereby entered against the aforesaid tracts and parts of tracts of land, and town lots and parts of town lots in the name of the State of Illinois for the sum of annexed to each tract of land, town

lot, or part of town lot, and the  
further sum of forty three (43) cents  
for costs against each tract of land  
making in all the sum of fifty five  
(55) cents for costs, and also the further  
sum of seventeen (17) cents for costs against  
each town lot, making twenty one (21) cents  
for costs against each town lot, being  
the amount of Taxes interest and costs  
severally due thereon and for which  
said lands and lots are chargeable  
and it is ordered by the court that  
the said several tracts and parts of  
tracts of Land town lots, and parts of  
town lots or so much thereof as  
shall be sufficient of each of them  
to satisfy the amount of Taxes, interest  
and costs annexed and charged to  
them severally, be sold as the law directs  
Henry G. Collins,

State of Illinois,  
La Salle County, ss I Samuel W Raymond  
Clerk of the County Court of said County,  
do hereby certify that the foregoing is  
a copy of the collectors report together  
with the order of the court thereon as the  
same appears of Record in my office

Seal

In testimony whereof I have  
herunto set my hand and  
affixed the seal of said Court  
at Ottawa this 8<sup>th</sup> day of June  
A.D. 1852

Saml W Raymond clerk

I have executed the within foregoing  
unit by selling all the lands and lots  
as I am commanded except such as  
were paid previous to the day of sale  
as will more fully appear by a record  
of the sales kept by the clerk of the  
County Court of said County of La Salle  
which is duly made a part of this  
return, all of which is done according  
to Law.

June 25<sup>th</sup> 1852

B. B. Fellows  
Treasurer & Collector,

Filed June 25<sup>th</sup> 1852

S. W. Raymond clerk

The plaintiff then offered in evidence  
a deed from Francis Warner Sheriff of  
said county to Julius Avery and  
David P. Jones, dated August 12, 1856

Know all men by these presents, that whereas  
 at the June Term A.D. 1852, of the County  
 Court within and for the County of LaSalle  
 in the State of Illinois judgments were re-  
 spectively obtained in said Court against the  
 following described Lots situated in Richeys  
 addition to the Town of Marseilles in said  
 County, as follows, to wit: One against lot  
 number two (2) in Block number two (2) for  
 thirty three cents, one against lot number four  
 (4) in Block number two (2) for thirty three  
 cents, one against Lot number six (6) in Block  
 number two (2), for thirty three cents, one against  
 Lot number Eight (8), in Block number  
 two (2) for thirty three cents, one against lot  
 number sixteen (16) in Block number two (2), for  
 thirty three cents. One against Lot number  
 two (2) in Block number five (5) for thirty  
 three cents - One against Lot number four  
 (4) in Block number five (5), for thirty two  
 cents, one against Lot number fourteen (14) in  
 Block number five (5), for thirty five cents -  
 One against lot number sixteen (16) in Block  
 number five (5) for thirty two cents, one against  
 Lot number three (3) in Block number six (6)  
 for thirty three cents - One against Lot num-  
 ber six (6) in Block number six (6) for thirty  
 three cents - One against Lot number six

⑥ in Block number nine (9) for thirty three cents, one against lot number seven (7) in Block number nine (9) for thirty three cents.

One against lot number eight (8) in Block number nine (9), for thirty two cents, One against lot number nine (9) in Block number nine (9) for thirty three cents, - one against lot number ten (10) in Block number nine (9), for thirty three cents. One against lot number twelve (12) in Block number nine (9), for thirty two cents - One against lot number two (2) in Block number ten (10), for thirty three cents - One against lot number four (4) in Block number ten (10) for thirty three cents. One against lot number eight (8) in Block number ten (10), for thirty three cents - One against Lot number ten (10) in Block number ten (10) for thirty three cents,

One against Lot number twelve (12) in Block number ten (10) for thirty three cents.

One against lot number fourteen (14) in Block number ten (10) for thirty two cents,

One against lot number sixteen (16) in Block number ten (10) for thirty three cents, One against Lot number four (4) in Block number Eighteen (18) for thirty two cents - One against Lot number fourteen (14) in Block

number Eighteen (18), for forty five cents - and one against Lot number Sixteen (16) in Block number Eighteen (18) for forty five cents all of said lots being situated in Richey's addition to the Town of Marselles in the County of La Salle and State of Illinois, and said several sums, being the amount of taxes assessed upon said lots respectively for the year A.D 1851, and the interests and costs which have respectively accrued thereon.

And whereas, on the sixteenth day of June A.D 1852, Benjamin F. Fellows, Treasurer and collector of said County, by virtue of a precept issued out of said Court dated the eighth day of June A.D 1852 and to him directed did expose to public Sale at the door of the Court House in the County aforesaid, in conformity with all the regulations of the Statute in such case made and provided the said tracts of land respectively for the satisfaction of the judgments so respectively rendered against them. And whereas at the day and place aforesaid William Phillips having offered to pay the aforesaid amounts of said several judgments against said lots respectively which were respectively the least quantities bid for - the said Lots were

stricken off to the said William Phillips  
at the said respective prices. And  
whereas it has been made to appear  
to me that notice of the sale and pur-  
chase aforesaid has been given and affi-  
davit thereof made in the manner pro-  
vided in Section Six of an act of the  
general assembly of said State entitled  
an act to amend the several acts concern-  
ing the public revenue approved Febru-  
ary twelfth A.D. 1849.

And whereas also, the said William  
Phillips has duly assigned his respective  
certificates of purchase to David P. Jones  
& Julius Avery of the County and State  
aforesaid.

Now therefore I Francis Warner,  
Sheriff of the said County of La Salle  
for and in consideration of the respective  
sums above mentioned to the said Benjamin  
B. Fellows Treasurer & Collector, as afore-  
said in hand paid by the said William  
Phillips at the time of the aforesaid sale  
and by virtue of the Statute in such case  
made and provided, have granted, bar-  
gained, sold and conveyed, and by these  
presents do grant, bargain, sell and convey



Capacity of Sheriff of Said County and acknowledged the execution thereof to be his free act and deed for the uses and purposes therein expressed.



In Witness whereof I have hereunto set my hand and the Seal of said Court at Ottawa, this 12<sup>th</sup> day of August A.D. 1856.

John F. Nash

Clerk Circuit Court

per Geo Harrington Deputy.

(Filed May 31. 1858 at 1 1/2 of P.M.)

It being admitted by defendants that said Francis Warner was sheriff of said county, at the time of the execution of said deed.

So the introduction of said deed in evidence, the defendants then and there objected, the court overruled the said objections and admitted said deed in evidence, and to the decision of the court in that behalf, the defendants then and there accepted.

The plaintiff then offered in evidence a deed from said Avery and Jones to himself, dated May 25, 1858, so the introduction of which said deed in evidence, the defendants then and there objected, the court overruled the said objection and admitted said deed in evidence, and to the decision of the court in that behalf, the defendants then and there accepted.

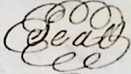
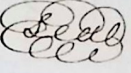
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This Indenture, Made this Twenty fifth day of May in the year of Our Lord One Thousand Eight Hundred and Fifty Eight Between David P. Jones and Julius Avery of the County of La Salle and State of Illinois parties of the first part and Donald Nicholson of the County of La Salle in the State of Illinois party of the second part. Witnesseth, That the said parties of the first part for and in consideration of the sum of Thirty five Dollars paid by the said party of the second part (the receipt of which is hereby acknowledged) do by these presents Remise, Release, Transfer and Quit Claim, unto the said party of the second part his heirs and assigns the following described tract or parcel of Land, situated in said County of La Salle and State of Illinois, viz;

Lot number Eight (8) in Block number Ten (10) in Richeys addition to the Town of Marseilles.

Together with all and Singular the Perquisites and appurtenances thereunto belonging or in anywise appertaining; To have and to hold the said premises as above described with the appurtenances unto the said party of the second part his heirs and assigns forever.

In testimony whereof The Said parties  
of the first part have herunto set their  
hands and Seals the day and year first above  
written.

D. P. Jones   
Julius Avery 

State of Illinois  
La Salle County <sup>3<sup>rd</sup></sup> On this Twenty Fifth  
day of May 1858 person-  
ally appeared before me Orango Leavens a  
Justice of the Peace in and for said County  
D. P. Jones and Julius Avery to me personally  
known to be the persons whose names are sub-  
scribed to the above deed as having executed  
the same and acknowledged that they had  
freely executed the same for the uses and  
purposes therein expressed.

Given under my hand the day and  
year aforesaid.

Orango Leavens J.P.

(Filed for Record the 25<sup>th</sup> day of June 1858 at  
5 O'Clock P. M.)

It was admitted that the defendants were in possession of the premises described in plaintiff's declaration when this suit was commenced.

The plaintiff here rested his case.

The defendants then offered in evidence the several affidavits of William Phillips and Pratt, of record in the said court, after having identified them each as forming a part of the Records of said court. by the witness E. L. Herrick Deputy Clerk. To the introduction of said affidavits, and each of them, the plaintiff then and there objected. The court overruled the said objections, and admitted said affidavits in evidence, and to the decision of the court in that behalf the plaintiff then and there excepted.

"State of Illinois  
La Salle County

James B. Pratt Agent  
for David P. Jones, and Julius Avery  
being first duly sworn according to law  
deposes and says that he is acquainted  
with the following described lots situated  
in Richeys Addition to the town of

Marseilles in the county of La Salle and State of Illinois to wit, lots number two (2) four (4) fourteen (14) and sixteen (16) in Block number five (5) - Lots number two (2) four (4) six (6) eight (8) and sixteen (16) in Block number two (2), Lots number three (3) and six (6) in Block number six (6). Lots number six (6) seven (7) eight (8) nine (9) ten (10) and twelve (12) in Block number nine (9) Lots number two (2) four (4) eight (8) ten (10) twelve (12) fourteen (14) and sixteen (16) in Block number ten (10) & Lots number four (4) fourteen (14) and sixteen (16) in Block number eighteen (18). All in said Richeys Addition to said Town of Marseilles.

Affiant further says that there was no person or persons in possession of the above described lots or any of either of them or any part of the same at any time during the period of two years from the sixteenth day of June A.D. 1852.

James B. Pratt, Agent for  
David P. Jones & Julius Avery.  
Subscribed and sworn to before me this 2<sup>d</sup>  
day of August A.D. 1852  
J. B. Smith J. P. James B. Pratt

State of Illinois  
LaSalle County

William Phillips being duly sworn, deposes and says that the annexed printed notice of the sale for taxes of the several lots tracts of land therein described was published in the Ottawa Free Trader a weekly newspaper printed in LaSalle County in the state of Illinois, and having as this affiant believes the greatest circulation of any newspaper printed in said LaSalle County for four succeeding weeks commencing on the 18<sup>th</sup> day of February A.D. 1854 that each of the several lots and tracts of land in said notice described was assessed for the tax of the year A.D. 1851. to the respective persons whose names are respectively set opposite to each respective lot and tract of land in the column of names on the left side of said lots and tracts of land as set forth in said notice, excepting those of said lots and tracts which are marked "unknown" opposite to them in said column, which last mentioned lots

(Bund.)

and Tracts were assessed to persons  
unknown

William Phillips

Subscribed & sworn to before  
me this 6<sup>th</sup> day of October 1857  
S. W. Raymond Clerk "

This was all the evidence in the case,  
the Court, to whom this cause was  
submitted for trial, found the issues  
for the plaintiff - The defendants moved  
for a new trial, which was overruled  
by the Court, and to the decision of  
the Court in that behalf the defend-  
ants then and there accepted, and  
prayed the Court to sign and seal  
this Bill of Exceptions which, accordingly,  
done in open Court.

S. C. Champlin 

And afterwards to wit on the 14<sup>th</sup> day of  
October 1858, said defendants filed  
their appeal bond in the office of  
the Clerk of said Court, in the  
words and figures following to wit,

Know all men by these presents  
 That we, Sylvester W. Wood, Daniel Ward  
 Daniel Ward and Oliver L. Gray of the  
 County of Laballe, and State of Illinois  
 are held and jointly bound unto  
 Donald Nicholson, also of the same County  
 and State, in the penal sum of One  
 Hundred dollars, current money  
 of the United States, for the payment  
 of which, well and truly to be made  
 we bind ourselves, our heirs, executors  
 and administrators jointly, severally  
 and jointly by these presents. Witness  
 our hands and seals, this 11<sup>th</sup> day of  
 October A.D., 1858

The condition of the above obligation is  
 such, that whereas, the said Donald  
 Nicholson, did, on the 15<sup>th</sup> day of September  
 A.D., 1858 in the County Court in and for  
 the County and State of aforesaid, recover  
 a judgment against the above bounden  
 Sylvester W. Wood, Daniel Ward and  
 Daniel Ward for the costs of suit in  
 that behalf expended, in a certain  
 action of ejectment then pending in  
 said court, wherein the said Donald  
 Nicholson was plaintiff, and said  
 Sylvester W. Wood, Daniel Ward and Daniel

Ward now defendants, from which  
said judgment of the said court  
was, the said defendants was  
prayed for, and obtained an appeal  
to the Supreme Court of said state  
now if the said Sylvester W. Wood,  
Linnell Ward and David Ward shall  
duly prosecute his said appeal with  
effect, and shall moreover pay the  
amount of said judgment and costs  
and interest and charges, rendered  
and to be rendered against them,  
in case the said judgment shall be  
affirmed in the said Supreme Court,  
then the above obligation to be void,  
otherwise to remain in full force and virtue

Linnell Ward *Real*

S. W. Wood *Real*

David Ward *Real*

Oliver L. Greeny *Real*

State of Illinois } ss.  
LaSalle County }

I Philo Lindley Clerk  
of the County Court of the County & State  
aforesaid. hereby certify the above and  
here going to be a true full and com-  
plete copy of the record of the proceedings  
and of the papers in the cause wherein  
Donald Nicholson is plaintiff, and  
Sylvester W Wood, Daniel Ward and  
David Ward are defendants, as the  
same appear of record and on file in  
my office



In Testimony whereof I have  
herunto set my hand and  
affixed the seal of said  
Court at Ottawa this 21 day  
of April A.D. 1859

Philo Lindley Clerk  
D. J. Bennett dep.

for the record of the case - paid by Daniel Ward

20 ~~28~~ 48

Sylvester W. Wood  
et als

Donald Nicholson  
Transcript of Records

Filed April 21. 1859  
L. Leland  
Clerk