

14550

No. _____

Supreme Court of Illinois

Wing

vs.

Cropper et ux

STATE OF ILLINOIS,
SUPREME COURT,
THIRD GRAND DIVISION.

No.

37

7

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

Wing
75

~~Case~~

Cropper

14550

1864

✓

SUPREME COURT OF ILLINOIS.

April Term. A. D. 1863.

ELTON C. CROPPER, et ux.,

ADS

PRESTON WING.

ERROR TO ROCK ISLAND.

Points and Authorities for Defendants.

I.

Defendant's Homestead Right, was not affected by the Mortgage, or Decree of foreclosure.

Walters v The People, 18, Ill., 199.
Kitchell v Purgwin, et ux., 21, Ill., 40.
Vanzant v Vanzant, 23, Ill., 540.
Green v Marks, et al., 25, Ill., 222.
Deere v Chapman, 25, Ibid, 612.
Smith v Mark, 26, Ill., 155.

II.

W. B. Hawley, Att. for Defendants

37-7

Triston Mining
Co.

Cropper Est-24

Brief for Dufts

Filed Apr. 20. 1864
J. H. H. H. H.

State of Illinois } of the April term 1863 of
Third Division } the Supreme Court of the State
appeared - Attest

Preston Wing
vs ^{Official Error,} Error to Hock-
Elton & Cropper } Saline County
Mary & Cropper }

I do hereby enter myself
security for costs in this cause
and acknowledge myself bound to
pay or cause to be paid all costs
which may accrue in this action
either to the opposite party or to any
of the officers of this Court in fur-
suanee of the laws of this State -
Dated this 22nd day of April 1863 -

A. Webster

¹²⁷ ¹¹⁰ ³⁷
Preston Wing
vs

Elton C. Grupper
et al

Bond for Custi

Filed April 22. 1863

S. S. Island

Clark

SUPREME COURT OF ILLINOIS.

APRIL TERM, 1863.

PRESTON WING, Plaintiff in Error,

vs.

ELTON C. CROPPER and
MARY E. CROPPER, Defendants in Error.

} ERROR TO ROCK ISLAND CIRCUIT COURT.

ABSTRACT OF RECORD.

- (7-8) August 4th, 1859, the Plaintiff in error filed his bill in chancery against Elton C. Cropper and Mary E. Cropper, his wife, for the foreclosure of a mortgage executed by said Defendants to said Plaintiff, July 29th, 1856, on the west half of the east half of Lot No. Nine (9), in Block No. Three (3), in Spencer & Case's addition to the city of Rock Island, to secure payment of a promissory note made by said Elton C. Cropper to said Plaintiff, dated July 29th, 1856, for \$575.00.
- (7-10) A copy of the mortgage is annexed to the bill. By the terms thereof, said Cropper and wife convey the mortgaged premises, by the above description, in fee to the Plaintiff, with covenant of warranty, conditioned to be void on payment of said promissory note. It was acknowledged the same day by Cropper and wife, in the proper form for relinquishment of dower, and duly recorded. The mortgage contains no express release of, or allusion to the right of homestead.
- (12) A writ of summons to answer the bill was sued out the same day, and returned August 15th, 1859, by the Sheriff of Rock Island county, personally served on that day on both Defendants, Cropper and wife.
- (14-16) At the September term, 1859, of the Court below, on the 5th of October, a decree of foreclosure and sale was rendered against Defendants for the sum of \$699.58, by default, Defendants having failed to appear or answer the bill. The decree directed that in default of payment within ten days, the mortgaged property was to be sold by a master in chancery to satisfy the decree.
- (23-27) December 8th, 1859, the master's report of sale was filed, reporting a sale of the mortgaged premises to the complainant, November 21, 1859, for \$731.70.

(34) At the May term, 1861, (May 15th,) Plaintiff filed his motion that Defendant, Elton C. Cropper, be ordered to pay the taxes and costs named in the following affidavit of Charles H. Reed, before setting aside the sale; and also objecting to the sale being set aside, although said Cropper should pay said costs and taxes. The following affidavits were filed in support of said motion:

Of Charles H. Reed, one of Plaintiff's solicitors, deposing to the payment by him for Plaintiff, since the filing of the bill, of \$50 costs in the suit, and \$48.12 taxes on the mortgaged property for 1857 and 1858; that, as deponent believes, Defendant Cropper has no property out of which said costs and taxes can be collected; and that said Cropper has not paid said costs or taxes.

(35) Of William B. Seymour, deposing that he was collector of taxes for Rock Island township for 1858, and that Defendant Cropper paid him no taxes on the premises in question for that year.

(36) Of L. Cook, deposing that he was County Treasurer for 1858 and 1859, and collected as such the taxes for 1857 and 1858; that Defendant Cropper did not pay to deponent, and never has paid, to the best of deponent's knowledge and belief, the State and county taxes for 1857 and 1858 upon said premises.

(37) Of A. L. Wait, deposing that he was elected County Treasurer in 1859, and still held the office; that Charles H. Reed, for Preston Wing, paid him the State and county taxes for 1857 and 1858 on said premises; that Defendant, Cropper, never paid deponent said taxes.

(38) Of Joseph Conet, deposing that he has been clerk of the county since 1854; that Defendant, Cropper, never paid him any taxes on said premises.

(39) Defendants filed affidavit of deponent, E. C. Cropper, deposing that he had paid all the taxes on the premises during all the years of his residence thereon, except for 1859.

(20) At the same term, (May 15, 1861,) said motion to set aside the sale came on for hearing, and was sustained by the Court, and the sale set aside. Plaintiff excepted, and on the 17th of

(23 - 40) May, 1861, filed a bill of exceptions to said decision, duly signed by the Judge.

Plaintiff brings error, and assigns the granting of said motion to set aside the sale, as error.

CHARLES E. PUTNAM, and
A. WEBSTER, *Plaintiff's Attorneys.*

37-7

Preston Wing
As

E. C. Cropper et al

Abstract

Filed April 20, 1864
J. L. Leonard & Co

SUPREME COURT OF ILLINOIS.

APRIL TERM, 1863.

PRESTON WING, Plaintiff in Error,

vs.

ELTON C. CROPPER and

MARY E. CROPPER, Defendants in Error.

} ERROR TO ROCK ISLAND CIRCUIT COURT.

ABSTRACT OF RECORD.

(1-6) August 4th, 1859, the Plaintiff in error filed his bill in chancery against Elton C. Cropper and Mary E. Cropper, his wife, for the foreclosure of a mortgage executed by said Defendants to said Plaintiff, July 29th, 1856, on the west half of the east half of Lot No. Nine (9), in Block No. Three (3), in Spencer & Case's addition to the city of Rock Island, to secure payment of a promissory note made by said Elton C. Cropper to said Plaintiff, dated July 29th, 1856, for \$575.00.

(7-10) A copy of the mortgage is annexed to the bill. By the terms thereof, said Cropper and wife convey the mortgaged premises, by the above description, in fee to the Plaintiff, with covenant of warranty, conditioned to be void on payment of said promissory note. It was acknowledged the same day by Cropper and wife, in the proper form for relinquishment of dower, and duly recorded. The mortgage contains no express release of, or allusion to the right of homestead.

(12) A writ of summons to answer the bill was sued out the same day, and returned August 15th, 1859, by the Sheriff of Rock Island county, personally served on that day on both Defendants, Cropper and wife.

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(23-27) December 8th, 1859, the master's report of sale was filed, reporting a sale of the mortgaged premises to the complainant, November 21, 1859, for \$731.70.

(27) At the January term, 1861, (Jan. 29th,) Defendants Cropper and wife appeared and filed their motion that the sale and master's report thereof be set aside, "because, at the time of the rendering of said decree, and at the time of the sale of said land, as aforesaid, the said land was exempt by law from levy and forced sale under any process or order from any Court of law or equity in this State."

(29-31) They also filed, in support of said motion, the affidavit of said Elton C. Cropper, setting forth that he became the owner of said mortgaged premises about the year 1852, and continued to be such owner to the date of the mortgage; that at said date, he was (and ever since has been) a householder, having a family, consisting of his wife and three children; that, at the date of the mortgage, long before and ever since, there was a dwelling house on said mortgaged premises, occupied by said deponent and his family as a homestead; that the mortgage debt was contracted after July 4th, 1851, and was not incurred for the purchase or improvement of the mortgaged premises; that deponent has never waived or released his right of homestead exemption; that he has never conveyed or incumbered said premises otherwise than by said mortgage.

(31-33) The affidavits of William Kale and William Bell were also filed, deposing to the existence of a dwelling house on said premises, and the occupancy of the same as a residence by said Cropper and his family.

(34) At the May term, 1861, (May 15th,) Plaintiff filed his motion that Defendant, Elton C. Cropper, be ordered to pay the taxes and costs named in the following affidavit of Charles H. Reed, before setting aside the sale; and also objecting to the sale being set aside, although said Cropper should pay said costs and taxes. The following affidavits were filed in support of said motion:

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(37) Of A. L. Wait, deposing that he was elected County Treasurer in 1859, and still held the office; that Charles H. Reed, for Preston Wing, paid him the State and county taxes for 1857 and 1858 on said premises; that Defendant, Cropper, never paid deponent said taxes.

(38) Of Joseph Conet, deposing that he has been clerk of the county since 1854; that Defendant, Cropper, never paid him any taxes on said premises.

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(20) At the same term, (May 15, 1861,) said motion to set aside the sale came on for hearing, and was sustained by the Court, and the sale set aside. Plaintiff excepted, and on the 17th of

(23-40) May, 1861, filed a bill of exceptions to said decision, duly signed by the Judge.

Plaintiff brings error, and assigns the granting of said motion to set aside the sale, as error.

CHARLES E. PUTNAM, and
A. WEBSTER, *Plaintiff's Attorneys.*

37

Preston Mining

As

E. C. Cropper & Co

Abstract

Filed Apr. 20. 1864

L. Leland CMC

SUPREME COURT OF ILLINOIS.

APRIL TERM, 1863.

PRESTON WING, Plaintiff in Error,

vs.

ELTON C. CROPPER and

MARY E. CROPPER, Defendants in Error.

} ERROR TO ROCK ISLAND CIRCUIT COURT.

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(23-40) May, 1861, filed a bill of exceptions to said decision, duly signed by the Judge.

Plaintiff brings error, and assigns the granting of said motion to set aside the sale, as error.

CHARLES E. PUTNAM, and
A. WEBSTER, *Plaintiff's Attorneys.*

37
Purine Wring
vs
E. C. Cropp & Co

Abstract

Given Apr. 20., 1864
J. L. Leland M.R.

April Term. A. D. 1863.

ADS

PRESTON WING.

ERROR TO ROCK ISLAND.

Points and Authorities for Defendants.

I.

Defendant's Homestead Right, was not affected by the Mortgage, or Decree of foreclosure.

Walters v The People, 18, Ill., 199.

Kitchell v Purgwin, et ux., 21, Ill., 40.

Vanzant v Vanzant, 23, 11., 540.

Green v Marks, et al., 25, Ill., 222.

Deere v Chapman, 25, Ibid, 612.

Smith v Mark, 26, Ill., 155.

II.

II. *Woolley, 4th concept*

Purton Wing

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Upton & Crispen
& Wife

Prints & Authorities
for Drafts in Euro

Filed Apr 20. 1864

J. Leland CR

SUPREME COURT OF ILLINOIS.

April Term. A. D. 1863.

ELTON C. CROPPER, et ux.,

ADS

PRESTON WING.

ERROR TO ROCK ISLAND.

Points and Authorities for Defendants.

I.

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Vanzant v Vanzant, 23, Ill., 540.

Green v Marks, et al., 25, Ill., 222.

Deere v Chapman, 25, Ibid, 612.

Smith v Mark, 26, Ill., 155.

II.

McHale, Att. for Depts

Guston Wing
vs

Cropper Et al

Brief for Defts

Filed Apr 20. 1864

L. Leland Clerk

STATE OF ILLINOIS,
SUPREME COURT.

} ss. The People of the State of Illinois,

To the Sheriff of Rock Island County, GREETING:

Because, In the record and proceedings, and also in the rendition of the judgment of a plea which was in the Circuit Court of Rock Island County, before the judge thereof, between

Preston Ming

plaintiff, and

Elton C. Cropper and Mary E. Cropper

defendants, it is said that manifest error hath intervened, to the injury of the said

Preston Ming

as we are informed by his complaints the record and proceedings of which said judgment we have caused to be brought into our Supreme Court of the State of Illinois, at Ottawa, before the justices thereof, to correct the errors in the same, in due form and manner, according to law: Therefore, We Command You, That by good and lawful men of your County, you give notice to the said

Elton C. Cropper and Mary E. Cropper

that they be and appear before the justices of our said Supreme Court, at the next term of said Court, to be holden at Ottawa, in said State, on the first Tuesday after the third Monday in April next, to hear the record and proceedings aforesaid, and the errors assigned, if they shall see fit; and further to do and receive what said Court shall order in this behalf; and have you then there the names of those by whom you shall give the said

Elton C. Cropper and Mary E. Cropper notice, together with this writ.

Witness, The Hon. John W. Paton, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this 14th day of March in the year of our Lord One Thousand Eight Hundred and Sixty-Three.

L. Deland

Clerk of the Supreme Court.

~~747~~ 110-37

Preston Wing

No.

vs.

Elton C. Cropper
Mary E. Cropper

SCIRE FACIAS.

Sheriff fees \$1.75
Rec'd my fees in full.

C. A. McLaughlin
Rd. Coll.

FILED April 21 A. D. 1883

L. Leland Clerk.

State of Illinois }
Rock Island County } ss.

I have executed
this writ by reading the same
to each of the within named
defendants Elton C. Cropper and
Mary E. Cropper this 16th day
of March, A. D. 1883.

C. A. McLaughlin Sheriff
Rock Island Coll.



State of Illinois }
Rock Island County }

Be it Remembered that at
a Circuit Court sitting as a Court
of Chancery begun and held at the
Court House in the City of Rock Island
within and for the County of Rock
Island and State of Illinois on the
Second Monday of September A.D.
1859 before the Hon. John W. Custance
Judge of the 22nd Judicial Circuit
of the State of Illinois sitting in
Exchange with the Hon. J. Watson
Judge of the Sixth Judicial
Circuit of the State of said and
Residing Judge of said Circuit
Court the following proceedings
were had to wit

Preston Wing-knight

vs

Foreclosure

Alton C Cropper &

Mary C Cropper

Deft

Be it Remembered that hereto-
fore to wit on the 4th day of August
A.D. 1859 the Complaint in the
above entitled cause filed in
1. the Office of the Clerk of the Circuit

2.

Count afairmind his certain Bill
of Complaint in honesty and
Bond for Costs which said Bill
and Bond were and are in the
words and figures following to wit:

Wavy lines representing a signature or scribble.

Bill of Complaint & Exhibits

State of Illinois } September Term cdd 1859 of the
Rock Island County } 21 Circuit Court of said County

To Hon John W Drury sole Judge of
the Sixth judicial Circuit of the
State of Illinois: in Chancery setting:

Your Orator Preston Wing
of the County of Dutchess and State
of New York respectfully represents
unto your Honor that on the 29th
day of July cdd 1856 one Elton C
Cropper and Mary C Cropper his
wife of Rock Island County and
State of Illinois (and unto your
Orator prays may be made further
dependant to this Bill) executed
and delivered to your Orator a mort-
gage in Fee Simple upon the follow-
ing described Real Estate situated
in said Rock Island County to wit
The West half of the East half
of Sect 20 & 21 in Block 20
Three (3) in S. J. & Co. and Cases
Additions to the City of Rock Island
which said mortgage was executed
and delivered as aforesaid in order
to secure the payment of a certain

4.

promissory note in writing bearing
even date with said mortgage made
and delivered by the said Elton C
Crapper to your Orator for the sum
of five Hundred and Seventy five
Dollars and payable one year after the
date thereof with two per cent interest
thereon to your Orator of which said
note the following is a copy to wit:-
#575 "Davenport Iowa July 29th 1856

"One Year after date I promise to
"Pay Preston Wing or Order five hundred
"and Seventy Five Dollars
"with interest at two per cent per annum
"for value received - This ~~Mortgage~~
"note is secured by a mortgage of the
"same date E. C. Crapper

Your Orator further represents that
the said Elton C Crapper did not
pay said note at the time it became
due and payable and that thereby
the Estate of your Orator in said
mortgaged premises became absolute
at Law

Your Orator further represents that
there is now due and owing to your
Orator the sum of Six hundred and
ninety (#690) Dollars on said note

and mortgage and that your Orator
has often in a friendly manner
requested the said Elton & Cropper
to pay the same which he has always
refused and still does neglect &
refuse to do

Your Orator further represents
that said mortgage is actually lost
and cannot be found and that
said mortgage is recorded in Book
"E" of Mortgages on page 142 of the
Records of Deeds in said Rock
Island County and that a lawfully
certified copy of said mortgage is
attached to this Bill as a part and
parcel thereof and is marked Exhibit
"A" and to which said copy your
Honor is hereby referred for the terms
and conditions thereof

Your Orator therefore in consider-
ation of the foregoing premises prays
that a Summons may be issued out
of the Office of the Clerk of said Court
commanding the said Elton & Cropper
and Mary Cropper to be and appear
before said Court on the first day of
the said term to be held at the
Court House in said Rock Island

6.

County on the second Monday of week
 September to plead our said ~~and~~ ^{are} answer
 to this Bill and that on account
 may be ^{then} taken under the direction &
 decree of your Honor of what shall
 be due to your Orator on said note
 and mortgage and that on the final
 hearing of this Bill your Honor will
 Order adjudge and decree that the
 said Elton & Crupper pay to your Orator
 by a short day to be fixed by your Honor
 the sum of money found to be due to
 your Orator on said note and mortgage
 by said account (your Orator being ready
 and willing and hereby offering on
 being paid the sum of money found due
 him as aforesaid to receive said
 mortgaged premises to said Elton
 & Crupper as your Honor shall direct
 and in default thereof the said
 mortgaged premises be sold accord-
 ing to law to pay and satisfy the
 sum of money found to be due your Orator
 as aforesaid and that your Orator
 may have such other and further relief as
 Equity & good conscience may require as to your
 Honor may seem meet & proper

Knop & Reed Solicitors
 for Complainant

Preston Waring

"Exhibit A"

This Indenture made and entered into
this 29th day of July in the Year of our
Lord One Thousand Eight Hundred and
Eighty-Six between Elton C. Cropper and
Mark E. Cropper ^{his wife}
of the City of Rock Island Illinois of
the first part and Preston Wing
of the County of Dutches and State of
New York of the second part Wit-
nesseth that the said party of the first
part for and in consideration of
Three Hundred and Seventy Five Dollars,
(\$375) paid by the said party of the
second part the receipt of which is
hereby acknowledged do by these presents
grant bargain and sell unto the said
party of the second part his heirs and
assigns that certain tract or parcel
of land situated in the City and County
of Rock Island and State of Illinois
and described as follows to wit
The West half of the East Half of
Lot No. 11 (9) in Block No. 2 (3)
in Spencer and Boxes addition to the
Town (now city) of Rock Island —
Together with all and singular the
hereditaments and appurtenances there-
unto belonging or in anywise appertain-
ing & 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 - And the said party of the
 first part for himself & heirs
 executors and administrators doth
 hereby covenant to & with the said
 party of the second part his heirs &
 assigns that he is well seized of the
 premises above conveyed as of a
 good and indefeasible estate in fee
 simple and hath good right to sell
 & convey the same in manner and form
 as aforesaid - that the said premises
 are free from all incumbrances and
 that the above bargained premises in
 the quiet & peaceable possession of the
 said party of the second part his
 heirs & assigns against the claims of
 all persons whatsoever he will bear
 Warrant & defend -

Provided nevertheless that if the said
 Elton & Grupper party of the first part
 his heirs executors or administrators
 shall well & truly pay to the said party of
 the second part his heirs executors
 administrators or assigns the just value
 sum of Five Hundred & Seventy Five Dollars

with interest at the rate of ten per cent
per annum in One Year from the date of
these presents according to the tenor &
effect of his promissory note of even
date herewith that these & from thence
forth these presents and everything
herein contained shall be null & void

In Testimony whereof the said
Elton C. and Mary E. Cropper have
hereunto set their hands & seals the
day and year first above written

Signed Sealed &
Delivered in presence of
R W Smith

E C Cropper Seal
Mary E Cropper Seal

State of Illinois
Rock Island County

I R W Smith a Justice
of the Peace in and for said County do
certify that on this day appeared before
me Elton C. Cropper and Mary E.
Cropper whose names appear signed
to the foregoing Deed of Conveyance
and who are personally known to me
to be the identical persons whose names
are subscribed to said Deed as having
executed the same and acknowledged
that they had executed the same as their

10.

voluntary act & deed for the uses and purposes therein expressed.

And Mary E Cropper wife of the said Elton E Cropper having been by me made acquainted with the contents of said deed and being by me examined separate and apart from her husband acknowledged that she had executed the same and relinquished her dower to the premises conveyed voluntarily freely & without any compulsion of her said husband and that she has no desire to retract the same.

Given under my hand & seal at my Office this 29th day of July Eighteen Hundred & fifty-Six.

R W Smith J.P. (Seal)

State of Illinois

Rock Island County

I Quincy McCreel Clerk of the Circuit Court and official Recorder in and for said County do hereby certify that the foregoing is a true & correct copy of a mortgage from E E Cropper to Preston Wing Recorded in Book "C" of mortgages on pages 142 and 143.

Seal of Circuit Court

In Testimony whereof I have hereunto set my hand & affixed the seal of said Court this 4th day of August 1859.

Quincy McCreel Clerk

Bond for costs
Preston Wing
us
Elton C. Crapper
Mary C. Crapper
September Term A.D. 1859 of the
County & State of Illinois

We do hereby enter ourselves
security for costs in this cause and
acknowledge ourselves bound to pay or
cause to be paid all costs which
may accrue in this action either to
the opposite party or to any of the officers
of this Court in pursuance of the Laws
of this State

Dated this 3rd day of August A.D. 1859
Wm. A. Reed

And Be it further Remembered that
on said 4th day of August A.D. 1859
the complainant in said above
entitled cause caused to be issued
and sent in said suit a Writ of Service
in conformity to the Sheriff of said
Rock Island County which said
Writ was duly returned served
by said Sheriff which said
~~and Sheriff's return enclosed~~
~~thereof~~ was & is in the words &
figures following to wit

State of Illinois }
Rock Island County } Summons
12. } 21

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

We command you to Summon
Elton C. Cropper and Mary C. Cropper's
to be found in your County: personally to be
appear before the Circuit Court of said
County on the first day of the next term
thereof to be holden at the Court House in
Rock Island on the second Monday in
the month of September next, to answer
to a Bill of Complaint filed in our
said Circuit Court on the chancery
side thereof against them by Weston
Wing & And have you there & there this
Writ & make return thereon in what
manner you execute the same.

Witness Lemuel Meekil Clerk of
our Circuit Court and the seal
thereof affixed at Rock Island
this 4th day of August
in the year of our Lord One
Thousand Eight Hundred and
fifty nine.

Lemuel Meekil Clerk



State of Illinois }
Rock Island County } Summons

12.

The People of the State of Illinois

To the Sheriff of Rock Island County Greeting.

We command you to Summon
Elton C. Cropper and Mary C. Cropper's
to be found in your County: personally to be
appear before the Circuit Court of said
County on the first day of the next term
thereof, to be holden at the Court House in
Rock Island, on the second Monday in
the month of September next, to answer
to a Bill of Complaint filed in our
said Circuit Court on the chancery
side thereof against them by Weston
Wing & And have you there & there this
Writ & make return thereon in what
manner you execute the same.

Witness Lemuel Meekil Clerk of
our Circuit Court and the seal
thereof affixed at Rock Island
this 4th day of August
in the year of our Lord One
Thousand Eight Hundred and
fifty nine.

Lemuel Meekil Clerk



And afterwards to wit on the 15th
day of August A.D. 1859 the said writ
of Summons in Chancery was return-
ed into said Circuit Court with
the following endorsement thereon to wit
"I have served the within summons
by delivering a copy to the within named
"Elton & Cropper & Mary C Cropper
"this 15th day of August A.D. 1859 -
"M. W. Merrill Sheriff of
"Rock Island County
"By P. W. Leavelle Deputy

~~And Be it further Remembered that~~
~~on said 4th day of August A.D. 1859~~
~~the said Complaint was~~
~~to be read out of the Clerk's Office~~
~~of said Circuit Court the writ~~
~~of Summons in Chancery in the~~
~~above entitled Cause~~
And afterwards to wit on the 5th
day of October A.D. 1859 (one of the days
of said September Term A.D. 1859) the
following proceedings were had to
wit

State of Illinois September term 1859 of the
Rock Island County 3rd Circuit Court of said County
14.

Plester Wing
vs
Elton & Crepper
Mary & Crepper

In Chancery

Foreclosure of Mortgage

The said cause being called
by the Court for trial the said Com-
plainant Plester Wing by his Solic-
itors Knox & Reed appeared and it
appearing to the Court that due process
of summons had been personally and
in due and legal form served upon
the said Defendants Elton & Crepper
and Mary & Crepper more than ten
days prior to the first day of said term
of said Court and the said Defendants
not appearing nor any person for them
or either of them they were three times
solemnly called and duly defaulted
whereupon the said cause was heard
by the Court upon the Bill submitted & copy of
the Mortgage of the said Complainant
filed in said cause and upon evidence
heard by the Court in open Court in support
of the said Bill submitted & copy of the Mort-
gage: whereupon it appeared to the

court that all the allegations of said Bill were true & that there is now due and owing in Equity and good conscience to said Complainant from said Defendant Elton & Cropper the sum of Six hundred ninety-nine ⁵/₁₀₀ Dollars upon said note.

Wherefore it is finally ordered adjudged & decreed by the court that the said Complainant have & recover of and from the said Elton & Cropper the said sum of Six hundred ninety-nine ⁵/₁₀₀ Dollars on & by virtue of said note: and that the said Elton & Cropper pay the same to said Complainant within ten days from the final adjournment of the said term of said Court: and that in default thereof the said real estate mentioned & described in said Bill to wit: The West half of the East half of ~~Block~~ ^{East} Block 19 in Block 10 Street (B) in Square Houses Addition to the City of Rock Island in Rock Island County and State of Illinois be sold according to law by Elbridge R. Bean the Master in Chancery of this Court to pay & satisfy

16.

the said note & mortgage and that on
such rule be presented to the purchaser
or purchasers certificate of Purchase
and in case the Property sold shall
not be redeemed according to law
that deed or deeds be then presented
& delivered to the purchaser. And
that defendant Elton & Krutner pay all
costs herein.

Jahns O. Eustace
Judge

And be it further remembered that
on the 8th day of December A.D. 1867
E. H. Bean Master in Chancery
of said Circuit Court filed in
the Office of the Clerk of said Court
his Report of the manner in
which he had executed said
deceit of said Court in the above
entitled cause which said
Report was and is in the
words & figures following to wit:
(See copy of said Report as
set forth in the Bill of Exceptions
hereinafter copied)

And be it further remembered
that at a Circuit Court sitting
as a Court of Chancery begun and
held at the Court House in the City
of Rock Island within and for
the County of Rock Island and
State of Illinois on the Second
Monday of January A.D. 1861 before
the Hon. John H. Howe Judge of the
Sixth Judicial Circuit of the State
of Illinois the presiding Judge of
said Circuit Court the following
proceedings were had - to wit:

Preston Wing }
 as }
 Elton C. Crapper & }
 Mary C. Crapper }

Plaintiffs

Be it remembered that on the 29th day of January A.D. 1861, the same being one of the judicial days of the Circuit Court of said the defendant in the above entitled cause by their solicitors filed with the clerk of said Circuit Court their motion in writing in the above entitled cause that the rule and the report thereof made and filed by E. H. Beorn Master in Chancery of the said Court be vacated and held null and void and also filed their affidavit in support of said motion

And be it further remembered that at a Circuit Court sitting as a Court of Chancery begun and held at the Court House in the City of Rock Island within and for the County of Rock Island and

and State of Illinois on the Second
Monday of May A.D. 1861 before the
Hon John H House Judge of the Sixth
Judicial Circuit of the State of
Illinois - the presiding Judge of said
Circuit heard the following proceeding
made and to wit -

Preston Wing }
 21 } Foreclosure
Elton C Crupper }
Mary C Crupper }

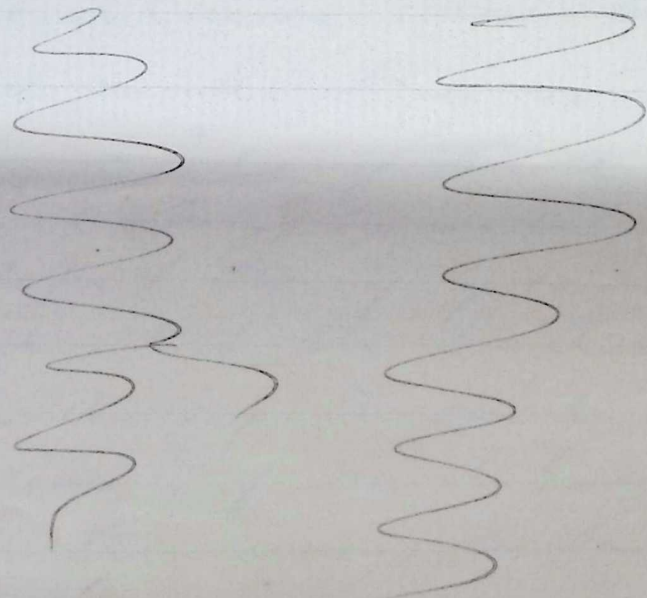
Be it remembered that on the
15th day of May A.D. 1861 the same
being one of the judicial days of
said ~~court~~ ^{term}, the term of said Circuit Court
the said Complainant by his Solic-
itors filed his motion and affida-
vits in support thereof in the above
entitled cause that the said Court
would make it a condition of the
setting aside of said Sale as before
by said Master in Chancery and
the report thereof by said Master
filed that the said Defendants
should pay to said Complainant
the costs of said Sale and report
and the moneys by said Complainant

find in the discharge of the
 taxes assessed upon said property
 and by said complainant find
 as set forth in an affidavit
 with said motion filed ~~that~~
 protesting that said sale ought
 not to be set aside at all,
 and afterwards to wit on the
 day and year last aforesaid the
 said cause coming on for final
 hearing on the motions by the
 said complainant and the said
 defendant the said complainant
 solicitors objected to the setting
 aside of said sale of said estate
 in levancy and insisted that
 if the same should be set aside
 that it should be made a condition
 that the said defendant should
 first pay the costs and expenses
 of said sale as set forth in the
 affidavit by said complainant
 filed ^{and the cost of this find} - but the said court overruled
 said objection of complainant
 and ordered that the said sale be
 set aside and held for naught -
 to the overruling of which objection
 and the setting aside of said sale

the said Complainant by his Solicitors
then and there at the time thereof
accepted.

And Be it further Remanded
that afterwards to wit on the 17th
day of May AD 1861 the same being
one of the Judicial days of said term
of said Court the said Complainant
by his Solicitors to drive to the Judge
of said Court his certain Bill of
Exemption in said above entitled
cause which said Bill of Exem-
ptions was duly examined approved
and signed by the Judge of said
Court and ordered to be filed
with the papers of said cause which
was then and there done which
said Bill of Exemption was
and is in the words & figures
following to wit

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State of Illinois
County of Rock Island

Bill of Exceptions

vs. In the Circuit Court of said
County, on the chancery side
thereof.

Preston Wing

vs.

Elton C. Cropper
and Mary E. Cropper

Forfeiture of Mortgage.

Be it remembered that heretofore
to wit. on the eighth day of December A.D.
1859 E. R. Bean the regular master in Chan-
cery of said court, and the Master appointed
by the court to sell the premises under, and
by virtue of the decree rendered in said
cause, filed in the office of the clerk of
said Court his (said Masters) report of
his proceedings in said cause upon said
decree. which report is in the words and fig-
ures following - to wit -

"State of Illinois
"Rock Island County

vs. In the Circuit Court of Said
Rock Island County, of the Sep-
tember term A.D. 1859.

"Preston Wing

vs.

"Elton C. Cropper
" & Mary E. Cropper

23.

"The undersigned master in Chancery in"
 "and for the County of Rock Island and State"
 "aforesaid, would Report."

That by virtue of a certain decree made and entered in the above entitled cause at the September term of the above named Court A.D. 1859 the Undersigned Master as aforesaid was ordered and empowered to make sale of certain Real Estate in said decree mentioned after giving such notice as is by law required, by Sheriffs on sale of Real Estate upon execution.

He would further certify & report that he caused an advertisement to be inserted in the Rock Island Register a newspaper published and in general circulation in the City and County of Rock Island and State aforesaid, which said advertisement contained the names of the parties, and the time place and terms of sale together with a description of the property to be sold, and on the 21st day of November 1859 at the hour of ten o'clock A.M. of said day at a public sale held at the door of the Court House in said County I offered for sale to the highest bidder for cash in hand the following described Real Estate (being the same as in the decree and advertisements mentioned)

to wit- The West half of the East half of lot no. nine (9) in Block no. three (3) in Spencer & Cases addition to the City of Rock Island in the County of Rock Island and State of Illinois, and upon so offering the same it was struck of and sold to Preston Wing at and for the sum of Seven-hundred and thirty-one $\frac{7}{100}$ dollars. he being the highest and best bidder therefor.

He further certifies and reports that he issued a certificate of purchase to the said Preston Wing for the above described Real Estate, and that it is recited in said certificate that unless said Real Estate is redeemed according to law within fifteen months from the said 21st day of November 1859 that said sale should become absolute, and the said Preston Wing would be entitled to a deed for the same.

Dated Nov 21st 1859

E. R. Bean: Master in
Chancery R. I. Co. Ills.

And be it further remembered that to the said report of said Master there was and is attached an advertisement of said sale and the certificate of the publisher in words and figures following to wit-
"Masters Sale"

25 State of Illinois Rock Island County S.D.

26 In the Circuit Court of said County September
term A.S. 1859.

Preston Wing

vs.

Elton C. Cropper

& Mary E. Cropper

In Chancery:

Foreclosure of Mortgage.

Notice is hereby given that J.
E. R. Bean Master in Chancery of the above
named Court in pursuance of a decretal
order of said Court made in the above en-
titled cause on the 5th day of October 1859
shall on Monday the 21st day of November
A.S. 1859 at ten o'clock A.M. sell at
public auction at the door of the Court house
in the City & County of Rock Island and State
aforesaid to the highest bidder for cash the
following described real estate to wit—
the West half of the East half of Lot No.
nine (9) in Block no. three (3) in Spencer
& bases addition to the City of Rock Island
in the County of Rock Island and State of
Illinois.

Dated October 31st 1859

E. R. Bean Master in
Chancery R.I. Co. Ills.

I do hereby certify that the annexed no-
tice was published for four successive

2
works successively in the Rock Island Reg-
ister a public newspaper printed in Rock
Island, Illinois, and that the first pub-
lication was on the 31st day of October
A.D. 1859

Dec. 3rd A.D. 1859. J. P. Pickett
Publisher.

And afterwards - to wit - on the 29th day of
January A.D. 1861, the same being one
of the judicial days of the January term
A.D. 1861 of said Court, said defendant
Elton L. Cropper by his solicitors filed in
said cause his motion, which motion is
in the words and figures following - to wit.

State of Illinois }
Rock Island County }
vs. Of the January term of the
Rock Island County Circuit
Court, A.D. 1861.

Elton L. Cropper
& Mary E. Cropper
ads.

Preston King

In Chancery:

And now at this day comes the
said Elton L. Cropper and Mary E. Cropper
her defendants in the above entitled cause
heretofore pending in this court, and moves

the Court here that the sale of the West half of the East half of Lot. no. nine in Block no. three in Spencer and Cass addition to the City of Rock Island in the County of Rock Island and State of Illinois made by E. R. Bean the Master in Chancery of said County on the twenty first day of November A.D. 1859 as also the report of the said sale by the said Master in Chancery dated November 21st 1859 and filed in the office of the clerk of this Court Dec 8th 1859 be set aside for the following reasons to wit -

Because at the time of the rendering of the said decree and at the time of the sale of the said land as aforesaid the said land was exempt by law from levy and forced sale under any process or order from any court of law or equity in this state.

Hawley & Wells
Solicitors for Elton C.
Cropper & Mary
E. Cropper.

Elton C. Cropper.
Mary E. Cropper.

And afterwards - to wit - on the day and year last aforesaid said defendants filed in said cause certain affidavits in words and figures following to wit -

State of Illinois }
Rock Island County } ss. Of the January Term of the Rock Island
County Circuit Court A.D. 1861

Elton C. Cropper being first duly sworn says that he was on the twenty ninth day of July A.D. 1856 the owner of the West half of the East half of Lot Number Nine (9) in Block Number Three (3) in Spencer's & Co's addition to the City of Rock Island, in the County of Rock Island and State of Illinois and that he first became the owner of said lot about the year A.D. 1852, and that from the year A.D. 1852 and until the said twenty ninth day of July, A.D. 1856 he continued such owner, that on the said twenty ninth day of July A.D. 1856, he executed to one Preston Wing his deed of Mortgage of the said described premises for the purpose of securing the payment of a certain promissory note bearing date the day and year last aforesaid for the sum of Nine hundred and seventy five dollars with interest at ten per cent. per annum and payable to the said Preston Wing or order one year after the date thereof - Deponent further says that afterwards and on or about the fourth day of August A.D. 1859 the said Preston Wing filed in the Circuit Court of said County his bill in chancery alleging the execution

of said Mortgage and the non payment of the said sum of money and praying for general relief in respect thereto against this defendant and Mary E. Cropper wife of this defendant who was also made party defendant to said bill. Deponent further says that at the date of the execution of the said Mortgage deponent ever was and ever since has been a householder having a family consisting of deponents wife and three children. That at the date of said Mortgage long before & ever since there has been & now is a dwelling house upon said land above mentioned, and that deponent with his said family. at the date of the said mortgage was & ever since has been residing upon and occupying said land herein before mentioned as a homestead.

Deponent further saith that the indebtedness to secure which the said deed of mortgage was executed, was contracted after the fourth day of July A.D. 1851 - and that the same was not incurred for the purchase or improvement of the above described lot of land, whereon the said Mortgage was executed.

Deponent further says that he has never in any manner waived or released

3
his right to exempt the said land above mentioned, as his homestead pursuant to the Statute in such case made and provided -

This deponent further says that he has never in any manner other than by the mortgage aforesaid conveyed or encumbered the said land, and this deponent verily believes that he is the owner thereof.

Sworn and subscribed
before me this 14th day
of January A.D., 1861

Alex. F. Swander

P. M.

E. C. Cropper.

Filed Jan. 29th 1861

E. H. Borman Clerk.

State of Illinois }
Rock Island County } Of the January term of the Rock
Island County Circuit Court A.D., 1861

William Kale of said County being first duly sworn, upon his oath says that he is well acquainted with Elton C. Cropper and has been since the year A.D. 1843 - Deponent further says that he is well acquainted with the certain piece or parcel of land situate in the City of Rock Island, County of Rock Island and State of Illinois described as follows - to wit - the West half

of the East half of lot number nine (9) in Block number three (3) in Spencer & Cases addition to the City of Rock Island:

Deponent further says that in the year A.D. 1844, there was, ever since has been and now is a dwelling house situate on said described land, and that the said Elton C. Cropper together with his family consisting of a wife and one or more children were in the said year A.D. 1843, ever since have been, and now are occupying the said dwelling house as a residence.

Subscribed & sworn to
before me this 28th day
of January A.D. 1861

Alex. F. Swander
P. M.

Wm. Kale

Filed January 29th 1861

E. H. Borman Clerk

State of Illinois

Rock Island County

Of the January term of the Rock
Island Circuit Court A.D. 1861

William Bell being first duly sworn upon his oath says that he is well acquainted with Elton C. Cropper and has been since the year A.D. 1843. Deponent further says that he is well acquainted with that certain piece of land situate in the City and County of Rock Island and State of

Illinois, and described as follows - to wit -
the West half of the East half of lot Number
(9) more in block number three (3) in
Spencer & Cases addition to the City of Rock
Island - Deponent further says that in
the year A.D. 1843 there was ever since
has been & now is a dwelling house situate
on said described land; and that the said
Elton L. Cropper together with his family
consisting of a wife and one or more chil-
dren were in the said year A.D. 1843, ever
since have been & now are occupying the
said dwelling house as a residence.

Known to and subscribed
before me this 28th day of
January A.D. 1861 -

Alex. F. Swauder

P. M.

William Bell.

Filed Jan. 29th 1861

E. H. Borman Clerk

And afterwards - to wit - on the 15th day of
May A.D. 1861 the same being one of the ju-
dicial days of the May term A.D. 1861 of
said Court said complainant filed in
said cause the following motion and af-
fidavits in support thereof in the words
and figures following to wit -

Preston King

v.s.

Elton C. Cropper

et. ux.

In the Circuit Court of the County of
Rock Island + State of Illinois
May Term A.D. 1861-

And now comes the said Complainant
and moves the Court to order said Elton
C. Cropper to pay the amount of Costs and
taxes named in the following affidavit of
Charles H. Reed before the sale in said cause
is set aside and annulled, and said com-
plainant objects to the Court setting aside said
sale at all, although said Cropper should
pay or offer to pay said Costs and taxes.

Know Eustace & Reed

Solicitors for Complainant

Charles H. Reed being duly sworn on his
oath says, that he is one of the Solicitors
for said Complainant, that since the
commencement of said suit to foreclose the
Mortgage mentioned in the bill filed there
in on the 4th day of August A.D. 1859, he,
this deponent for and on behalf of said
Complainant has paid as the regular and
lawful costs in said cause the sum of fifty
dollars, that he, said deponent has since
the filing of said bill, and since the

sale of the Master in Chancery in said cause paid to Adoniram S. Wait the County Treasurer of said County for and on behalf of said complainant the sum of forty eight dollars and twelve cents as and for the taxes duly and legally assessed on said Real Estate for the purpose of the revenue for the years A.D. 1857 and A.D. 1858.

Deponent further says that he is informed and believes said Elton C. Cropper has no property out of which said costs and taxes can be collected: that he (deponent) is informed and verily believes that said Cropper has not paid said costs or taxes, or any person for him

Sworn and Subscribed to
before me this 15th day of
May A.D. 1861

Charles H. Reed

E. H. Borman

State of Illinois }
County of Rock Island }

William B. Seymour being duly sworn on his oath says that he was the collector of taxes for the township of Rock Island in said County for the year A.D. 1858. that Elton C. Cropper did not pay to deponent any taxes upon the West half

of the East half of lot no. nine in Block
no. three (3) in Spencer & bases addition to
the City of Rock Island in said County, for
the year A.D. 1858. that said Real Estate
is in said Township of Rock Island

Sworn and Subscribed to

before me this 15th of

May A.D. 1861

Jos. Conet, Esq. Clerk

Wm. B. Seymour

State of Illinois
County of Rock Island

S.D.

J. Conet being duly sworn, on
his oath says that he was the treasurer of
said County for the years A.D. 1858 & 1859.
that he as such Treasurer collected the
taxes of the years A.D. 1857 and A.D. 1858
for said County and State: that Elton C.
Cropper of the City of Rock Island, did
not pay to depositor, and never has the
taxes for the years A.D. 1857 and A.D. 1858
for State and County purposes upon the
West half of the East half of lot no. nine
in Block no. three in Spencer & bases
addition to the City of Rock Island, to the
best of my knowledge, information and
belief.

Sworn and subscribed
before me this 15th day

7 May A.D. 1861

E. H. Borman. Clerk

J. Cook.

State of Illinois
County of Rock Island

ss.

Adoniram L. Wait being
duly sworn on his oath says that at the
general election for County officers for
the year A.D. 1857 he was elected the
Treasurer of said County, that he has ever
since and now does hold said office:
that Charles H. Reed on behalf of Preston
Wing paid to him the State and County
taxes for the years A.D. 1857 and 1858
upon the West half of the East half of
lot no. nine (9) in Block no. three (3)
in Spencer & Coates addition to the City
of Rock Island, that Elton C. Knoppes
has never at any time paid deponent
the taxes for State and County purposes
upon said Real Estate for said years of
A.D. 1857, and A.D. 1858.

Sworn and Subscribed

Before me this 15th day

7 May A.D. 1861

E. H. Borman Clerk

Adoniram L. Wait

38.
State of Illinois
County of Rock Island

ss.
Joseph Conet being duly sworn on his oath says that he has been the clerk of the said County ever since the year A.D. 1854 continuously up to the present time: that Elton C. Cropper has never at any time paid deponent any taxes on the West half of the East half of lot no. nine in block no. three in Spencer and Leases addition to the City of Rock Island in said County

Sworn to and subscribed Jos. Conet.
Before me this 15th day
of May A.D. 1861

E. H. Borman clerk

And on the same day and year last aforesaid said Defendants filed in said cause the affidavit of said Elton C. Cropper, which is in the words and figures following to wit

State of Illinois
Rock Island County

Elton C. Cropper } Of May term 1861 of the Rock Is-
 and } land Circuit Court, in Chancery.
 Preston King } Motion to set aside sale -

Elton C. Cropper being duly sworn depo-
 ses and says that he is the defendant in
 the above entitled cause, and that he has
 paid all ~~the~~ taxes upon the East half of
 lot no. nine in Block No. three in
 Spencer & leases addition to the city of
 Rock Island, during all the years of
 his residence thereon, except for the
 year A.D. 1859, and further saith
 not.

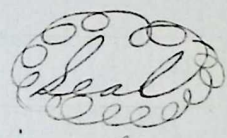
Sworn to & subscribed
 before me this May 15th 1861 E. C. Cropper
 E. W. Borman Clerk

The above and foregoing are all the af-
 firmations and all the evidence offered by
 either party upon the hearing of said
 motion to set aside said sale.

And afterwards on the day and year
 last aforesaid, due notice of said mo-
 tion having been given to said com-
 plainant's solicitors the same to wit-
 said motion to set aside said sale came

as to be heard before the Court upon said affidavits and said Masters report and the arguments of the solicitors in said cause

And said Complainant Preston Ming by his solicitors then and there objected to the setting aside of said sale of said Master in Chancery. But the Court overruled the objection, and ordered said sale to be set aside, to the overruling of which objection said complainant then and there at the time excepted. And said Complainant then and there at the time excepted to the setting aside of said sale. And inasmuch as the matters and things herein above contained do not appear of record in said cause, said complainant prays that this his bill of exceptions may be signed and sealed, which is done accordingly

J. H. Horro. 
Judge 6th Circuit of Illinois

State of Illinois }
Rock Island County } ss

I Edward H Bowman clerk
of the Circuit Court in and for the
County and State aforesaid do hereby
certify that the foregoing is a full true
and perfect transcript of all the
proceedings had in said cause
in said Circuit Court and of all
the papers in said cause

Witness Edward H Bowman
clerk of our said Circuit
Court and the seal thereof
hereunto affixed this 22nd
day of July A.D. 1862
Edward H Bowman clerk

State of Illinois
Supreme Court.

Preston Wing, Plff. in Error

vs.

Elton C. Cropper & al.

Defts. in Error.

April Term, 1863.

No. 110

Error to Rock Island
Circuit Court.

Now comes the said Preston Wing, Plaintiff in Error, by Chas. E. Putnam & A. Webster his attorneys, and says that in the record of the proceedings in the said cause in the said Circuit Court, there is manifest error, in this, to wit,

The said Court erred in sustaining the motion filed by the said defendants in error to set aside and vacate the sale of the said mortgaged premises under the decree of foreclosure sale rendered in said cause.

Whereupon said plaintiff in error says that the said order sustaining said motion, setting aside said sale, may be reversed, with costs.

Chas. E. Putnam &

A. Webster,

Attys. for Plff. in Error.

No. 110.
Supreme Court.
Preston being
Jury in Error
as
Elton C. Cropper Jol.
Assignment of Errors.

Filed Apr 21. 1863
J Selaw
M

And now come the said
affidavits in error by J. B. H. H. H.
their Atty and say that in the ^{said} ~~case~~
^{judgment} ~~judgment~~ of the said motion to
set aside the said side there is
not any error and say that
the same may be affirmed
J. B. H. H. H.
Atty for Defts

~~110~~
Pistons Wing

37 21

Elton & Crapper
et op

Iron gift

Filed Dec. 14, 1863.

L. Leland

Chas.

Cost \$ 8.50