

No. 14540 $\frac{1}{2}$

Supreme Court of Illinois

Shortall

vs.

Hinckley et al

STATE OF ILLINOIS,
SUPREME COURT,
Third Grand Division

No. 217

1863

Shortall
vs
Linnell

8981

14540

217

SUPREME COURT.

THIRD GRAND DIVISION, AT OTTAWA—APRIL TERM, A. D. 1863.

JOHN G. SHORTALL, PLAINTIFF IN ERROR,

VS.

SAMUEL T. HINCKLEY, ET. AL., DEFENDANTS IN ERROR.

BRIEF IN BEHALF OF DEFENDANTS IN ERROR

ON THE RE-HEARING,

By HOYNE, MILLER & LEWIS.

BEACH & BARNARD'S Print, 14 South Clark Street

Filed May 14, 1863
L. L. Bruce
CM

SUPREME COURT OF ILLINOIS:

Third Grand Division---April Term, 1863.

JOHN G. SHORTALL,

Plaintiff in Error,

vs.

SAMUEL T. HINCKLEY, and

CHARLES R. STARKWEATHER,

Defendants in Error.

BRIEF IN BEHALF OF DEFENDANTS IN ERROR ON THE

RE-HEARING.

The ground on which a re-hearing of this case is urged, is, that by the conveyance by Charles M. Read and David McAllister, and their wives, March 31st, 1856, of two-sixths of the property in question, to Hibbard Porter, the particular or life estates of the husbands merged in the remainders of the wives, since both estates which constitute the entire fee were thereby united in the same person, that although, at the time of this conveyance, the statute was running as against the life estate of the husbands, and would have constituted a complete bar, had the conveyance been delayed for another year; yet, inasmuch as it was made before the bar was complete, and the particular estate of the husbands was thereby destroyed, the statute from that moment ceased to run as against this estate.

The effect of a merger is to accelerate the estate in remainder by the destruction of the particular estate; and if this could not take

place as against Starkweather, who was in possession under claim and color of title, by a release or conveyance made *after the expiration of seven years*, so as to defeat the operation of the statute, it is difficult to discover upon what principle it shall have this effect by a conveyance, made before the expiration of the seven years, but after the statute had commenced running.

The reason why it cannot have this effect in either case is, that merger is an act of the law, and results from the acts of the owners of the two estates; and while it may benefit, it will never be allowed to prejudice, the rights of a stranger. Should the owner of the particular estate make a lease; and after that, and during the continuance of the lease, release or convey to the owner of the estate in remainder, the merger would not prejudice the rights of the lessee, but the particular estate would be considered as continuing, so as to enable the lessee to occupy during the term.

"Merger is sometimes absolute and sometimes conditional. Generally speaking, it is absolute. In some cases, however, it is only conditional. As against one person, the estate may be merged; while as against another person, it may have continuance in point of title. This happens as often as such person has a continuing interest under the lesser estate":

Preston on Merger, 39.

17 Law Lib., 4 series, 29.

"Notwithstanding the merger of the particular estate, persons who have interests affecting the estate which is merged, will be left in the same position, in respect of benefit, as if no merger had taken place":

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"But herein are two diversities worthy of observation. The first is, that, having regard to the parties to the surrender, the estate is absolutely drowned. But having regard to strangers who were not parties or privies thereto—but, by a voluntary surrender, they may receive prejudice touching any rights or inter-

“ests they had before the surrender—the estate surrendered hath, in consideration of law, a continuance” :

1 Inst., 338 b.

Preston on Merger, 450.

“ The effect of the merger on the estate in which the merger takes place, is, to subject the remainder or reversion thus accelerated, to all the burdens and consequences which would have attended on this estate in case the prior estate had not existed ; and in the same order or series of time as if that estate were determined. Thus the possession will be chargeable, during the period appointed for the continuance of the particular estate, with all the incumbrances which affected this estate ; and also (by way of acceleration) with the incumbrances which attached on the reversion or remainder, as thus accelerated” :

Preston on Merger, 455.

Law Lib., 199.

Thus it appears that merger, being an act of the law, will not be allowed to take place so as to injuriously affect the rights of third persons ; but the particular estate will be considered as continuing, so far as is necessary to afford a complete protection to their rights.

It is conceded that, if the conveyance of the particular estate had not been made until after the expiration of the seven years, the particular estate would be considered as existing, notwithstanding the merger. Were not Starkweather's rights, which were to be affected by the merger, just as real and distinct before the expiration of the seven years, as after ?

At the time of the conveyance by Porter, he was in the actual possession of the property ; which, of itself, was *prima facie* evidence of a legal title ; and which might, by length of time, ripen into a perfect legal title :

2 Blackst. Com., 195.

He was in possession under claim and color of title made in good faith ; had paid taxes for six successive years. He continued in

possession, and paid the taxes, the seventh year; and, but for this conveyance—an act to which he was neither a party nor privy—the law would have adjudged him the legal owner of the property, to the extent and according to the purport of his paper title; except as to the interest which was vested in these married women.

From the time he took possession and commenced the payment of taxes, under this claim and color of title, he had rights which could not be affected, except by his own acts or omissions.

In the case of *Gregg vs. Tesson*, 1 Black, 154, the court say:

“Mrs. Gendron and husband conveyed, in 1849, *while the statute was running against the husband*. The grantee, or those claiming under him, should have brought the suit for the husband’s interest “within the seven years.” This case is in point; and a copy of the opinion of the court is on file in the case now before the court.

But whatever may be the decision of the court upon this question of merger, we insist that the whole title, under which the plaintiff claims, has been barred by the statute. The record shows that Starkweather was in the actual possession of this property from 1847 to 1859, inclusive, under claim and color of title acquired in good faith; and that he paid all taxes which were levied upon the property during each and all the years from 1850 to 1859, inclusive. But for the 10th section of the act entitled “Conveyances,” Starkweather would be held and adjudged the legal owner of the property, both as respects the title of Harriet W. Reed and Caroline E. McAllister, and the interest of their husbands. If these ladies had not been under the disability created by their coverture, their title would have been barred in 1857, under the 8th section of the statute. By the 10th section, it is provided that the 8th section shall not extend to lands * *, when there shall be an adverse title; and the holder of such adverse title is * * *feme covert* * *. Provided *such person* shall commence an action to recover such lands * * “within “three years after the several disabilities, herein enumerated, shall “cease to exist, and shall prosecute such action to judgment,” etc.

The proviso in the 10th section limits the operation of that which goes before it; and it will be observed that, in order to enable a

party to interpose either of the disabilities mentioned in the 10th section, to prevent the operation of the 8th section, it is necessary that an action shall be commenced—*not within three years from the time a right of entry accrues, but within three years after such disability shall cease to exist.*

The 8th section punishes parties who are guilty of laches in the assertion of their rights, by a forfeiture of them; while the 10th section was intended to save those who, in judgment of the law, had a reasonable excuse for their delay, by giving them a reasonable time, after their excuse should cease to exist, in which to assert such rights. The privilege or protection extended to married women, by the 10th section, is, not that an adverse possession, with claim and color of title, made in good faith, and payment of taxes for seven successive years, shall not operate upon their interest in the property during the continuance of their legal disability; but, that they shall have *three years* within which to bring their action, *after such disability shall cease to exist.* And if no action is brought within that time, then they are effectually concluded; and, as against them, the party in possession shall be held and adjudged to be the legal owner of the property.

It might be successfully contended that this protection to the wife is a personal privilege, and cannot be set up by her grantee or releasee:

Williams vs. Council, 4 Jones (N. C.), 206.

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But, waiving this point, the moment they conveyed to Hibbard Porter, the grantor of the plaintiff (which was in March, 1856), this disability of coverture, so far as their title was concerned, ceased to exist. But this action was not brought until February, 1861, five years later; therefore, the plaintiff below cannot recover the two-sixths under the adverse title, derived from these ladies. It seems to me that this is the plain reading of the statute, and that there is no escape from this conclusion. The grantee cannot claim a greater privilege or right than belonged to his grantor. If his grantor is a *feme covert*, he cannot stand in any other position than that of the

grantor, with this disability removed. If their husbands, instead of making this conveyance to Hibbard Porter, had died in March, 1856, then there can be no question but that these ladies would have been obliged to commence an action within three years from that time, in order to have brought themselves within the operation of the 10th section. But this disability of coverture was as effectually removed, in respect to this property, by their conveyance to Porter, as if their husbands had died. Their grantee, therefore, must bring his action within three years from the time this disability ceases to exist, in order to avail himself of the exception provided by the 10th section.

Supposing the husbands of these ladies had died the day after this conveyance to Porter was made; then, according to the doctrine contended for by the plaintiff, the grantee of the wives would have had seven years in which he could have asserted his title; while the wives, if the conveyance had not been made, would have had only three years.

If the estate of the husbands was merged in the remainder by the conveyance to Porter, then the estate of the wives would have stood in the same position, in respect to this statute, as though the particular estate had never existed; and, in order to prevent the operation of the statute, the action should have been brought within the three years; for the effect of the merger, *on the estate in which the merger takes place*, is to subject the remainder or reversion accelerated to all those burdens and consequences which would have attached on this estate, in case the prior estate had not existed:

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HOYNE, MILLER & LEWIS,
Attorneys for Defendants in Error.

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Preston on Merger, 455.

HOYNE, MILLER & LEWIS,
Attorneys for Defendants in Error.

Shostall

vs

Hinkley-

The judgment in
the case below is affirmed
and the opinion filed on the
first argument is adapted &
not yet been again revised.
Sept 29 1863.

P. H. Wallan

Edw. Chase

Supreme Court of Illinois
Third Grand Session.

April Term A. D. 1863.

John G. Shortall

vs

Samuel J. Hinckley &
Charles B. Starkweather

} Error from Cook.

Petition for a Rehearing.

The plaintiff respectfully petitions this Honorable Court to grant a rehearing of this cause; because he believes himself entitled upon the facts shown in the record to recover the interest sued for in the second count of his declaration, to wit, an undivided two sixths interest in fee.

The relevant facts are, that Harriet M. Rud, wife of Charles M. Rud and Caroline E. McAllister wife of David McAllister - all of whom are now living - in 1844 at the death of Hiram Gilson, their brother, each inherited an undivided one sixth interest in the premises in controversy. The record shows - although the abstract does not - that, "prior to the year 1850 (being the first year for which defendant paid taxes) both of the said sisters had children by their respective husbands born alive during their said coverture and prior to 1850" (See page of the record). On March 31, 1856 Rud and wife and McAllister and wife conveyed their two sixths interest to Libbard Porter. And he, on June 4th / 1860 conveyed to Shortall the plaintiff, who brought this suit in the year A. D. 1861.

The defendant Starkweather, the Landlord of the defendant Hinckley, having acquired color of title to the premises, took actual possession of the same in the fall of the year 1847 and continued in possession by his tenants, till the commencement of this suit. Starkweather also paid all taxes legally assessed upon the premises for the years 1850, 1851, 1852, 1853, 1854, 1855, 1857, 1858, 1859. Also on February 10th 1857, he paid all State and County taxes assessed for the year 1856; and on February 6th 1857, he paid all other taxes assessed on the same for the year 1856.

This Court has decided in this case, the first point made by the plaintiff, which is, that before and at the time when the statute of Limitations began to operate Mr. Reed and Mr. McAllister had vested Estates for their own lives, each, in an undivided one sixth of the premises, as tenants by the curtesy initiate; and that, their wives, each had a vested remainder in fee thereto. This position is supported by the able case of Foster vs. Marshall & Foster (N. H.) 491, in which the law on the subject is exhausted, and by Mattocks vs. Stearns 9 Vermont 326. Day Et al. vs. Cochran 24 Miss. 261.

The second point is, that on the execution of the above deed to Hubbard Porter on March 31, 1856, the life Estates of the husbands merged in the fee of the wives, which then became present interests, and Hubbard Porter on that

day became the owner of a present interest of an undivided two sixths of the premises in fee.

Suppose he had immediately brought suit; what interest ought he, to have sued for, a life estate, or a fee? The bar was not at that time complete. The taxes had then been paid for only six years. He could therefore recover, what? a life estate, or the fee? The plaintiff contends, that Porter should have declared for a fee, and that if he had sued for a life estate, he could not have recovered. By the deed he got the life estates of the husbands and the fee of the wives, did they merge, or not? What would prevent a merger? The incomplete bar of an adverse possession for six years? If so, would one of five, four, three, two, one year, also prevent a merger? If so, will an adverse possession under color of title for one day prevent a merger in a like case? If so, will an adverse possession under claim of title without color, for the period of one day also have the same effect? If an adverse possession for any period, short of the full seven years would prevent a merger, under the seven year law, then an adverse possession for a like period under the general statute would also prevent a merger. And thus we are reduced to the proposition, that in cases where merger would otherwise occur, an adverse possession under a bare claim of title would be sufficient to prevent it. This is inadmissible. It would create great confusion, to establish the doctrine that life estates, and remainders thereon can be held, at law at the same time by the same person.

In Equity, the Courts regard the merger as not having taken place, when the principles of Equity require them to do so. But the text books say that, at Law, the rule of merger is inflexible.

If the adverse possession under color of title, in this case had been combined with a payment of all taxes for seven successive years prior to the execution of the conveyance to Porter, the case might be different. Whether a life estate, after it has been barred by the statute can be conveyed, and will merge in a remainder then, and thereby make the remainder a present interest against which the statute will begin to run, it is not necessary to decide, in order to settle this case, although it was so held in the case of *Marple vs. Myers* 12 Penn. State Rep. (2d series) 122. The case of *Gregg vs. Tessor* 1 Black (U.S.) p. 150 may perhaps be an authority to the contrary. Although in the last case, the husband was not tenant by the curtesy initiate. So, the case of *Tessor of Ford vs. Langel* 4 Ohio State Rep. New Series (Howard) 464, may be considered as an authority to the contrary. In that case the husband and wife - he not being shown to be tenant by the curtesy initiate - conveyed after the full period had elapsed, and the rights of the husband had become fully barred. But that case was decided, in conformity with the doctrine that the operation of the statute was to transfer the husband's interest over to the party in adverse possession as completely as if it had been sold by the sheriff, and the party had bought it.

it had been sold by the Sheriff, and the party had bought it; Of course therefore the husband had nothing to convey to the purchaser. Suppose the husband, tenant by Curtesy survives the wife, and the bar becomes complete against him, can he convey to the children and give them an immediate right of action? The doctrine in Tennessee is that the statute of limitations operates to extinguish the title against which it operates. See *Guion vs. Anderson* 8 Humph. 298 and *Weisinger et al. vs. Murphy* 2 Head, ^(Ten.) 674. According to the doctrine then, in the case supposed, the husband would have nothing to convey to the children, because his title ^{is} ~~has~~ extinguished; according to the Ohio doctrine, he would have nothing to convey, because his title by the operation of the statute was gone from him, and had become vested in the party in adverse possession, and he although claiming a fee adversely, thus become tenant for life in spite of himself. The doctrine in this State is, that the statute of limitations bars the title against which it operates, and not that it either transfers, or extinguishes it. *Hinchman vs. Whitston* 23 Ill. 185.

The plaintiff's third point is, that if Porter could have sued for a two sixths interest in fee on and after March 31. 1856, then he and his grantee have seven years to sue for the same after March 31. 1856.

The fee on March 31. 1856 became a present interest, the life estates being drowned or merged.

To this point the plaintiff cites
Foster vs. Marshall 2 Foster (N. H.) 491, Marple vs.
Myers 12 Penn. State Rep. (2 Jms) 122. Jackson vs Johnson
5 Cowen 74. Jackson vs. Schoonmaker 4 Jms, 390. Jackson
vs. Fellick & Johns, 202.

This suit was commenced within
the seven years next after March 31, 1856.

John G. Shortall, by

John Borden, his attorney,

John G. Shortall

vs

Samuel T. Hinckley &

Charles R. Starkweather

Error to Court.

You will please take notice
that on the seventh day of the April Term of the
Supreme Court of the State of Illinois for the year
1863 at Ottawa, or as soon thereafter as counsel can
be heard, I shall move the said Court to grant
a rehearing of the above entitled cause, taking as the
grounds of the said motion, the petition for the same
with a copy of which you are herewith served and to
which this notice is attached, which said petition I
shall file in said Court on or before said day.

John G. Shortall, by

John Borden, his attorney

To.

Samuel T. Hinckley &

Charles R. Starkweather } defendants

Seem admitted this 20. day of Apr 1863

Hayes M. Phelps
Clerk for dep't

Supreme Court of Illinois

John G. Shortall :

vs

Samuel T. Henckley
Charles B. Markweather

Petition for a rehearing

Filed Apr. 28, 1863.
S. C. Land O. K.

John Borden
plf's atty.

1.
UNITED STATES OF AMERICA,
STATE OF ILLINOIS, COUNTY OF COOK, SS.

Pleas, before the Honorable, the Judges of the Superior Court of Chicago, within and for the County of Cook and State of Illinois, at a regular Term of said Superior Court of Chicago, begun and holden at the Court House, in the City of Chicago, in said County and State, on the first Monday, being the Sixth day of January in the year of our Lord One Thousand Eight Hundred and Sixty two and of the Independence of the United States of America the Eighty sixth.

Present, The Honorable

John M. Wilson Chief Justice of the }
Superior Court of Chicago. }

Van H. Higgins & } Judges.
Grant Goodrich }

Charles Naven Prosecuting Attorney.

Anthony L. Heising Sheriff of Cook County.

Attest, Thomas Baxter Clerk.

It is remembered that heretofore, to wit: On the twenty second day of February in the year of Our Lord One thousand eight hundred and sixty one, there was filed in the office of the Clerk of the Superior Court of Chicago a certain Declaration in the words and figures following, to wit:

State of Illinois
Cook County ss } In the Superior
Court of Chicago
September Term A.D. 1860

John G Shortall

Samuel T Kinckley

} Ejectment.

John G Shortall
the plaintiff in this suit by John Borden
his attorney complains of Samuel T
Kinckley the defendant herein in a plea
of Trespass and ejectment.

For that whereas heretofore to wit.
on the first day of August in the
year A.D. eighteen Hundred & sixty at
and within the County of Cook and
State of Illinois the said plaintiff
was possessed as of his own demesne
in fee simple of the true equal un-
divided sixth part of that certain
parcel of land situate in Cook County
State of Illinois with the appurtenances.
which is described as all of the south
twenty feet front on State Street of the
North thirty feet front on State Street
of lot number fifteen in Block number
One Hundred and thirty eight in the
School Section Addition to Chicago

in said County and State excepting the second story of the house situated on said parcel and fronting on State Street in said Chicago, which said undivided equal three sixths part of said parcel of land as above described the said plaintiff claims in fee simple, and the said plaintiff being so possessed the said defendant afterwards to wit. on the same day and year last aforesaid entered into the said premises so as above possessed by said pff and ejected the said plaintiff therefrom, and from the time last aforesaid has unlawfully withheld and does now withhold from the said plaintiff the possession thereof.

And whereas also to wit. on the first day of August in the year ad eighteen hundred and sixty at and within the County of Cook and State of Illinois the said plaintiff was possessed as of his own demise in fee simple of two other equal undivided sixths part of the said parcel of land above described in this declaration being situate in Cook County and State of Illinois which said two other equal undivided sixths part of the said parcel of land the said plaintiff claims in fee simple, And the said plaintiff being so possessed the said defendant

afterwards to wit on the same day and year last aforesaid entered into the said premises so as above possessed by said plaintiff and ejected the said plaintiff therefrom and from the time last aforesaid has unlawfully withheld and does now unlawfully withhold from the said plaintiff the possession thereof.

And whereas also to wit. on the first day of August in the year A D eighteen hundred and sixty at and within the County of Cook and State of Illinois the said plaintiff was possessed as of his estate for the life of Hibbard Porter of said County of one other equal undivided one sixth part of the said parcel of land as above in this declaration described and situate in Cook County and State of Illinois which said one other equal undivided one sixth part of said parcel of land said plaintiff as tenant for the life of said Hibbard Porter, and the said plaintiff being so possessed thereof the said defendant to wit on the day and year last aforesaid entered into the said premises and ejected the said plaintiff therefrom, and from the time last aforesaid has unlawfully withheld and does now unlawfully withhold from the said plaintiff the possession thereof.

37.
Therefore the said Plaintiff
says he is damaged five hundred
dollars and therefore brings his
suit

John Borden atty for ppy

And on the same day and year
aforesaid. Samuel T Hinkley by
his attorneys filed in the office of
the Clerk aforesaid his certain
plea in words & figures following.
to wit:

Superior Court of Chicago
September Term 1860.

Samuel T Hinkley }
John G Shortall } ^{vs} Ejectment

And the said
defendant by Hoyne Miller & Lewis
his attorneys, comes and defends
the force and injury when &c.
and says that he is not guilty
of unlawfully withholding the
premises claimed by the said
plaintiff or any part thereof.
in manner and form as the
said plaintiff hath above thereof
in his said amended declaration

alleged and complained against him.

And of this the said defendant puts himself upon the Country &c
 Royne Miller & Lewis
 Defts attys.

John H Shortall

Samuel T Hinckley

Superior Court of Chicago
 September Term A.D. 1860

And the said plaintiff as to the plea of said defendant, by him above pleaded and whereof he hath put himself on the Country doth the like

John Borden
 Ref atty.

And afterwards to wit, on the ninth day of July in the year of our Lord One thousand eight hundred and sixty one, said day being one of the days of the July term of said Court the following among other proceedings were had and entered of Record in said Court, to wit:

7,
John G. Shortall

Samuel J. Nickley &
Charles R. Starkweather

} Ejectment

This day again
comes the said plaintiff by John Borden
his attorney and the said defendants
by Hogue Miller & Lewis their attorneys
also come and upon agreement of
the parties made now here in open
Court with the consent of the said
plaintiff it is ordered that Charles R.
Starkweather landlord of the premises
described in plaintiff's declaration, be
and he is hereby made, a party a
party defendant in this cause and
upon further agreement of the parties
the cause is thereupon submitted
to the Court for trial upon the issues
joined herein without intervention of
a jury, and the Court after hearing
testimony and argument of Counsel
takes the matter under advisement.

And afterwards to wit, on the sixteenth day
September in the year aforesaid said day
being one of the days of the September
term of said Court, the following among
other proceedings were had and
entered of record in said Court.
to wit:

John H. Shortall

Samuel T. Kiuckley &
Charles R. Starkweather.

Exigentment.

And now again comes the said plaintiff by John Borden his attorney and the said defendant Samuel T. Kiuckley by Walker Saw Roman and Dexter his attorney and the said Charles R. Starkweather made a party defendant as landlord of the premises by Hogue Miller & Lewis his attorneys also come, and this cause having been heretofore submitted herein for trial to the court, and the court now here being now fully advised in the premises finds issues for the said defendants and that they the said defendants are not guilty of unlawfully withholding the possession of the premises described in the declaration in this cause, from the said plaintiff, and that he is not the owner thereof as claimed by his said declaration. And thereupon the said plaintiff submits his motion herein for a new trial in said cause.

And afterwards to wit, on the Eleventh day of January in the year of our Lord One thousand Eight Hundred and sixty two, said day being one of the days of the January Term thereof the following among other proceedings were had and entered of Record in said Court. to wit:

John G Shortall

Samuel T Hinckley & Charles R Starkweather Landlord. Ejectment

This day again comes said plaintiff by John Borden his attorney and the said defendant Samuel T Hinckley by Wacker Van Orman & Dexter his attorney, and the said defendant Charles R Starkweather made a party defendant as Landlord of the premises by Horne Miller and Lewis his attorneys also comes and this cause coming on now to be heard upon the Motion of said plaintiff heretofore submitted herein at the September Term last past of this Court for

a new trial in said Cause, and Council being heard thereon and the Court being fully advised in the premises overruled the said plaintiffs said Motion for a new trial. Wherefore the said defendants ought to have judgment entered upon the finding of the Court, of not guilty and for their Costs rendered herein as aforesaid. Therefore it is considered that the said defendants do have and recover of and from the said plaintiff their Costs and Charges about their defence in this behalf expended and have execution therefor.

And afterwards to wit on the fifth day of March in the year aforesaid the plaintiff by John Borden his attorney filed in the office of the Clerk aforesaid this certain Bill of Exceptions in the words and figures following to wit: -

In the Superior Court of Chicago
John Shortall

Samuel T. Hinckley &
Charles R. Starkweather

Exhibitment

Be it re-
membered that on the trial of this
cause at the July Term A.D. 1861
of the said Superior Court before the
Hon. Van Hook Higgins one of the Judges
of said Court (said cause having been
by agreement of said parties submitted
to the Court for trial a jury being agreed)
the said Samuel T. Hinckley & Charles
R. Starkweather the above named
defendants admitted that the premises
described in the declaration are
situated in Cook County and State
of Illinois and that lot No. fifteen
in Block No. 138 in the School Section
addition to Chicago of which said
premises are parcel fronts fifty feet
on State Street in said City and
runs back the same width a
depth of One Hundred feet. and
that the said Samuel T. Hinckley
was at the time of the Commencement
of this suit in possession of the said
premises described in the declaration
as the tenant of the said Charles R.
Starkweather; and said defendants
also admitted that on April 14th
1838 one Norman Clark was seized

in fee simple of the said lot No fifteen in said Block No. one hundred and thirty eight in the School Section Addition to Chicago. Whereupon the said plaintiff still further to maintain the issues on his part offered in evidence the following judgment execution Officers return thereon and sheriffs ~~did~~ without objection.

State of Illinois
County of Cook & City of Chicago ²s.s.
Treas at Chicago in the
County of Cook and State of
Illinois before the Hon Thomas Ford
Esq Judge of the Municipal Court of
said City of Chicago at a term
thereof begun and held the second
day of April in the year AD 1838
pursuant to the following order of the
Common Council of the City of Chicago
to wit: Be it ordained by the Common
Council of the City of Chicago that
the term of the Municipal Court of
the City of Chicago appointed by
law to be holden on the first
Monday of March AD 1838 be and
the same is hereby changed from the
said first Monday in March
to the first Monday in April 1838
and that the said term of the said
Court be appointed and directed
to be holden on the first Monday
of April next

Passed January 29th 1838.
H. B. Ogden

Mayor
Geo Davis City Clerk

Personally
appeared in open Court this second
day of April in the year of our
Lord 1838 John Wentworth who states
under oath that he is the publisher
and proprietor of the Chicago Demo-
crat the Corporation Newspaper of
the City of Chicago in which are
published the several ordinances
of the Common Council, whereof
the foregoing is a copy was duly
published in said Newspaper for
more than four weeks prior to the
first Monday of March last
John Wentworth.

Suornto and subscribed
in open Court this
second day of April
A.D. 1838.

attest M L Rucker Clerk

The court was opened with the
usual proclamation

Present.

Hon Thomas Ford Judge of said Court.

Myman B. Cudd City Attorney

John Shrigley Esq High Constable

M L Rucker Clerk.

Miram Gilson
 Roman "Clark" } assumpsit.

This day comes
 the plaintiff by Arnold & Ogden his
 attorneys and the said defendant
 saying nothing in bar or preclusion
 of said plaintiff's action, but herein
 makes default which is entered
 of record. Thereupon the Court award
 judgment that the said plaintiff
 recover of the said defendant his
 damages sustained, but because
 the damages are uncertain and
 unknown to the Court this being
 brought upon an instrument of
 writing for the payment of money
 only, it is ordered the Clerk assess
 said damages, and the same being
 assessed and reported by the Clerk
 at the sum of Two Hundred and
 eighteen dollars, Therefore it is
 considered by the Court that said
 plaintiff recover of the defendant
 his damages aforesaid assessed
 together with his Costs and Charges
 by him about his suit in this
 behalf expended and that he have
 execution therefor"

State of Illinois
 Cook County, City of Chicago ss.

The People of State of Illinois
To the High Constable of the City
of Chicago, Greeting:

We command you that of the goods & Chattels, lands and tenements of Norman Clark in your Bailiwick you cause to be made the sum of Two Hundred and twenty seven dollars six $\frac{1}{4}$ cents which to Hiram Gilson was lately adjudged in Municipal Court of said City for his damages Costs and Charges in a certain action of Assumpsit against him at the suit of the said Gilson in our said Court sustained; whereof the said Clark is convicted as appears to us of Record, and have you the money made in Ninety days from the date hereof to render to the said Gilson for his damages Costs & Charges aforesaid.

Hereof fail not and make return of this writ in the space of Ninety days from the date with an endorsement thereof as to the manner in which you executed the same.

Witness the Hon Thomas Ford Judge of
said Court and the seal thereof at
Chicago this 30th day of October AD 1831
H L Rucker Clerk

16
Rec^d Dec^r 13 A.D. 1838 at 10 ock A.M.

By virtue of the within I did on the
14th day of December A.D. 1838 leised
on all the right title and interest
of Norman Clark to the following
described property, to wit: Lots No^s.
Nine, Fourteen and Fifteen in Block
No¹ 138 in the School Section addition
to the Town of Chicago, South half
of Lots No^s five and six in Block
No¹ 117 in said addition, Undi
1/2 of 10 acres in fractional section
34 & 39. N.R. 14 E of 3rd P.M. also
Undi 1/3 of 48 acres taken from the
South part of the North half of
Fractional Section No¹ twenty five,
Township No¹ thirty nine, North Range
No¹ fourteen East of the Third Prin-
cipal Meridian, and after adver-
tising and having the same
appraised according to law, I
did on the eighth day of January
1839 at the City Hotel in the City
of Chicago between the hours of
Nine o'clock in the morning and
the setting of the Sun of the same
day expose to sale at public vendue
all the right title and interest
of Norman Clark to the above
described property and after
offering each lot separately, and
there being no bids therefor the

sale was adjourned to the twenty
 eighth day of January A D 1839
 and again advertised and Exposed
 for sale at public Auction at the
 City Hotel, in the City of Chicago
 between the hours of Nine o'clock
 A.M. and the setting of the sun
 of the same day. and all of the
 right title and interest of Norman
 Clark in the above described
 property was offered for sale. and
 all the property described as
 above was put up together and
 Hiram Gilson bid therefor the sum
 of Two Hundred and fifty four
 dollars and $39\frac{1}{2}$ cents which being
 the highest and best bid the
 said property was strack off
 and sold to him by me, and
 Certificate given and I return
 this Execution annexed satisfied
 John Shrigley, High Constable
 By S I Lane Deputy N.C.

"Whereas heretofore to wit: at the
 April term of the Municipal Court
 of the City of Chicago A D 1838.
 holden at Chicago, County of Cook
 State of Illinois Hiram Gilson
 recovered a judgment against Norman
 Clark for the sum of Two Hundred
 and eighteen dollars together
 with his costs and charges

by him about his suit in that
 behalf expended, upon which
 judgment a writ of Execution
 issued from the said Court
 tested October 30th 1838 directed
 to the High Constable of the City
 of Chicago Commanding him that
 of the goods and Chattels, lands
 and tenements of the said Norman
 Clark in his bailiwick the
 Cause to be made the sum of
 \$227.06 $\frac{1}{4}$ which to said Hiram
 Gilson was lately adjudged in the
 Municipal Court of said City for
 his damages costs and Charges
 in a certain action of Assumpsit
 against him at the Suit of said
 Gilson in said Court sustained.
 And whereas after the Coming
 of said writ of Execution to the
 said High Constable and before
 the return day thereof John
 Shrigley then being High Constable
 of said City by Samuel G. Lowe
 his deputy by virtue of said writ
 of Execution and in order to sat-
 isfy the same did on the 14th
 December A.D. 1838 Seize and take
 the lands and tenements herein
 after particularly described; And
 after having caused the same
 to be appraised by three disinter-
 ested freeholders according to

the statute in such case made
 and provided, and after having
 duly advertised the time & place
 of holding the sale of the said
 premises according to law. said
 High Constable by S G Lowe his
 deputy did on the 1st January
 A.D. 1839 between the hours of nine
 o'clock A.M. and sunset of the
 same day expose to sale at
 public vendue all the right title
 and interest of Norman Clark
 to the premises hereinafter described
 and particularly set forth, and
 after offering each lot separately
 and there being no bids therefor
 the sale was adjourned to the 28th
 January A.D. 1839, and was again
 advertised according to law, and
 the premises hereinafter described
 again exposed to sale at public
 vendue at the City Hotel in the
 City of Chicago on the day and
 year last aforesaid between the
 hours of nine o'clock A.M. and
 sunset of the same day, and
 said High Constable by S G Lowe
 his deputy exposed to sale all
 the right title and interest of
 said Norman Clark in and to
 the property hereinafter described
 and all said property was put
 up together, and Hiram Gilson
 bid therefor the sum of \$254 39 ¹/₄

which being the highest and best bid the said property was struck off to him said Hiram Gilson, and said High Constable then and there by S. J. Lowe his deputy executed a certificate of such purchase to said Gilson and filed within ten days of said sale a duplicate in the office of the clerk of said County of Cook and of the Clerk of said Municipal Court.

And whereas the defendant in said execution his heirs executors administrators and grantees has or have not redeemed said premises so sold, nor has any judgment Creditor acquired the rights of the original purchaser within the time limited and in the manner provided by the Statutes in such Case made and provided, by reason whereof the said Hiram Gilson is entitled to a deed of said premises.

Now therefore, I Ashbel Steete by virtue of my office as Sheriff of Cook County and State of Illinois and the power and authority conferred on me by law, in consideration of the premises and pursuant to the Statute in such case made and provided, and in consideration of one dollar to me in hand paid have bargained sold and conveyed and do hereby bargain sell & convey unto the said Hiram Gilson his heirs

and assigns forever all the following parcels of land situate in the County of Cook and State of Illinois, to wit: Lots No^s nine, fourteen and fifteen in Block No¹, 138 in the School Section addition to the town of Chicago. The South half of lots No^s five and six in Block No¹ 117 in the same addition. The undivided half of ten acres in fractional section No thirty four, and the undivided one third part of forty eight acres taken from the South part of the North half of fractional section Number twenty two all in Township No thirty nine, North Range Number fourteen East of the third principal meridian and all the right title and interest which the said Norman Clark had in the said parcels of land on May 5th A.D. 1838 or at any time since or now hath. To have and hold the same with the appurtenances unto the said Hiram Gibson his heirs and assigns forever. In testimony whereof I have hereunto set my hand and affixed my seal this 20th day of November A.D. 1840.

Asahel Stule ^{seal}
 Sheriff of Cook
 County, Illinois

State of Illinois
Cook County ss.

This day personally appeared before me the undersigned Clerk of the Circuit Court in and for said County in the State aforesaid Asbel State Sheriff of the County of Cook aforesaid and who is personally known to me as the real person whose name is subscribed to the within deed as having executed the same. and then and there acknowledged that he executed the same as Sheriff of Cook County aforesaid freely and voluntarily for the uses and purposes therein mentioned.

In Witness whereof I hereunto set my hand and the seal of said Court this 18th December, A.D. 1840
Rich^d J Hamilton Clerk

And defendants Thereupon admitted that the said Hiram Gilson of Chicago - State of Illinois in the year 1844 died childless unmarried and intestate leaving as his only heirs at law his Mother Mehitable Gilson, his brother W^m Gilson his sister Harriet W Reed, they and now wife of Charles W Reed:

his sister Caroline E M^c Allister
 then and now wife of David M^c
 Allister all then and now of the
 City of Erie and State of Pennsyl-
 vania, and his sister Phila Porter
 then the wife of Hibbard Porter both
 of Chicago and State of Illinois,
 and that prior to the year 1850
 all of the said sisters had children
 by their said respective husbands
 born alive during their said Coverture
 and prior to 1850; that said Phila
 Porter died in the year 1852 leaving
 children then and now surviving
 her; and that said Sheriff's deed
 of said Gilson was delivered by said
 Sheriff to said Gilson on the day
 of its date, Whereupon the said
 Plaintiff still further to maintain
 the issues on his part offered in
 evidence the following deeds which
 said defendants admitted to have
 been duly executed acknowledged
 and recorded,

This agreement or stipulation
 made and entered into this
 thirty first day of March A.D. 1856
 between Mehitable Gilson, David
 M^c Allister and Caroline E M^c Allister
 formerly Caroline E Gilson his wife
 Charles M Reed and Harriet M Reed
 formerly Harriet M Gilson his wife
 W P Gilson and Frances C Gilson
 his wife all of Erie in the County

of Erie and State of Pennsylvania
 heirs and legal representatives of
 Miram Gilson late of Chicago in
 the State of Illinois deceased of the
 first part, and Hibbard Porter
 of Chicago aforesaid of the second
 part. Witnesseth that for and in
 Consideration of twelve thousand
 dollars lawful money paid by
 the said parties of the second
 part to the said parties of the first
 part, the receipt whereof is hereby
 acknowledged, the said parties of
 the first part have granted bargained
 and sold, remised, released and
 forever quit claimed and do hereby
 grant bargain and sell remise
 release and forever quit claim
 unto the said parties of the second
 part his heirs and assigns all
 our right title claim and demand
 in jointure, severally, Coparcenary
 or in Common of in and to any
 and all property real personal
 and mixed of every kind and
 nature whatsoever and wheresoever
 the same may be or may have
 been situate, To have and hold
 unto the said parties of the second
 part his heirs and assigns for
 ever all the property hereby con-
 veyed mentioned or intended so to
 be being our entire interest in

the Estate of Hiram Gilson late
of Chicago in the State of Illinois
deceased.

In testimony whereof the said
parties of the first part have here-
unto set their hands and seals
the day and year first above
mentioned.

Signed and	Mehitable Gibson	Seal
delivered in	David M. Allister	Seal
presence of	Caroline E. M. Allister	Seal
Allen A. Craig	Chas. M. Ford	Seal
J. B. Johnson	Harriet M. Reed	Seal
	W. P. Gilson	Seal
	Frances Gilson	Seal

State of Pennsylvania
County of Erie

Essex. Before me
the subscriber a justice of the Peace
in and for the County aforesaid
personally came Mehitable Gilson
David M. Allister and Caroline E.
M. Allister his wife Charles M. Reed
and Harriet M. Reed his wife and
W. P. Gilson and Frances Gilson his wife
the parties whose names appear to
the foregoing deed or contract and
known to me to be the same who
acknowledged the foregoing to be their
act and deed, to the end that the
same might be recorded as such.
Thus the said Caroline E. M. Allister

Harriet M Red, and Frances E
 Gilson being by me duly examined
 separate and apart from their said
 husbands respectively and the
 contents of the foregoing deed
 by me fully made known to them
 acknowledged severally that they
 executed the same voluntarily of
 their own free will and without
 coercion or compulsion on the
 part of their said respective hus-
 bands.

In witness whereof I have
 hereunto set my hand and
 seal this first day of April
 A D 1856.

Allen A Craig, *Just*
 Justice of the Peace.

State of Pennsylvania }
 Erie County } ss

I Alfred
 King Prothonotary of the Court
 of Common Pleas in and for the
 County aforesaid do certify that
 Allen A Craig Esq before whom
 the annexed acknowledgment was
 made and taken is now and was
 at the time of taking the same, a
 Justice of the peace duly authorized
 to take acknowledgments of deeds
 in and for said County, regularly

Commissioned and sworn,
and to all whose acts as such
full faith and Credit are due
and that the same is executed
agreeably to the laws of Penn-
sylvania, and further that the
signature of the said Allen A
Craig Esq. to the said acknowledgment
is genuine.



In testimony whereof
I have hereunto set my
hand and affixed the seal
of the said Court at Erie
the 2nd day of April A.D
1856.

A King Pro.

State of Pennsylvania }
Erie County. } ss

I James
Skinner Prothonotary or Clerk of the
Court of Common Pleas in and for
said County of Erie, which Court
of Common Pleas is a Court of
Record under the laws of Pennsylv-
ania do certify that Allen A
Craig Esq. was at the time of
taking the acknowledgment of Caroline
E M Allister and the other signers
to the within deed, and state is
an acting Justice of the Peace
or Magistrate in and for said

County of Erie, duly qualified as such and was and is duly authorized by the laws of this State to take the acknowledgments of deeds &c and that the within deed is executed according to the said laws, and further that I am well acquainted with the hand writing of the said Justice and verily believe that his signature to said acknowledgment is genuine.

In testimony whereof I have hereunto set my hand and seal of said Court at Erie this 3rd day of November A D 1860.

James Skinner Jcr Clerk

This Indenture made this fourth day of June in the year A D 1860 between Hibbard Porter and Oliver F. Porter his wife of the City of Chicago County of Cook and State of Illinois party of the first part and John L. Shortall of the same place party of the second part, witnesses that the said party of the first part for and in consideration of Ten dollars to them in hand paid by the said party of the second part the receipt whereof is hereby acknowledged and the said party of the second part

formerly released and discharged
 therefrom have remised released
 sold, conveyed and quit Claimed
 and by this presents do remise
 release sell convey and quit Claim
 unto the said party of the second
 part his heirs and assigns forever
 all the right title interest claim
 and demand which the said party
 of the first part have in and to
 the following described lots pieces
 parcels of land to wit: lots fourteen
 (14) and fifteen (15) in Block One
 Howard and thirty eight (38) in
 School section addition to Chicago
 lying and being in the County of Cook
 and State of Illinois. To Have
 and to hold the same together
 with all and singular the appurtenan-
 ces and privileges thereunto be-
 longing or in anywise appertaining
 and all the Estate, right title
 interest and Claim whatsoever of
 the said party of the first part
 either in law or Equity to the only
 proper use benefit and behoof of
 the said party of the second part
 their heirs and assigns forever.

In Witness whereof the said
 party of the first part hereunto set
 their hands and seals the day first
 above written

Richard Porter, Esq.
 Olivia F. Porter, Esq.

State of Illinois
Cook County, City of Chicago

I, Charles A. Gregory
a Notary Public in and for said
City of Chicago in the County and
State aforesaid do hereby Certify
that Hibbard Porter & Olivia H
Porter who are personally known
to me as the same persons whose
names are subscribed to the within
Instrument of writing appeared before
me this day in person and
acknowledged that they signed sealed
and delivered the said Instrument
of writing as their free and voluntary
act for the uses and purposes there
in set forth. And the said Olivia
H Porter wife of the said Hibbard
Porter having been by me examined
separate and apart from and
without the hearing of her said
Husband and the contents and
meaning of the said Instrument of
writing having been by me made
known to her, acknowledged that
she had freely and voluntarily
executed the same & relinquished
her dower to the lands & tenements
therein mentioned without compulsion
of her said Husband, and that
she does not wish to retract the
same.

Given under my hand and
 Seal Notarial this Ninth day of
 June A D 1860
 (seal.) Charles A Gregory
 Notary Public

And the said defendants to
 maintain the issues on their part
 offered in evidence as color of title
 the following deed.

This Indenture made this September
 15th A D 1840 between the City of Chicago
 by virtue of the power expressly given
 to said City in the forty first section
 of the act entitled, "An act to
 incorporate the City of Chicago" approved
 March 4th 1837 / of the first part
 and David Hatch of the County of
 Cook and State of Illinois party of
 the second part, Witnesseth, that
 whereas the said City of Chicago
 by virtue of the authority for that
 purpose in it vested under and
 by virtue of the thirty fifth section
 of the said act Entitled an Act to
 incorporate the City of Chicago did
 on the twenty second day of Jan-
 uary in the year A D 1838 levy a tax
 for the Municipal year A D 1837
 on all the Real Estate situate in
 said City of Chicago of one fourth
 of one per centum on the assessed

value thereof for the purposes mentioned in said thirty fifth section, and whereas by the assessment rolls made and returned by the assessors for that purpose duly appointed of said City of Chicago in the form prescribed by the Common Council thereof and duly filed the twenty ninth day of January in the year AD 1838 in the office of the Clerk of said City, Lot numbered fifteen in Block numbered One Hundred & thirty eight school section addition to the town of Chicago was assessed at the value of two Hundred and fifty dollars and Cents and was then and there assessed to pay the sum of Eighty two $\frac{1}{2}$ Cents as the tax assessed upon said Lot by said City of Chicago for said Municipal year AD 1837.

And whereas the Common Council of said City of Chicago issued their Warrant under the Corporate seal and signed by the Mayor dated the twenty ninth day of January in the year AD 1838 directing the Collector of said City to collect amongst others the said sum of sixty two $\frac{1}{2}$ Cents being the amount of said taxes so levied as aforesaid upon said lot, And whereas the said Collector afterwards to wit on the

twenty fourth day of May in the
 year of Our Lord 1838 made his
 return to the said Common Council
 in which he showed that the amount
 of said tax so levied on said lot
 as aforesaid had not been paid
 and that he had been unable to
 find any personal property of the
 owners thereof out of which to make
 the amount of said tax. And
 whereas said Common Council
 afterwards to wit on the twenty fourth
 day of May in the year AD 1838 by
 virtue of the Authority in them vested
 in said forty first Section of the
 act aforesaid issued their order
 which is entered at large in the
 Records of the City of Chicago kept
 by the Clerk of said City particularly
 describing the premises to be sold
 and the assessment for which the
 sale was to be made, and di-
 recting the attorney of said City
 Norman B Judd, a copy of which
 order was duly delivered to him to
 sell the property in said order
 mentioned for the taxes, assessments,
 interest and expenses of the sale
 upon said property amongst which
 said property, said Lot Numbered
 fifteen in Block Numbered one
 hundred and thirty eight. School
 Section addition to the Town of Chicago
 is particularly mentioned & described

And whereas the said Norman Budd attorney of said City did afterwards as required by law advertise said premises to be sold in the manner and for the time required for sale of real estate for taxes. and also in the Corporation Newspaper published in said City of Chicago for more than sixty days previous to the sale thereof, to wit; from the first day of June in the year AD 1838 until the time of sale did advertise that he would on a day therein mentioned, to wit; on the eighth day of August in the year AD 1838 at the City Hotel in said City of Chicago there being no Court House in said City at public Auction sell the smallest portion of ground of said lot for which any person would pay the assessment interest and expenses thereon.

And whereas the atty of said City, the taxes, interest and expenses on said lot not having been previously paid, did afterwards agreeably to said Notice on the fourteenth (said being continued) day of August in the year AD 1838 offer said lot for sale at public Auction in said City according to the law in such case made and provided and at the time of offering said lot for sale did offer the smallest portion of

ground, for which any person would pay the assessment interest and expenses aforesaid.

And whereas at such sale Nathaw A Bolles became the purchaser of the whole of said lot for the amount of the assessment interest and expenses due thereon amounting to the sum of two dollars and eighty one $\frac{1}{4}$ cents being the smallest portion of ground for which any person would pay the amount of said assessment interest and expenses, and paid to said City attorney said sum of money,

And whereas said Nathaw A Bolles did then and there at the time of said sale receive from the said Norman B Judd attorney of said City a certificate of the purchase of said lot subscribed by said City attorney which said Certificate is in the words and figures following to wit:

By authority of the Common Council of the City of Chicago,
This is to Certify that Lot Numbered fifteen, in Block numbered one hundred and thirty eight, school section addition to the town^{ship} of the City of Chicago in the County of Cook and State of Illinois with the buildings if any situate thereon was duly assessed to pay sixty two $\frac{1}{4}$ cents

as a Corporation tax for the year 1837 pursuant to an ordinance of the Common Council of said City passed on the 22^d day of January 1838 and that the tax not having been paid the said Common Council by an order dated the 24th of May 1838 directed the subscriber Attorney for said City to advertise said lots and sell at public auction so much of the same as might be necessary to pay the tax above mentioned.

Interest and expenses of selling: that pursuant to said order said parcel of land was advertised and sold at public auction on the fourteenth day of August 1838. That Nathan H. Boies was the purchaser of the whole of said lot and paid thereon the tax above mentioned and \$2.18 $\frac{3}{4}$ Cents, the Costs accruing thereon amounting in all to \$2.81 $\frac{1}{4}$ cents, Now, whereas in case the premises above sold are not redeemed in manner and form as the law directs within two years from the date hereof. the said purchaser his heirs or assigns will be entitled to receive a deed of the premises above sold, signed by the Mayor of said City and counter signed by the Clerk containing a special

Warrant
 Dated at Chicago this
 fourteenth day of August 1838.
 Signed N. B. Judd
 City Attorney.

Copies of which said Certificate were
 within ten days after said sale filed
 by said City attorney, one in the office
 of the Clerk of said City and one in
 the recorders office of the County of
 Cook. And whereas said lot has not
 since said sale been again sold for
 any tax ordinary or extraordinary
 levied thereon in behalf of said City
 and has not been redeemed either
 by the owner or owners thereof, or
 any other person or persons whatsoever
 and whereas more than two years
 have elapsed since the sale of said
 lot, and the giving of the Certificate
 to the said Nathan N. Bolles as aforesaid
 by reason whereof the said Nathan
 N. Bolles his heirs or assigns are
 by law entitled to a deed from the
 Common Council of said City of Chicago
 with a Special Warrant for said
 lot. And whereas also afterwards
 to wit on the 17th day of August A.
 D. 1838 said Bolles under his hand
 and seal assigned said Certificate
 in writing to said David Hatch
 which said Assignment is in the

words and figures following, to wit:
 For value received I hereby sell
 transfer assign set over unto David
 Hatch his heirs and assigns all my
 right title interest claim or demand
 of in and to the premises mentioned
 in the within Certificate and to all
 sums of money that may be paid
 by any person or persons on the
 redemption of the same and in case
 no redemption is had I hereby
 authorize and direct the City of Chicago
 to make and execute the deed
 within mentioned to said David Hatch
 August 17th 1838.

(Signed) N. H. Rolles Esq

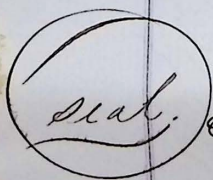
Now therefore the said City of Chicago
 in consideration of the said sum
 of two dollars and eighty one & $\frac{1}{4}$
 cents so paid to it as aforesaid
 by the said, Nathan H. Rolles the
 receipt whereof is hereby acknowledged
 doth grant bargain sell release
 release alien and confirm unto
 the said David Hatch his heirs &
 assigns forever all of that certain
 piece parcel or lot of land situate
 lying and being in the City of
 Chicago in the County of Cook and
 State of Illinois and known and
 described as lot Numbered fifteen
 (15) in Block numbered one hundred
 and thirty eight (138) in School

Section addition to the town of Chicago as the same is described on a map or plat of said addition to said town as duly recorded in the records office of said County of Cook together with all and singular the hereditaments thereto belonging or in any wise appertaining To Have and to hold the said premises as above described with the appurtenances unto the said David Hatch his heirs and assigns forever. Subject nevertheless to the right of redemption of mine heirs and any other person or persons to whom said right of redemption is given by law.

And the City of Chicago doth hereby Covenant with the said David Hatch his heirs and assigns that in the said sale the said City of Chicago and officers have complied with and observed all the rules directions and provisions of the law for the sale of lands for taxes.

In testimony whereof the Mayor of said City Alexander Loyd has hereunto affixed his signature, and the Clerk of said City Thomas Hoyme has Countersigned the same and affixed the seal of said City of Chicago the day and year first above written.

Signed Alexander Loyd. Mayor of the City of Chicago.
Thomas Hoyme City Clerk



State of Illinois
County of Cook

This day personally appeared before me the undersigned a Justice of the peace in and for said County, Alexander Lloyd Mayor, and Thomas Royce Clerk of said City of Chicago who are personally known to me as the persons who executed the within deed of Conveyance and acknowledged that they executed the same for the uses and purposes therein mentioned as the act and deed of the City of Chicago.

Witness my hand and seal
this nineteenth day of September A.D. 1848
J. A. Howe C. J.

"Filed this 26th day of June A.D. 1848"

And the said defendants still further to maintain the issues on their part introduced in evidence on said trial the following deeds which were admitted by said plaintiff to have been duly executed and acknowledged and recorded.

This indenture made this nineteenth day of March in the year of our Lord Eighteen Hundred and forty six between David Hatch of the

City of Chicago County of Cook &
 State of Illinois of the first part
 and David McDougall of Milwaukee
 in the Territory of Wisconsin of the second
 part witnesses, that the said party
 of the first part for and in Consider-
 ation of the sum of Four Hundred
 dollars to the said party of the first
 part in land paid by the said party
 of the second part, the receipt
 whereof is hereby confessed, acknowledge,
 hath remised, released sold conveyed
 and quit claimed and by these
 presents do remise, release sell
 convey and quit claim unto the
 said party of the second part his
 heirs and assigns forever all the
 right title interest claim and
 demand which the said party of
 the first part has in and to the
 following described lots or parcels
 of land, situate lying and being in
 the County of Cook and City of
 Chicago, and State of Illinois, to
 wit: The East half of the South East
 quarter of section number two in
 Township number thirty six North
 of Range Number twelve East of the
 third Principal Meridian containing
 eighty acres, Also lot number
 fifteen in Block Number one
 Hundred and thirty eight in the
 School Section addition to the town
 of Chicago. To Have and Hold the

same together with all and singular
the appurtenances and privileges
thereunto belonging or in any wise
thereunto appertaining, and all the
estate, right, title interest and
claim whatsoever of the said party
of the first part either in law or
Equity to the only proper use benefit
and behoof of the said party of the
second part his heirs and assigns
forever.

In Witness whereof the said party
of the first part has hereunto set
his hand and seal the day and
year first above written.

David Hatch Esq
Sealed and delivered
in presence of
A Huntington }

This Indenture made this twenty
ninth day of October in the year
of our lord eighteen hundred and
forty six between David McDougall
of Milwaukee in the Territory of
Wisconsin of the first part, and
Edwin Endson of the City of Chicago
and County of Cook and State of
Illinois of the second part Witnesseth
that the said party of the first part
in consideration of the sum of two
hundred and fifty dollars to the

Said party of the first part in hand paid by the said party of the second part the receipt whereof is confessed and acknowledged has remise, release, conveyed and quit Claimed and by these presents does remise release convey and quit Claim unto the said party of the second part his heirs and assigns forever all the right title interest claim and demand which the said party of the first part has in and to the following described lot or parcel of land situate lying and being in the County of Cook, City of Chicago and state of Illinois, to wit: Lot numbered fifteen (15) in Block No one hundred and thirty eight (138) in the School Section addition to the town of Chicago. To have and hold the same together with all and singular the appurtenances and privileges thereunto belonging or in any wise thereunto appertaining and all the estate right title interest and claim whatsoever of the said party of the first part either in law or equity to the only proper use benefit and behoof of the said party of the second part, his heirs and assigns forever.

Our witness whereof the said party of the first part has hereunto set his hand and seal the day and year first above written.

David McDougall Esq.

sealed and delivered
in presence of
Louis Fraucher
David Hatch

This Indenture made this tenth day
of December A D 1846 between Edwin
Budson of the City of Chicago County of
Cook and State of Illinois of the first
part and William H Adams of the same
place of the second part witnesses
that the said party of the first part for
and in consideration of the sum of
Four Hundred and fifty dollars (\$450)
to the said party of the first part in
hand paid by the said party of the
second part the receipt whereof is
hereby acknowledged and Confessed
has remised, released conveyed and
quit claimed and by these presents
do remise release convey and quit-
claim unto the said party of the
second part his heirs and assigns
forever all the right title interest claim
and demand which the said party of
the first part has in and to the follow-
ing described lot or parcel of land
situate lying and being in the County
of Cook and State of Illinois in
the City of Chicago to wit Lot Number
fifteen (15) in Block Number One
Hundred and thirty eight in the
School Section addition to the town

now city of Chicago. To have and to hold the same together with all and singular the appurtenances and privileges thereunto belonging or in any wise thereto appertaining and all the Estate right title interest and claim whatsoever of the said party of the first part either in law or equity to the only proper use benefit and behoof of the said party of the second part his heirs and assigns forever.

In witness whereof the said party of the first part has hereunto set his hand and seal the day and year first above written.
 Sealed and delivered, Edwin Judson 
 in presence of
 A. Huntington J.

This Indenture made the eighteenth day of January in the year of our Lord eighteen Hundred and forty seven between William N. Adams and Isabella his wife of the County of Cook and State of Illinois parties of the first part and Charles A. Starkweather of the same place party of the second part, witnesses that the said party of the first part for and in consideration of two Hundred dollars in hand paid by the said party of the second part. (the receipt whereof is hereby acknowledged) have granted bargained

sold remise released aliend
 Confirmed and quit-claimed and by
 these presents do grant bargain
 sell remise. receive alien Confirm
 and quitclaim unto the said party
 of the second part and to his
 heirs and assigns forever all the
 following described lot piece or parcel
 of land. to wit: thirty feet off the North
 side of lot Numbered fifteen (15) in
 Block numbered one hundred and
 thirty eight (138) in the School Sec-
 tion addition to the town (Now city
 of Chicago in the County of Cook &
 State of Illinois. Together with all
 and singular the hereditaments
 and appurtenances therunto belonging
 or in any wise appertaining and
 the revision and reversions, remainds
 and remainders unto issues and
 profits thereof and all the estate
 right, title interest claim or demand
 whatsoever of the said parties of the
 first part, either in law or equity of
 in and to the above bargained premises
 with the hereditaments & appurtenances.
 To have and hold the said prem-
 ises above bargained and described
 with the appurtenances unto the said
 party of the second part his heirs
 and assigns forever.

And the said parties of the first
 part for themselves their heirs. Execu-

47. = tons and administrators do
Covenant, grant, bargain and agree
to and with the said party of the
second part his heirs and assigns
that the above bargained premises
in the quiet peaceable of the said party of
the second part his heirs and
assigns against all and every person
or persons lawfully claiming or to
claim the whole or any part thereof
by through or under them and none
others the said party of the first part
shall and will warrant and forever
defend.

In Witness whereof the said
parties of the first part have hereunto
set their hands and seals the day
and year first above written.

Signed sealed and
delivered in presence
of J. H. Churchill

Wm. H. Adams seal
Isabella Adams seal

And thereupon the said plaintiff
admitted that said Starkweather
moved a house on the premises
described in the declaration in the
fall of the year AD 1847: that about
five or six years ago said Starkweather
moved the old house away, and
built in its stead a new two story
framed stone on the said premises
and that said Starkweather has con-
tinued by his tenants to occupy

the premises described in the declaration from the fall of the year AD 1847 up to the Commencement of this suit: And that said Starkweather paid all taxes legally assessed on the premises described in the declaration for and during each of the years AD 1850, 1851, 1852, 1853, 1854, 1855, 1857, 1858. That on March 9th 1860 said Starkweather paid the City taxes assessed on said premises for the year 1859 and that on July 19th 1860 said Starkweather paid the State and all other taxes assessed on said premises for the year 1859. And that said Starkweather on February 10, 1857 paid all State and County taxes assessed on said premises for the year 1856. And that said Starkweather on February 6th 1857 paid all City & other taxes assessed on said premises for the year 1856. They being paid within the time the same were due and payable but not paid prior to the dates given.

And thereupon the said defendants still further to maintain the issues on their part introduced the said William N Adams as a witness in their behalf, who being duly sworn stated that the premises described in his above deed of date January 18, 1847 were worth at the time he sold the same to said

Stankucathor. the price paid \$300. and that in his opinion the said premises were not at that time worth any more, and also at the time of his executing his aforesaid deed on January 18, 1847 he supposed he had a good title to the premises therein described, that when he bought said property he believed he was acquiring a good title, and when he sold the same, he sold believing he had a good title thereto.

And the above was all the evidence introduced by all of said parties upon the said trial of said Cause. That thereupon the said Judge found a verdict against the said John L Shortall upon all the issues aforesaid. Whereupon the Counsel of said Shortall moved the said Court for a new trial upon the issues aforesaid and upon each of the same by reason that the said finding of the Court upon all and each of the same was contrary to the law and the evidence.

But the said Court overruled the said Motion, to which said ruling of said Court the said plaintiff then and there excepted, and the Court gave judgment upon the said finding of the said judge on all of the said issues against the said John L Shortall to which said judgment

of said Court, the said plaintiff
 then and there excepted,
 Whereupon the said John G Shortall
 made his exceptions to the said
 opinion of the Court in that behalf
 and prayed that the said Court would
 sign and seal this Bill of
 Exceptions which is done accor-
 ding

Signed and sealed this
 January 11th A.D. 1862
 Van N. Higgins Esq
 Judge.

John G Shortall

as
 Samuel T. Nickley &
 Charles R. Starkweather

Eject

It is hereby mutually agreed
 that the above Bill of Exceptions
 may be filed at this March Term
 of the Superior Court of Chicago
 A.D. 1862 without objection.

Hoyne Miller & Lewis.
 John Borden
 atty for plff

State of Illinois
County of Cook ss

I Thomas
Plaster clerk of the Superior Court
of Chicago in and for said County,
and State aforesaid. Do hereby
Certify that the foregoing is a
full true and complete transcript
of the pleadings on file in my
office together with the orders
entered of Record and the Bill
of exceptions in the cause wherein
John G. Shortall is plaintiff and
Samuel J. Kinckley and Charles R.
Starkweather defendants.

In testimony whereof I
hereunto set my hand and
affix the seal of said Court
at the City of Chicago in
said County this Tenth
day of March A.D. 1862
Thomas Plaster clk



John G. Shortall

vs.

Samuel I. Winckley &

Charles B. Startweaver

In the Supreme Court of Illinois
 Third Grand Division, April Term A.D. 1862
 Error to Cook County

And the said John G. Shortall now comes and says that in the record and proceedings aforesaid there is manifest error in this, to wit:

- 1st The finding of the Court on all and each of said issues is manifestly against the law and the evidence.
- 2nd The Court erred in overruling the said plaintiff's motion for a new trial
- 3rd The Court erred in not rendering judgment for the said John G. Shortall
- 4th The said judgment was given in favor of the said Samuel I. Winckley and Charles B. Startweaver whereas by the laws of the land it ought to have been given in favor of the said John G. Shortall; wherefore the said Shortall prays that a writ of Error may issue, and that the said judgment may be reversed annulled and held for nothing and that he may be restored to all things he has lost by reason thereof.

By John Borden his attorney

Samuel I. Winckley &

Charles B. Startweaver

as

In Error.

John G. Shortall

And the said Samuel I. Winckley

and Charles B. Startweaver now come & say

that there is no error either in the record and proceedings aforesaid or in giving the judgment aforesaid; and therefore they pray, that the said judgment may be affirmed and that their costs may be adjudged to them &c.

H. Myer M. C. Clerk
 for depts.

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Shortall

Hinckley
et al

Transcript.

Filed Nov. 25. 1862.
L. Veland
Clk.

Dec 12. 40
paid by Jeff
Thos B. Carter
cl