No. 14774

Supreme Court of Illinois

Aldrich

---

vs.

Aldrich

71641

STATE OF ILLINOIS,

SUPREME COURT,

THIRD GRAND DIVISION.

No. 38

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

Aldrich
vs
Aldrich

38 114

Supreme Court of Illinois:

THIRD GRAND DIVISION.

APRIL TERM, A. D. 1864.

CYRUS ALDRICH, and HARVEY MORGAN, Plaintiffs in Error, *vs.* STEPHEN H. ALDRICH and IRWIN PALMER Defendants in Error,

ERROR TO LASALLE.

This was a Bill in Chancery, filed by defendants in error to complainant, the conveyance of a certain tract of land.

2 The bill alleges on the 25th day of August, 1849, one William S. Jocelyn, as the assignee of Martin Ungquer, in whose favor a Military Bounty Land Warranty Certificate, for 160 acres of land was issued, located said certificate at Dixon Land Office, upon the nw¼ 1, 36, 1, in LaSalle County, and thereby entered and purchased said land, &c.

That on the 15th of May 1851, the Commissioner of Pensions concelled said warrantant certificate, and that on the 5th day of November, 1851, the location of said certificate in the name of said Jocelyn, upon said land, was cancelled by the Commissioner of the General Land Office and said cancelled certificate was then sent to said Land Office at Dixon.

That on the 8th day of May 1863, the order cancelling said certificate was rescinded by the said Commissioner of Pensions and said warranty restored as valid.

Filed April 11. 1865
L Leland Clk

That on the 2d day of June, 1863, said last order and certificate was transmitted to the Land Office at Dixon by Commissioner of General Land Office.

The bill then avers that it was the duty of the Register of
3 said Dixon office to have restored the entry of said warrant upon said land in the name of said Jocelyn and to have returned said certificate to the General Land Office. But that this was not done.

Bill further alleges that on the 23d of January, 1854, Cyrus Aldrich, (who was Register of said Dixon Land Office at the time when the said rescinding order was made aforesaid) entered said tract of land and became the purchaser thereby from the government and received a patent therefor, April 26th, 1856.

That on the 23d day of October, 1851, said Joclyn died, intestate, leaving as his only heirs, David Jocelyn, his father, Thatcher Jocelyn and James Jocelyn, his brothers, and Lucy Ann, (wife of Silas Rogers) his sister.

That on the 5th of October, 1852, said David Jocelyn and
4 Harriet, his wife, executed a conveyance of said land to said Stephen H. Aldrich and John S. Farrar, and deed was recorded, &c.

That said Rogers and wife and James Jocelyn, deeded said land to said Farrar and Stephen H. Aldrich, Feb. 20th, 1854—Deed recorded.

That on the 28th of March, 1854, said Farrar and wife and said Stephen H. Aldrich and wife, deeded the west half of said tract to Joseph O. Crooker, and deed was recorded.

That on October 10th, 1854, said Crooker conveyed to said Stephen H. Aldrich the west half of said quarter, and deed was recorded.

That on the 30th of December, 1854, said Farrar and wife

conveyed to said Stephen H. Aldrich an undivided half of east half of said quarter, and deed was recorded.

5 That on the 5th of December, 1855, said Thatchler Jocelyn executed and delivered to said Stephen H. Aldrich a deed of said quarter section, and deed recorded.

That on the 8th of February, 1856, said Stephen H. Aldrich and wife conveyed said east half of said quarter to said Irvin Palmer, and deed recorded.

The Bill further alleges that Cyrus Aldrich and his wife on the 9th of April, 1858, executed a conveyance of said land to Harvey Morgan and deed was recorded.

That said Cyrus Aldrich at the time of his entry purchase of said tract of land and said Morgan at the time of his purchase of same from said Cyrus Aldrich, had notice of the equitable interest of said compiainants and by those under whom they claim title.

6 The Bill then prays that said Cyrus Aldrich and Harvey Morgan be made defendants to said Bill, and answer the same under oath.

That upon the final hearing, the court will decree that said Harvey Morgan holds title to said land in trust for said compl'ts and that he may be ordered to convey the west half to the said Stephen H. Aldrich, and the east half to said Irvin Palmer, &c. &c.

8 Summons to Aldrich returned. Not found, Jan. 14th, 1859.

9&10 Summons to Morgan, served.

11 Proof of publication as to Aldrich, made March 5th, 1859, and on the same day the following order was entered :

15 "And said Cyrus Aldrich having failed to file an answer, or otherwise enter his appearance herein, thereupon on motion of complainants' solicitors, it was ordered by the court

that said Cyrus Aldrich file an answer herein instanter, and he having failed to comply with said order, on motion of said Solicitor, it was ordered, adjudged and decreed by the court that said bill be taken as and confessed by said Cyrus Aldrich.

17 The answer of Harvey Morgan alleges that he knows nothing about the alleged location of the said warrant by said Jocelyn and calls for proof.

18 And further avers that said location if made as alleged was illegal and valid, having been made subsequent to the act of Congress of September, 1850, which granted to the State of Illinois this very tract of land, which was thereby withdrawn from sale at said Dixon Land Office, and was not subject to entry by Land Warrant Certificate.

That as to the cancelling of said land warrant, &c., he knows nothing.

That he has no knowledge of such cancellation being rescin-
19 ded and calls for proof.

That he has no knowledge of any order restoring said warrant as valid, or the transmission of the same to the Land Office at Dixon and calls for proof.

That it may or may not have been the duty of the officers of the Land Office at Dixon to have reinstated the same according to the instructions received by them, but that the Bill does not show a state of facts which made it their duty so to do.

Desires that any order requiring the cancelled entry to be reinstated was ever received from the commissioner of the General Land Office.

And that the reatoring of the warrant as valid by the Commissioner of Pensions, would not have authorized the Register of the Dixon Land Office to reinstate the entry.

That said Cyrus Aldrich was not on the 22d day of June,

1853, and for a long time prior thereto Receiver of said Dixon Land Office and never has been since, but that said John Dement was such Receiver.

That on or about the 23d of January 1864, said Cyrus Aldrich did enter said tract of land, the same being vacant and subject to private entry and that said Aldrich paid the sum of $2\frac{1}{2}$ per acre therefor.

21 That a Patent was issued to said Aldrich for said land April 25th, 1850.

That as to the death of said Jocelyn and who were his heirs he is not informed, but denies, that if he died at the time alleged in the Bill, said entry could have been legally reinstated upon the books of said Land Office in the name of said Jocelyn, but said entry could only have been restored by the heirs in law, of said Jocelyn, or his administrators, &c.

That as to the death of said Jocelyn and as to who were his heirs at law, he is uninformed and calls for proof.

That as to the chain of conveyances under which complainants claim title, respondent is uninformed and calls for proof.

22 That Cyrus Aldrich and wife did convey to said Respondent said premises as alleged in said bill, that Respondent actually paid two thousand dollars therefor. That Respondent had not at the time of said purchase, or at any previous time any knowledge whatever that the complainants or the persons under whom they claim, had or claimed any right or equity in said
23 land.

That he has any knowledge on said subject except as informed in said bill.

Respondent further answering, denies that said Cyrus Aldrich ever had any knowledge whatever on said subject.

24 Affidavit of Harvey Morgan that answer is true.

25 Replication by complainants.

The answer of Cyrus Aldrich, alleges that he cannot state
26 whether said land was entered by said Jocelyn, as alleged in said bill, and calls for proof. That he is not informed whether the location of said warrant was cancelled, as alleged in the bill, or whether the order cancelling the same was received, as alleged in said bill, nor whether said order was transmitted to the Register of the Land Office at Dixon, nor whether it was the duty of the officers of the said Land Office to have restored said location, in the name of said Jocelyn, and to have returned said warrant to the General Lond Office and calls for proof.

That he is not informed and cannot state whether said warrant and location papers were retained in said Land Office at Dixon.

Respondent further answering denies that he was at the time said order was rescinded, Receiver of the Land Office at Dixon, and denies that at the time of said entry by himself, he had any knowledge whatever that the order rescinding the cancellation of
27 said warrant, had ever been made. And alleges that said entry was made by himself in good faith, &c.

That he paid for said land $2,50 per acre, and on the 26th of April, 1856, he received a patent therefor.

That as to the death of said Jocelyn and as to who are his heirs, he does not know.

That as to the chain of conveyances under which complainants
28 claim title, he does not know and calls for proof.

That he did convey said premises to said Morgan as in said bill alleged.

29 Affidavit of Aldrich that answer is true.

30 STATE OF ILLINOIS, } Circuit Court of said County,
LaSalle County, } February Term, 1862.

STEPHEN H. ALDRICH, and IRVIN PALMER,
vs.
CYRUS ALDRICH, HARVEY MORGAN,

In Chancery.
Bill for Conveyance.

It is hereby certified that the written evidence in this cause on the final hearing, consisted of

1st A certificate of the Registry of the Land Office, of the entry of the nw¼ of section 1, Tp. 36, Range 1, by Wm. S. Jocelyn on the 25th of August, 1849.

2d. The depositions on file of Jasper H. French and Spencer Rugles.

3d. A deed of conveyance from David Jocelyn and wife to John L. Farrar and Stephen H. Aldrich, of the nw¼ of section 1, Tp. 36, Range 1, in LaSalle County, dated October 5, 1852. Filed for record April 12, 1854.

4th. A deed of conveyance of said land from Silas Rogers and Lucy Ann Rogers, his wife, and James Jocelyn to John L. Farrar and Stephen H. Aldrich, duly acknowledged. Dated Feb. 20, 1854.

5th. A deed of conveyance of the west half of said quarter section, from John L. Farrar and Stephen H. Aldrich and wives, to Joseph O. Crooker, dated March 28th, 1854.

6th. A deed of conveyance from Joseph O. Crooker to Stephen H. Aldrich of the west half of said quarter section, dated October 16th, 1854, filed for record October 17th, 1854.

7th. A deed of conveyance from John S. Farrar and wife, of the undivided half of the east half of said quarter section, to Stephen H. Aldrich, dated December 30, 1854, filed for record Sept. 7th, 1857.

8th. A deed of conveyance by Thatcher Jocelyn to Stephen

H. Aldrich, of the said quarter section, dated Dec. 6th, 1855, filed for record Sept. 7th, 1857.

9th. A deed of conveyance by Stephen H. Aldrich and wife to Irvin Palmer, of the east half of said quarter section, dated Feb. 8th, 1856, filed for record Feb. 27th, 1856.

10th. The exemplication from the Land Office on file.

M. E. HOLLISTER, Judge &c.

32 Certificate of Register that on the 25th day of August 1849, Wm. S. Jocelyn purchased of the general government, at the Dixon Land Office, the nw frac ¼ sec. 1, 36, 1.

33 The deposition of Jasper H. French.

I am acquainted with the nw¼ 1, 36, 1, and I know of prairie having been broken on it; the first breaking was done in May 1854—about ten acres; it was by Stephen H. Aldrich for Joseph O. Crooker.

Since that time the land has been pretty much all broken and fenced and a frame house put up, these improvements were made by Irvin Palmer and Chester Martin.

The second breaking was done in 1855, by Irvin Palmer and S. N. Bunker, some seventy acres. Bunker was working for Stephen H. Aldrich.

The land was fenced in the spring of 1859.

Irvin Palmer built the house in 1858.

Cross Examined—I lived on land near this from 1852, and am
35 sure the breaking was not done before May, 1854.

37 The first crop was raised on the land in 1857.

No fencing was done on the land prior to 1857.

Deposition of Spooner Ruggles.

39 I was acquainted with Wm. S. Jocelyn; he died October 21st, 1851. He left no widow and no children. His brothers

names were James and Thatcher; his sister's name was Lucy Ann and his father's name was David Lucy Ann has a husband whose name is Silas Rogers. William S. Jocelyn's mother died before he did. There were no other brothers or sisters.

I was acquainted with Cyrus Aldrich. He was Receiver of the Land Office at Dixon from the spring of 1849 to the spring of 1853.

42 Warranty deed from David Jocelyn and Harriet his wife, to John L. Farrar and Stephen H. Aldrich, dated October 5th, 1852, filed April 12th, 1854—for nw¼ 1, 36, 1.

43 Quit claim deed from Silas E. Rogers and Lucy Ann, his wife and James Jocelyn to John L. Farrar and Stephen H. Aldrich, of their right title and interest in and to the nw¼, 1, 36 1.

44 Acknowledgment only releases the right of dower of Lucy Ann Rogers.

45 Deed filed April 12, 1854.

46 Warranty deed from John L. Farrar and wife and Stephen H. Aldrich and wife to Joseph O. Crooker, dated March 28th, 1854, for the w½ nw¼ 1, 36, 1.

Filed October 17th, 1854.

47 Quit claim deed from Joseph O. Crooker to Stephen H. Aldrich, dated October 15th, 1854, for w½ nw¼ 1, 36, 1.

48 Filed October 17th, 1854.

49 Warranty deed from John L. Farrar and wife to Stephen H. Aldrich, dated December 30th, 1854, for the und ½ of e½ nw¼ 1, 36, 1.

Filed September 7th, 1857.

50 Quit claim deed from Thatcher Jocelyn to Stephen H. Aldrich, dated December 6th, 1855, conveying all his right, title and interest in nw¼ 1, 36, 1.

52 Filed September 7th, 1857.

53 Warranty deed from Stephen H. Aldrich and wife to Irvin Palmer, dated Februaay 8th, 1856, for e½ nw¼ 1, 36, 1.

54 Filed February 27th, 1856.

55 Certificate of the Commissioner of the General Land Office that the following papers are exemplifications from the files and records of this office.

Certificate by Commissioner of Pensions of Land Warrant No. 61-199, to Martin Ungerer, father and heir at law of John Ungerer, deceased, late a private &c, and his right under it to locate
56 160 acres of any governm't lands subject to private entry &c

Dated June 13th, 1849.

Across the face of said certificate are the following words : — "Cancelled, *J.* E. Heath Commissioner." Cancellation rescinded J. P. Hale, Commissioner."

And upon the back of said certificate an assignmennt from Martin Ungerer to Wm. S. Jocelyn, dated June 18, 1849.

57 And also upon the back of said certificate is the following endorsement :

"GENERAL LAND OFFICE,
June 2d, 1853.

This Bounty Land Warrant Certificate having been cancelled and subsequently reinstated, by the Commissioner of Pensions to accordingly reinstated on the Books of this offiee.

JOHN WILSON, Commissioner."

58 Letter of Commissioner of Land Office as follows :

"GENERAL LAND OFFICE,
November 5, 1851.

Sir : — Herewith I return Military Bounty Land Warrant, No. 61-199 and 62-767, with the location of each cancelled in consequence of the warrants being cancelled by the Commissioner of Pensions upon the ground of having been issued upon false and fraudulent papers, theretore you will enter the cancellation of ssid

ocations on the books of your office and inform the locators as soon as practiceable of the illegality of said locations.

I am, very respectfully,
Your Obedient Servant,
J. BUTLER FIELD,
Commissioner.

To Register Land Office, Dixon, Illinois.

Letter of Commissioner of Pensions to Commissioner of General Land Office, showing the rescinding of the order cancelling certificate 61-199 and containing a request that after the requisite action in General Land Office, the certificote which is enclosed, be forwarded to the Register of the Land Office at Dixon, Illinois.

Date May 28th, 1853.

59 Copy from books of Land Office.

Letter of Commissioner of Land Office to Register of office at Springfield, requesting return of said warrant 61-199, and locations papers if any. Dated Nov. 13th, 1857.

Reply of the Register enclosing the warrant 61-199, and stating that no location papers were in his office. Dated Nov., 19 1857.

60 Decree for complainants.

This day the cause came on to be heard on Bill, answer, replication and the proofs in the cause, and it appearing to the court that Wm. S. Jocelyn, as assignee of Martin Ungerer, located a military bounty land warrant, at the Land Office in Dixon, in the State of Illinois, upon the north west quarter of section 1, in Tp. 36, south of Range 1, east of the 3d principal meridian in LaSalle county, in said state, and thereby entered and became the purchaser of said tract of Land from the government of the United States, and received a certificate of purchase therefor on the 25th of August, A. D. 1854, and it also appearing that on the 3d
61 day of January, A. D. 1854, said former entry then and

there uncancelled, and in full force, the defendant, Cyrus Aldrich entered and purchased the same tract of land from the government of the United States and that a patent was by inadvertance issued to said Cyrus Aldrich, on the 26th of April A. D. 1856, and that said Cyrus Aldrich on the 9th of April, A. D. 1858, conveyed said tract of land to the Defendant, Harvey Morgan, and that the said Cyrus Aldrich and Harvey Morgan, at the time of their purchases, had notice of the equitable rights of the complts. and of those under whom they claim title, through the said Wm. Jocelyn; and it further appearing that the said complainant Stephen H. Aldrich derived title to the west half of said quarter section, and the said complainant, Irvin Palmer, derived title to the east half of said quarter section, each from and through a regular chain of titles from said Wm. S. Jocelyn, to
respectively, It is ordered, adjudged and decreed that the said Harvey Morgan holds the legal title to said quarter section in trust for the complainants as above, and that Harvey Morgan, within ten days next hereafter execute and deliver to said complainant, Stephen H. Aldrich, a deed of conveyance of the said west half of said quarter section and to the said Irvin Palmer a deed of conveyance of said east half of said quarter section, and that in default thereof, Edward A. Hollister, who is hereby appointed a special commissioner for that purpose execute and deliver said respective conveyances and that said conveyances of said Hollister, when so executed by him as commissioner, shall vest in the said complainants respectively, the legal titte which said Mergan or those claiming under him, by conveyance, since the commencement of the suit, derived through said entry, by said Cyrus Aldrich, and said patent to him.

And it is further ordered, adjudged and decreed that the complainants have and recover of the defendant, Harvey Morgan, their costs and charges, by them in about the prosecution of this suit expended, and that they have execution therefor.

ERRORS ASSIGNED.

The court erred in rendering the decree aforesaid in manner and form atoresaid.

38 114

IN THE

SUPREME COURT OF THE STATE OF ILLINOIS,

For the Third Grand Division,

APRIL TERM, A. D. 1865.

CYRUS ALDRICH AND HARVEY MORGAN, *Plffs in Error,*
vs.
STEPHEN ALDRICH AND IRWIN PALMER, *Defts in Error.*

ERROR TO LASALLE.

POINTS FOR PLAINTIFFS IN ERROR.

The only error assigned is that the decree was erroneously rendered, and in sustaining this position we insist—

I.

That the allegations of the Bill if taken as true are not sufficient in law to sustain the decree.

The gist of the Bill is set out in the abstract page, and by reference thereto it will be seen—

1st That the entry of the land by Joscelyn was cancelled by the Commissioner of the General Land Office, *and was never restored*, so that Cyrus Aldrich or any other person had a right to enter the land by paying the purchase money upon a legal application made.

Filed May 6. 1865
L Lee Clk

2d. That the land warrant certificate was by the Commissioner of Pensions restored as valid, so that the heirs of Joscelyn were entitled to the same rights under it that they would have if it had never been cancelled or located; and they could have made application under this warrant to locate any quarter section subject to private entry either the one in controversy or any other.

3d. That the heirs of Joscelyn never did make application to re-locate the warrant upon this quarter section or any other, and therefore have no rights either in law or equity thereto.

4th. The Bill alleges that upon the cancelled certificate being restored as valid and sent to the Dixon Land Office it was the duty of the officers of said Land Office to have restored the location of said warrant upon said land in the name of said Wm. S. Joscelyn.

This is not an allegation of law, and is not the law.

(A) Because the entry could not be legally restored in the name of a dead man.

(B) Because no one except the Commissioner of the General Land Office had authority to rescind the order cancelling the entry.

(C) Because no officer of the Dixon Land Office could legally re-locate the warrant except upon proper application by the owners thereof, including an affidavit that the land was then vacant and unoccupied.

II.

The decree was not warranted by the evidence.

The Bill called for answer under oath and sworn answer was filed, and there is no material fact set up by the answer that is

contradicted by the evidence of two witnesses or by one witness, and corroborating circumstances equal to another.

Wont vs. *Emmon's*, 29 Ill. 433.
Myers vs. *Kenzie*, 26 Ill. 36.
Morrison vs. *Stewart*, 24 Ill. 24.

Taking the answer of Morgan and all the other evidence in the case the facts appear as set out in the following

CHRONOLOGICAL TABLE.

August 25th, 1849—William S. Joscelyn entered the NW¼ Sec. 1, 36, 1. See Record 32.

May 15th, 1851—Land Warrant No. 61, 199, cancelled by the Commissioner of Pensions. See Record pp. 57 and 59.

October 21st, 1851—William S. Joscelyn died, leaving his father, David Joscelyn, brothers James and Thatcher and sister Lucy Ann, wife of Silas E. Rogers, his heirs at law. Record pp. 39 and 40.

November 5th, 1851—The entry of the NW¼ 1, 36, 1, by Wm. S. Joscelyn, cancelled by the Commissioner of the General Land Office. See Record p. 58.

October, 5th, 1852—Deed from David Joscelyn and wife to John L. Farrar and S. H. Aldrich for NW¼ Sec. 1, 36, 1, (unrecorded till April, 1854. Record p. 42.

Spring of 1853—Cyrus Aldrich ceased to be Receiver of Dixon Land Office. Record p. 40 and answer says this was before the cancelled warrant was restored as valid. Record p. 23; and this is not only uncontradicted by any evidence, but sustained by that of Ruggles above cited.

May 28th, 1853—The cancellation of Land Warrant No. 61, 199, rescinded by order of Commisssioner of Pensions and the certificate sent again to the General Land Office. Record p. 56.

June 2d, 1853—The warrant reinstated on the books of General

Land Office, and the certificate sent to Register of Dixon Land Office, (undoubtedly to be delivered to the heirs of Joscelyn.) Record p. 57.

JANUARY 23, 1854—Cyrus Aldrich entered the NW¼ Sec. 1, 36, 1. Record pp. 3, 20.

APRIL 12, 1854—Deed of David Joscelyn and wife to Farrar and S. H. Aldrich, filed for record.

Same date there was filed for record a Quit Claim Deed of Thatcher Joscelyn, Silas E. Rogers and Lucy Ann, his wife, to Farrer and S. H. Aldrich, dated Feb'y 20, 1854.

MAY, 1854—Ten acres broken for Joseph O. Crooker upon W½ NW¼ 1, 36, 1.

OCT. 17, 1854—There was filed for record a deed from Farrar and S. H. Aldrich to Joseph O. Crooker for the W½ NW¼ 1, 36, 1, dated March 28th, 1854.

OCT. 17, 1854—There was filed for record a quit claim deed from Crooker to S. H. Aldrich for W½ NW¼, dated Oct. 16, 1854.

FEB'Y 27, 1856—There was filed for record a deed from S. H. Aldrich to Irwin Palmer for E½ NW¼ 1, 36, 1, dated Feb'y 8th, 1856.

SEPT. 7, 1857—There was filed for record a deed from Farrar to S. H. Aldrich for Und. ½ E½ SW¼, dated 30, 1854.

Same date there was filed for record a Quit Claim Deed from Thatcher Joselyn to S. H. Aldrich for NW¼ 1, 36, 1.

APRIL 9, 1858—Deed from Cyrus Aldrich to Harvey Morgan for NW¼ 1, 36, 1. Consideration actually paid, $2,000. Record p. 22.

Upon the facts as above shown by the proof, we insist that the complainants were not entitled to a decree for the conveyance of the premises.

1st. For the reasons above urged against a decree upon the Bill itself.

2d. Because no resulting trust is shown which would entitle complainants to the conveyance.

The law is well established that a resulting Trust can only arise (except in cases of Fraud) from the fact that a purchase is made in the name of one while the purchase money belongs to another.

Stevenson v. *Thompson*, 13 Ill. 190.
Alexander v. *Tarmes*, 13 Ill. 225.
Perry v. *McHenry*, 13 Ill. 227.
Williams v. *Brown*, 14 Ill. 201.
Greene v. *Cook*, 29 Ill. 193.
Loomis v. *Loomis*, 28 Ill. 454.
Lear v. *Choteau*, 23 Ill. 39.
Franklin v. *McIntyre*, 23 Ill. 91.
Getman v. *Getman* 1 Barb. Ch. 499.
Botsford v. *Burr*, 2 Johns. Ch. 405.
Steam v. *Steam*, 5 Johns. 1.
Seward v. *Jackson*, 8 Cow. 406.
4 East. 577.
7 Cranch. 176.

This land was purchased by Aldrich with his own money.

But the Bill alleges that Cyrus Aldrich was Receiver of the Dixon Land Office at the time the certificate of warrant was restored as valid, and together with the order was transmitted to the Dixon Land Office. This is denied by the answer, and the answer is substantiated by the proof. See Record pp. 40, 23, and the Chronological Table above.

The Bill further alleges that at the time of the entry by him, C. Aldrich had notice of the rights and equities of the persons under whom complainants derive title.

This is denied by the answer, and there is no proof either of actual or constructive notice to C. Aldrich prior to his entry.

The entry was made January 23d, 1854.

No portion of the land was occupied until May, 1854, when 10 acres was broken on the west half.

The first Deed of any of the parties was filed for Record, April 12, 1854.

And the only pretense of notice that can possibly be urged is, that Cyrus Aldrich acquired some knowledge on the subject while he was Receiver of the Land Office. But the answer alleges that he was not Receiver at the time the warrant was restored as valid nor at any time afterward. Record p. 23. And the evidence of complainants witness shows that he ceased to be Receiver in the Spring of 1853. Record p. 40. While the Bill alleges and the evidence shows that the warrant was not restored as valid at the Pension Office in Washington until May 28th, 1853. See Record p. 56. And this order was not transmitted to the Dixon Office until June 2d, 1853. Record p. 57.

So there is no *probability* from the evidence aside from the answer that Aldrich was Receiver at the times alleged, to-wit. May 28th and June 2d, 1853, which was at the opening of the summer of that year.

But if there was such a probability, it only arises from the testimony of *one* witness, which is not sufficient to overcome the sworn answer.

3d. The proof does not not show that Joscelyn entered the land with the Land Warrant in question. See Certificate of Entry, record p. 32.

GEO. C. CAMPBELL,
For Appellant.

38 114

IN THE

SUPREME COURT OF THE STATE OF ILLINOIS,

For the Third Grand Division,

APRIL TERM, A. D. 1865.

CYRUS ALDRICH AND HARVEY MORGAN, *Plffs in Error,*
vs.
STEPHEN ALDRICH AND IRWIN PALMER, *Defts in Error.*

ERROR TO LASALLE.

POINTS FOR PLAINTIFFS IN ERROR.

The only error assigned is that the decree was erroneously rendered, and in sustaining this position we insist—

I.

That the allegations of the Bill if taken as true are not sufficient in law to sustain the decree.

The gist of the Bill is set out in the abstract page, and by reference thereto it will be seen—

1st That the entry of the land by Joscelyn was cancelled by the Commissioner of the General Land Office, *and as never restored,* so that Cyrus Aldrich or any other person had a right to enter the land by paying the purchase money upon a legal application made.

Filed May 6. 1865
L. Shanklin

2d. That the land warrant certificate was by the Commissioner of Pensions restored as valid, so that the heirs of Joscelyn were entitled to the same rights under it that they would have if it had never been cancelled or located; and they could have made application under this warrant to locate any quarter section subject to private entry either the one in controversy or any other.

3d. That the heirs of Joscelyn never did make application to re-locate the warrant upon this quarter section or any other, and therefore have no rights either in law or equity thereto.

4th. The Bill alleges that upon the cancelled certificate being restored as valid and sent to the Dixon Land Office it was the duty of the officers of said Land Office to have restored the location of said warrant upon said land in the name of said Wm. S. Joscelyn.

This is not an allegation of law, and is not the law.

(A) Because the entry could not be legally restored in the name of a dead man.

(B) Because no one except the Commissioner of the General Land Office had authority to rescind the order cancelling the entry.

(C) Because no officer of the Dixon Land Office could legally re-locate the warrant except upon proper application by the owners thereof, including an affidavit that the land was then vacant and unoccupied.

II.

The decree was not warranted by the evidence.

The Bill called for answer under oath and sworn answer was filed, and there is no material fact set up by the answer that is

contradicted by the evidence of two witnesses or by one witness, and corroborating circumstances equal to another.

Wont vs. *Emmon's*, 29 Ill. 433.
Myers vs. *Kenzie*, 26 Ill. 36.
Morrison vs. *Stewart*, 24 Ill. 24.

Taking the answer of Morgan and all the other evidence in the case the facts appear as set out in the following

CHRONOLOGICAL TABLE.

August 25th, 1849—William S. Joscelyn entered the NW¼ Sec. 1, 36, 1. See Record 32.

May 15th, 1851—Land Warrant No. 61, 199, cancelled by the Commissioner of Pensions. See Record pp. 57 and 59.

October 21st, 1851—William S. Joscelyn died, leaving his father, David Joscelyn, brothers James and Thatcher and sister Lucy Ann, wife of Silas E. Rogers, his heirs at law. Record pp. 39 and 40.

November 5th, 1851—The entry of the NW¼ 1, 36, 1, by Wm. S. Joscelyn, cancelled by the Commissioner of the General Land Office. See Record p. 58.

October, 5th, 1852—Deed from David Joscelyn and wife to John L. Farrar and S. H. Aldrich for NW¼ Sec. 1, 36, 1, (unrecorded till April, 1854. Record p. 42.

Spring of 1853—Cyrus Aldrich ceased to be Receiver of Dixon Land Office. Record p. 40 and answer says this was before the cancelled warrant was restored as valid. Record p. 23; and this is not only uncontradicted by any evidence, but sustained by that of Ruggles above cited.

May 28th, 1853—The cancellation of Land Warrant No. 61, 199, rescinded by order of Commisssioner of Pensions and the certificate sent again to the General Land Office. Record p. 57.

June 2d, 1853—The warrant reinstated on the books of General

Land Office, and the certificate sent to Register of Dixon Land Office, (undoubtedly to be delivered to the heirs of Joscelyn.) Record p. 57.

January 23, 1854—Cyrus Aldrich entered the NW¼ Sec. 1, 36, 1. Record pp. 3, 20.

April 12, 1854—Deed of David Joscelyn and wife to Farrar and S. H. Aldrich, filed for record.

Same date there was filed for record a Quit Claim Deed of Thatcher Joscelyn, Silas E. Rogers and Lucy Ann, his wife, to Farrer and S. H. Aldrich, dated Feb'y 20, 1854.

May, 1854—Ten acres broken for Joseph O. Crooker upon W½ NW¼ 1, 36, 1.

Oct. 17, 1854—There was filed for record a deed from Farrar and S. H. Aldrich to Joseph O. Crooker for the W½ NW¼ 1, 36, 1, dated March 28th, 1854.

Oct. 17, 1854—There was filed for record a quit claim deed from Crooker to S. H. Aldrich for W½ NW¼, dated Oct. 16, 1854.

Feb'y 27, 1856—There was filed for record a deed from S. H. Aldrich to Irwin Palmer for E½ NW¼ 1, 36, 1, dated Feb'y 8th, 1856.

Sept. 7, 1857—There was filed for record a deed from Farrar to S. H. Aldrich for Und. ½ E½ SW¼, dated 30, 1854.

Same date there was filed for record a Quit Claim Deed from Thatcher Joselyn to S. H. Aldrich for NW¼ 1, 36, 1.

April 9, 1858—Deed from Cyrus Aldrich to Harvey Morgan for NW¼ 1, 36, 1. Consideration actually paid, $2,000. Record p. 22.

Upon the facts as above shown by the proof, we insist that the complainants were not entitled to a decree for the conveyance of the premises.

1st. For the reasons above urged against a decree upon the Bill itself.

2d. Because no resulting trust is shown which would entitle complainants to the conveyance.

The law is well established that a resulting Trust can only arise (except in cases of Fraud) from the fact that a purchase is made in the name of one while the purchase money belongs to another.

Stevenson v. *Thompson*, 13 Ill. 190.
Alexander v. *Tarmes*, 13 Ill. 225.
Perry v. *McHenry*, 13 Ill. 227.
Williams v. *Brown*, 14 Ill. 201.
Greene v. *Cook*, 29 Ill. 193.
Loomis v. *Loomis*, 28 Ill. 454.
Lear v. *Choteau*, 23 Ill. 39.
Franklin v. *McIntyre*, 23 Ill. 91.
Getman v. *Getman*, 1 Barb. Ch. 499.
Botsford v. *Burr*, 2 Johns. Ch. 405.
Steam v. *Steam*, 5 Johns. 1.
Seward v. *Jackson*, 8 Cow. 406.
4 East. 577.
7 Cranch. 176.

This land was purchased by Aldrich with his own money.

But the Bill alleges that Cyrus Aldrich was Receiver of the Dixon Land Office at the time the certificate of warrant was restored as valid, and together with the order was transmitted to the Dixon Land Office. This is denied by the answer, and the answer is substantiated by the proof. See Record pp. 40, 23, and the Chronological Table above.

The Bill further alleges that at the time of the entry by him, C. Aldrich had notice of the rights and equities of the persons under whom complainants derive title.

This is denied by the answer, and there is no proof either of actual or constructive notice to C. Aldrich prior to his entry.

The entry was made January 23d, 1854.

No portion of the land was occupied until May, 1854, when 10 acres was broken on the west half.

The first Deed of any of the parties was filed for Record, April 12, 1854.

And the only pretense of notice that can possibly be urged is, that Cyrus Aldrich acquired some knowledge on the subject while he was Receiver of the Land Office. But the answer alleges that he was not Receiver at the time the warrant was restored as valid nor at any time afterward. Record p. 23. And the evidence of complainants witness shows that he ceased to be Receiver in the Spring of 1853. Record p. 40. While the Bill alleges and the evidence shows that the warrant was not restored as valid at the Pension Office in Washington until May 28th, 1853. See Record p. 56. And this order was not transmitted to the Dixon Office until June 2d, 1853. Record p. 57.

So there is no *probability* from the evidence aside from the answer that Aldrich was Receiver at the times alleged, to-wit, May 28th and June 2d, 1853, which was at the opening of the summer of that year.

But if there was such a probability, it only arises from the testimony of *one* witness, which is not sufficient to overcome the sworn answer.

3d. The proof does not not show that Joscelyn entered the land with the Land Warrant in question. See Certificate of Entry, record p. 32.

GEO. C. CAMPBELL,
For Appellant.

SUPREME COURT OF ILLINOIS,

THIRD GRAND DIVISION,

APRIL TERM, A. D. 1865.

CYRUS ALDRICH, *et als.*,
vs.
STEPHEN H. ALDRICH,
} ERROR TO LA SALLE.

The abstract of the plaintiff in error is inaccurate, and more particularly as to dates. The facts alleged with the true dates are:

I.

On the 25th day of August, 1849, Wm. S. Joscelyn, assignee of Hugerer, located a military bounty land warrant certificate upon the land in controversy, and received a certificate of purchase.

II.

On the 15th of May, 1851, the Commissioner of Pensions cancelled the warrant certificate, and on the 5th of November, 1851, the location of the warrant certificate was cancelled, and the cancelled warrant certificate was sent to Dixon Land Office.

III.

On the 28th day of May, 1853, the order previously made cancelling the warrant certificate was rescinded by the Commissioner of Pensions, and the warrant was restored as valid.

IV.

On the 2d of June, 1853, the warrant and the order restoring it were transmitted to the Register of the land office at Dixon.

V.

On the 23d of January, 1854, Cyrus Aldrich entered the land.

VI.

That he was Register of the Dixon Land Office on said 28th of May, *1853.*

VII.

That Aldrich received a patent April 26th, 1856.

IX.

A chain of title by conveyance from the last named heirs to the complainants. No defect in the chain is suggested except that Mrs. Rogers acknowledges as in case of Dower. The case of Chester *vs.* Rumsey, 26th Ill., 97, disposes of that.

X.

A deed of conveyance from Cyrus Aldrich to Harvey Morgan, dated April 9th, 1858.

XI.

That Aldrich and Morgan were purchasers respectively, with notice of complainants equity.

Aldrich, on the 5th of December, 1860, and nearly two years after the bill had been taken for confessed against him, (13) filed an answer in the office of the Clerk without leave of Court (25). Morgan answered the bill, and a replication was filed to the answer. Neither Aldrich nor Morgan prove the payment of a consideration, even by the recital in their deeds; neither introduced his title deed, and the bill says nothing about whether a consideration was paid or not. This is a new matter, we think, which is not proved by the answer, though under oath. However, this does not matter. The recital in the decree states that notice was proved, and Aldrich had constructive notice of the matters which were of record, and among the files in the land office. If Aldrich did not know, it was because he shut his eyes when equity bade him open them. When Morgan purchased there was a possession under the Joscelyn title.

The case is an ordinary one of a prior entry by one, and subsequent patent improperly issued to another, when the one making the prior entry and receiving a contract for a patent, should have obtained the promised patent, and when the one who improperly obtained the legal title is to be held as a trustee, who should by conveyance be required to place the legal estate in the holder of the equity. It is not a case of resulting trust at all, but a question of priority between two, each of whom purchased with his own funds.

If there be any allegation in the bill which is not proved, except the allegation that Aldrich was Register on the 28th of May, 1853, we are unable to perceive it. Aldrich ceased to be Register in the spring of 1863, but at what time in the spring does not appear.

It is alleged in the answer of Morgan that the United States had, previously to the entry of Joscelyn, granted the land to the State of Illinois, and that therefore they could not sell it to Joscelyn, but could to Cyrus Aldrich. We do not see exactly what is meant, nor what act is alluded to. There is no evidence on the subject of this allegation.

It is also said that Wm. C. Joscelyn was dead when the cancellation of his entry was rescinded and the entry restored as valid. We do not perceive how the fact of his death could deprive Wm. C. Joscelyn's heirs of their equitable right in the entry made during the life of the ancestor. The old certificate of entry which had been cancelled during the life of Joscelyn was restored as valid, and whether the restoration was during his life or after his death does not matter. No new certificate of entry was necessary. The old one remained as though it had never been cancelled, and if a patent had been issued on it to Wm. C. Joscelyn after his death, it would have passed the title to his heirs. Brightly's Digest of U. S. Statutes, p. 455, Sec. 29.

The duties of Commissioner of Pensions in relation to military bounty lands are such as may be assigned to him by the Secretary of War, and as he has acted in cancelling and restoring the entry of Joscelyn, it is to be presumed he did his duty. If it is his duty to issue the warrant certificate, he ought also to cancel it. Brightly's Digest, p. 738, Sec. 1. Ibid p. 104, Sec. 51. The defendant Aldrich or his grantee Morgan is entitled to get back the money paid the Government, and because the purchase was void on account of the prior entry. Brightly's Digest, 484, Sec. 147.

There is no denial in the answer requiring the evidence of two witnesses or one, and circumstances, &c., to overcome it. Morgan merely says to the material allegations that he is not advised, and requires proof.

The exemplification from the land office proves clearly the 1st, 2d, 3d and 4th allegations. This is made evidence by act of Congress. Brightly's Digest, 462, Sec. 3.

The 5th is admitted in the answer.

The 6th is not clearly made out. It was, however, merely an unnecessary statement of evidence in support of the 11th allegation.

The 7th is admitted in the answer.

The 8th is clearly proved by Ruggles.

The 9th is proved by the title papers.

The 10th is admitted in the anwer.

The 11th is proved by the recital of the decree that the fact was proved in the Court. The certificate of the Judge preserves only the written evidence, and the facts proved by oral evidence not in the certificate, are presumed of record by their recital in the decree. This decree, under the authority of White *vs.* Morison, 11th Ill., 365, and Ward *vs.* Owens, 13th Ill., 283, would be well supported by the recitals in it, if there were no certificate of the Judge as to what the written evidence on the hearing was, and this Court will presume that the fact of notice was proved, as the Judge below in his decree has recited it was.

But surely a purchaser from the United States must have constructive the prior equitable rights of Joscelyn and those claiming through him equity will require him to do so or take the consequences of acting in the dark where light was so easily obtained. Aldrich was Register of the land office while the controversy about the entry of Joscelyn was going on, and must have actually known about it. It may be the controversy was not finally ended by rescinding the order of cancellation till a few weeks after he ceased to be Register, but he undoubtedly knew, or might have known, that the old entry of Joscelyn might have been restored.

Morgan, if he was not a mere nominal holder for Aldrich, would have been zealous to get possession of his land, which others were cultivating.

The evidence of cancellation and restoration of the entry does not appear fully in the abstract.

On page 59 of the record is a transcript from the books which shows that the certificate was cancelled Nov. 15, 1851, and that the cancellation was rescinded May 28, 1853.

It is said that the entry of the land by Joscelyn was cancelled, but never restored, and therefore Aldrich had a right to purchase. We do not understand that the rescinding an order cancelling a military warrant certificate already located entitles the holder of the warrant to locate on another tract of land at all. It necessarily makes valid the location made under it while it was valid and uncancelled, and the warrant with the location attached as incident to it is restored to the condition in which it was when the cancellation took place. When it was cancelled, and information of the fact was transmitted to the land office at Dixon, an entry was there made of this fact, and when the cancellation was rescinded, information of this fact was transmitted to the land office, and a minute of the rescission of the cancellation should have been entered upon the books at said land office. The location of the warrant and the original entry of the land would then appear at Dixon as well as at Washington. A court of equity will treat that as done which ought to have been done.

We do not deem it necessary to review the authorities cited by plaintiffs in error. According to our views they are inapplicable to the cause.

LELAND & BLANCHARD,
For Defendants in Error.

38

Cyrus Aldrich et als

vs.

Stephen H. Aldrich

Defts Bill

Filed April 25th 1865

L. Sclamund

Clk.

38

Supreme Court of Illinois:

THIRD GRAND DIVISION.

APRIL TERM, A. D. 1864.

CYRUS ALDRICH, and
HARVEY MORGAN,
Plaintiffs in Error,
vs.
STEPHEN H. ALDRICH
and IRWIN PALMER
Defendants in Error,

} ERROR TO LASALLE.

This was a Bill in Chancery, filed by defendants in error to complainant, the conveyance of a certain tract of land.

2 The bill alleges on the 25th day of August, 1849, one William S. Jocelyn, as the assignee of Martin Ungquer, in whose favor a Military Bounty Land Warranty Certificate, for 160 acres of land was issued, located said certificate at Dixon Land Office, upon the nw¼ 1, 36, 1, in LaSalle County, and thereby entered and purchased said land, &c.

That on the 15th of May 1851, the Commissioner of Pensions concelled said warrantant certificate, and that on the 5th day of November, 1851, the location of said certificate in the name of said Jocelyn, upon said land, was cancelled by the Commissioner of the General Land Office and said cancelled certificate was then sent to said Land Office at Dixon.

That on the 8th day of May 1863, the order cancelling said certificate was rescinded by the said Commissioner of Pensions and said warranty restored as valid.

Filed Apl 11. 1865
S. Lawrence Clk.

That on the 2d day of Jun[illegible], 1863, said last order and certificate was transmitted to the Land Office at Dixon by Commissioner of General Land Office.

The bill then avers that it was the duty of the Register of
3 said Dixon office to have restored the entry of said warrant upon said land in the name of said Jocelyn and to have returned said certificate to the General Land Office. But that this was not done.

Bill further alleges that on the 23d of January, 1854, Cyrus Aldrich, (who was Register of said Dixon Land Office at the time when the said rescinding order was made aforesaid) entered said tract of land and became the purchaser thereby from the government and received a patent therefor, April 26th, 1856.

That on the 23d day of October, 1851, said Joclyn died, intestate, leaving as his only heirs, David Jocelyn, his father, Thatcher Jocelyn and James Jocelyn, his brothers, and Lucy Ann, (wife of Silas Rogers) his sister.

That on the 5th of October, 1852, said David Jocelyn and
4 Harriet, his wife, executed a conveyance of said land to said Stephen H. Aldrich and John S. Farrar, and deed was recorded, &c.

That said Rogers and wife and James Jocelyn, deeded said land to said Farrar and Stephen H. Aldrich, Feb. 20th, 1854—Deed recorded.

That on the 28th of March, 1854, said Farrar and wife and said Stephen H. Aldrich and wife, deeded the west half of said tract to Joseph O. Crooker, and deed was recorded.

That on October 10th, 18[illegible], said Crooker conveyed to said Stephen H. Aldrich the west half of said quarter, and deed was recorded.

That on the 30th of December, 1854, said Farrar and wife

conveyed to said Stephen H. Aldrich an undivided half of east half of said quarter, and deed was recorded.

5 That on the 5th of December, 1855, said Thatchler Jocelyn executed and delivered to said Stephen H. Aldrich a deed of said quarter section, and deed recorded.

That on the 8th of February, 1856, said Stephen H. Aldrich and wife conveyed said east half of said quarter to said Irvin Palmer, and deed recorded.

The Bill further alleges that Cyrus Aldrich and his wife on the 9th of April, 1858, executed a conveyance of said land to Harvey Morgan and deed was recorded.

That said Cyrus Aldrich at the time of his entry purchase of said tract of land and said Morgan at the time of his purchase of same from said Cyrus Aldrich, had notice of the equitable interest of said compiainants and by those under whom they claim title.

6 The Bill then prays that said Cyrus Aldrich and Harvey Morgan be made defendants to said Bill, and answer the same under oath.

That upon the final hearing, the court will decree that said Harvey Morgan holds title to said land in trust for said compl'ts and that he may be ordered to convey the west half to the said Stephen H. Aldrich, and the east half to said Irvin Palmer, &c. &c.

8 Summons to Aldrich returned. Not found, Jan. 14th, 1859.

9&10 Summons to Morgan, served.

11 Proof of publication as to Aldrich, made March 5th, 1859, and on the same day the following order was entered :

15 "And said Cyrus Aldrich having failed to file an answer, or otherwise enter his appearance herein, thereupon on motion of complainants' solicitors, it was ordered by the court

that said Cyrus Aldrich file an answer herein instanter, and he having failed to comply with said order, on motion of said Solicitor, it was ordered, adjudged and decreed by the court that said bill be taken as and confessed by said Cyrus Aldrich.

17 The answer of Harvey Morgan alleges that he knows nothing about the alleged location of the said warrant by said Jocelyn and calls for proof.

18 And further avers that said location if made as alleged was illegal and valid, having been made subsequent to the act of Congress of September, 18[illegible] which granted to the State of Illinois this very tract of land which was thereby withdrawn from sale at said Dixon Land Office, and was not subject to entry by Land Warrant Certificate.

That as to the cancelling of said land warrant, &c., he knows nothing.

That he has no knowledge of such cancellation being rescin-
19 ded and calls for proof.

That he has no knowledge of any order restoring said warrant as valid, or the transmission of the same to the Land Office at Dixon and calls for proof.

That it may or may not have been the duty of the officers of the Land Office at Dixon to have reinstated the same according to the instructions received by them, but that the Bill does not show a state of facts which made it their duty so to do.

Desires that any order requiring the cancelled entry to be reinstated was ever received from the commissioner of the General Land Office.

And that the restoring of said warrant as valid by the Commissioner of Pensions, would not have authorized the Register of the Dixon Land Office to reinstate the entry.

That said Cyrus Aldrich was not on the 22d day of June,

1853, and for a long time prior thereto Receiver of said *Dixon* Lnnd Office and never has been since, but that said John Dement was such Receiver.

That on or about the 23d of January 1864, said Cyrus Aldrich did enter said tract of land, the same being vacant and subject to private entry and that said Aldrich paid the sum of $2\frac{1}{2}$ per acre therefor.

21 That a Patent was issued to said Aldrich for said land April 25th, 1850.

That as to the death of said Jocelyn and who were his heirs he is not informed, but denies, that if he died at the time alleged in the Bill, said entry could have been legally reinstated upon the books of said Land Office in the name of said Jocelyn, but said entry could only have been restored by the heirs in law, of said Jocelyn, or his administrators, &c.

That as to the death of said Jocelyn and as to who were his heirs at law, he is uninformed and calls for proof.

That as to the chain of conveyances under which complainants claim title, respondent is uninformed and calls for proof.

22 That Cyrus Aldrich and wife did convey to said Respondent said premises as alleged in said bill, that Respondent actually paid two thousand dollars therefor. That Respondent had not at the time of said purchase, or at any previous time any knowledge whatever that the complainants or the persons under whom they claim, had or claimed any right or equity in said
23 land.

That he has any knowledge on said subject except as informed in said bill.

Respondent further answering, denies that said Cyrus Aldrich ever had any knowledge whatever on said subject.

24 Affidavit of Harvey Morgan that answer is true.

25 Replication by complainants.

The answer of Cyrus Aldrich, alleges that he cannot state
26 whether said land was entered by said Jocelyn, as alleged in said bill, and calls for proof. That he is not informed whether the location of said warrant was cancelled, as alleged in the bill, or whether the order cancelling the same was received, as alleged in said bill, nor whether said order was transmitted to the Register of the Land Office at Dixon, nor whether it was the duty of the officers of the said Land Office to have restored said location, in the name of said Jocelyn, and to have returned said warrant to the General Lond Office and calls for proof.

That he is not informed and cannot state whether said warrant and location papers were retained in said Land Office at Dixon.

Respondent further answering denies that he was at the time said order was rescinded, Receiver of the Land Office at Dixon, and denies that at the time of said entry by himself, he had any knowledge whatever that the order rescinding the cancellation of
27 said warrant, had ever been made. And alleges that said entry was made by himself in good faith, &c.

That he paid for said land $2,50 per acre, and on the 26th of April, 1856, he received a patent therefor.

That as to the death of said Jocelyn and as to who are his heirs, he does not know.

That as to the chain of conveyances under which complainants
28 claim title, he does not know and calls for proof.

That he did convey said premises to said Morgan as in said bill alleged.

29 Affidavit of Aldrich that answer is true.

30 STATE OF ILLINOIS, LaSalle County, } Circuit Court of said County, February Term, 1862.

STEPHEN H. ALDRICH, and IRVIN PALMER, vs. CYRUS ALDRICH, HARVEY MORGAN, } In Chancery. Bill for Conveyance.

It is hereby certified that the written evidence in this cause on the final hearing, consisted of

1st A certificate of the Registry of the Land Office, of the entry of the nw¼ of section 1, Tp. 36, Range 1, by Wm. S. Jocelyn on the 25th of August, 1849.

2d. The depositions on file of Jasper H. French and Spencer Rugles.

3d. A deed of conveyance from David Jocelyn and wife to John L. Farrar and Stephen H. Aldrich, of the nw¼ of section 1, Tp. 36, Range 1, in LaSalle County, dated October 5, 1852. Filed for record April 12, 1854.

4th. A deed of conveyance of said land from Silas Rogers and Lucy Ann Rogers, his wife, and James Jocelyn to John L. Farrar and Stephen H. Aldrich, duly acknowledged. Dated Feb. 20, 1854.

5th. A deed of conveyance of the west half of said quarter section, from John L. Farrar and Stephen H. Aldrich and wives, to Joseph O. Crooker, dated March 28th, 1854.

6th. A deed of conveyance from Joseph O. Crooker to Stephen H. Aldrich of the west half of said quarter section, dated October 16th, 1854, filed for record October 17th, 1854.

7th. A deed of conveyance from John S. Farrar and wife, of the undivided half of the east half of said quarter section, to Stephen H. Aldrich, dated December 30, 1854, filed for record Sept. 7th, 1857.

8th. A deed of conveyance by Thatcher Jocelyn to Stephen

H. Aldrich, of the said quarter section, dated Dec. 6th, 1855, filed for record Sept. 7th, 1857.

9th. A deed of conveyance by Stephen H. Aldrich and wife to Irvin Palmer, of the east half of said quarter section, dated Feb. 8th, 1856, filed for record, Feb. 27th, 1856.

10th. The exemplication from the Land Office on file.

M. E. HOLLISTER, Judge &c.

32 Certificate of Register that on the 25th day of August 1849, Wm. S. Jocelyn purchased of the general government, at the Dixon Land Office, the nw fr ac ¼ sec. 1, 36, 1.

33 The deposition of Jas r H. French.

I am acquainted with the nw ¼ 1, 36, 1, and I know of prairie having been broken on it; the first breaking was done in May 1854—about ten acres; it was by Stephen H. Aldrich for *J*oseph O. Crooker.

Since that time the land has been pretty much all broken and fenced and a frame house put up, these improvements were made by Irvin Palmer and Chester Martin.

The second breaking was done in 1855, by Irvin Palmer and S. N. Bunker, some seventy acres. Bunker was working for Stephen H. Aldrich.

The land was fenced in the spring of 1859.

Irvin Palmer built the house in 1858.

Cross Examined—I lived on land near this from 1852, and am
35 sure the breaking was not done before May, 1854.

37 The first crop was raised on the land in 1857.

No fencing was done on the land prior to 1857.

Deposition of Spooner Ruggles.

39 I was acquainted with Wm. S. *J*ocelyn; he died October 21st, 1851. He left no widow and no children. His brothers

names were James and Thatcher; his sister's name was Lucy Ann and his father's name was David Lucy Ann has a husband whose name is Silas Rogers. William S. Jocelyn's mother died before he did. There were no other brothers or sisters.

I was acquainted with Cyrus Aldrich. He was Receiver of the Land Office at Dixon from the spring of 1849 to the spring of 1853.

42 Warranty deed from David *J*ocelyn and Harriet his wife, to *J*ohn L. Farrar and Stephen H. Aldrich, dated October 5th, 1852, filed April 12th, 1854—for nw¼ 1, 36, 1.

43 Quit claim deed from Silas E. Rogers and Lucy Ann, his wife and *J*ames *J*ocelyn to *J*ohn L. Farrar and Stephen H. Aldrich, of their right title and interest in and to the nw¼, 1, 36 1.

44 Acknowledgment only releases the right of dower of Lucy Ann Rogers.

45 Deed filed April 12, 1854.

46 Warranty deed from John L. Farrar and wife and Stephen H. Aldrich and wife to *J*oseph O. Crooker, dated March 28th, 1854, for the w½ nw¼ 1, 36, 1.

Filed October 17th, 1854.

47 Quit claim deed from Joseph O. Crooker to Stephen H. Aldrich, dated October 15th, 1854, for w½ nw¼ 1, 36, 1.

48 Filed October 17th, 1854.

49 Warranty deed from John L. Farrar and wife to Stephen H. Aldrich, dated December 30th, 1854, for the und ½ of e½ nw¼ 1, 36, 1.

Filed September 7th, 1857.

50 Quit claim deed from Thatcher Jocelyn to Stephen H. Aldrich, dated December 6th, 1855, conveying all his right, title and interest in nw¼ 1, 36, 1.

52 Filed September 7th, 1857.

53 Warranty deed from Stephen H. Aldrich and wife to Irvin Palmer, dated Februaay 8th, 1856, for e½ nw¼ 1, 36, 1.

54 Filed February 27th, 1856.

55 Certificate of the Commissioner of the General Land Office that the following papers are exemplifications from the files and records of this office.

Certificate by Commissioner of Pensions of Land Warrant No. 61-199, to Martin Ungerer, father and heir at law of John Ungerer, deceased, late a private &c, and his right under it to locate
56 160 acres of any governm lands subject to private entry &c

Dated June 13th, 1849.

Across the face of said certificate are the following words: — "Cancelled, *J.* E. Heath Commissioner." Cancellation rescinded J. P. Hale, Commissioner."

And upon the back of said certificate an assignmennt from Martin Ungerer to Wm. S. Jocelyn, dated June 18, 1849.

57 And also upon the back of said certificate is the following endorsement:

"GENERAL LAND OFFICE,
June 2d, 1853.

This Bounty Land Warrant Certificate having been cancelled and subsequently reinstated, by the Commissioner of Pensions to accordingly reinstated on the Books of this offiee.

JOHN WILSON, Commissioner."

58 Letter of Commissioner of Land Office as follows:

"GENERAL LAND OFFICE,
November 5, 1851.

Sir: — Herewith I return Military Bounty Land Warrant, No. 61-199 and 62-767, with the location of each cancelled in consequence of the warrants being cancelled by the Commissioner of Pensions upon the ground of having been issued upon false and fraudulent papers, theretore you will enter the cancellation of ssid

ocations on the books of your office and inform the locators as soon as practiceable of the illegality of said locations.

I am, very respectfully,
Your Obedient Servant,
J. BUTLER FIELD,
Commissioner.

To Register Land Office, Dixon, Illinois.

Letter of Commissioner of Pensions to Commissioner of General Land Office, showing the rescinding of the order cancelling certificate 61-199 and containing a request that after the requisite action in General Land Office, the certificote which is enclosed, be forwarded to the Register of the Land Office at Dixon, Illinois.

Date May 28th, 1853.

59 Copy from books of Land Office.

Letter of Commissioner of Land Office to Register of office at Springfield, requesting return of said warrant 61-199, and location papers if any. Dated Nov. 13th, 1857.

Reply of the Register enclosing the warrant 61-199, and stating that no location papers were in his office. Dated Nov., 19 1857.

60 Decree for complainants.

This day the cause came on to be heard on Bill, answer, replication and the proofs in the cause, and it appearing to the court that Wm. S. Jocelyn, as assignee of Martin Ungerer, located a military bounty land warrant, at the Land Office in Dixon, in the State of Illinois, upon the north west quarter of section 1, in Tp. 36, south of Range 1, east of the 3d principal meridian in LaSalle county, in said state, and thereby entered and became the purchaser of said tract of Land from the government of the United States, and received a certificate of purchase therefor on the 25th of August, A. D. 1854, and it also appearing that on the 3d
61 day of January, A. D. 1854, said former entry then and

there uncancelled, and in full force, the defendant, Cyrus Aldrich entered and purchased the same tract of land from the government of the United States and that a patent was by inadvertance issued to said Cyrus Aldrich, of the 26th of April A. D. 1856, and that said Cyrus Aldrich on the 9th of April, A. D. 1858, conveyed said tract of land to the Defendant, Harvey Morgan, and that the said Cyrus Aldrich and Harvey Morgan, at the time of their purchases, had notice of the equitable rights of the complts. and of those under whom they claim title, through the said Wm. Jocelyn; and it further appearing that the said complainant Stephen H. Aldrich derived title to the west half of said quarter section, and the said complainant, Irvin Palmer, derived title to the east half of said quarter section, each from and through a regular chain of titles from said Wm. S. Jocelyn, to

respectively, It is ordered, adjudged and decreed that the said Harvey Morgan holds the legal title to said quarter section in trust for the complainants as above, and that Harvey Morgan, within ten days next hereafter execute and deliver to said complainant, Stephen H. Aldrich, a deed of conveyance of the said west half of said quarter section and to the said Irvin Palmer a deed of conveyance of said east half of said quarter section, and that in default thereof, Edward A. Hollister, who is hereby appointed a special commissioner for that purpose execute and deliver said respective conveyances and that said conveyances of said Hollister, when so executed by him as commissioner, shall vest in the said complainants respectively, the legal titte which said Mergan or those claiming under him, by conveyance, since the commencement of the suit, derived through said entry, by said Cyrus Aldrich, and said patent to him.

And it is further ordered, adjudged and decreed that the complainants have and recover of the defendant, Harvey Morgan, their costs and charges, by them in about the prosecution of this suit expended, and that they have execution therefor.

ERRORS ASSIGNED.

The court erred in rendering the decree aforesaid in manner and form aforesaid.

J. J. S. WILSON, Sup't.
Eastern Division.
SPRINGFIELD, ILL.

CATON LINES.

Illinois & Mississippi Telegraph Company,

In Connection with all other Lines in the United States and Canadas.

E. D. L. SWEET, Sup't.
Western Division.
CHICAGO, ILL.

Terms and Conditions on which Messages are received by this Company for Transmission.

In order to guard against and correct as much as possible some of the errors arising from atmospheric and other causes appertaining to telegraphy, every important message should be REPEATED, by being sent back from the station at which it is to be received to the station from which it is originally sent. Half the usual price will be charged for repeating the message, and while this company in good faith will endeavor to send messages correctly and promptly, it will not be responsible for errors or delays in the transmission or delivery, nor for the non-delivery of REPEATED MESSAGES, beyond two hundred times the sum paid for sending the message, unless a special agreement for insurance be made in writing, and the amount of risk specified on this agreement, and paid at the time of sending the message. Nor will the Company be responsible for any error or delay in the transmission or delivery, or for the non-delivery of any UN-REPEATED MESSAGE, beyond the amount paid for sending the same, unless in like manner specially insured, and amount of risk stated hereon, and paid for at the time. No liability is assumed for errors in cipher or obscure messages; nor is any liability assumed by this Company for any error or neglect by any other Company over whose lines this message may be sent to reach its destination, and this Company is hereby made the agent of the sender of this message to forward it over the lines extending beyond those of this Company. No agent or employee is allowed to vary these terms, or make any other or verbal agreement, nor any promise as to the time of performance, and no one but a Superintendent is authorized to make a special agreement for insurance. These terms apply through the whole course of this message on all lines by which it may be transmitted.

J. D. CATON, Pres't, Ottawa, Ill.

Ottawa April 20 186

By Telegraph from Chicago " 21 186

To L. Leland

Submit thirty Eight (38) for me
on briefs to Mr Field —
Campbell is with me

E. A. Storrs

STATE OF ILLINOIS,
SUPREME COURT. } ss. The People of the State of Illinois,

To the Sheriff of La Salle 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 La Salle County, before the Judge thereof, between Stephen H. Aldrich and Irvin Palmer plaintiffs, and Cyrus Aldrich and Harvey Morgan defendants, it is said that manifest error hath intervened, to the injury of the said defendants as we are informed by their complaint 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 Stephen H. Aldrich and Irvin Palmer 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 A. D. 1865, 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 Stephen H. Aldrich and Irvin Palmer notice, together with this writ.

Witness, The Hon. Pinkney H. Walker, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this 14th day of November in the year of our Lord One Thousand Eight Hundred and Sixty-four.

L. Leland
Clerk of the Supreme Court.
by J. B. Rice Deputy

38 114

Stephen H. Aldrich Asst
No. 147 vs.
Cyrus Aldrich Asst

SCIRE FACIAS

FILED Nov. 30 A. D. 1864

L. Leland Clerk.

I have duly executed this writ by getting the appearance of Stephen H. Aldrich entered by his Attys Leland & Blanchard on Nov. 29th 1864

W. R. Millegan Sh

Fees $ 4 50

STATE OF ILLINOIS, } ss. The People of the State of Illinois,
SUPREME COURT,

To the Clerk of the Circuit Court for the County of La Salle Greeting:

Because, In the record and proceedings, as also in the rendition of the judgment of a plea which was in the Circuit Court of La Salle County, before the Judge thereof, between Stephen H. Aldrich and ~~Harvey Morgan~~ Irvin Palmer

plaintiffs and Cyrus Aldrich and Harvey Morgan

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

as we are informed by their complaint and we being willing that error should be corrected, if any there be, in due form and manner, and that justice be done to the parties aforesaid, command you that if judgment thereof be given, you distinctly and openly, without delay, send to our Justices of the Supreme Court the record and proceedings of the plaint aforesaid, with all things touching the same, under your seal, so that we may have the same before our Justices aforesaid at Ottawa, in the County of La Salle, on the first Tuesday after the third Monday in April next, that the record and proceedings, being inspected, we may cause to be done therein, to correct the error, what of right ought to be done according to law.

Pinckney H Walker

Witness, The Hon. ~~JOHN D. CATON~~, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this fifteenth day of April in the Year of Our Lord One Thousand Eight Hundred and Sixty four.

L Leland
Clerk of the Supreme Court.
by J. B. Rice Deputy

58 114

Cyrus Aldrich Adl

No. 147 vs.

Stephen H Aldrich Adl

WRIT OF ERROR.

FILED April 15th A. D. 1864

L. Leland

Clerk.

State of Illinois } ss. Pleas before the Honorable Madison
La Salle County } E. Hollister. Judge of the ninth judicial
District of the state of Illinois and
the presiding Judge of the La Salle county circuit court
at a term of said court commenced and held at the court
house in Ottawa in said county on the second Monday in
the month of June. the same being the fourteenth day of
June in the year of our Lord one thousand eight hundred
and fifty eight. and of the Independence of the United
States of America the eighty second

Present the Honorable Madison E. Hollister. Presiding Judge
John J. Nash Clerk.
N. Bushnell State attorney.
Eri S. Watrous, Sheriff

Be it remembered that heretofore to wit. on the 1st
day of September A.D. 1858. there was filed in the office
of the clerk of the said circuit court a certain Bill of
complaint in a certain cause on the chancery side of
said court. wherein Stephen H. Aldrich and Davis
Palmer were complainants and Leyon Marsh and
Harvey Morgan were Defendants. was filed. which
said Bill of complaint was and is in the words and
figures following to wit. —

"To Hon. Madison E. Hollister. Judge of the ninth
Judicial Circuit of the state of Illinois & of the circuit
court in & for the county of La Salle in said state in
chancery sitting,

Complaining show unto your Honor
your orators Stephen H. Aldrich and Davis Palmer

2

that on the [illegible] day of August AD. 1849 one William B. Joselyn as the assignee of Wharton Ba-
ger [illegible] whose favor a military bounty land warrant
certificate for one hundred and sixty acres of land
was issued under the act of Congress of February
eleventh AD. 1847, located said warrant certificate
at the land office at Dixon in said state upon the
north west quarter of section one (1) in Township
thirty six (36) north of range one (1) east of third prin-
cipal meridian & situated in said La Salle county
& thereby then and there entered and became the
owner of said tract of land from the Government
of the United States of America.

Your orators further show that on the fifteenth day
of May AD. 1851. the Commissioner of Pensions of the
United States, cancelled said warrant certificate &
on the fifth day of November AD. 1851. the location
of said warrant certificate and the name of said
Joselyn was cancelled by said commissioner & the
cancelled warrant certificate was sent to the registe
of the land office at said Dixon. that on the twenty
eighth day of May AD. 1853. the order heretofore made
cancelling said warrant certificate was rescinded
by the said commissioner of Pensions & said warrant
restored as valid & on the second day of June
AD. 1853. said warrant & the order restoring it as
valid were transmitted to the Register of the Land
office at said Dixon.

Your orators further show that it was the duty

of the Officers of said Land Office at said Dixon to have entered said location in the name of said Joscelyn & to have returned the said warrant certificate to the General Land Office of the United States at Washington,

Your orators further show that instead of returning said warrant certificate & location papers to the said General Land Office, the Officers of the said Land Office at said Dixon retained them in said office and that on the twenty third day of January A.D. 1854 one Leyone Aldrich who was the Receiver of said Dixon Land office at the time when said order of cancellation of said warrant and restoring the location by said Joscelyn was made, entered said tract of land himself & became a purchaser of the same from the government of the United States of America, & that on the twenty fifth day of April, A.D. 1856. a patent was issued & delivered to said Leyone Aldrich for said tract of land: your orators further show that on or about the twenty first day of October A.D. 1837. the said William S. Joscelyn died, intestate leaving him surviving as his only heirs at law, David Joscelyn his father, Thatcher Joscelyn & James Joscelyn his brothers and Lucy Ann, wife of Silas Rogers, his sister,

Your orators further show that on the fifth day of October A.D. 1852, said David Joscelyn and Hannah Joscelyn his wife executed a conveyance of

4

said tract of land to said Stephen H. Aldrich & one John L. Farrar. which was recorded in the office of the recorder of said La Salle county in Book 37 on page 311. — That on the twentieth day of February A.D. 1854 said Silas Royce and Lucy Ann Royce his wife. and said ~~Silas~~ James Joscelyn executed a conveyance of said tract of land to said John L. Farrar & Stephen H. Aldrich which was recorded in said Recorders office in Book 36 on page 260. — That on the twenty eighth day of March A.D. 1854 said [illegible] Farrar and Ann Farrar his wife. & Stephen H. Aldrich & Harriet Aldrich his wife executed a conveyance of the [illegible] half of said tract of land to one Joseph C. Brooker which was recorded in said Recorders office in Book 40 on page 175 — That on the eleventh day of October A.D. 1854 said Joseph C. Brooker executed a conveyance to said Stephen H. Aldrich of the south half of said north west quarter of said section one (1) which was recorded in said recorders office in book 39. on page 413. — That on the thirtieth day of December A.D. 1854 said John L Farrar & Ann Farrar his wife executed a conveyance to said Stephen H. Aldrich of the undivided half of the east half of said north west quarter of said section one (1) which was recorded in said Recorders office in Book 54 on page 664.

That on the eighth day of December A.D. 1853 said

Stephen Jocelyn executed and delivered to said Stephen H. Aldrich a conveyance of said north west quarter of said section one (1) which was recorded in said Recorders office in Book 55. on page 640. That on the eighth day of February A.D. 1856. said Stephen H. Aldrich and Harriet Aldrich his wife executed a conveyance of said East half of said north west quarter of said section one ~~(1)~~ to said Orvin Palmer. which was recorded in said Recorders office in Book 48 on page 99 — Your orators further show that the said Lyman Aldrich & Clara A. H. Aldrich his wife on the ninth day of April A.D. 1858. executed a conveyance of said north west quarter of said section one (1) to one Harvey Morgan. which was recorded in said Recorders Office in Book 58 on page 581 and your orators further show that the said Lyman [illegible] at the time of his entry of said tract of land as aforesaid & the said Morgan at the time of his purchase of the same from said Lyman Aldrich had notice of the equitable interest of your orators & of those under whom they claim title. The original conveyances herein mentioned or certified copies thereof from the records will be read in evidence on the hearing of this cause.

Inasmuch therefore as your orators are without a complete & adequate remedy by the strict rules of the common law. & are only relievable in a court of equity where matters of this kind are properly

5

cognizable, may pray that said Lyon Aldrich & Harvey Morgan may be duly summoned to appear & answer this Bill of complaint at the next term of the circuit court of said La Salle County to be held at the court house in Ottawa in said county on the first Monday in November A.D. 1838, & full true & perfect answer make to all & singular the matters & things in this bill contained & that upon the final hearing of this cause, your Honor will order adjudge and decree that the said Harvey Morgan holds the legal title to said north west quarter of said section in trust for your orator & that he may convey the west half thereof to said Stephen N. Aldrich and the east half thereof to said Orrin Palmer, within some short time (to be fixed by your Honor,) or that in default thereof a commissioner be appointed by your Honor to execute and deliver a deed of said west half to said Stephen N. Aldrich and a deed of said east half to said Orrin Palmer, or for such other & further relief as to your Honor may seem meet & proper, & to Equity & good conscience may appertain.

Leland & Leland
Solrs for complainants

~~(And be it further remembered that heretofore to wit on the 5th day of March A.D. 1839 the same being one of the days of the February term of said court A.D. 1839 the proceedings were had in said cause which is proceedings were entered on the records of said~~

Be it remembered that there issued out of and under the Seal of said court five certain writs of Summons which with their respective Endorsements are in the words and figures following, to wit;

(1st) "State of Illinois } The People of the State of Illinois
La Salle County } sct To the Sheriff of Lee County. Greeting

We command you to Summon Harvey Morgan if 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 Ottawa on the first Monday in the month of November next, to answer to a certain Bill of Complaint filed in our said Circuit Court, on the Chancery Side thereof, against him & Harvey Morgan by Stephen N. Arnold & [illegible] Palmer.

And have you then and there this writ, and make [illegible] thereof in what manner you execute the same.

Witness, John F. Nash, Clerk of said Court and the Seal of said Court, at Ottawa this 1st day of August A.D. 1858.

Seal

J. F. Nash Clerk."

(Endorsement)

"Served the within by reading the same in the presence and hearing of the within named Harvey Morgan and delivering to said Morgan a true Copy of the within Summons. This 4th day of Sept 1858 Ozias Wheeler Sheriff of Lee Co. Ills.

Lee Co. Service 50. Copy 25. Return 10. Postage 3 = 98."

Filed September 13, 1858
J. F. Nash Clerk

(2)

State of Illinois } The People of the State of Illinois, To
La Salle County } ss. the Sheriff of La Salle County - Greeting

We Command you to Summon Cyrus Aldrich if to be found in your County, personally to be and appear before the Circuit Court of Said County on the first day of the next term thereof to be holden at the court-house in Ottawa, on the first Monday in the month of November next to answer to a certain bill of Complaint filed in our Said Circuit Court, on the Chancery Side thereof, against him & Harvey Morgan by Stephen A. Aldrich & Irvin Palmer

And have you then and there this writ, and make thereon in what manner you execute the Same.

Witness John F. Nash, Clerk of Said Court and the Seal of Said Court at Ottawa this 1st day of September A.D. 1858.

Seal

John F. Nash Clerk "

(Endorsement)

"Cyrus A. Aldrich not found in my County, Oct 29. 1858
Ret. 10.

E. L. Waterman Shff
By D. L. Porter Depty

Filed November 3. 1858 - J. F. Nash Clerk "

(3)

"State of Illinois } The People of the State of Illinois
La Salle County } ss. To the Sheriff of La Salle County - Greeting;

We Command you, as we have before command-ed you to Summon Cyrus Aldrich, if to be found in your County, personally to be and appear before the Circuit Court of Said County, on the first day of the next term thereof to be holden at the Court house in Ottawa, on the 1st-

Monday in the month of February next, to answer to a certain bill of Complaint filed in our said Circuit Court, on the Chancery Side thereof against him and Harvey Morgan by Stephen N. Aldrich & Irwin Palmer.

And have you then and there this writ, and make return thereon in what manner you execute the same.

Witness, John F. Nash, Clerk of said Court and the Seal of said Court, at Ottawa, this 14 day of January A. D. 1859

Seal

J. F. Nash Clerk

(Endorsement)

"Not found in my County Jany 14th 1859
Ret 10 P. F. Wann Shff
Filed February 3d 1858. J. F. Nash Clerk "

(4th) "State of Illinois, La Salle County, Sct,

The People of the State of Illinois, To the Sheriff of Lee County Greeting:

We command you, as we have before commanded you, to Summon Harvey Morgan, if to be found in your County, personally to be and appear before the Circuit Court of said La Salle County on the first day of the next term thereof, to be holden at the Court house in Ottawa, on the first Monday in the month of February next, to answer to a certain bill of Complaint filed in our said Circuit Court on the Chancery side thereof, against him & Cyrus Aldrich, by Stephen N. Aldrich & Irwin Palmer.

9

(6) And have you then and there this writ, and make return thereon in what manner you execute the same.

Witness John Nash Clerk of Said Court and the Seal of Said Court, ~~and the Seal of~~ at Ottawa this 14 day of January A.D. 1859.

J. F. Nash Clerk

(Endorsement)

"Served the within by reading in the presence and hearing and by delivering a true copy to the within named Harvey Morgan.

Dated January 17th A.D. 1859. Lester Harding Sheriff See to file

Fees. Service 50. copy 25. return 10 = 85.

Filed February 8. 1859. J. F. Nash Clerk"

(5th) State of Illinois } The People of the State of Illinois
La Salle County } Sct. To the Sheriff of said County Greeting;

We Command you as we have ~~the~~ commanded you to Summon Harvey Morgan, if to be found in your County, personally to be and appear before the Circuit Court of Said ~~La Salle~~ County on the first day of the next term thereof to be holden at the Court House in Ottawa, on the 2d Monday in the month of June next, to answer to a certain bill of complaint filed in our Said Circuit Court on the Chancery Side thereof against him and Lyons Aldrich by Stephen N. Aldrich & Irwin Palmer,.

And have you then and there this writ, and make return thereon in what manner you execute the Same

Witness John F. Nash Clerk of Said Court and the Seal of Said Court, at Ottawa, this 24 day of March A.D. 1859.

J. F. Nash Clerk

(Endorsement)

Served the within by reading the Same to and in hearing of the within named Harvey Morgan and by delivering Unto a true copy of the within this 29. day of March 1859.

Lester Harding Sheriff of Lee Co.
By E. A. Snow Deputy

Service	50.
Copying	25
Travel	5
Postage	3
	.93

Filed June 14, 1859 J. F. Nash Clerk

Be it further remembered that the 1st day of Sept 1858 an affidavit of Non residence was filed in the office of the Clerk of the Circuit Court of said County of La Salle in Chancery & figures following to wit:

State of Illinois } ss
La Salle County }

Circuit Court of Said County. —
November Term A.D. 1858.

Stephen N. Aldrich &
Orrin Palmer
&
Cyrus Aldrich &
Harvey Morgan

Bill for Conveyance

Stephen N. Aldrich being first duly Sworn on oath Says, that he is one of the complainants in the above entitled cause & that Said Cyrus Aldrich one of the defendants in Said Cause is not a resident of Said State of Illinois, but resides as affiant is credibly informed & believes, in the State of Minnesota

S. N. Aldrich

Subscribed & Sworn to before me this 1st day of September A. D. 1858. J. F. Nash Clerk

11

12

And be it further remembered that heretofore to wit, on the 5th day of March A.D. 1859 the same being one of the days of the February Term of said Court for the year 1859 certain proceedings were had in said Cause which said Proceedings were entered on the record of said in the words & figures following, to wit;

~~and in the words & figures following, to wit,~~

Stephen H. Aldrich,
& Davis Palmer
vs. & Bill for conveyance.
Lyons Aldrich &
Harvey Morgan

This day came the said complainants by Leland & Leland their solicitors & the said defendants or either of them came not nor any one for them or or either of them and it appearing to the court that summons was duly issued herein & returned without service on said Lyons Aldrich. he not being found: and that an affidavit of said Stephen H. Aldrich showing said defendant Lyons Aldrich not to be a resident of said state of Illinois, was duly filed herein & said complainants having made due proof of the publication of notice herein to said Lyons Aldrich which proof is in the words and figures following.

State of Illinois } ss. Circuit Court of said County.
La Salle County } to November. Term A. D. 1858.

Stephen H. Aldrich
vs. Davis Palmer
Lyons Aldrich vs.
Harvey Morgan } Bill for conveyance

It appearing from an affidavit on file in the office of the clerk of said Court that said defendant Lyons Aldrich is not a resident of said state and said complainants having filed their Bill herein, and summons having been issued thereon according to Law. Notice is therefore hereby given to said Lyons Aldrich that unless you be and appear before said court at said term thereof, to be held at the Court

13

House in Ottawa in said county on the first Monday of November A.D. 1838 (when and where said summons is returnable) & plead answer demur or except to said bill the same will be taken for confessed against you and the matters and things prayed for decreed accordingly.

Leland & Lelands
Solrs for complt. Sept. 20. 1838.

John J. Nash. Clerk

I the undersigned J. R. S. Bond. editor. publisher & proprietor of the Mendota Weekly Post, a weekly newspaper, printed and published at Mendota in La Salle County, in the State of Illinois do hereby certify that the annexed notice in the case of Septimus H. Aldrich and Dorri Palmer. vs. Leyons Aldrich and Harvey Morgan. (Bill for conveyances pending in the circuit court of said county was published in said newspaper. for four successive weeks (having been inserted five times,) commencing with the number of said newspaper. which was dated September 1838. and ending with the number dated October. 1st. A.D. 1838.

J. R. S.
J. R. S. Bond. and

said Leyons Aldrich having failed to file an answer or otherwise enter his appearance herein. thereupon on motion of said solicitor it was ordered by the court that said Leyons Aldrich file an answer herein instanter, and he having failed to comply with said order. on motion of said solicitor it was ordered adjudged and decreed by the Court that

said Bill be taken as and for confessed by said Keyone Aldrich.

And be it further remembered that heretofore to wit. on the 14th day of June. A.D. 1859. the same being one of the days of the June term A.D. 1859. of said court. certain other proceedings were had in said cause. which said proceedings were entered on the records of said court in the words and figures following to wit.

Stephen H. Aldrich & Davis Palmer.
48
vs
Keyone Aldrich & Wavey Moryan

} Bill for conveyance.

On motion of complainants by Leland & Leland their solicitors the defendant Moryan is ruled to file an answer herein on or before Thursday morning next.

And be it further remembered that heretofore to wit, on the 20th day of June A.D. 1859. the answer of Harvey Morgan one of said defendants was filed in the Office of the clerk of said Court. which said answer was & is the words & figures following to wit.

State of Illinois
La Salle County } ss

In the La Salle County Circuit Court
of the
Term A.D. 1859

Stephen H Aldrich &
Irwin Palmer
vs
Cyrus Aldrich
Harvey Morgan.

} Bill in Chancery

And the said Harvey Morgan one of the above named defendants comes and makes his separate answer to the said Complainants Bill & complaint in the above entitled cause and saving to himself all and all manner and reserving of exceptions to the said plaintiffs bill of complaint herein and to the matters and things contained and to the many errors and uncertainties therein for answer thereunto, saith as to the alleged location of a land warrant certificate in the name of William Morgan at the land office at Dixon on the North West quarter (1/4) of Section one (1) Town thirty six (36) North of Range one (1) East in said La Salle County and that the said Jocelyn became the purchaser. that he is an utter stranger to said transaction & knows

ever existed that he has no knowledge upon the subject and calls for proof

And the defendant further answering saith that if it be true that the said land was entered in the manner and at the time in said bill of complaint set forth, that the said entry was wholly invalid and inoperative and made without authority of law, in this that the said entry according to the said Bill of Complaint was made subsequent to the passage of the act of Congress of September A.D. 1850 ceding and granting to the State of Oklahoma certain lands in said act described which said act is entitled an Act

And to which the defendant begs leave to refer for greater certainty herein, And the defendant avers that the said land in said Bill of Complaint described is part and parcel of the lands so granted as aforesaid by said Act of Congress - and insists that by the true intent meaning and operation of said Act of Congress the said land was withdrawn from sale at said Dixon Land Office and ceased to be subject to private entry by land warrant Certificate

That as to the alleged cancelling of said Land warrant entry on the 5th day of November A.D. 1857 by the commissioner of Pensions he has no knowledge except as informed by said complainants Bill - and if any such warrant entry was cancelled he

does not know what in fact became of said warrants but supposes the same must have been returned to the said Jocelyn or to his assignees and avers that such was the fact

That he has no knowledge of the cancelling of any such warrants having at any time been ordered or that said warrants was entered as valid and calls for proof of any such fact

That he has no knowledge that any order existing any such land warrants as valid or that any such land warrant was at any time or for any purpose or by any person ever transmitted to or received by the land officers at Dixon as is alleged, and calls for proof. That if any such land warrants and order was ever so transmitted to said Register of the Land Office at Dixon it may have been the duty of said Said Officers to have reinstated the same, or it may not have been their duty, depending upon the parties who transmitted the same the nature and authority of said order and other facts which do not appear in said Complainants Bill. As to as to the truth of said averments he cannot state but this respondents denies that if any order directing said cancelled entry to be reinstated was was ever received by the Register of the Land Office at Dixon that said warrants were presented to said Land Office but avers the truth to be that no such order requiring said cancelled entry to be restored was ever received from the

19

20

Commissioner of the General Land Office he being the only officer authorized by law to make such an order and respondent further states that an order restoring said warrant as valid by the Commissioner of Pensions would not have authorized said Land Officers to reinstate said entry

And this respondent further answering saith that said defendant Cyrus Aldrich was not on the said second day of June A.D 1853 when, by said Bill it is alleged that the order restoring said warrant was made, the Receiver of Public Monies at said Dixon Land Office that he had not been Receiver for sometime previous to said second day of June A.D 1853 and never was such Receiver thereafter and that at said time and for some years thereafter one John Dement was such Receiver but that it is true that said Aldrich did on or about said 23d day of January A.D 1854 enter said tract of land the same being vacant and subject to private entry at that time as appeared by the plats and books of said Land Office at said time - at the price of two Dollars and fifty cents per Acre, was actually paid by said Aldrich

And that it is true that a patent was issued by the United States to said Aldrich

for said Land on or about said 25th day of April
A.D. 1856 which Patent this defendant x was legally
and properly issued in due form of law and
conveyed to said Aldrich in fee simple title
to said land in both Law and Equity
And this respondent further answering saith
that as to the said death of Jocelyn and who
were his heirs at Law he is not informed
but denies that if said Jocelyn died at
the time as in said Bill is alleged that said
entry could legally have been reinstated
upon the books of said Land Office in the name
of the said Jocelyn but avers that said entry
could only have been restored by the
heirs at Law of the said Jocelyn or his
administrators relinquishing said warrant
and applying anew for its location in their
names, That no good and valid title to
said land could have been made by
a patent of said land issued to a dead
man. But that as to said death of said Jocelyn
and who were his heirs at Law not being informed he
calls for proof that as to the alleged conveyance from
said David Jocelyn and Harriet his wife to
Stephen H. Aldrich and John L. Farrar and
the recording the same, and the alleged deed from
Silas Rodgers and Lucy Ann his wife and
said Jocelyn to said Stephen H. Aldrich
and John L. Farrar, and the recording the

21

said, and from said John L. Farar and wife and Stephen St. Aldrich and wife of West half of said land to J. C. Crooker, and the recording the same, and the conveyance by said Crooker and wife of said west half to said Stephen St. Aldrich, and the recording the same, and the said alleged deed from said Farar and wife to said Stephen St. Aldrich of the undivided half of the east half of said land and the recording the same, and the alleged conveyance of Thatcher Carlyn to Stephen St. Aldrich and of said land and the recording the same, and the alleged conveyance by said Stephen St. Aldrich and wife to Erwin Palmer and the recording of the same he has no knowledge except as informed by said Bill and calls for proof.

And further answering saith, that it is true that about the time stated in said Bill said Stephen Aldrich and wife did convey to this defendant said land by a good and sufficient Warranty Deed, which was duly acknowledged and recorded as is in said Bill alleged, which conveyance for said land for the consideration of about Two Thousand Dollars actually paid by this defendant for said land to said Aldrich and was a bona fide transaction, and this defendant denies that at the time he so purchased said land or at any previous time had he any knowledge that said complainants, or the persons

under whom they claim had or claimed any right or Equity in said lands nor has he any other knowledge of such facts up to this time except as informed by said Bill, and as to the allegation in said Bill contained that said Lyons Aldrich, at the time he entered said lands or at any time had any notice of the alleged rights or equities of either of the said complainants or the persons under whom they claim title to said land, he has no knowledge, but avers that he had no such knowledge, and calls for proof. And this defendant, all and all manner of unlawful confederacy, and confederacy wherewith he is by the said Bill charged, without this that there is any other matter cause or thing in the said complainants said Bill of complaint contained material or necessary for this defendant to make answer unto and not herein and hereby well and sufficiently answered, confessed traversed and avoided or denied is true to the knowledge or belief of this defendant, all which matters and things this defendant is ready and willing to aver maintain and prove, as this honorable Court shall direct, and humbly prays to be hence dismissed with his reasonable costs and charges in this behalf most wrongfully sustained,

Watson & Atherton,
Sols for Deft.

Henry Morgan

(over)

23

24

State of Illinois } ss.
La Salle County }

Harvey Morgan the within named defendant being first sworn according to law on his oath says that he has heard the within and foregoing answer read and knows the contents thereof, that so far as the matters and things therein contained are stated upon his own knowledge is the same are true, and as to all other matters and things therein contained & stated upon information and belief, the same are true to the best of his knowledge & belief.

Harvey Morgan

Subscribed & sworn to before me this 16th day of June, 1859

Robt Bixton
Notary Public.

And be it further remembered that heretofore to wit, on the 2nd day of June AD. 1859, the replication of the complainants to the answer of said Morgan was filed in the office of the clerk of said court, which said replication was & is in the words and figures following to wit,

State of Illinois } ss. Circuit Court of said
La Salle County } county, June term AD. 1859.

Stephen H. Aldrich &
Orrin Palmer

vs.

Wayne Aldrich &
Harvey Morgan

Bill for conveyance

Now comes the said complainants by Leland & Leland their solicitors & reply to the said answer of said defendant. Harvey Morgan herein & say that the matters and things in said answer alleged are not true, & that the matters & things in said Bill alleged are true and that they are ready to verify

Leland & Leland
Solrs for Complts.

And be it further remembered that heretofore to wit. on the 3rd day of December A.D. 1860. the answer of Cyrus Aldrich. one of said defendants, to said bill of complaint was filed in the office of the clerk of said court which said answer is in the words and figures following to wit,

State of Illinois } and circuit court. Thereof
La Salle County } to November. term A.D. 1860.

Stephen H. Aldrich &
Erwin Palmer
vs
Cyrus Aldrich &
Harvey Morgan } Bill for conveyance.

And now comes the said Cyrus Aldrich one of the said defendants and for his separate answer to the said bill of complaint or to so much thereof as he is advised is necessary for him to answer. saving and reserving unto himself all advantage of exception to the many

25

and insufficiency of the said Bill says he is not informed and cannot state whether or not the said north west quarter of section one (1) Township thirty six (36) north of range one (1) east of the third P.M. was entered by the said William S. Jocelyn as alleged in said Bill & therefore calls for proof. Defendant further states that he is not informed or cannot state whether or not the location of said warrant was cancelled by the commissioner as alleged in said Bill nor whether the order cancelling said entry was rescinded as alleged in said Bill & transmitted to the Register of the Land Office at Dixon and does he know whether it was the duty of the officers of said land office at Dixon to have received said location in the name of said Jocelyn & to have returned the said warrant to the said General Land office & therefore calls for proof.

Said respondent further answering says that he is not informed and cannot state whether or not said warrant & Location papers were retained in said office at Dixon, Respondent further answering denies that he was at the time when said order was rescinded receiver of said Land office at Dixon, and further denies that he had any knowledge or information whatever that said order ever was rescinded & the location of said warrants restored, and he denies that at the time of the entry of said land by himself

as charged in said Bill he was receiver of said land office at Dixon or that he had any knowledge or information that said order cancelling said warrant had been rescinded. but on the contrary thereof he alleges that said entry was made by himself in good faith, the said land being then and there vacant and subject to private entry as appeared by the plats and books of said land office at said time at the price of Two dollars and fifty cents per acre & which said sum was then & there paid by this Respondent and on or about the said 26th day of April 1856 a patent was issued & delivered to him therefor.

This Respondent further answering states that he is not informed whether or not the said William L. Jocelyn did as alleged in said bill of complaint leaving his heirs as therein alleged.

Respondent further answering says that he is not informed & can not state whether or not the said David Jocelyn and Hannah his wife executed a conveyance of said tract of land to said Stephen M. Aldrich and John L. Farrar. or whether or not said Silas Rogers and Lucy Ann Rogers his wife and said James Jocelyn executed a conveyance of said tract of land to said John L. Farrar & Stephen M. Aldrich, or whether or not said

28

John L. Farrar and Ann Farrar his wife
and Stephen H. Aldrich & Harriet Aldrich
his wife executed a conveyance of the west
half of said tracts of land to Joseph O. Troop
& that the said Joseph O. Troop
er executed a conveyance of said west half to
said Stephen H. Aldrich, or that the said John
L. Farrar & Ann Farrar his wife executed
to said Stephen H. Aldrich a conveyance
of the undivided half of the east half of said
north west quarter of said section one, (1) or
that said Thatcher possibly executed &
delivered to said Stephen H. Aldrich a
conveyance of said N.W. 1/4 of said section
one (1), or that the said Stephen H. Aldrich
and Harriet, his wife executed & delivered
to said Orrin Palmer, a conveyance for
the said east half of said quarter section
and therefore as to each of said conveyances
calls for proof. Respondent further ans-
wering admits that he did on the said 9"
day of April 1858, execute and deliver to
said Harvey Morgan a conveyance of said
north west quarter of said section one (1).

Respondent further answering says that he
is not informed and can not state whether or
not said Morgan ever had any notice what-
ever that said complainants had any
title, either equitable or legal in or to the
said tract of land, and now having fully

answered he prays to be hence dismissed with his reasonable costs.

Byron Aldrich. Esq
Mower. Cook. & Campbell.
Att'ys for Deft.

State of Minnesota } ss
County of Hennepin } On this 20th day of Oct. AD 1860. before me Charles E. Vanderburgh. Judge of the 4th District Court in and for said State, personally appeared the above named Byron Aldrich and made oath that he has read the above answer subscribed by him and knows the contents thereof, and that the same is true of his own personal knowledge except as to the matters which are therein stated to be on his information or belief and as to those matters he believes it to be true.

Byron Aldrich.

Charles E. Vanderburgh.
Judge District Court
4th Dist. Minn.

Hennepin County ss. I. H. A. Partridge. Clerk of said Court do hereby certify that Charles E. Vanderburgh was on the 20th day of Oct, AD, 1860 and now is Judge of the said District Court.

Witness my hand and the seal of said court at Minneapolis in said county this 20th day of November. AD 1860.

H. A. Partridge,
Clerk of said Court.

29

And be it further remembered that heretofore to wit. on the 7th day of March A.D. 1862 a certain certificate of evidence was filed in the Office of the Clerk of said court which was in the words and figures following to wit,

State of Illinois } Circuit Court of said county
La Salle County } Feb. Term. 1862.

Stephen H. Aldrich &
Erwin Palmer
vs.
Lyman Aldrich and
Harvey Morgan

In Chancery.
Bill for conveyance,

It is hereby certified that the following evidence on the final hearing consisted of, to wit a certificate of the Register of the Land Office of the entry of the N.W.¼ of sec. 1. T. 36 N. R. 1. by William S. Pascelyn on the 25th day of Aug. 1849, 2d. The deposition on file of Jasper H. French & Spooner Buzzell.

3d. A deed of conveyance from David Pascelyn & wife to John L. Farrar and Stephen H. Aldrich of the N.W.¼ of sec 1. T. 36. R1. in La Salle county dated Oct. 5. 1852 filed for record April 12th 1854

4th A deed of conveyance of said land from Silas Rogers and Lucy Ann Rogers his wife and James Pascelyn to John L. Farrar & Stephen H. Aldrich duly acknowledged, dated Feb. 20. 1854 filed for record April 12. 1854. -

5th A deed of conveyance of the west half of

said quarter section from John L. Farrar & Stephen M. Aldrich & wives to Joseph B. Crocker dated March 28, 1854. filed for record Oct. 17, 1854.

6." A deed of conveyance from Joseph B Crocker to Stephen M. Aldrich of the west half of said quarter, dated Oct. 16, 1854, filed for record Oct. 17, 1854

7." A deed of conveyance from John L. Farrar & wife of the undivided half of the east half of said quarter section to Stephen M. Aldrich dated Dec. 30, 1854 filed for record Sept. 7, 1857.

8" A deed of conveyance by Thatcher Dascelyn to Stephen M. Aldrich of the said quarter section dated Dec. 6, 1855, filed for record Sept. 7, 1857

9" A deed of conveyance by Stephen M. Aldrich & wife to Silas Palmer of the East half of said quarter section dated Feb. 9, 1856. filed for record Feb. 27, 1856.

10" The specification from the Land office on file.

M. E. Hollister

Judge &c,

And be it further remembered that the said certificate of the Register of the land office at Spring field mentioned the certificate of evidence is in the words and figures following to wit,

United States Land Office. Spring field Illinois
Register Office
August 12th 1857.

I John Connelly Jr. Register of the Land office

Springfield Illinois do hereby certify that on the Twenty fifth day of August in the year A.D. 1849, William S. Jocelyn purchased of the General Government at the Land office at Dixon Illinois the north west fractional quarter of section number one in Township number thirty six north of range number one East of the third principal meridian containing one hundred and fifty nine acres and fifty six hundredths and that said land at the time of said purchase was within the District of Land formerly subject to sale at the land office at Dixon Illinois now Springfield Illinois, and rendered subject to sale by law all of which appears of record in my office.

Given under my hand this day and year first above written.

John Connelly Senr.
Regr of the United States Land office at Springfield, Illinois

And be it further remembered, that heretofore to wit, on the 8th day of February A.D. 1860, certain Depositions in said cause were filed in the office of the clerk of said court, which said Depositions was and is in the words and figures following to wit,

The deposition of Jasper N. French, and Spooner Ruggles taken before me Dwight F. Cameron a notary public, duly commissioned & qualified, & residing in the city of Ottawa, county of La Salle & state of Illinois, at my office in said city on this 4th day of

February A.D. 1860, pursuant to notice, to be read in evidence on the trial of a certain cause now pending in the circuit court of La Salle County, Illinois, on the Chancery side thereof, wherein Stephen N. Aldrich and Orrin Palmer, are complainants and Cyrus Aldrich & Harvey Morgan are respondents to be read on the part of the complainants,

The said Jasper N. Pench being by me first duly sworn made answer on oath, to the several interrogatories hereinafter propounded to him as follows,

Int. 1st. What is your name age occupation and place of residence,

Answer. Jasper N. Pench, age twenty seven years farmer, residence Mendota La Salle County, Illinois.-

Int. 2d. Are you acquainted with the location of the North west fractional section one (1) in Township thirty six, (36) north of range one (1) East of the 3d principal meridian.

Answer. Yes.-

Int. 3. Do you know of any portion having been broken on said land. If so, state when the first breaking was done, thereon, how much there was of it & by whom it was done?

Ans. I do know of prairie having been broken on said land, the first breaking was done in May 1854 about ten acres by Stephen N. Aldrich for Joseph R. Crooker.

Int. 4. State what improvements have been made upon said land since that time and by whom as near

Answer. if you can recollect.

It has been nearly all broken up and pretty much all fenced, and a frame house put up. These improvements were made by Orrin Palmer and Chester Martin.

Quest 4. When was the second breaking done on said land & by whom & how much was done of it.

Answer. The next breaking was done in AD. 1835 by Orrin Palmer. I believe and Stephen A. B unker. about eight or twenty acres. were broken that year. Stephen A. Bunker was breaking for Stephen H. Aldrich.

Quest 5. When was said land fenced.

Answer. I believe it was fenced in the spring of AD. 1836.

Quest. 7. By whom & when was the House built

Answer. Orrin Palmer built the house in the summer of AD 1835 & Chester Martin finishing about it.

Quest. 1st. State how you became acquainted with the location of said tract of land & when said acquaintance was first made,

Answer. I became acquainted with it by buying land adjoining it in the summer of AD. 1832.

Quest. 2. Give the numbers of the land bought by you. state whether you have resided upon the same. if so when said said residence commenced.

Answer. I did not buy the land myself at first my father bought it. It was the west half of the south west quarter of section one in Township thirty six 36, range one in East I have resided upon the same I commenced residing there in November. AD 1832

Int. 3d State where you resided during the summer of A.D. 1854.

Ans. I resided on said land.

(x Int. 4) Int 5. Are you sure said breaking was done as late as May A.D 1854. - was it not in May. 1853. or in May, 1853-.

Ans. I am sure it was done in May. 1854.

(x Int. 4) State how you know the exact date when the first breaking was done on said ninth west quarter.

Ans I saw them breaking, was the way I knew anything about it,

Int. 6. How do you fix the year.

Answer. I know the team used in breaking and know when he was owned it.

Int. 7 Whose team was it & when did he first own it & for how long a time

Answer. Stephen M. Aldrich team I do not know certain I believe he bought it in the spring of A.D. 1854 owned them for about one year.

Int 8 Will you swear positively that said Aldrich did not own said team during the season of A.D. 1853.

Ans. I will or swear.

Int. 9. Have you ever conversed with said Aldrich with regard to the time when said breaking was done.

Ans. No.

Int. 10 Was said Aldrich here present when your answer was made to direct interrogatory No. 3.

Answer. He was.

Int. 11th Did you not in answer to said interrogatory first name some other season than that of A.D. 1854 as the one in which said breaking was done, and did not

35

said Aldrich correct you and state that it was the reason of Ao, 1854. in which the breaking was done or make some statements to that effect,

Answer. I did not state any other reason & he did not correct me.

Int. 12. Did he not speake to you, and correct you with regard to some statement made by you in answer to said interrogatory.

Answer. I believe he did,

Int. 13. What was the original statement, and what was the correction,

answer. I stated that the breaking was done by Stephen H. Aldrich & ~~the~~ his said for Joseph. C. Crocker.

Int. 14" at this time was not said Aldrich sitting by your side and speaking in a whisper or a very low tone of voice,

Ans. He was sitting close to me. There was no talking that I know of except what I have stated. The correction was not made in a whisper nor in a low tone of voice.

Int. 15. Did he not also correct you or make some statement to you while answering direct interrogatory No. 4 & was he not stopped by the commissioner who is taking this deposition.

Answer. He (Aldrich) said something. I did not understand what it was. & I was. after I had answered the question. & do not remember whether said commissioner who is taking this deposition spoke to him or not.

Int. 16. Was not said interruption after the answer to the first

clause and before the answer to the second clause of said interrogatory.

Answer. I do not remember.

Int 14 What part of said quarter was said ten acres of breaking on.

Answer. On the south west part.

Int. 18 Give the shape and dimensions of said tract broken as near as you can.

Answer. It was an oblong piece little over half across the south end of the quarter ~~section~~ standing at the south west corner, don't know how wide it was. I never measured it. I think it was twelve or fifteen rods.

Int. 19, What kind of a crop was there raised on this part broken during the year. A.D. 1854.

Ans. There was no crop raised there that year.

Int. 20 When was the first crop raised on said land.

Answer. In the year. A.D. 1855

Int. 21" State whether or not any fencing or any other breaking than that already named or any improvements whatever were made by any person prior to the year. A.D. 1857.

Ans. There was none.

Int. 22. State by whom the crop of 1857, was raised.

answer Erwin Palmer. and Wheeler Palmer.

Int. 23 Show what part of said quarter was this crop raised and how many acres were under cultivation that year.

answer. A part of it was on the East eighty & part on the west eighty in all something over one Hundred acres.

Int. 24 How much of said one Hundred acres was there in the east eighty & upon what part of the eighty was it

Answer. I do not know how much there was. I suppose about thirty or thirty five acres, on the south part.

38

Int. 25. State whether the crops from the east eighty was raised by Palmer or by Martin or by both.

Answer. It was raised by Palmer.

Int. 26. State by whom the crops on the west eighty was raised and how what part of the same.

Answer. It was raised by Chester Martin. on the north & south part in two pieces.

Int. 27. Who did the breaking on that part of the east eighty where the crops was raised & when was it done

Answer. Irvin Palmer. in the spring of A.D. 1856.

Int. 28. Who did the breaking on that part of the west eighty where the crops was raised and when was it done.

Answer. Stephen H. Aldrich broke on the south part in the year 1854. there was some broke by Frank Warren on the south part in 1856 & Stephen H. Bunker broke on the north part. in 1856. I believe.

Int. 29. State when and by whom the east eighty was fenced & when & by whom the west eighty was fenced.

answer. The east eighty was fenced part in 1856 & part in 1857. by Irvin Palmer the west eighty was fenced in the spring of 1857. by Chester Martin.

Direct Resumed.

Int. 1st. Under whom does Chester Martin hold possession of said land, (objected to by respondents solicitor)

Answer. Stephen H. Aldrich.

Cross Interrogatories Resumed.

Int. 1st. How do you know it.

Answer. I know that he brought it of him.

Int. 9. How do you know that Warren Wait of Aldrich

Answer. By seeing the bond for deed from Aldrich to Martin (Respondents solicitor object to all the evidence in this deposition contained, and to each and every interrogatory which relates to the manner in which said Martin holds or claims to hold any portion of said land.)

Int. 3. "" State whether or not you are certain of the correctness of each of the dates at which you have stated that improvements were made on said land as you have stated that you are of the date when the first mentioned breaking was made to wit. May. AD. 1854

Answer. I am.

Jasper H. Pench.

Int. 10. State your name age occupation & place of residence.

Answer. Spooner Ruggles. aged sixty five years occupation farmer reside in Ogle County Illinois.

Int. 2. Were you acquainted with William S. Joscelyn. If so state whether he be living or dead. if dead when did he die.

Answer. I was acquainted with him. he is dead. he died. I believe on the 21st day of October AD. 1851.

Int. 3rd Did he leave a widow or children

Answer. Neither so far as is known in the neighborhood where he died

Int. 4 What were the names of his brother and sister and father.

Answer. James. Lucy Ann & Phalatia were the names of the

3.9

brothers and sister, and the fathers name is David.

Int. 5. Has Lucy Ann a husband & if so what is his name

Ans. She has a husband his name is Silas Rogers.

Int. 6. Is she mother of William S. Joscelyn, deceased alive or dead. If dead, did she die before or after the death of said William S. Joscelyn.

Ans. She is dead. she died before he did.

Int. 7th Are there any other brothers & sisters, of said William S. Joscelyn or were there ever any others to your knowledge.

Ans I have no knowledge of any other brothers & sisters I would be likely to know it if such were the fact. I have lived within about a mile of the family since A.D. 1836.

Int. 8th State whether you were acquainted with Lyons Aldrich one of the defendants in this cause & if so state whether or not he was receiver at the land office in Dixon Illinois at any time & if so during what time was he acting as such receiver.

Answer. I was acquainted with Lyons Aldrich he was receiver at the land office at Dixon from the spring of A.D. 1849. to the spring of A.D. 1853.

Spooner Ruggles.

State of Illinois, ss.
La Salle County } I, Dwight S. Cameron, notary public as aforesaid do hereby certify that the foregoing depositions were taken & subscribed & sworn to by the said witnesses Casper H. French & Spooner Ruggles before me at my office in said city of Ottawa this 4th day of February A.D. 1860.

Witness my hand & seal notarial.

Dwight S. Cameron
Notary public.

Here follow in numerical order ~~five~~ certain papers, referred to in the certificate of evidence which is incorporated into & made a part of this record, said papers being refered to in the aforesaid certificate as Nos 3. 4. 5. 6. 7. 8&9. - viz:

41

WARRANTY DEED.---PRINTED AND FOR SALE AT THE OTTAWA REPUBLICAN OFFICE.

This Indenture, MADE THIS Fifth day of October in the year of our Lord ONE THOUSAND EIGHT HUNDRED AND ~~Sixty~~ Fifty two BETWEEN David Joslin & Harriet Joslin His wife of the County of Ogle and State of Illinois part.y.. of the first part, and John L. Flanar & Stephen L. Leach of La Salle County & State of Illinois aforesaid of the ~~County of~~ ..... in the ~~State of~~ ..... part.y.. of the second part,

Witnesseth, That the said part.y of the first part, for and in consideration of the sum of Four hundred and Eighty dollars paid, by the said part.y.. of the second part, the receipt of which is hereby acknowledged, do.th., by these presents, Grant, Bargain and Sell, unto the said part.y.. of the second part, their heirs and assigns, the following described tract.. or parcel.. of land, situated in the County of La Salle and State of ~~Illinois, viz:~~ aforesaid, To wit: The north West Quarter of Section one (1) in Township Thirty Six (36) North Range one (1) East of the third principle Meredian containing one hundred and Sixty acres of said land according to Government Survey.

TOGETHER with all and singular the hereditaments and appurtenances thereunto belonging or in anywise appertaining: To HAVE AND TO-HOLD the said premises as above described, with the appurtenances, unto the said part.y.. of the second part.... their.... heirs and assigns FOREVER. And the said part.y.. of the first part, for themselves and ~~...~~ heirs, executors and administrators, do.... hereby covenant, to and with the said part.~~...~~. of the second part,.. their.... heirs and assigns, that... they... are..... well seized of the premises above conveyed, as of a good and indefeasible estate in fee simple, and have.. good right to sell and convey the same in manner and form as aforesaid; that they are free from all incumbrances; and that the above bargained premises in the quiet and peaceable possession of the said part.y of the second part.. their.. heirs or assigns, against the claim of all persons whomsoever,..... they..... ...will **FOREVER WARRANT AND DEFEND.**

IN TESTIMONY WHEREOF, The said part.y.. of the first part have.. hereunto set.. their.. hand.s and seal.s the day and year first above written.

SIGNED, SEALED AND DELIVERED IN PRESENCE OF

Geo. Augustine

David Joselyn {SEAL.}

Harriet Joselyn {SEAL.}

This Blank furnished Gratis, by A. B. MOORE, Circuit Clerk, to all Justices of the Peace and Notarys Public, in La Salle Co.

42

State of Illinois,
LA SALLE COUNTY, } SS:

On this 7th day of October A. D. 1852 personally appeared before me Geo Augustine a Justice of the Peace in and for said County, David Joslyn and Harriet Joslyn his wife, to me personally known to be the persons whose names are subscribed to the above Deed, as having executed the same, and acknowledged that they had freely executed the same for the uses and purposes therein expressed. And Harriet Joslyn wife of the said David Joslyn, to me personally known to be the person whose name is subscribed to the same Deed, also appeared before me, and was by me made acquainted with the contents of the same, and examined separate and apart from her said husband, whether she executed the said deed and relinquished her Dower in the lands and tenements therein mentioned, voluntarily, freely, and without compulsion of her said husband, and acknowledged that she executed the same, and relinquished her dower in the lands and tenements therein mentioned, voluntarily and freely, and without the compulsion of her said husband.

Given under my hand and seal, ~~~~~ the day and year aforesaid.

Geo Augustine Justice of the Peace

Warranty Deed.

TO

Colby

STATE OF ILLINOIS, } SS. No 1278
LA SALLE COUNTY,

~~This Instrument Was~~ filed for Record on the ..... day of April 12th A. D. 1853, at ~~the hour of~~ 12½ o'clock, P. M., and ~~duly~~ Recorded in Book 37 of Deeds Page 311

P. Lindley clk

Recorder.

No. 44 K N

This Indenture, Made this twentieth (20th) day of Feby in the year of our Lord one Thousand Eight Hundred and Fifty Four Between Silas E. Rogers and Lucy Ann Rogers his wife and James Joslyn of the County of Ogle State of Illinois of the first part and John L. Farrar and Stephen N. Aldrich of the County of La Salle & State of Illinois of the Second part Witnesseth, that the said party of the first part for and in consideration of the Sum of Two Hundred Dollars, to the said party of the first part, in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, have 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, their heirs and assigns forever, all the right, title, interest, claim and demand, which the said parties of the first part have in and to the following described lot or parcel of land, situate, lying and being in the County of La Salle and State of Illinois to wit; The South West quarter of Section No. one (1) in Township No. thirty Six (36) North of Range No. one (1) East of the third (3rd) Principal Meridian containing one hundred and Sixty acres more or less. To have and to hold the same, together with all and singular the appurtenances and privileges thereunto belonging or in anywise thereunto appertaining, and all the estate, right

43

title, interest and claim whatsoever, of the said parties of the first part, either in law or equity, to the only proper use, benefit and behoof of the said parties of the second part, their heirs and assigns forever.

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 S. E. Cotton

Silas E. Rogers (Seal)
Lucy A. Rogers (Seal)
James Joselyn (Seal)

State of Illinois } ss
Ogle County }

I, Salmon E. Cotton a justice of the Peace in and for said County in the State aforesaid, do hereby certify, that Silas E. Rogers and Lucy Ann Rogers his wife and James Joslyn personally known to me as the same person whose names are subscribed to the above Deed, 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. And the said Lucy Ann Rogers wife of the said Silas Rogers having been by me examined Separate and apart and out of the hearing of her husband, and the contents and meaning of the said instrument of writing having been by me fully made known and explained to her, She acknowledged that She had freely and voluntarily executed the same, and relinquished her right of dower to the lands and tenements therein

mained without compulsion of Her Husband and that She does not wish to retract the same

Given under my Hand and Seal this Eighteenth (18) day of March A.D. 1854

S. C. Collin J.P. (Seal)

State of Illinois } Clerks office
Ogle County } ss I, Elbert K. Light clerk of the County Court within and for the said County of Ogle, Do Hereby certify that S. C. Collin Esquire whose name is Subscribed to the certificate annexed was, on the day of the date of said Certificate, and at the time he Signed the Same, a Justice of the Peace dwelling in the town of Grand Detour for Said County of Ogle, duly Elected, appointed, qualified, commissioned and sworn, as appears of record in my office (which record is made pursuant to law) and that, as Such, full faith and credit are due and Should be given to all his official acts of that date, in all Courts and places, and before all officers whatsoever

I further certify, that I am well acquainted with the Hand writing of the said Justice and Genuine with his Signature, and do verily believe that the Signature to said certificate of proof or acknowledgment purporting to be his is genuine, and have no doubt thereof. Given under my Hand and the Seal of Said Court at my office in Oregon, in Said County this — day of — 1854

Elbert K. Light clerk

(Seal)

45

Filed April 18 at 12½ o. P.M. & Recorded in Book 36 page 260

WARRANTY DEED.---PRINTED AND FOR SALE AT THE OTTAWA REPUBLICAN OFFICE.

This Indenture, MADE THIS Twenty Eighth day of March in the year of our Lord ONE THOUSAND EIGHT HUNDRED AND SIXTY-Fifty four BETWEEN John L. Farrar and Ann T. Farrar his wife of Stephen N. Aldrich & Harriet Aldrich his wife of the County of La Salle and State of Illinois party... of the first part, and Joseph O. Crocker of the County and State aforesaid of the County of ~~~ in the State of ~~~ party... of the second part,

Witnesseth, That the said party of the first part, for and in consideration of the sum of Six Hundred dollars 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 part... of the second part, his heirs and assigns, the following described tract.. or parcel.. of land, situated in the County of La Salle and State of Illinois, viz:

The West Half of the North West Quarter of Section No one (1) in Township thirty six (36) North of Range one (1) East of the third Principal Meridian containing according to Government Survey seventy nine acres and Eighty one Hundredths of an acre of Land.

TOGETHER with all and singular the hereditaments and appurtenances thereunto belonging or in anywise appertaining: To HAVE AND TO HOLD the said premises as above described, with the appurtenances, unto the said part... of the second part.... his.... heirs and assigns FOREVER. And the said party... of the first part, for himself and his heirs, executors and administrators, do.... hereby covenant, to and with the said part... of the second part,... his.... heirs and assigns, that.... he.... are..... well seized of the premises above conveyed, as of a good and indefeasible estate in fee simple, and ha.. good right to sell and convey the same in manner and form as aforesaid; that they are free from all incumbrances; and that the above bargained premises in the quiet and peaceable possession of the said party of the second part... his.. heirs or assigns, against the claim of all persons whomsoever,..... he.... ...will **FOREVER WARRANT AND DEFEND.**

IN TESTIMONY WHEREOF, The said party... of the first part ha.. hereunto set. his... hand.. and seal.. the day and year first above written.

SIGNED, SEALED AND DELIVERED IN PRESENCE OF

John L. Farrar (Seal)

Ann T. Farrar {SEAL.}

Stephen N. Aldrich (Seal)

Harriet Aldrich {SEAL.}

46

This Blank furnished Gratis, by A. B. MOORE, Circuit Clerk, to all Justices of the Peace and Notarys Public, in La Salle Co.

State of Illinois, } SS:
LA SALLE COUNTY,

On this 28 day of March A. D. 1854, personally appeared before me Geo Augustine a Justice of the Peace in and for said County, John L. Farrar and Stephen N. Aldrich, to me personally known to be the person whose name are subscribed to the above Deed, as having executed the same, and acknowledged that they had freely executed the same for the uses and purposes therein expressed. And Ann S. Farrar and Hanet Aldrich wife of the said John L. Farrar and Stephen N. Aldrich, to me personally known to be the person whose name is subscribed to the same Deed, also appeared before me, and was by me made acquainted with the contents of the same, and examined separate and apart from her said husband, whether she executed the said deed and relinquished her Dower in the lands and tenements therein mentioned, voluntarily, freely, and without compulsion of her said husband, and acknowledged that she executed the same, and relinquished her dower in the lands and tenements therein mentioned, voluntarily and freely, and without the compulsion of her said husband.

Given under my hand and seal, the day and year aforesaid.

Geo. Augustine Justice of the Peace

Filed Oct 17, 1854 at 2.00 P.M.
Record B No 40 Page 175

Warranty Deed.

TO

STATE OF ILLINOIS, } SS:
LA SALLE COUNTY,

This Instrument Was filed for Record on the ..... day of ..... A. D. 186..... at the hour of ..... o'clock, ... M., and duly Recorded in Book ..... of ..... Page .....

RECORDER.

No. "6"

J. C. Crooker
Quit Claim Deed
to
S. H. Aldrich

This Indenture made this sixteenth day of October, in the year of Our Lord, One Thousand Eight Hundred and Fifty four, Between Joseph C. Crooker of the County of Lasalle, and State of Illinois of the first part, and Stephen H. Aldrich of Same County and State of the second part, Witnesseth that the said parties of the first part, for and in consideration of the Sum of Five Hundred dollars in hand paid, by the said part of the second part at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, has remised, released, sold and forever quit claimed and by these presents does remise, release, sell and forever quit claim unto the said party of the second part, and to his heirs and assigns forever, All of the South West quarter of Section No. One in Township Thirty six, North of Range, Number Four of the third principal Meridian, according to the United States Survey. To have and to hold the above described premises with all the privileges and appurtenances thereunto belonging to the 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.

Joseph C. Crooker [Seal]

State of Illinois } S. C. H. Gilman a Justice of the Peace
County } for said County, do Certify that on this day personally appeared before me, Jos. C. Crooker, whose name appears subscribed to the foregoing Deed as Grantor as having executed the same, and is personally known to me to be the same person who and

47

in whose name the acknowledgment is proposed to be made, and acknowledged the execution thereof as his voluntary act and deed for the uses and purposes therein expressed

Given under my hand and Seal of office at Minnesota this 16. day of October A.D. 1854

C. N. Gilman J.P. (Seal)

Filed Oct. 17. 1854 at 2 o6. P. M.

Recorded Book 16 39 page 413 &c "

WARRANTY DEED.---PRINTED AND FOR SALE AT THE OTTAWA REPUBLICAN OFFICE.

This Indenture, MADE THIS thirtieth day of December in the year of our Lord ONE THOUSAND EIGHT HUNDRED AND SIXTY- Fifty four BETWEEN John L. Farnar and Ann T. Farnar wife of the said John L. Farnar of the County of La Salle and State of Illinois party... of the first part, and Stephen N. Aldrich of the County and State aforesaid ~~of the County of ~~ in the State of ~~ party.. of the second part,

Witnesseth, That the said party of the first part, for and in consideration of the sum of Three Hundred dollars 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, the following described tract.. or parcel.. of land, situated in the County of La Salle and State of Illinois, viz:

the Equal undivided half of the East Half of the Southwest quarter of Section Number One in Township Number Thirty Six (36) North of Range No one (1) East of the third Principal Meridian Containing Seventy nine Acres and Ninety six one hundredths (79 96/100) of an acre of Land according to Government Survey, or the same more or less, the Same being thirty seven acres and Ninety Eight hundredths of an acre hereby Conveyed be the same more or less,

TOGETHER with all and singular the hereditaments and appurtenances thereunto belonging or in anywise appertaining: To HAVE AND TO HOLD the said premises as above described, with the appurtenances, unto the said party... of the second part.... his..... heirs and assigns FOREVER. And the said party... of the first part, for.himself..... and his..... heirs, executors and administrators, do.... hereby covenant, to and with the said party... of the second part,... his..... heirs and assigns, that.... they... are..... well seized of the premises above conveyed, as of a good and indefeasible estate in fee simple, and have.. good right to sell and convey the same in manner and form as aforesaid; that they are free from all incumbrances; and that the above bargained premises in the quiet and peaceable possession of the said party. of the second part. his.... heirs or assigns, against the claim of all persons whomsoever,.... they..... ...will **FOREVER WARRANT AND DEFEND.** the East Clause as Interlining was Made after signing

IN TESTIMONY WHEREOF, The said party... 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

John L. Farnar {SEAL.}

Ann T. Farnar {SEAL.}

This Blank furnished Gratis, by A. B. MOORE, Circuit Clerk, to all Justices of the Peace and Notaries Public, in La Salle Co.

State of Illinois, } SS:
LA SALLE COUNTY,

On this 2nd day of January A. D. 185[illegible], personally appeared before me C. N. Gilman a Justice of the Peace in and for said County, John L. Farrar and Ann T. Farrar, to me personally known to be the persons whose names are subscribed to the above Deed, as having executed the same, and acknowledged that they had freely executed the same for the uses and purposes therein expressed. And Ann T. Farrar wife of the said John L. Farrar, to me personally known to be the person whose name is subscribed to the same Deed, also appeared before me, and was by me made acquainted with the contents of the same, and examined separate and apart from her said husband, whether she executed the said deed and relinquished her Dower in the lands and tenements therein mentioned, voluntarily, freely, and without compulsion of her said husband, and acknowledged that she executed the same, and relinquished her dower in the lands and tenements therein mentioned, voluntarily and freely, and without the compulsion of her said husband.

Given under my hand and seal, the day and year aforesaid.

C. N. Gilman J. P. Seal

Recorded p. 193 & 194
Book 64. Page 664.

Warranty Deed.

TO

STATE OF ILLINOIS, } SS:
LA SALLE COUNTY,

This Instrument Was filed for Record on the ..... day of ..... A. D. 185..... at the hour of ..... o' clock, ... M., and duly Recorded in Book ..... of ..... Page .....

RECORDER.

No 8

This Indenture, Meade this Sixth (6th) day of Decr in the year of Our Lord One Thousand Eight Hundred and Fifty Five Between Thatcher Joslyn of the County of Ogle State of Illinois of the first part and Stephen N. Aldrich of the County of La Salle State of Illinois of the Second part. Witnesseth, That the said part of the first part for and in consideration of the Sum of one hundred Dollars to the said party of the first part ~~for and in consideration of the Sum of One Hundred dollars to the said party of the first part~~, in Hand paid by the said party of the Second part the receipt whereof is hereby confessed and acknowledged has remised, released Sold, conveyed and Quit claimed and by these Presents does 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 lot or parcel of land Situate, lying and being in the County of LaSalle and State of Illinois to wit; The North West fractional quarter of Section No one (1) in Township No thirty Six (36) of Range No one (1) East of the third Principal Meridian.

To Have and to Hold the Same together with all and Singular the appurtenances and privileges thereunto belonging or in anywise appertaining and [illegible]

50

xxxd warrant and claim who[illegible]
party of the first part, either in [illegible]ity
to the only proper use, benefit and behoof of the
said party of the second part his heirs and assigns
In Witness Whereof, The Said party of the
first part has hereunto set his hand and Seal
the day and year first above written.
Signed Sealed and delivered } Thatcher Joslyn (Seal)
in Presence of S. C. Cotton }

State of Illinois }
Ogle County } ss I Salmon C. Cotton a
Justice of the Peace in
and for Said County in
the State aforesaid, do Hereby certify that Thatcher
Joslyn Personally Known to me as the Same person
whose name is Subscribed to the above deed, appeared
before me this day in person and acknowledged
that he signed Sealed and delivered the Said
instrument of writing as his free and voluntary
act. Given under my hand and Seal
this Tenth (10) day of December A.D. 1855.
S. C. Cotton (Seal)

State of Illinois } Clerks Office
Ogle County } ss. I Elbert K. Light Clerk
of the County Court within
and for the Said County of Ogle, do Hereby
Certify that S. C. Cotton Esquire whose name
is Subscribed to the Certificate annexed
was, on the day of the date of Said Certificate

and at the time he Signed the Same, a Justice of the Peace, dwelling in the Town of Grand Detour for Said County of Ogle, duly elected appointed, qualified, commissioned and Sworn as appears of Record in my Office (which record is made pursuant to law) and that as Such full faith and credit are due and Should be given to all his official acts of that date, in all Courts and places, and before all officers whatsoever. I further certify that I am well acquainted with the hand writing of the Said Justice and familiar with his Signature, and do verily believe that the Signature to Said Certificate of Proof or acknowledgment purporting to be his, is genuine, and have no doubt thereof.

Given under my hand and the Seal of Said Court at my office in Oregon, in Said County this — day of — 1859.

Seal

Elbert K Light Clerk

Filed September 7. 1859. at 9¾ o'clock A.M.

Book 55. page 640-e

52

1

This Indenture made this eighth day of February in the year of our Lord one thousand eight hundred and fifty six between Stephen H. Aldrich and Harriet Aldrich his wife of the first part and Irwin Palmer of the second part. Witnesseth That the said part- of the first part for and in consideration of the sum of one thousand, and fifty dollars paid by the said party of the second part the receipt of which is hereby acknowledged has granted bargained sold conveyed and confirmed and by these presents does grant bargain sell convey and confirm unto the said party of the second part his heirs and assigns - certain Tract or Parcel of Land, situated in the county of La Salle and state of Illinois and described as follows to wit. viz. The east half of the north west quarter of section one of Township thirty six north of range two east of the third principal meridian. containing eighty acres according to the government survey. Together with all and singular the hereditaments rights privileges and appurtenances thereunto belonging or in any wise appurtaining. To have and to hold the said premises as above described with the appurtenances to the said party of the second part his heirs and assigns forever. and the said parties of the first part for themselves and their heirs executors. and administrators do hereby covenant to and with the said party of the second part his heirs executors administrators and assigns that they are well seized of the premises above conveyed as of a good and indefeasible estate in fee simple and have good right to sell and convey the same in manner and form as aforesaid. And that the same are free

53

incumbrance, & that the above bargained premises in
the quiet and peaceable possession of the said party of the
second part his heirs & assigns against the claims
of all persons whomsoever 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. The alteration above was made before
signing.

Stephen W. Aldrich (SEAL)
Harriet Aldrich (SEAL)

State of Illinois, } ss. I, a Justice of the Peace for
La Salle County } said county do certify that on this
day personally appeared before me
Stephen W. Aldrich whose name is subscribed to the
foregoing and of conveyance as having executed the
same who is personally known to me to be the real person
who and in whose name the acknowledgment is pro-
posed to be made, and acknowledged the execution thereof
as his voluntary act and deed for the uses and purposes
therein expressed, and Harriet Aldrich wife of the
said Stephen W. Aldrich having been by me made ac-
quainted with the contents of said deed and by me ex-
amined separate and apart from her husband whether
she executed the same and relinquished her dower
to the lands and tenements therein mentioned, acknowl-
edged that she had done so voluntarily and freely and
without compulsion of her said husband and does
not wish to retract. Given under my hand and seal of
office at Mendota this Eighth day of February. A.D. 1856

Filed February 27th 1856. at 4 o'c. P.M.
Recorded in Book 48. Page 99 & 100.

C. W. Gilman J.P. (SEAL)

(The papers not mentioned in the certificate of evidence from No. 2 to No. 9 inclusive are not to be in the office of the clerk of said court.)

And be it further remembered that heretofore to wit. on the 7th day of March. 1862. the paper called. "the exemplification from the land office" in said certificate of evidence was filed in the office of the clerk of said court. which said paper. or exemplification is in the words and figures following to wit.

General Land office.

July. 16. 1859.

I. Thomas A. Hendricks Commissioner of the General Land Office do hereby certify that the annexed sheets of manuscript are true and literal exemplifications from the files and records of this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this Office to be affixed at the City of Washington on the day and year above written

(Seal)

Thomas A. Hendricks.

Commissioner of the General Land office.

Department of the Interior.

Office of the commissioner of Pensions.

It is hereby certified that the Land warrant No. 61,199 for 160 acres has been issued in the name of Martin Ungerer Father. heir at law of John Ungerer dec'd. late a private in Lieutenant Callenders Company U.S. Rangers Mounted Battalion. under date of June 13th 1849 and will be deposited in the General Land Office at the seat of Government. and that pursuant to the Provisions

55

of the subjoined ninth section of the act of Congress approved on the 11th day of February 1847, entitled, "an act to raise for a limited time an additional military force and for other purposes." this certificate of right to locate said warrant on any quarter section of land subject to private entry, will be received at any of the land offices of the United States under the regulations and restrictions set forth in the accompanying statement of the commissioner of the general land office.

After the location of this certificate, it is to be surrendered to the general land office whence the patent will issue. Given under my hand at the Pension office this 13th day of June 1849.

W. M. Manning Esq
Baltimore
Md.

D. L. Edwards.
Commissioner of Pensions. By.
L. G. Barret

For value received I Martin Ungerer do hereby sell and assign unto William S. Jocelyn all my right and title to the within certificate or warrant. No. 61,199 for 160 acres of Land. Witness my hand this eighteenth day of June 1849

Martin Ungerer.

Acknowledged before me this eighteenth day of June 1849. & also certify that the date of this my certificate to the foregoing assignment was filled up by me on the day on which the same was acknowledged before me in my official capacity as aforesaid.

Jno. Patrick
Not. Pub.

Attest
Jos. Stonemyer
A. M. Manning

General Land Office.
June 2, 1853

This bounty land warrant certificate having been cancelled and subsequently reinstated by the commissioner of Pensions is accordingly reinstated on the Books of this Office,

John Wilson,
Commissioner.

Pension Office, May 13, 1851.

Sir,

Referring to the letter of my predecessor of the 13th Nov. last. requesting for the reason stated the suspension of a patent scrip certificate No. 61,199 for 160 acres in the name of Martin Ungerer brother &c of John Ungerer dec'd of the Rocket & Howitzer Battery. I have to remark that additional testimony of a satisfactory character having since been filed in support of the claim of the collateral heirs of the soldier residing in the Kingdom of Würtemburg I have cancelled the above mentioned warrant (61,199) and in lieu thereof have this day granted one for a like quantity in favor of Gottfried Ungerer, August Ungerer, Rosina Ungerer, and others (six in all), brothers & sisters heirs &c of John Ungerer, dec'd. No. 73,114 and request that the enclosed certificate after the necessary entry may be delivered to A. Schucking, Esq present.

I am very Respectfully,
Your Obt. Servt.
T. S. Evans.
For Commissioner.

A. Schucking Esq
Comm. Genl Land Office

57

58

General Land Office
November 5th 1851.

Sir

Herewith I return Military Bounty Land warrant No. 61199 and 62767 with the location of each cancelled in consequence of the warrants being cancelled by the commissioner of pensions upon the ground of having been issued upon false and fraudulent papers, therefore you will enter the cancellation of said locations on the books of your office and inform the locators as soon as practicable of the illegality of said locations.

I am, very respectfully
Your obt. servt.
S. Butterfield.
Commissioner.

Register Land Office
Dixon
Illinois

Pension Office May 28. 1853

Sir

Land warrant certificate for 160 acres No. 61.199 in the name of Martin Wangerer brother of John Wangerer deceased of the Rocket & Howitzer Battery having passed into the hands of an innocent purchaser I have reinstated the warrant and rescinded the annulment of the certificate which is enclosed, with request that after the requisite action in your office it may be forwarded to the register of the Land office at Dixon Illinois

I am very respectfully

Your obt. Sert.

Charles Bailey. Esq S. Cole.

acting Commr. Genl Land Office. For commissioner.

No of warrants	Name of soldier or warrantee	Date of certificate authorizing location		To whom certificate was sent or delivered	Date of delivery.	
Reinstated 61,199.	Martin Ungerer. Ja. of Jno Ungerer.	June 13. 1849	Cancellation rescinded by com of pensions May 21, 1853 & Certificate sent to Register of Land office Dixon Ills. June 28 1853	A M. Wamsley Balt	June 15. 1849	Cancelled by Commr of Pensions May 13." 1857 No. 73114 on which there

Illinois November 12. 1857.

Sir. your letter of the 13" inst requesting a return of Military Bounty Land warrant certificate No. 61,199 has been received and I herewith inclose the same, no location papers being found with the warrant.

Very respectfully.
Your obt. Sert.
John Connelly Jour.
Register.

Hon, Thos A. Hendricks
Comm. Genl Land Office
Washington D.C.

General Land Office. November. 13. 1857

Sir,

You will please transmit to this Office by return mail the Military Bounty Land warrant certificate No 61,199 act of 1847, which was located at the

39

Your obt. Svt.
S. Cole.

Charles Bailey, Esq
acting Commr. Genl Land Office
For commissioner.

Land office at Springfield.
Illinois November 17. 1857.

Sir, your letter of the 13th inst requesting me to return a Military Bounty Land warrant certificate No. 61,194 has been received and I herewith inclose the same, no location papers are found with the warrant.

Very respectfully.
Your obt. Servt.
John Connelly Jour.
Register.

Hon, Thos A. Hendricks
Commr. Genl Land Office
Washington D.C.

General Land Office. November 13. 1857

Sir,

You will please transmit to this office by return mail the Military Bounty Land warrant certificate No 61,194 act of 1847, which was issued at the late

59

60 Land office at Dixon Illinois on the 25th of August 1849 in the name of William S. Joscelyn upon the N.W.¼ Sec 1. T. 35 R. E. Please also return the location papers

Very respectfully,
Your obedient servant.
Thos. A. Hendricks.
Commissioner.

Register Land Office.
Springfield.
Illinois

And be it further remembered that heretofore to wit on the 7th day of March 1862, a certain decree was entered in said cause and filed in the office of the clerk of said court, which said decree was and is in the words and figures following to wit.

Stephen M. Aldrich and
Orvin Palmer.
vs
Cyrus Aldrich and
Harvey Morgan
} Bill for a county seat.

This day this cause came on to be heard on Bill answer replication & the proofs in the cause and it appearing to the court that William S. Joscelyn as assignee of Martin Weyerer located a military bounty land warrant at the land office in Dixon in the state of Illinois upon the north west quarter of section one in Township thirty six north of range one east of the third principal meridian in La Salle county in said state, & thereby entered and became the purchaser of said tract of land from the Government of the United States and received a certificate of purchase therefor on the 25th of August AD. 1849

and it also appearing ~~to the court~~ that on the third day of January AD, 1854, said former entry ~~being~~ then and there being uncanceled & in full force the defendant Keyon Aldrich entered and purchased the same tract of land from the government of the United States and that a patent was by inadvertance issued to said Keyon Aldrich on the 26th day of April AD, 1856 and that said Keyon Aldrich on the 9th of April AD 1858. conveyed said tracts of land to the defendant Mavey Morgan & that the said Keyon Aldrich & Mavey Morgan at the time of their respective purchases had notice of the equitable rights of the complainants & of those under whom they claim title through the said William S. Joscelyn, and it further appearing that the said complainant Stephen H. Aldrich derives title to the west half of said quarter section, and the said defendant Devin Palmer derives title to the east half of said quarter section each from and under a regular chain of title from said William S. Joscelyn to them respectively. It is ordered adjudged and decreed that the said Mavey Morgan holds the legal title to said quarter section in trust for the complainants as above and that said Mavey Morgan within ten days next hereafter execute and deliver to said complainant Stephen H. Aldrich a deed of conveyance of the said west half of said quarter section and to the said Devin Palmer a deed of conveyance

61

62

of said each half of said [illegible] section, and that in default thereof Edward [illegible] Collester, who is hereby appointed a special commissioner for that purpose execute and deliver said respective conveyances & that said conveyance of said Collester when so executed by him as commissioner shall vest in the said complainants respectively the legal title which said Morgan or those claiming under him, by conveyance since the commencement of this suit. derived through said entry by said Lyons Aldrich & said patent to him. And it is further ordered adjudged & decreed that the complainants have and recover of the defendant. Henry Morgan their costs and charges by them in & about the prosecution of this suit expended and that they have execution therefor.

M. E. H.

State of Illinois
LaSalle County } ss

I Absalom B. Moore, Clerk of the Circuit Court, in and for said County, do hereby Certify, that the foregoing, is a true, full & perfect, copy of the papers in the aforegoing mentioned cause, [redacted] that are on file in my office, in said cause, and that it contains a true, full & perfect copy of the records of said Court in said cause.

Witness my hand & seal of said Court at Ottawa this 29th day of March A.D. 1864.

A B Moore
Clerk &c

[illegible]

Now Comes the said Pltff in error by Glover, Cook & Campbell their Atty's and Says that in the Record Proceedings aforesaid and the rendering of the Decree aforesaid there is manifest error in this to wit

The Court erred in rendering the Decree aforesaid in manner & form aforesaid

Glover, Cook & Campbell
for Pltff in Error

38 ~~147~~ 114

Cyrus Aldrich &
Harvey Morgan
vs

Stephen H. Aldrich
& Irvin Palmer

Record

Filed April 15. 1864
L. Leland
Clerk