

No. 13135

Supreme Court of Illinois

Stow

vs.

Robinson

STATE OF ILLINOIS,

SUPREME COURT.

Third Grand Division.

No. 128.

Star
vs

Robinson

Supreme Court - April Term 1860
James Stow ^{et al} heirs of Rattery &c
vs } Error to Court
Robinson }

It is stipulated by plaintiff in error
& defendant ^{in error} that the ~~transcript~~ ^{as} transcript of the record in
this cause is erroneous - ~~wherein~~ ^{as} ~~set forth~~
& to avoid necessity of Certiorari -
it is agreed that on the hearing
of this - it shall be taken as true &
as though the transcript so stated
1st That the amendments to the bill set
out on page 22½ - were made immediately
after the order of the court allowing said
amendments as set out on page 2½ -
& before the ~~subsequent proceedings of that~~
~~day recorded on that & the succeeding page~~
the application of defendants for time to
answer the amended bill -

2nd That the replication set out on
page 22½ - was filed after ~~defendants~~
~~motion~~ the order of the court permitting
the filing thereof & before the over-ruling
of defts mo to set the cause down
on bill & answer - & before the motion
of defendant for a continuance - as shown
at page 22 of the transcript -

3rd

That at the ~~March~~ Term 1859 - on the 5th day of April 1859 - & immediately on the overruling of defendant's motion for a continuance - as shown on page 22 - The cause was, on motion of Complainant, (the defendant resisting said motion) by order of the Court set down for hearing immediately on bill answers - replication - master's report & proofs - and that the cause was accordingly at that time heard - & argued & that the Court took the same under advisement - & afterwards at the October Term rendered the decree

4th

That the transcript on page 25 - is erroneous - in so far as it states that the Cause came on to be heard that day & ^{that is on Nov 7 - 1859} the part of the order (found on page 26) which declares the decrees of the Court ^{recites} as the only proceedings which were had at the Oct Term 1859 -

Sondy & Quate
for Plaintiff in Error.
J. Dylee Dickey
for deft in error

Stow et al
vs
Robinson

Agreement
modifying the
transcript of
the record —

STATE OF ILLINOIS,
SUPREME COURT,

The People of the State of Illinois,

To the Sheriff of the County of

Will

Greeting:

Because, In the record and proceedings, and also in the rendition of the judgments of a plea which was in the Circuit Courts of Cook County, before the Judge thereof, between Jane Stow, late Jane Kattray ^{his} administratrix of the estate of David Kattray deceased William Stow husband of the said Jane Stow & guardian of Hannah Kattray ^{his} ~~Wife~~ Kattray, & Marion ~~Bushnell~~ Kattray minor heirs of David Kattray deceased ~~plaintiffs~~ Volney J. Buxton, guardian of Asaph Buxton heir of Sarah Buxton deceased ^{his} of said David Kattray deceased & husband of Ellen Buxton late Ellen Kattray, ^{his} of said David Kattray and Ellen Buxton ^{his} of David Kattray deceased ~~plaintiffs~~ and Christopher C. Robinson defendant..... it is said that manifest error hath intervened, to the injury of the said ~~defendant~~ plaintiffs

as we are informed by these complaints the record and proceedings of which said judgments 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 Christopher C. Robinson

that he 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 ¹⁸⁶⁰ ~~1860~~ to hear the record and proceedings aforesaid, and the errors assigned, if he 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 Christopher C. Robinson

notice, together with this writ.

Witness, The Hon. John D. Caton, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this 3rd day of April in the Year of Our Lord One Thousand Eight Hundred and Sixty.

L. Leland

Clerk of the Supreme Court.

J. M. Rice Deputy

I have Executed this will by reading the same to and
 in the hearing of Christopher C Robinson this
 Tenth day of April 1860

A. Seagriff Shff
 By P. P. Seagriff Dep

Fees

Servis - .30

Melage 1.00

Return 1.00

\$1.60

128

Jane Brown & others

No. 13

Christopher C. Robinson

SCIRE FACIAS.

Filed April 12 A. D. 1860

J. Seagriff

Clerk.

Memo for J. Seagriff
 of Chicago, Ill
 attys for W. H. H.

STATE OF ILLINOIS, }
SUPREME COURT, } ss.

The People of the State of Illinois,

To the Clerk of the Circuit Court for the County of Clark 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 Clark County, before the Judge thereof, between Jane Stow & others

plaintiffs and Christopher C. Robinson

defendant....., it is said manifest error hath intervened, to the injury of the aforesaid plaintiff

_____ as we are informed by their complain~~ers~~ _____ 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.

Witness, The Hon. John D. Caton, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this 3^d day of April in the Year of Our Lord One Thousand Eight Hundred and Sixty.....

L. Leland

Clerk of the Supreme Court.

E. J. M. Rice Deputy

Jane Stow
v. others

No.

vs.

C. & Robinson

WRIT OF ERROR.

FILED

A. D. 186

Gleick.

13135

UNITED STATES OF AMERICA,

STATE OF ILLINOIS, COUNTY OF COOK, SS.

Pleas, before the Honorable George Manierre Judge of the Seventh Judicial Circuit of the State of Illinois, and Sole Presiding Judge of the Circuit Court of Cook County, in the State aforesaid, and at a term thereof begun and held at the Court House in the City of Chicago, in said County, on the second Monday, (being the 10th day) of October in the year of our Lord one thousand eight hundred and 49 and of the Independence of the said United States the eighth

Present, Honorable George Manierre Judge of the 7th Judicial Circuit of the State of Illinois.

Paul W. Warren States Attorney.

John Gray Sheriff of Cook County.

Attest, J. S. Church Clerk.

Be it remembered, that heretofore to-wit: On the fourth day of April A.D. 1855, there was filed in the Office of the Clerk of the Court aforesaid, a certificate which is in the words and figures following, to-wit:

" Cook County Circuit Court

In Chancery of the May Term A.D. 1855
Jane Burr late Sime Rattray, her and administratrix
of David Rattray, William R. Burr husband of the
said Jane Burr and guardian of Sarah Rattray, Melia
Rattray and Marion Rattray minor heirs of David
Rattray deceased, Volney J. Burston guardian of Alex
& Burston heir of Sarah Burston deceased heir of said
David Rattray, and husband of Ellen Burston late
Ellen Rattray heir of the said David Rattray, and
Ellen Burston heir of David Rattray deed

Christopher R. Robinson

The clerk will please issue a summons
in the above cause to Will Co Illinois

J. W. Waughrop
clerk of the court

And afterwards to-wit: on the same
day and year last aforesaid, there was issued out of the
office of the clerk of the court aforesaid, and under the seal
thereof, the People certain writ of summons, directed to
the Sheriff of Will County, to Execute, and clothed in
the words and figures following, to-wit:

"State of Illinois }
County of Cook } ss

The People of the State of Illinois, to
the Sheriff of Will County: Greeting.

We command you that you summon
Christopher Le Robinson, if he shall be found in your County,
personally, to be and appear before the Circuit Court of
Cook County, on the first day of the next term thereof, to be
holden at the Court House, in Chicago, in said County, on
the first Monday of May next, to answer unto Jane Stor
late Jane Rattray, her admors of David Rattray, William
L. Stor husband of Jane Stor and guardian of Leah
Rattray, Melia Rattray, Maria Rattray minor heirs of
David Rattray deceased, Volney J. Buston guardian of
Ara J. Buston heir of Sarah Buston deceased heir of said
David Rattray and husband of Ellen Buston late Ellen
Rattray heir of said David Rattray and Ellen Buston
heir of David Rattray deceased in their certain Bill
of complaint, filed in said Court on the Chancery side
thereof -

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"And have you then and there this writ
with an Endorsement thereon, in what manner you shall have
Executed the same.

Seal

Witness Louis W. Howard, clerk of our
said Court, and the seal thereof, at
Chicago, aforesaid this Fourth day
of April. A D 1855.
L. W. Howard. clerk

And afterwards, to-wit: on the same
day and year last aforesaid, said Complainants, by J. W.
Naukrops their Attorney, filed their Certain Bill of Complaint
in the Court aforesaid, which said Bill of Complaint is in
the words and figures following, to-wit:

"In Chancery

To the Honorable Buckner & Morris
Judge of the Circuit Court of Cook ^{County}
in the State of Illinois in Chancery
Sitting

Complaining sheweth unto your Honor of your Obedient
Jane Elm late Jane Rattray administratrix of the Estate
of David Rattray deceased, and William H. Elm, husband
of the said Jane Elm and guardian of Hannah Rattray, Ula
Rattray and Maria Rattray minor heirs of the said David
Rattray deceased, and Volney J. Burston guardian of Asa J.
Burston heir of Sarah Burston deceased and daughter of
said David Rattray deceased and Ellen Burston his wife
and daughter and heir of said David Rattray deceased

and Jane Bloor daughter and heir of said David Rattray deceased, all of the city of Chicago in the County of Cook and State of Illinois.

That Christopher L. Robinson of the County of Will in the State of Illinois, the defendant in this suit, Entered into a written contract with the said David Rattray deceased, on the fifteenth day of May in the year of our Lord One thousand Eight hundred and forty nine, for the purpose of surveying, subdividing and selling, Block Number forty three (43) of the subdivision of the Trustees of the Illinois and Michigan Canal, of Section seven (7) Township thirty-nine (39) Range fourteen (14) in the County of Cook and State of Illinois; as they should conclude it should be done for their mutual advantage and profit; which said Contract is in the words and figures following a true copy of which is hereto annexed and marked A which it is prayed may be made a part of this Bill of Complaint; to-wit: "Articles of agreement, made and Entered into between C. L. Robinson of the City of Chicago County of Cook and State of Illinois, party of the first part and David Rattray of the same place party of the second part,

Witnesseth, that the said party of the first part, has purchased Block No forty three of the subdivision of the Trustees of the Illinois and Michigan Canal of Section No seven Township No thirty-nine Range 14 East - Third P. M., and said Robinson hereby agrees that he will in consideration with said Rattray go on and get the said Block subdivided as they shall mutually think proper

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and and for the interest of the parties, and said Rattray is
to dispose of the same, either at private or public sale as soon
as practicable and thought proper by the parties, for one fourth
down, and the remainder to be secured by notes on one, two and
three years from the first day of May 1849, in equal
annual payments, and bearing interest from date; And the
said Robinson agrees that he will upon the payments of one
fourth in money and secured by notes as stated above. Ex-
ecute his Bond for a good and sufficient deed of Convey-
ance. When such notes are paid in full provided ~~that~~
such said ~~shall~~ not average less than Seven hundred
Dollars in the aggregate; This further stipulated and
agreed that the said Robinson is first to receive the amount
of all moneys paid out for said purchase of said Block
or Blocks which is Nine hundred and sixty five dollars,
together with interest on the same, ~~and~~ the balance is to be
Equally divided between the parties, for which privilege
the said Rattray is to plat, survey or subdivide the said
lot or Block and advertise and sell the same at his
own Expense; which conditions well and truly to be
made the said parties hereto mutually bind themselves
their Executors, administrators or assigns.

In presence of

(Signed) W. A. Baldwin

Witness their hands and seals, this
1st day of May AD 1849

(Signed) L. L. Robinson

Seal

(Signed) David Rattray

Seal

And your Orator further sheweth unto your Honor, that in pursuance of the said agreement with the said defendant, the said David Rattray deceased mortgaged and subdivided and placed the said Block Forty four (44) into seventy lots and by great effort and exertion succeeded in selling thirteen of the said lots, 1, 2, 3, 4, 5, 15, 16, 17, 18, 35, 36, 51, 52, 53, 54, 55, 56, 57 & 58, for prices ranging from forty to one hundred dollars each, to the amount of nine hundred and seventy seven dollars \$977.00, aggregate which was more dollars more than the price paid by said Robinson the defendant for the said Block.

Amended by leave of Court
Apr 5, 1859, [and the sale of more lots at the same rates as some of the others sold would have made the amount of said defendant's part of profits at the amount limited, to-wit: Three hundred dollars by the said contract) -
But at this stage of the proceeding, the said defendant Robinson stopped the sale of the said lots and refused to permit any more of them to be sold, and refused to make any more title papers if they should be sold and thus prevented the said David Rattray deceased from and further fulfilling the said contract, by the direct act of the said defendant Robinson,

And your Orator would further shew unto your Honor that the said David Rattray paid over unto the said defendant Robinson, the sum of Eight hundred and sixty six dollars and sixty two cents of the money and securities paid to him on the sales of the said

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Lots, which would leave a balance in the hands of the said David Ratray, at the time the Execution of the said Contract on the part of said Ratray was interrupted by the said defendant; of one hundred and ten dollars, which said last mentioned sum we hereby tender and are ready at any time to pay on account of for the said defendant Robinson.

And your Orator would further show unto your Honor, that there remains unsold of the said Block forty four (44). Of by three lots according to the plat of the same made by the said David Ratray for the purpose of the sale aforesaid, and that the said David Ratray died in the month of September AD 1849 and was not permitted, to the day of his death to conclude and finish the said Contract by the act of the said defendant Robinson. That the said contract and business still remains unsettled with ^{us} at the day of the decease of the said David Ratray.

And your Orator would further show unto your Honor, that an Effort was made to arrange this matter with the said Defendant Robinson in the Spring of AD 1853. and the said defendant volunteered a statement at that time of the things herein charged and offered to swear to the same, which said Statement is hereto annexed and marked (B) and it is prayed may be made part of this Bill of Complaint; at which time the contract hereinbefore set forth was lost and not found until some time after. The said Statement of the said

defendant is in the words and figures following, and it is prayed may be made a part of this Bill, and is attached herunto; to-wit,

Christopher B. Robinson being duly sworn on oath says, that some time in the Spring of 1849, he made a contract with David Ratray since deceased by which, this affiant agreed with said Ratray in substance as follows, that he said Ratray should lay off into town lots, Lot 43, in Sec 7. S. 39. R. 14 of Canal Trustee subdivision of said said section and that he said Ratray should proceed to sell said lots and that after deducting the purchase money of said lot 43, paid by this affiant for said lot 43, and interest, the balance should be equally divided between said Ratray and this affiant,

This affiant further says, that according to the best of his recollection he paid for said Lot 43, the sum of One thousand and fifty dollars and fifty cents as follows, fifteen dollars to the original purchaser of the Canal Trustee, Nine hundred and fifty dollars to the Canal Trustee on Canal terms and Eighty five dollars and fifty cents interest making in all the sum of \$1050.50.

This affiant further says, that said Ratray sold of said lots Lots 1, 2, 3, 4, 5, 15, 16, 17, 18, 35, 36, 51, 52, 53, 54, 55, 56, 57, & 58, making in all nineteen lots for the gross sum of \$997.00.

This affiant further says that said Ratray paid over to this affiant upon said sales in money

Notes of purchaser the sum of \$ 866.62 Cents and no more and retained the sum of One hundred and ten dollars & thirty Eight Cents; The said Lot (H 3) by said sub-division was divided into seventy-two lots;

This affiant further says that said Rattray was indebted to this affiant in the sum of twenty-five dollars on account of contract with said Rattray in relation to Lot 47 in the same section according to the Computation of this affiant taking the whole amount of sales made by said Rattray and deducting the costs of the same and the sum of \$ 110.58 retained by said Rattray and the said sum of \$ 35.00 there will be a balance due the Estate of said Rattray of \$ 214.51 and further saith not;

And your Oratrix would further shew unto your Honor, that by the terms of the said contract between the said David Rattray deceased and said defendant, the said David Rattray was to share alike in all that the said Block brought above the cost thereof to-wit: One hundred and fifty-five dollars \$ 155.00 and interest which would be one half of the lots remaining unsold (after deducting from the value thereof the balance of the money to be paid to said defendant — Robinson by the said David on the sales already made at the time of the suspension of operations under the contract by the act of the said defendant Robinson)

Mended by
leave of Court
Apr 5. 1859

And your Oratrix would further shew unto your Honor, that they are ready ^{making} and ^{to} pay over

5 1/2

Amended
by leave of
Court

April 5, 1859

unto the said defendant:

(the said sum of One hundred and ten ³⁴/₁₀₀ dollars and interest; an amount of money sufficient to make the amount of his purchase from the Canal and also interest from the day of the purchase of the said Block of the Canal Trustees until present time, and have ever been ready to do so since the death of said David Rattray.)

Whereas your Oratrix Expressly charges the truth to be, that the said defendant Robinson interfered with the execution of the said Contract on purpose to prevent the said David Rattray from obtaining his share of the profits; That the said David Rattray through his Efforts and Skill as land dealer had done well with the said Contract as to clear for himself. Twenty-five and a half. what was Equal to about twenty four of the said lots into which the said Block was divided by the said David Rattray under the said Contract;

That there is no limit to the time for the execution of the said Contract, and the covenants thereof are binding on the heirs and legal representatives of the parties therunto. That your Oratrix is now entitled to fulfill the said contract and have the benefit of the same, as if the said David Rattray were alive to execute the same; That it is not the fault of the said David Rattray nor of his legal representatives that the said contract was not fulfilled according to the terms thereof before his death, or since his death; That the said defendant Robinson learned that the said David Rattray was managing the business under the said Con

~ tract in such a judicious way as to result greatly to the advantage of the said David Rattray, as well as to the said defendant Robinson, and in order to prevent him from having the benefit of such Efforts in the premises, the said defendant Robinson refused to make any more papers, That the said David Rattray was ready and anxious to do as he had agreed, but was not permitted by the said defendant Robinson; That the said defendant Robinson has constantly ever since the death of the said David Rattray declined to have the Contract aforesaid Executed according to its terms,

In Consideration whereof, and for as much as your Oath is committal in the premises, and by the strict rules of Common Law, and is only relievable in a Court of Equity, where such matters are properly Cognizable and relievable,

Do the said therefore, that the said defendant Christopher B. Robinson may full, true and perfect answer make, according to the best of his Knowledge, information and belief, to all and singular the matters and charges aforesaid, Your Oath is hereby making, pursuant to the Statute, the necessity of the answers of such defendant being put in under the Oath; And that as fully, and particularly in every respect, as if the same were ^{again} repeated, and he thereunto particularly interrogated; and more especially that he may set forth and discover according to the best of his Knowledge, remembrance, information, and belief whether or not he made a contract with the said David

Rattray deceased the same as the copy heretofore set forth, whether the copy heretofore set forth is a true and correct copy of a Contract made between him and the said David Rattray deceased; Whether the ^{said} contract between him and the said David Rattray was fulfilled by the said David Rattray, or how much was done under said contract by the said David Rattray before his decease; Whether he in any manner interfered with the execution of the said Contract by said David Rattray; How much money he received of the said David Rattray to apply on the sales under the said Contract. How many notes, Bonds or other written obligations for the payment of money he received of the said David Rattray for sales made under the said Contract. How many of the said lots were sold and how many more left under the said Contract at the decease of the said David Rattray; How much did the said Block or our lot cost, that was to be divided by the said David Rattray under the said Contract?

Whether he has not offered to make the affidavit as heretofore set forth; whether the said David Rattray did not cause the said Block forty three (43) as mentioned in said Contract to be surveyed, subdivided and platted and the streets to be formed under the said Contract and advertise and sell at his own Expense,

Did not the said David Rattray deceased request you to let him go on and finish selling the lots enough to pay for the said Block, and then divide the balance, and did you not refuse to suffer him to do as he thus requested

Amended by
leave of
Court

5 Apr 1859

Amended by
leave of Court
Apr 5 1859

And that the said ~~of~~ Christopher L

Robinson defendant herein, may permit your Oratrix
as the representative of the said Catray to go on and
finish the said Contract by selling: That your Oratrix
may proceed to sell all the lots and paying the said
Robinson his share of the money with whatever interest
he may be entitled to, and your Oratrix obtain what
is properly their own, or that your Oratrix be permitted
to pay the said defendant Robinson (the said sum of
\$ 110 ⁸⁸/₁₀₀ and interest) and the balance of the said
lots or blocks 4 & 5 may be divided between the parties
hereunto, or that a valuation be fixed on the said
property remaining unsold in the said blocks 4 & 5. and
the said defendant be required to pay to your Oratrix
one half of the value thereof after deducting the balance
of the money due the said defendant of the purchase
money of the said blocks 4 & 5. and that your Oratrix
may have such further relief, or may have such other
relief as the nature of their case shall require and
as shall be agreeable to Equity -

May it please your Honor to grant
unto your Oratrix, the writ of summons, issuing out of
and under the seal of this Honorable Court, to be
directed to the said Christopher L Robinson commanding
him by the May term of this Court, to be and appear
before this Honorable Court, and then and there to
answer the premises, and further to stand to and
abide such order and decree therein as shall be
agreeable to Equity and good conscience,

And your Oratrix shall now pray re

John N. Naughton
Comps Ede

Jane Blom. late Jane Rattray
Administratrix of David Rattray
Deed.

Jane Blom heir of
David Rattray deceased
Wife. Blom. husband of said
Jane Blom admtr re
Wife. Blom guardian of
Sarah Rattray. Nettie Rattray
Merim Rattray minor heirs of
said David Rattray deed
Volney J. Buxton and his wife
Ellen Buxton late Ellen Rattray
heir of said David Rattray deceased
Volney J. Buxton. Arthur and
natural guardian of Arta J.
Buxton infant heir of Sarah
Buxton and heir of said
David Rattray deceased.

A

Articles of agreement made and
 Entered into between John Robinson of the City of Chicago,
 County of Cook and State of Illinois, party of the first part
 and David Rattray of the same place, party of the second
 part; Witnesseth that the said party of the first part has
 purchased Block No forty three of the subdivision of the City
 lots of the Illinois and Michigan Canal, of Section No Seven
 Township No thirty nine, Range 14 East Third P. M. and
 said Robinson hereby agrees, that he will in consideration with
 said David Rattray go on and get the ^{said} Block subdivided
 as they shall mutually think proper and and for the
 interest of the parties, and said Rattray is to dispose of
 the same, either at private or public sale as soon as
 practicable and thought proper by the parties for one
 fourth down, and the remainder to be secured by Notes on
 one, two and three years from the first day of May 1849,
 in Equal Annual payments, and bearing interest from date
 and the said Robinson agrees that he will upon the payment of
 one fourth in money and secured by notes as stated above,
 Execute his bond for a good and sufficient deed of con-
 veyance when such notes are paid in full, provided such
 said shall not average less than Dollars & twenty
 dollars in the aggregate; it is further stipulated and agreed
 that the said Robinson is first to receive the amount of
 all moneys paid out for such purchase of said Block
 or Blocks, which is three hundred and sixty four dollars,
 together with interest on the same, then the balance is to be

Equally divided between the parties, for which privilege the said Rattray is to plat, survey or subdivide the said Lot or Block and advertise and sell the same at his own Expense which conditions well and truly to be made, the said parties herunto mutually bind themselves their heirs Executors administrators or assigns.

" In presence of
W A Baldwin

" Witness their hands and seals this
15th day of May AD 1849
" W B Robinson Seal
" David Rattray Seal

" 13

Christopher W. Robinson, being duly sworn on oath says that sometime in the Spring of 1849 he made a contract with David Rattray, since deceased, by which this affiant agreed with said Rattray in substance as follows; That said Rattray should lay off into town lots, Lot 43. in Sec 7. S 39. R 14 of Canal Trustees subdivision of said said section & that he said Rattray should proceed to sell said lot, and that after deducting the purchase money of said lot 43. paid by this affiant for said lot 43. interest, the balance should be equally divided between said Rattray and this affiant. This affiant further says that according to the best of his recollection he paid for said lot 43.

the sum of ~~\$965.00~~ One thousand fifty dollars & fifty cents is follows. fifteen dollars to the original purchaser of the Canal Trustees. One hundred and fifty dollars

to bond trustees on Canal Bonds & Eighty-five dollars and fifty cents interest making in all the sum of \$1050.50:

This affiant further says that said Rattray sold of said Lots Nos. 1. 2. 3. 4. 5. 15. 16. 17. 18. 35. 36. 51. 52. 53. 54. 55. 56. 57. 58. making in all nineteen lots for the gross sum of 977.00. This affiant further says that said Rattray paid over to this affiant upon said sales in money & notes of the purchases the sum of 866.62 Cents & no more & retained the sum of One Hundred and One dollar & thirty-eight cents. The said lot 43 by said subdivision was divided into seventy-two lots. This affiant further says that said Rattray was indebted to this affiant in the sum of twenty-five dollars on account of contract with said Rattray in relation to lot 47. in the same section - According to the computation of this affiant taking the whole amount of sales made by said Rattray & deducting the costs of the same & the sum of \$110.38 retained by said Rattray & the said sum of \$25.00. there would be a balance due the estate of said Rattray of \$214.51. and further saith not.

And afterwards, to-wit: on the 25th day of April. AD 1855, said writ of summons, was returned into the Court aforesaid by the Sheriff aforesaid Endorsed as follows, to-wit:

Berred this writ on the writon named Christopher Le. Robinson, by delivering a copy thereof to him the 25th day of April 1855. J. C. Service 50, copy

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5th. Meile 1,00 Return 10. \$210

P. P. Scarritt Sheriff

And afterwards, to-wit: at the
May Term of said Court to-wit: on the 4th day of
May in the year last aforesaid, the following,
Among other proceedings, were had and acted of
Record, to-wit:

Jane Elm, late Jane Ratray, Et alre
In Chancery.

Christopher Robinson

On motion of defendants
Solicitors, it is ordered by the Court that the rule to answer
in this cause, be extended to the first day of June next.

And afterwards, to-wit: on the 29th
day of May in the year last aforesaid, said defendant
by Wm. Mather and Nathaniel Mather his Attorneys filed in said
Court his certain Answer, which is in the words and figures
following, to-wit:

The Court County Circuit Court
In Chancery sitting

The Answer of Christopher Robinson
to the Bill of Complaint of Jane Elm late Jane Ratray
administratrix of the estate of David Ratray deceased
and William H. Elm husband of the said Jane Elm
and guardian of Hannah Ratray, Eretta Ratray and
Marion Ratray minor heirs of the said David Ratray

deceased and Francis J. Burston guardian of Asa J. Burston heir of Sarah Burston deceased and daughter of of said David Rattray deceased and Ellen Burston his wife and daughter and heir of said David Rattray deceased and Jane Elmer daughter and heir of said David Rattray deceased. Complainants,

This defendant now and at all times hereafter, having and receiving unto himself all benefit and advantage of Exception which can or may be had or taken, to the many Errors, uncertainties, and other imperfections in the said Complainants said bill of Complaint contained; for answer therunto, or unto so much and such parts thereof as this defendant is advised is or are material or necessary for him to make answer unto, this defendant answering says, that he admits that on the 4th day of May in the year of Our Lord One thousand Eight hundred and forty nine, he entered into written Contract with the said David Rattray deceased, for the purpose of surveying, subdividing and selling Block Number forty three of the subdivision of the Trustees of the Illinois and Michigan canal, of Section Seven, Township thirty-nine, Range fourteen, in the County of Cook and State of Illinois, as they should conclude it should be done for their mutual advantage and profit; but this defendant for greater certainty herein does leave to refer to the said written Contract when the same shall be produced.

And this defendant further answering saith, that he admits that the said David Rattray deceased in pursuance of the said agreement, mentioned and subdivided and platted the said Block forty three into

Seventy two lots, and that he sold nineteen of said lots as stated in said Bill, for prices ranging from forty to One hundred dollars Each, to the amount of three hundred and seventy seven dollars in the aggregate.

And this defendant further answering said, that he denies that at this stage of the proceedings, or at any other time or times, he stopped the sale of the said lots and refused to permit any more of them to be sold, and refused to make any more title papers if they should be sold and thus prevented the said David Rattray deceased from fulfilling the said Contract; And this defendant avers and expressly charges the truth to be, that the said David Rattray deceased, on account of the prevalence of the cholera in the city of Chicago at that time of his own free will and without any requirement so to do by this defendant and at his own risk (as the defendant claims) & ever giving up the business, postponed and ceased from his further efforts to sell said lots until the ravages of the Epidemic should be past, alleging that no lots could be sold while the Cholera continued, And soon thereafter the said David Rattray himself became a victim and died of said disease.

And this defendant further answering said, that he admits that the said David Rattray paid over to this defendant the sum of Eight hundred and sixty six dollars and sixty two cents, of the money and securities paid to him on the sales of said lots;

And this defendant further answering said, that he admits, that there remains unsold

of the said Block of only three, & if by three lots according to the plan of the same, made by the said David Rathay, for the purpose of the sale aforesaid, and that the said David Rathay died in the month of September A D 1849:

And this defendant further answering said, he denies that the said David Rathay was not permitted to the day of his death to conclude and finish the said Contract by the act of this defendant.

And this defendant further answering said, that he admits that the said Contract and business remains as it was left at the day of the decease of the said David Rathay;

And this defendant further answering admits, that in the spring of A D 1853 an Effort was made to arrange the matter, so as to save the annoyance and Expense of litigation, but this defendant Expressly denies that he volunteered a statement at that time and offered to swear to the same, as stated by Complainant in his said Bill;

And this defendant further answering states and shews to the Court, and Charges the Court to be, that Terms of compromise and adjustment of said claim were mutually agreed upon between this defendant and the complainant acting through her attorney and counsel, which terms and stipulations as agreed upon were fully and in all respects complied with on the part of this defendant, but failed of their Effect solely by reason of non compliance on the part of said Complainant and her attorney and counsel;

And this defendant further answering
saith, that he admits, that by the terms of the said
contract between the said David Ratray deceased and
this defendant, the said David Ratray was to share
alike in the proceeds of all the lots sold by him, after pay-
ing to this defendant the costs of said Block with
interest added.

And this defendant further answer-
ing saith, he denies that he interfered with the Execution
of the said Contract on purpose to prevent the said David
Ratray from obtaining his share of the profits, or otherwise
interfered in any manner whatever; and he denies that the
said David Ratray through his Efficiency and skill
as a land dealer had done so well with the said Con-
tract as to clear for himself twenty five, or any one or
more of the said lots into which the said Block was
divided by the said David Ratray under the said Con-
tract;

And this defendant further answer-
ing saith, that he denies that there is no limit to time,
for Execution of the said Contract, and he denies that
the Covenants thereof are binding on the heirs and
legal representatives of the parties thereto, except
so far as actually executed by said David Ratray
personally, and he denies that the Complainant is
now entitled to fulfil the said Contract and have
the benefit of the same as if the said David Ratray
were alive to execute the same, and he denies, that it is

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not the fault of the said David Rathay, nor of his legal representatives that the said Contract was not fulfilled according to the terms thereof before his death or since his death, and he denies that the said defendant learned that the said David Rathay was managing the business under the contract in such a judicious way as to result greatly to the advantage of the said David Rathay as well as to the said defendant, and he denies that in order to prevent him from having the benefit of such efforts in the premises, the said defendant refused to make any more papers, and he denies that said David Rathay was ready and anxious to do as he agreed, but was not permitted by the said defendant;

But on the contrary of the several averments last above mentioned and denied, the defendant further answering states and shews to the Court, and insists that in said original written contract between the defendant and said David Rathay, the said defendant altogether relied and counted upon the personal services and personal skill and ability of the said David Rathay as land agent and salesman, to plat, divide and sell said lots which reliance ~~reliance~~ and the proposed benefits to result therefrom were the sole consideration moving and inducing the defendant to employ and commission the said David Rathay therein. And the defendant submits and insists therefore that the privileges and emoluments on the part of

said agent so employed and commissioned and to be derived from said Contract were in their nature personal and confined to the said agent himself and became extinct on the occurrence of his decease. Except so far only as then actually executed and performed and that it is inconsistent with the nature of said business to extend the agency and privileges of said Contract by descent or to any other person or persons — whomsoever,

And this defendant submits to this Honorable Court, that all and every the matters in the said Complainant's bill mentioned and complained of do not entitle her to any relief in a Court of Equity, and this defendant hopes and prays that he may have the same benefit of this defense as if he had demurred to the said Complainant's Bill; and this defendant denies all and all manner of unlawful combination and confederacy wherein he is by the said bill charged, without this, that there is any other matter, cause or thing in the said Complainant's 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 and 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 honorably sustained,

Christopher Robinson

Dickey Weather Taft
Solicitor for Deft

And afterwards, to-wit: at the June
Special Term of said Court, to-wit: on the 20th day of June
A D. 1855. the following, among other proceedings, were had
and entered of record. to-wit:

" Jane Storr late Jane Rattray, heri and administrator
of David Rattray, William W. Storr husband of the
said Jane Storr, guardian of Hannah Rattray, Martha
Rattray and Maria Rattray minor heirs of David
Rattray deceased, Volney J. Bustin guardian of Asa J.
Bustin, heri of Sarah Bustin deceased, heri of said
David Rattray and husband of Ellen Bustin late
Ellen Rattray, heri of said David Rattray, and
Ellen Bustin heri of said David Rattray deceased

Christopher Robinson

In Chancery.

This day comes the said Complainant
by Jno W. Naugbors heri Solicitor, and the said defen-
dant by Dickey Weather and Taft his Solicitors also comes,
and the said defendant having filed his answer to the
said Complainant's Bill. By agreement of the said parties
It is Ordered that it be referred to the Master in Chancery

of this Court, to take proofs of the material facts and allegations of said Complainant's Bill and report the same to this Court, with his opinion thereon, with all convenient speed.

And of Records, to-wit: on the 3^d day of November. AD 1858. There was filed in the Court aforesaid a certain Copy of Notice, with receipt thereon endorsed which are in the words and figures following to-wit:

" Messrs Walter Taft and Wadley

Attys.

Take Notice that on Tuesday afternoon the 24th inst at 2 O'clock P.M., we shall proceed to take further proof before the Master in Chancery in the case of Jane Scott Etal. Devis of Rathway Etal

W. B. Robinson

when and where you can appear if you think proper. The proofs then to be taken, will be testimony to show the kinship (and other relationships) of the various parties Complainants in said Bill.

Yours Truly

Wmell Wadley and Jameson

Attys for Complainants

Chicago. Apr 16th 58

1858

Wmell Wadley

of counsel for Wm B Robinson

Recd Copy of Above April 16th

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And of records. to-wit: on the same day and year aforesaid, there was filed in the Court aforesaid, a certain report of the Master in Chancery of said Court, which is in the words and figures following. to-wit:

"Master Report
State of Illinois }
Cook County } Cook Co. Circuit Court

Jane Blom Et al }
Christopher Robinson } Complainants. Depⁿ
In Chancery

The deposition of Nathaniel Webster and J. W. Naughap, taken before the undersigned Master in Chancery of Cook County State of Illinois at his office pursuant to the notice herewith returned upon the interrogatories herein following, the complainants and their solicitor appearing together with the said witnesses, at the Office of the undersigned at 2. O. O'clock P. M., on the 27th day of April A.D. 1858. whereupon said Examination, the defendant not appearing by himself or counsel was adjourned to the 28th day of April 1858 at 2. O. C P. M.

At 2. O'clock P. M. on said 28th day of April 1858. Compt^r appearing defendant not appearing -

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

14 1/2

of residence, and were you acquainted with the late David Ratray in his life time, is he living or dead, when did he die, what heirs did he leave him surviving, and are you acquainted with the defendant in this suit, if so how long have you known him,

(Ans)

"My name is Nathaniel Webster am 48 years of Age. Am a Coal dealer, I was acquainted with the late David Ratray, he is dead, he died in the fall of 1849, I saw his dead body, he left children his heirs at law. Jane now wife of William H. Brown, Sarah wife of Volney J. Burton, Ellen Ratray now wife of said Burton, Hannah Ratray, Melia Ratray and Merim Ratray,

Q. Are all of said heirs yet living, if any are dead which of them, and where did he or she die, and what heirs were left surviving, have any of said heirs since married, if they have married to whom. State in full

Ans

The heirs left by said Ratray are all living Except Sarah wife of Burton - she died two or three years after her Father leaving one child the only heir at law her surviving named Achsah Burton. this child is still living and is a minor under the age of Eighteen years; Some of the said heirs have married since the death of said Ratray, to-wit: the Comptess Jane, who married William H. Brown and the Complainant Ellen who married Volney J. Burton

after the death of her sister Sarah - all the heirs of said Rathray & except Mrs Stone are minors under the age of Eighteen years. Though possibly Mrs Burton may be over Eighteen years of age -

4 Who was the administrator of the Estate of said Rathray and who is at this time

Ans Jane Rathray the present Mrs Stone was administrator, and is now administrator, under her surty as administrators Bond

Exam to and submitted
before me this 28th day
of April A.D. 1858

Frank L. Webster

L. B. F. New

Meister

Interrogatories propounded to John W. Naughop. on the part of said Complainants.

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

Ans My name is John W. Naughop. I am 35 years of age
Am attorney at law by occupation

2 Were you acquainted with the late David Rathray, if so is he living or dead, if dead what heirs did he leave, are they all living, if not which of them

are dead, are they all or any of them married, if any are married which of them, what are the ages of the present living heirs, if any of said heirs are dead which of them, and what heirs died or she leaves, and do they survive,

Ans I was acquainted with the late David Rathray - He is dead, He died in August or Sept - 1849. He left heirs surviving him, six daughters. to-wit: Jane since intermarried with Wm B. Snow. Sarah then wife of Volney J. Buxton. Ellen present wife of said Buxton - Hannah Rathray, Maria Rathray, and Eirela Rathray - The heirs are all living except Mrs Sarah Buxton who died two or three years after her Father. Jane after the death of her Father intermarried with Wm B. Snow, and Ellen after the death of her sister Sarah married said Buxton - The children I think are now all under the age of 18 years except Jane Snow - The heirs of said Rathray on the first day of April 1855, were all under the age of 18 years except Mrs Snow - Sarah Buxton left one child her only heir at law named Abnerah J. Buxton now aged about six or seven years -

3. Do you know whether letters of administration have been sued out upon the Estate of said Rathray, if yes by whom and from what Court, and who is the present administrator

Ans I know that letters of administration have been sued out. They were sued out of the County Court of Cook County by Jane Rathray now Jane Storr in the fall or winter of 1849, and she has ever since been administrator of the Estate.

4 Were the said Morris guardians, if so by what Court appointed, and who is the guardian or guardians -

Ans William H. Storr was some three years ago appointed by the County Court of Cook Co. guardian of the persons and Estate of Hannah, Euella and Merim Rathray the three youngest of said heirs, born to and subscribed before me this 28th day of April A.D. 1858

J. W. Waughp

L. C. P. Freer
Muster in Chancery Cook Co.

"Facts proven by the Evidence -

1st That on the 15th day of May 1849 the late David Rathray and the defendant entered into a contract in writing, reciting that defendant had purchased Block 43 of the Sub. by the Trustees of the Ills & Mich Canal of Sec 7 - T 39, N R. 14. E, 3^d P. M.

Said defendant therein agrees that he will in connection with said Rathray get said Block subdivided as they should mutually think proper and for the interest of

the parties - That said Rattray should dispose of the same either at private or public sale, as soon as practicable and thought proper by the parties, for one fourth down and the remainder to be secured by notes payable in 1, 2 or 3 years from the 1st day of May 1849 in equal annual payments with interest -

Said defendant therein agreeing that he would on payment of one fourth in money and secured by notes as above to execute his bond for a good deed of conveyance, when such notes should be paid by purchasers, provided such sales should not amount in the aggregate to less than \$12000. Said agreement further provides that said defendant should forth receive out of such sales the amount of monies paid by him for the purchase of said Block amounting \$965 with interest, then the balance to be equally divided between the said parties, for which consideration the said Rattray was to plat, survey or subdivide said Block and advertise & sell the same at his own expense - Which agreements and conditions are by the said writing made to extend to and be binding and obligatory upon themselves their heirs Executors administrators and assigns -

2^d That said Rattray in pursuance of said agreement proceeded to survey, plat and subdivide said Block, and did subdivide the same into 72 lots, and Record said plat

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It is alleged by the Bill and admitted by the answer, that said Rattray did in pursuance to the terms of said ~~contract~~ agreement proceed

to sell the said lots, and did sell with the consent of said defendant sixteen lots of the said subdivision, to-wit: Lots 1, 2, 3, 4, 5, 15, 16, 17, 18, 35, 36, 51, 52, 53, 54, 55, 56, 57 & 58 for prices ranging from \$40. to \$100 Each, amounting in the aggregate to \$977- upon which sales the purchasers paid the one fourth of the purchase price, and gave notes for the balance, receiving Bonds for Conveyance from defendant.

4

That at the time of the last of the sales of the above lots, which would appear to have been in the summer of A.D. 1849, the defendant having had bills prepared for another sale forbade the said Rattray to proceed further with said sales, defendant refusing to execute any more bonds for conveyance to purchasers. That said Rattray insisted upon proceeding with the sales, and the defendant refused. That the 1/2 lots into which said Block was subdivided at the rate said 19 lots more sold at would have would have amounted to the sum of \$ 3400.00

5 That said David Rattray died in the Month of August or Sept 1849 leaving the following named children his heirs, to-wit: Jane Rattray since intermarried with William W. Burr, Sarah wife of Volney J. Burr, Ellen Rattray, Hannah Rattray, Eureka Rattray and Merwin Rattray.

6 That after the death of said David Rattray, the said Sarah, wife of said Burr died, leaving as her

only her at law, her daughter Asiah of Boston who is a minor under the age of 18 years, and that subsequent to the death of said Sarah said Ellen also remarried with the said Boston

7 That the said Ellen, Hannah, Eusebia and Merim were at the time of the death of the said Rattray minors under the age of 18 years, and that they are all still under the age of 18 years

8 That the said Jane, wife of said Stor was in the fall or winter of 1849, appointed administratrix of the Estate of said late David Rattray, and has ever since been such administratrix -

9 That said William W. Stor was appointed guardian about three years since of the three youngest of the minor heirs of said Rattray, to-wit: the said Hannah, Eusebia and Merim

10 That the amount for which the said 19 lots were sold were equal to the purchase price of said Block, it appearing ~~to~~ the sales were made soon after the date of said contract and amounted in the aggregate to \$12 more than the purchase price -

From the evidence and of opinion that the prayer of the Complainants in their said Bill should be granted and that a

Decree should be entered for a partition and di-
 vision of the 53 lots of said subdivision remaining
 unsold, into Equal Shares. and proportions, quantity
 and quality, relatively considered, One share to the
 said Complainants, and the other to the said defendant
 All which is respectfully submitted

L. L. R. Freer

Measur in Chancery
 books 10

Measur for #10

Exhibit A

referred to in deposition of William A. Baldwin

Article of agreement, made and entered
 into between L. L. Robinson of the City of Chicago, County of
 Cook and State of Illinois, party of the first part and
 David Rattray of the same place, party of the second part
 Wherein that the said party of the first part has pur-
 chased Block No. forty three of the subdivision of the lots
 of the Illinois & Michigan Land of section No. seven
 Township No. thirty nine Range 14 East third P. M.
 and said Robinson hereby agrees that he will in connection
 with said Rattray, go on and get the said Block sub-
 divided as they shall mutually think proper and for
 the interest of the parties, and said Rattray is to dispose
 the same either at private or public sale, as soon as
 practicable and through properly the parties for one
 fourth down and the remainder to be secured by

Notes, one, two and three years from the first day of May 1849 in Equal annual payments and bearing interest from date and the said Robinson agrees that he will upon the payment of one fourth in money and secured by note as stated above Execute this bond for a good and sufficient deed of Conveyance when such Notes are paid in full provided such said shall not average less than Twelve hundred dollars in the aggregate. It is further stipulated and agreed that the said Robinson is first to receive the amt of all moneys paid out for said purchis of said Block or blocks which is nine hundred sixty five dollars, together with interest on the same, then the balance is to be equally divided between the parties; for which privilege the said Rathray is to plat survey or subdivide the said lot or block and advertise and sell the same at his own Expense, which Conditions well and truly to be made the said parties hereto mutually bind themselves, their heirs Executors administrators or assigns,

Witness their hands and seals this
of tenth day of May AD 1849
Wm. Robinson Seal
David Rathray Seal

In the presence of
W A Baldwin

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"State of Illinois }
Cook County } ss

Cook County Circuit Court
Office of Master in Chancery
Chicago, October 24 1855

Jane Storr late Jane Rathray Etal }
v } In Chancery
Christopher Robinson }

Deposition of
William A Baldwin, a witness of lawful age, produced
shown and Examined before me, Master in Chancery in and
for the County and State of said on the twenty fourth
day of October AD 1855, at my office in the City of Chicago
in pursuance of an order of the said Court, to be used in
a certain suit or matter now pending and undetermined
in said Court on the Chancery side thereof. wherein Jane
Storr late Jane Rathray administratrix vs Etal are
Complainants, and Christopher Robinson is defendant, on
behalf of said Complainants; being first by me duly
sworn to testify the truth, deposes as follows:

I was acquainted
with the late David Rathray and with Christopher R
Robinson in the year AD 1849. I know of a Contract in
writing between the said David Rathray and
Christopher R Robinson in relation to the sale of Block
of lots three (43) in the Canal Trustee subdivision of Sec
of Townships 39 N R 14; the contract I refer to is and
always has been in my hands, It was placed there
by the parties to the same, which contract I now have

produce.

She said David Rattray sold lots in said Block up to a certain time under said Contract when Mr Robison requested him to stop selling. Robison giving as a reason that he thought the property was advancing and that it would bring more by auction. Mr Rattray remarked at the time to Mr Robison that he thought Robison ought to permit him to go on in as much as he (Robison) was nearly paid as he (Rattray) wished to see his interest; I heard Mr Rattray frequently after the conversation I have referred to request Robison to permit him to go on to make the sales. Rattray using various arguments to show Robison why he ought to permit the sale; Rattray urged as one argument why the sales should go on that he Robison was much paid up, and that he Rattray thought that the lots would sell better then than during the next winter or spring. It is my impression that Mr Robison told Mr Rattray that he would not execute any more Bonds for the sale of lots in said Block - The last interview I heard of between the said Rattray and Robison in relation to this subject was I should think two or three weeks before the death of said Rattray. The testimony I have been giving upon this Examination is in reference to the property described in the written contract I have here produced and submitted to the Master in Chancery, and in reference to said

Contract, I am the subscribing witness ^{to} said Contract
 Thomas Executed in my presence

Cross Examination of the above named witness by the
 Solicitor of the defendant.

The sales made by Rathray of the said lots, were at
 Public Auction, mostly at Grahbs Auction Store, some of
 them I think at Nicholsons; The first interview between
 the said Rathray and Robinson referred to in my direct
 Examination, was at my Office corner of Lake and State
 Streets, It was on the day of the last sale made by Rathray,
 When Robinson insisted upon stopping the sale because the property
 was appreciating Rathray expressed a different opinion -
 The interview I think was several months before Rathrays
 death, I mean the first interview, I think Rathray died
 August AD 1849 - They talked the matter over about
 the sales in my room, they had no quarrel - Each one
 appeared to be acting ^{what he thought} for his own interest - They had no
 hard words, I think the subsequent conversations between
 them were most generally in my room - I cannot
 say exactly how long a period elapsed from the first
 to the last conversations, I think Robinson made his first
 objections to selling previous to the last sale made by Rathray
 I do not recollect that Robinson said the prices at
 which the lots were selling were running down, but
 think he did remark at one time that the lots were
 selling a good deal better than he expected

Mr Rattray remarked at the time Robinson stopped the sales that he thought it was against his interest to stop the sales, but Robinson said he thought not that he thought the property would advance - Robinson was so decided in stopping the sales, that Mr Rattray reluctantly gave up for the time, but then said he meant to make another effort, and every time he saw Robinson afterwards, he urged the sale

Direct Examination resumed

It was at the close of a public sale that Robinson stopped further sales, Rattray had the hand bills prepared for another sale, and I think they were pasted, but in consequence of Robinson requesting that no further sales be made the sale so advertised was not made. Mr Robinson said to me when Rattray was not present that he meant to stop the sales - My best recollection is also that Mr Robinson told me afterwards that he has stopped the sales of any more of the lots in this block. I think the language used by Robinson at the close of the sale, and to which I have referred in my deposition was, "I think I shall have no further sales made" - Afterwards Robinson told me he had stopped the sales -

Witness and subscribed "W. A. Baldwin
before me this 24th day
of October AD 1855
S. L. P. Free, Master in Chancery

"The Contract referred to by the above named witness Baldwin, and by him produced, is herewith made an Exhibit marked A.

J. L. C. Paine Friar, Master in Chancery as aforesaid do hereby certify that the foregoing deposition was taken in the presence of the solicitors of the respective parties in the above entitled suit and under their directions, to be used on the trial of said cause by consent. L. C. Paine Friar

Master in Chancery
Book 100

Master Jan 5. 1859 }
Paid by Compts }

And afterwards, to-wit: at the March term of said Court, to-wit: on the 5th day of April AD 1859. the following among other proceedings, were had & entered of Record. to-wit:

"Jane Stor late Jane Rattray her and administratrix of David Rattray, N. H. Stor husband of Jane Stor guardian of Hannah Rattray, Eunice Rattray & Maria Rattray, minor heirs of David Rattray Tolney J. Buxton guardian of Asa J. Buxton, heir of Sarah Buxton deceased heir of said David Rattray and husband of Ellen Buxton late Ellen Rattray heir of said David Rattray & Ellen Buxton heir of David Rattray deceased

Bill

Christopher Robinson

21 1/2

This day comes as well the said Complainants by Cornell Wailt and Jameson their solicitors, as the said defendant by Dickey McArthur and Taff his solicitors, And the said Complainants by their solicitors, now move the Court for leave to amend their Bill of Complaint filed in said cause, which motion is resisted by said defendants counsel, and the Court having counsel and being fully advised in the premises, now sustains said motion, and orders that said Complainants have leave to amend their Bill of Complaint filed in said cause; To which ruling of the Court in granting the said Complainants leave to amend their said Bill of Complaint, the said defendant by his Counsel now here Except; Whereupon the said defendant by his Counsel move the Court to suppress the Report of the Master in Chancery of the Evidence taken before said master, in said cause, and also the depositions of Nathaniel Webb and J. W. Naughton, and files his written reasons in support of his said Motion, and the Court having heard arguments of Counsel on said Motion as well in support thereof as in opposition thereof, and being fully advised in the premises, now orders that said motion be and the same is hereby overruled; To the ruling of the Court in overruling said motion to suppress said Report of the Master in Chancery and the depositions aforesaid, and to the opinion of the said Master in Chancery upon the facts reported by him in said cause, and to each and all of which, the said defendant by his Counsel now here Except; And the said defendant

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by his counsel, thereupon moves the Court for an order granting him time to file his answers to Complainants said Amended Bill of Complaint, which motion the Court now orders to be, and the same is hereby overruled.

Whereupon the said defendant by his counsel, moves the Court to set aside said cause for hearing on Bill of Complaint, and answers thereto, And the Complainants by their Counsel thereupon submit their cross motion for leave to file Replication to said defendants answer nunc pro tunc, and the Court having heard arguments of Counsel, and being fully advised in the premises, now sustains said cross motion of Complainants, and orders that said Complainants have leave to file Replication to defendants Answer to said Bill of Complaint nunc pro tunc, and further orders that said motion of defendant to set said cause for hearing on Bill of Complaint and answers thereto, be and the same is hereby overruled; So all of which rulings of the Court, the said defendant by his counsel now here except; Whereupon the said defendant by his counsel moves the Court to grant a continuance of said cause, which motion the Court now orders to be and the same is hereby overruled.

And afterwards to-wit; on the same day and year last aforesaid, said Complainants by their Solicitors filed in the Court aforesaid, their certain Replication which is in the words and figures following, to-wit;

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James Blair & Co
vs
Wm. W. Robinson

Circuit Court of Cook County
In Chancery

Now comes the said Complainants
and as to the allegations of said defendant contained
in his Answer, they deny the same, and aver their
Bill to be true as they have therefore avowed -
Bernell Waite and Jameson
Attorneys for Compts

And afterwards to-wit: on the same day and year
last aforesaid, said Complainants by their Counsel
filed in said Court their certain proposed amendments
to Bill, which is in the words and figures following
to-wit:

Circuit Court of Cook County
March Vacation Term AD 1859

James Blair & Co
vs
Wm. W. Robinson

In Chancery

And now comes the said Com-
plainants by Bernell Waite and Jameson, their
Attorneys, and moves the Court for leave to amend
their Bill in the following particulars,

- 1 By striking out the following words on p 4.
" And the sale of two more lots at the same rate as

Some of the others sold, would have made the amount of said defendant's part of profits at the amount limited to-wit: One hundred dollars by the said Contract.

2 By striking out the following words on page 7
 " After deducting from the value thereof, the balance of the money to be paid to said defendant Robinson by the said David Rathay on the sales already made at the time of the suspension of operations under the contract, by the act of the said defendant Robinson "

3 By striking out the following words on page 8
 " An amount of money sufficient to make the amount of his purchase from the Canal and all interest from the day of the purchase of the said Block of the Canal trust until present time, and have ever been ready to do ~~so~~ ^{the} since the death of said Rathay " - And by inserting in lieu thereof the words and signs " The said sum of One hundred ~~and~~ ²⁵ dollars and interest

4 By striking out the following words on page 8
 " what was Equal to about twenty four " and inserting in lieu thereof the words " Twenty ~~five~~ ^{five} and a half,

5 By striking out the following words on page 11
 " The said defendant Christopher L. Robinson defendant herein may permit your Oratrix as the representative of said Rathay to go on and finish the

said contract by selling" - And by inserting in lieu thereof
the words, "that your Orators may proceed to sell

6. By striking out the following words and figures in page 11
"An amount sufficient to pay him all his purchase money
of said Block 43" And the words, "to this date" - and by
inserting in lieu thereof the words and figures,
"The said sum of \$ ³⁸ 110 ¹⁰⁰ "
Cornell Waite and James
Solicitors for Compt

Motion granted and Bill Amended as above April 5 1859
Wm. J.

And afterwards, to-wit: on the same
day and year ^{last} aforesaid said defendant by his solicitor
filed in said Court his certain Motion - which is in the
words and figures following, to-wit:

Circuit Court of Cook County -
March Vacation Term 1859
In Chancery -

Jane Elm Etal }
Christopher Robinson. }

And now comes defendant by Dyle
Dekey his Attorney and moves the Court to suppress the re-
port of the Meas in Chancery taken in this cause, and
also to suppress the deposition of Nathaniel Habb & J. M.
Waughs, respectively & each answer thereto, and
present the following reasons,

1. "I" suppress the Measter report because no order of Court was made authorizing him to make the report in this case -
2. The Measter had no order authorizing him to report the facts, or his opinion of the facts, or his opinion of the Equities of the case -
3. Said depositions were taken irregularly, viz without the notice required by law to the other party & are not properly authenticated -
4. The answers respectively are to leading questions and contain incompetent matter -

J. S. Dickey
for deft

And afterwards, to-wit: on the same day and year last aforesaid, said exempt defendant by his solicitor filed in said Court, in connection with additional reasons for suppressing Measter report, which is in the words and figures following, to-wit:

Jane Blum Et al

Robinson

Said defendant by Dickey his attorney shows as other reasons for suppressing such Measter Report, the report does not profess to be made in pursuance

25-

of any order of Court, that defendant had no notice of the hearing before said Master in Chancery & further that the report is not supported by the proof - nor warranted by the law,

L. Dickey

And of Records, to-wit: that the October Term of said Court, to-wit: On the seventh day of November, A.D. 1859, the following, among other proceedings, were had and Entered of Record, to-wit:

Jane Blom late Jane Rattray heiress and administratrix of David Rattray, W. H. Blom husband of Jane Blom guardian of Sarah Rattray, Mela Rattray and Marion Rattray minor heirs of David Rattray deceased, Volney J. Buxton, Guardian of W. J. Buxton, heir of Sarah Buxton deceased, heir of said David Rattray and husband of Ellen Buxton, late Ellen Rattray heiress of the said David Rattray and Ellen Buxton heiress of David Rattray deceased

= Bill

Christopher Robinson

This cause this day coming on to be heard upon Bill of Complaint filed therein, Answer, replication, Exhibits and proofs adduced by the parties, and Counsel having been heard as well on the part of the said Complainant as of the said defendants

and the Court being fully advised in the premises, doth
 find that the Complainants are not entitled to the relief
 prayed for in their said Bill of Complaint,

Therefore it is ordered, adjudged
 and decreed that the Complainants Bill of Complaint
 filed in said Cause be dismissed out of the Court with
 Costs to be taxed, and the same is hereby dismissed accor-
 dingly

I, WILLIAM L. CHURCH, Clerk of the Circuit Court of Cook County, in the
 State aforesaid, do hereby certify the above and foregoing, to be a true, perfect and
 complete copy of the papers and proceedings
 in a certain cause lately pending in said Court
 on the Chancery side thereof, wherein Jane Horlabe
Jane Rathay Administratrix vs Complainants and
Christopher C. Robinson Defendant.



In Witness Whereof, I have hereunto set my hand,
 and affixed the Seal of said Court at Chicago, this
Twenty Seventh day of January
A. D. 1860

Wm L Church Clerk.

State of Illinois, 3^d Grand Division
Supreme Court April Term 1860

Jane Stow & others } Error to look
vs }
Christopher C. Robinson }

And now comes the said
Jane Stow, William H. Stow, Hannah
Rattray, Ellen Buxton, Volney J. Buxton,
Loretta Rattray & Marion Rattray by
their Guardian William H. Stow, &
Achsa J. Buxton by her Guardian
Volney J. Buxton, and say that
manifest error hath intervened in
the proceedings whereof the foregoing
is a record and as error they pray
the following, to-wit:

1st The Circuit Court erred
in dismissing the Bill

2^d The Circuit Court erred
in not rendering a decree for the
Complainants.

Wherefore they pray judgment
etc. Goudy & Waite
attys for

128
Circuit Court, Cook Co.

Jane. Stone, Etal

v.
C. C. Robinson

Record

Filed April 3, 1860.
L. Leland
Clerk

14.50