

12351

No. _____

Supreme Court of Illinois

Lindsay, et al

vs.

Davenport, et al

71641  7

77

James Lindsay & Co

vs

Bailey Davenport & Co

1857

77

1857

12351

~~XXXX~~

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State of Illinois
Rock Island County
Circuit.

Be it remembered
that among the records and
proceedings of the Circuit
Court, for the County of Rock
Island and State of Illinois
are the following records of the
case of George L. Harwood vs
James Lindsey & Co., original
bill, and James Lindsey and
others vs George L. Harwood
and others, assumpsit bill.

The said original bill was
filed in the 23 of March 1835, and
the other papers on the respective
cases herein enclosed -

State of Illinois } Of the March Term of
 Rock Island County } the Circuit Court in
 & for the County aforesaid sitting
 in Chancery Ad 1855

The Hon Ira Milkison judge of the Sixth Judicial Circuit in the state of Illinois

Respectfully represent unto your honor your Orator Bailey Davenport & Susan McGoldsmuth of the County of Rock Island in the state of Illinois, & George Davenport of the City of Davenport in the County of Scott in the State of Iowa. that heretofore at the November Term of this Court Ad 1854 James Lindsey Susan Noel and Adam Noel husband of said Susan, Eleanor Bradley & Horace Bradley husband of said Eleanor, Margaret Matthews & John B Matthews her husband Augustine A Lindsey & Joseph Lindsey instituted two several actions of ejectment against your Orators the said Bailey & George L. respectively & claiming to recover of your Orator the said Bailey in their action against him, firstly, the following premises namely, the North west fractional quarter of section thirty six (36) in Township Eighteen (18) North of the second range of townships west of the 4th principal Meridian Situate in said Rock Island County,

And Secondly claiming to recover of your Orator the said Bailey a six acre lot known & marked as lot C. on the plat of a survey of lots by

George Davenport on the North west fractional Quarter of section thirty six (36) in Township Eighteen (18) North of Range two West. & thirdly Claiming to recover of your Orator the said Bailey one other tract of Land described as follows. beginning at the South west Corner of the North West fractional Quarter of section thirty six (36) in Township Eighteen (18) North range two (2) West 4th P^m running East on the dividing line between the North West & South West Quarter of the section. Seventy nine & two thirds yards thence North to the Bank of the Mississippi River, thence Westwardly along the Bank of the Mississippi river to the west line of the North West fractional Quarter section thence South on said west line to the place of beginning.

And also fourthly Claiming to recover of your Orator the said Bailey. Another tract of Land in Rock Island County a^d described as follows to wit a part of the North West fractional Quarter of section thirty six (36) Township & range a^d bounded on the south by the travelled road leading from the City of Rock Island to Moline on the East by a tract of land claimed by Samuel Andrews from which it is separated by a lane or street on the north by the south shore of the Mississippi River and on the west by land claimed by Benjamin Sackney & so much of said part of land as lies south of the Chicago & Rock Island rail road Company's claim for right

of way through it enclosed on the North East and South sides by a rail fence except a few barrels on the South side and on the West side by a board fence separating it from lands claimed by said Stickney And your Orator the said George I shows to your Honor that the said parties plaintiff in said action of ejectment in & by their said suit against him seek & claim to recover of your Orator the said George I the following lands & premises to wit. firstly the North West fractional Quarter of section thirty six (36) in Township Eighteen (18) of second (2nd) Range of Townships west of the 4th P.M. situated in the County of Rock Island aforesaid. And secondly claiming to recover of your Orator the said George I a certain other tract of land described as follows beginning on the dividing line between the North West & South West Quarters of section thirty six (36) in Township Eighteen (18) North Range two (2) west one hundred & fifty eight & two thirds yards from the South West corner of said North West fractional Quarter running thence seventy nine & one third yards East thence North to the Mississippi river thence westwardly along the bank of said river to a point due North from the starting point thence South from said river to the point of beginning containing between five & six acres. And also claiming to recover of your Orator the said George I the following tracts of Land to wit two lots of between five

and six acres each known & marked C. & D. on the plat of a survey of lots laid out by George Davenport dec'd on the North West fractional Quarter of section thirty six (36) in Township Eighteen North two (2) West which said several actions of Ejectment your Orator shows are still pending agt them respectively in the Court aforesaid.

And your Orator shows that the premises sought to be recovered of your Orators respectively in said several actions of Ejectment under whatever descriptions set forth in said actions, are parts and parcels of said North West fractional Quarter of section thirty six & none other, and that the plaintiffs in said several actions of Ejectment seek to recover of your Orators respectively said several premises as heirs at law of one Thomas Lindsey deceased by virtue of a certain pretended deed of Conveyance commonly called a quit Claim deed signed by George Davenport late of said Rock Island County & now deceased & which said deed so far as the said George Davenport was ever party thereto is in the words & figures following to wit

" Know all men by these presents that
 " George Davenport of Rock Island County in the state
 " of Illinois, for & in consideration of the sum of two
 " hundred dollars to him in hand well & truly paid
 " by Thomas Lindsey of Farnhamburg in the state of
 " Illinois at & before the sealing & delivery hereof the

" receipt whereof is hereby acknowledged by the said George
 " who thereof doth acquit & forever discharge the said
 " Thomas his heirs executors and administrators by these
 " presents has released and forever quit Claimed
 " and by these presents does release & forever quit Claim
 " unto the said Thomas Lindsey & his heirs and
 " assigns all the estate and estate shares p^{ro}ports
 " and dividends right title interest property Claim
 " & demand whatsoever of him the said George
 " Davenport in law or equity or otherwise howsoever
 " of in to or out of all that tract or parcel of Land
 " known & designated as the North West fractional
 " Quarter section number thirty six (36) in Township Eigh
 " teen (18) of the second range of Townships west of the
 " fourth principal Meridian containing one Hundred
 " and ten $\frac{85}{100}$ acres - also all of the fractional tract
 " or parcel of land lying between the aforesaid described
 " tract & the Mississippi River containing five $\frac{5}{100}$
 " acres in the actual possession & seisin of the said
 " George Davenport now being the aforesaid lands now
 " being situated in the state of Illinois. to have & to
 " hold all & singular the premises hereby released
 " & released or mentioned or intended so to be with
 " the appurtenances unto the said Thomas Lindsey
 " his heirs & assigns to the only proper use & behoof
 " of the said Thomas Lindsey his heirs and assigns
 " forever. So that neither the said George Davenport
 " his heirs nor assigns nor any other person or

"persons whosoever lawfully claiming or to claim
 "by from or under him. the said George shall or
 "may at any time or times hereinafter have claim
 "challenge or demand any estate right title or interest
 "of in to or out of the said tract or parcel of land
 "hereby devised & released or mentioned or intended
 "so to be with the appurtenances or any part or parts
 "thereof. but thereof & therefrom shall & will be utterly
 "excluded & forever debarred by these presents.

"In witness whereof the said George Davenport has here
 "unto signed his name and affixed his seal the
 "twelfth day of June Anno Domini Eighteen hun
 "dred & thirty five at Rock Island in Rock Island Co
 "nty in the state of Illinois

"In presence of  George Davenport Seal
 J Emerson 

A Copy of which said deed together with a
 certificate of the pretended proof of Execution as recorded
 in the records office of of said Rock Island County
 is herewith filed & made part of this Bill of
 Complaint

And your Orator shows that the said George
 Davenport on the twelfth day of June A.D. 1835
 & for a long time before was in possession of &
 asserted a claim to the South East fractional
 Quarter of said section thirty six (36) in Township
 Eighteen (18) North Range two (2) West 4th
 & was also at the same time in possession

of and asserted a claim to a fractional tract or parcel of Land lying between said South East fractional Quarter and the Mississippi River containing according to the first or original Government Survey thereof five and $\frac{7}{100}$ acres of Land. And your Orators show* that a short time before said 12th day of June 1835 the said Thomas Lindsey Sen^r applied to said George Davenport to purchase & did purchase from him all his the said George Davenport's right title & claim in & to said last aforesaid described tract of Land & that he said Thomas Lindsey never purchased or bargained for from said George Davenport the said premises sued for in said actions actions of Ejectment.

Your Orators further show that in performance of said Contract of sale said George Davenport signed said deed dated 12th day of June 1835 & that both he and the said Thomas Lindsey Sen^r then & ever since during their respective lives believed & supposed & so stated that said deed conveyed & described the premises above described & really sold as aforesaid that said deed was not drawn up by said George Davenport or by the said Thomas Lindsey Sen^r but some person not now known or recollected by your Orators & that by mistake & inadvertance the draftsman of said deed inserted the North West instead of the South East Quarter of said

section thirty six Township Eighteen North of Range
 two west * that at the time he signed the aforesaid
 deed it was the intention of said George Davenport
 to convey by said deed all his right title to the last
 aforesaid described tracts of land to the said Thomas
 Lindsey & none other & that it was also the intention
 & expectation of said Thomas Lindsey by said deed of
 conveyance to purchase & acquire of said George
 Davenport his the said George's title & claim to said
 last mentioned tracts of land & none other.
 said last mentioned tracts of land then being the
 only subject of negotiation between them & for which
 the consideration mentioned in said deed was
 paid if any consideration was ever paid -
 And your Orator shows that at the time ^{the} said
 George Davenport signed the deed aforesaid
 he had only a possessory interest or claim upon
 said last described premises the legal title thereof
 then being in the Government of the United States
 & that immediately after the date of said deed
 the said Thomas Lindsey took possession of said
 last mentioned premises & immediately thereafter
 obtained a preemption right or claim thereto
 as your Orator is informed & verily believe.

And your Orators further show that the said
 Thomas Lindsey in his life time never asserted
 or pretended to have purchased or to have any
 right title or claim to any of the premises

sued for in said actions of Ejectment and hereto
 fore described & never took or claimed possession
 thereof, although up to the time of his death he
 resided in the immediate vicinity of the same
 that after the decease of the said Thomas neither his
 heirs nor any persons interested in his estate ever
 asserted or pretended to have any right title interest
 or claim to said premises sued for in said actions
 of Ejectment or that said Thomas Lindsey ever posses-
 -sessed the same until at or about the time said
 actions were commenced against your Orators as
 aforesaid. And your Orator show that there is
 a mistake & misdescription of the premises sold
 & intended to be conveyed by said George Davenport
 by the deed aforesaid to the said Thomas Lindsey & that
 instead of said North West fractional Quarter section
 Number thirty six (36) mentioned in said deed it
 was intended by said George Davenport & said
 Thomas Lindsey at the time said deed was signed
 by said George Davenport to convey by said deed to said
 Thomas the South East fractional Quarter of said section
 thirty six (36) & that such mistake & misdescription
 is evidenced by the description in said deed inas-
 much as between said South East fractional Quarter &
 the Mississippi River there is a fractional tract of
 Land such as is mentioned in said deed which
 according to the Government survey then in force
 purported to contain five & two acres of Land

and between the said North West fractional Quarter mentioned in said deed & the Mississippi River there is no fractional tract of Land or any Land whatever & never was any such or other piece of Land according to any Government Survey & such mistake & misdescription in said deed is further evidenced by the fact that said North West fractional Quarter mentioned in said deed was never estimated or described by any Government Survey to contain One hundred & ten $8\frac{5}{100}$ acres as described in said deed, but on the contrary thereof said North West fractional Quarter in fact contains only thirty eight $6\frac{5}{100}$ acres of Land as will appear by the Government survey thereof & such mistake & misdescription in said deed is further evidenced by the fact that by the Government Survey said South East fractional Quarter is made to contain One hundred & ten $8\frac{5}{100}$ acres of Land that being the only fractional Quarter in said section thirty six containing such number of acres.

And your Orators show that they severally own in fee simple certain parts or parcels of Land situated in said North West fractional Quarter section thirty six & that they ~~respectively~~ derive their title thereto as follows namely. On the 11th day of March 1836. one Henry McNeil entered said North West Quarter section & purchased the title

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from the Government of the United States and
obtained a patent therefor which is still in force
On the 8th day of February 1842 the said Henry
McNeil & his wife by their deed of that date
conveyed an undivided one third part
of said North West Quarter to Nathaniel Belcher
On the 8th day of February A.D. 1844 the said Henry
McNeil & his wife conveyed to Martha W. Andrews
by their deed of that date one undivided one third
part of the said North West Quarter

On the 11th day of April A.D. 1844 the said Henry McNeil
& wife & Nathaniel Belcher by their deed of that date
conveyed to Martha W. Andrews all their right title &
interest in & to the said North West Quarter except
twenty four (24) acres of the same described as follows
"to wit" Commencing at the South West Corner
of said Quarter thence North $72^{\circ} \frac{88}{100}$ rods to
a stake on the Bank of the Mississippi
river Thence South $69^{\circ} \frac{1}{4}^{\circ} \text{ E } 28^{\circ} \frac{64}{100}$ rods Thence
South $78^{\circ} \text{ E } 36^{\circ} \frac{75}{100}$ rods to a stake on the Bank
of said river thence South $53^{\circ} \frac{44}{100}$ rods to the
South line of said Quarter Section thence west
on said line 62 rods to the place of beginning.

On the 11th day of April A.D. 1844 Samuel Andrews &
the said Martha W. Andrews his wife & the said Henry
McNeil by their deed of that date conveyed to Nathaniel
Belcher the said real Estate excepted in the convey-
-ance last aforesaid

On the 24th day of March AD 1845- the said Nathaniel Belcher by his deed of that date conveyed the said excepted real estate to George Davenport, on the 11th day of April AD 1844 the said Lemuel Andrews & Martha W Andrews his wife & Nathaniel Belcher by their deed of that date conveyed to Henry McNeal the following described part of said North West Quarter To Wit" Commencing 26 rods East from the Southwest corner of said NW Quarter section thence North 62 rods to the Bank of the Mississippi River thence up said river bank South 78° E 36 $\frac{1}{2}$ rods to a stake thence South $53^{\circ} \frac{44'}{100}$ rods to the south line of said Quarter thence west on said line 36 rods to the place of Beginning containing 13 acres

On the 13th day of August AD 1844 Henry McNeal & wife by their deed of that date conveyed to F B Babcock the said real estate last described above

On the 17th day of March 1845- the said F B Babcock by his deed of that date conveyed the real estate last above described to George Davenport

On the 18th day of March 1845- Lemuel Andrews and the said Martha W Andrews his wife by their deed of that date conveyed to George Davenport all their right title & interest in & to the said North West Quarter, On the 7th day of June AD 1836 William Depstead & his wife by their deed of that date conveyed to George Davenport all their right title & interest in & to the said North West Quarter

Your Orators further show unto your Honor, that the
 said George Davenport departed this life on or
 about the 4th day of July AD 1845. having made a
 testamentary disposition of all his estate real & personal
 & appointing your Orator George L Davenport Executor of his
 last will & testament. That your Orator the said George
 accepted the trust devolved upon him by said will which
 was immediately after the decease of said George duly
 admitted to Probate in the probate Court in & for the
 County of Rock Island aforesaid that by the provisions
 of said will said George L Executor as aforesaid was
 directed & empowered to sell (Among other lands) said
 North West fractional Quarter of said section thirty
 Six that in pursuance of such power under said
 will George L Executor as aforesaid on the first day
 of July 1848 by his deed of conveyance of that date
 conveyed to your orator the said Bailey Davenport
 Among other lands the following namely a six acre
 lot known & marked as Lot C on the plat of the
 survey of lots laid out by George Davenport dec^{de}
 on the North West fractional Quarter of Section thirty
 Six Township 18 North Range two west except one
 acre of land before that time sold. That on the 1st
 day of July 1848 said George L Davenport Executor as
 afo^{re} and as such Executor by his deed of that date
 conveyed to Gilbert C R Mitchell a tract of land
 of about five or six acres in said fractional
 section (36) thirty Six bounded on the North by the

Mississippi river on the East by Land (then owned)
 of Mrs Adams on the south by the Quarter section
 line & on the west by a lot known & distinguished
 on the plat of the survey of lots laid by George
 Davenport and as Lot A, & which said last descri-
 bed tract of Land your Orators show is situated
 in said North West fractional Quarter of section
 thirty six. That on the first day of July 1848
 said George L Davenport executor as aforesaid
 & as such Ex^r by his deed of that date conveyed
 to Gilbert C R Mitchell the following Land to wit
 a lot of between five & six acres known & marked
 as Lot C; on the plat of the survey of lots
 laid out by George Davenport deceased on said
 North West fractional Quarter that the said
 Gilbert C R Mitchell on the 28th day of September
 Ad^d 1849 by his deed of that date conveyed to your
 Orator Bailey Davenport said tract of Land
 of five or six acres of said fractional section
 thirty six & in the North West fractional Quarter
 thereof, & bounded & described herein in the first men-
 tioned deed from said George L to said Mitchell
 that the said G C R Mitchell on the 19 day of June
 1849 in his deed of that date conveyed to said George
 L Davenport the said lot of Land of five or six acres
 known & marked as Lot C as aforesaid that on the
 first day of July 1848 the said George L Davenport Exe-
 cutor as aforesaid & as such Executor by his deed of

That acts conveyed to Susan M Lewis a five
acre lot of Land known & marked as Lot D on the
plot of the survey of Lots laid out on said North
West fractional Quarter of said section thirty Six
That on the 15th day of June AD 1849 the said Susan
M Lewis by a tri-party indenture & agreement
between her the said Susan M & the said George S
Davenport & one Zacchariah H Goldsmith con-
veyed same Lot D situated in said North West
fractional Quarter to the said George S Davenport
in trust for her the said Susan M.

And your Orator the said Susan M shows & your
Honor that afterwards on or about day of
June 1849 she intermarried with the said Zacchariah
H Goldsmith & that the said Zacchariah departed
this life on or about the 1st day of Decr 1854

And your Orator shows that the said Thomas Lindsey
departed this life intestate on or about the fourteenth
day of Sept 1839 leaving Sarah Ann Lindsey
his widow Susan Noel James Lindsey Eleanor M
Bradley Margaret D Mathews Joseph P Lindsey Augustine
A Lindsey Andrew Lindsey & Sarah Ann Lindsey his
only heirs at Law. that said Andrew since the decease
of said Thomas died intestate & without issue leaving
the last aforementioned persons his only heirs at Law
That the said Sarah Ann Lindsey after the decease
of said Thomas intermarried with one Dubyn
& some time after such intermarriage deceased without

issue & intestate leaving the said last aforesaid persons her only heirs at Law. That said Susan Noel & now the wife of our Adam Noel. That said Eleanor Bradley is now the wife of Horace Bradley that Margaret D Mathews is now the wife of John D Mathews all which named persons namely:

Sarah Ann Lindsey Joseph Lindsey Susan Noel Adam Noel James Lindsey Eleanor D Bradley Horace Bradley Margaret D Mathews John D Mathews your Orator pray may be made party Defendants to this Bill of Complaint Your Orator therefore pray process of Subpoena against the said Sarah Ann Lindsey James Lindsey Susan Noel Adam Noel Eleanor Bradley Horace Bradley Margaret D Mathews John D Mathews Augustine Lindsey & Joseph T Lindsey (which your Orator pray may be made parties Defendant to this Bill of Complaint) & that they may to the best & utmost of their respective knowledge information remembrance & belief full true & perfect answers make to all & singular the matters aforesaid (the Oaths of the said Defendants to their answers herein being hereby expressly waived) & that the said deed herein before set forth by the decree of this Court be so reformed that it shall be taken & deemed to convey all the estate claim & demand which the said George Davenport at the date of said deed had

in & to the said South East fractional Quarter
 of section thirty Six in the Township & Range
 aforesaid & also the fractional tract or parcel
 of land lying between said South East fractional
 Quarter & the Mississippi River to the said
 Thomas Lindsey his heirs & assigns & that the
 said defendants & all persons claiming from or
 under them be perpetually enjoined from
 claiming or demanding any right title or
 interest in & to that part of said North West
 fractional Quarter of said section thirty Six claimed
 & owned by your Orators as hereinbefore stated or
 setting up any title thereto & that they & all persons
 claiming from or under them be perpetually enjoined
 & restrained from commencing or prosecuting any
 action or actions suit or suits in Ejectment or
 other possessory action for the recovery of said
 premises by virtue of the deed aforesaid of said
 George Daouport to said Thomas Lindsey & that in
 the mean time a writ of injunction may be
 issued from this Honorable Court restraining & prohibiting
 the said defd^t herein who are our plaintiffs in said
 several actions of Ejectment from further prosecuting
 said several actions until the final decree of the
 Court herein or until the further order of
 your honor herein & that your Orators may
 have such other & further relief as to Equity &
 good conscience appertain & as in

duty bound will ever pray &

Bearse & Andrews

Knox & Drury &

Mitchell & Putnam

Sals for Orator

Bill in Chancery
George L. Davenport
Baily Davenport
Susan M. Colasmyth

vs
Sarah Ann Lindsey
James Lindsey &
others

BPA K & D
Sols for
Compts —

Filed March 23rd
1855 Frazar Wilson
Clerk

State of Illinois } Of the March Term
 Rock Island County } ss. of the Circuit Court in
 and for the County
 aforesaid sitting in Chancery A.D. 1855—

The joint and several answers of Sarah and Lindsay
 James Lindsay, Susan Lindsay Noel, Adam Noel
 Eleanor M Bradley Horace Bradley Margaret D
 Mathews & John B Mathews her husband, Augustine
 A Lindsay and Joseph T. Lindsay, defendants to
 the bill of Complaints of Bailey Davenport, Susan
 M Goldsmith and George L Davenport—Com-
 plainants.

These defendants now and at all times
 hereafter saving and reserving to themselves and
 each of them, all benefit and advantage of ex-
 ception which can or may be had or taken to
 the many errors uncertainties and other imper-
 fections, in the said Complainants bill of said
 Complaints contained for answer thereunto or
 unto so much and such parts thereof as these
 defendants are advised is or are material or
 necessary for them or any of them to make answer
 unto, they these defendants severally answering
 say

That it is true, that heretofore at the November
 Term of this Court, A.D. 1854, James Lindsay, Susan
 Noel and Adam Noel her husband, Eleanor M
 Bradley and Horace Bradley her husband—

Margaret D Mathews and John B Mathews her husband, Augustin A Lindsay and Joseph T. Lindsay instituted two several actions of Ejectment against the said Bailey & George L respectively and claiming to recover of said Bailey in their action against him certain premises named in said bill and to recover of George L. certain other premises named in said bill.

And these defendants further answering say that it is true that the said premises sought to be recovered as aforesaid, are parts and parcels of the North West fractional quarter of Section thirty six (36) in Township Eighteen North of Range two West of the 4th principal Meridian, and that the plaintiffs in said several actions of Ejectment, as heirs at law of Thomas Lindsay deceased, do seek to recover by virtue of a certain actual, and not pretended deed of conveyance not commonly called a quit Claim Deed, signed by George Davenport late of Rock Island County, and now deceased, but a deed with special covenants therein named.

It is also true that said George Davenport - Dec^d was a party to said deed of conveyance to said Thomas Lindsay deceased, and the substance of said deed of conveyance, which is a deed with a special warranty binding on said George Davenport deceased and all persons claiming under him

is set forth in said bill. These defendants will on the trial of this cause produce the Original and when produced they pray that the same may be taken as part of their answer.

Further answering these defendants say, that on the twelfth day of June 1835 and for a long time before, said George Davenport was not in possession of nor did he assert a lawful claim to the South East fractional quarter of said Section thirty Six, and it is not true that he was also at the same time in possession of and asserted a claim to a fractional tract or parcel of land lying between said South East fractional quarter and the Mississippi River, and it is not true that according to the first or original Government Survey thereof it contained five $\frac{7}{100}$ acres of land. and it is not true, that a short time before the 12th day of June 1835 the said Thomas Lindsay applied to said George Davenport to purchase, and it is not true that he did purchase all his right title and claim thereto ^{if he did} it would not be material to this Suit, and it is not true, that said Thomas Lindsay dec^d never purchased or bargained for, from George Davenport deceased, the, the said premises sued for in said actions of Ejectment.

And these defendants further answer, that it is not true, that in performance

of said Contract of Sale, the said George Davenport signed said deed, dated 12th day of June 1835, and it is not true that both he and said Thomas Lindsay, then and ever since, during their lives believed and supposed, and so stated, that the said deed conveyed and described the premises above described, and really sold as aforesaid

These defendants do not know the hand writing of said George Davenport well enough to answer whether said deed is in his hand writing and cannot answer thereto, and insist on proof, that it is not. The signature is in his hand writing. And these defendants deny, that by any mistake or inadvertence, the draftsman of said deed inserted the North West instead of the South East quarter of said Section thirty six Township Eighteen North Range two West. These defendants deny, that at the time said George Davenport signed said deed it was his intention to convey by said deed all his right and title to the last aforesaid tracts of land, to Thomas Lindsay, and none other, and they deny, it was also the intention and expectation of said Thomas Lindsay, by said deed of conveyance to purchase and acquire of said George Davenport his title and claim to said last mentioned tracts of land, and none other

They deny, that said last mentioned tracts of land were the only subjects of negotiation between them, the said Davenport and Lindsay and for which the consideration was paid, and they say, that said consideration mentioned in said deed was paid.

These defendants deny that at the time the said George Davenport signed the deed ~~he~~ had even (much less only) a possessory right or claim upon said last mentioned premises.

They admit that the legal title was in the United States. They admit that some time in the fall of 1835, said Thomas Lindsay took possession of said last mentioned premises, and not immediately after; but in the month of June 1839 he obtained a preemption, under the act of June 22^d 1838 on the South West part of the North East fractional quarter of Section 36 aforesaid, that his children, and wife were driven from the same by force and fraud, and his preemption cancelled by James Shields, in violation of law, and his heirs are now endeavoring to assert their right to the same in the Courts of the United States.

These defendants have no knowledge, that Thomas Lindsay, in his life time never asserted ~~her~~ pretended to have purchased any right title or claim to any of said premises mentioned in said

actions of Ejectment, and require proof thereof, and say that it was not material to his rights that he should, as said George Davenport, notwithstanding his warranty of possession and Seizin in said deed, had no legal Seizin on said North West fractional quarter, until a long time after said Lindsay's death. It is true that he Lindsay never took or claimed possession thereof up to the time of his death and it was not necessary, that he should, It is true that he resided in the immediate vicinity thereof until a short time before his death 14th September 1859.

It is also true that his heirs never asserted or pretended to have any title to said premises, Sued for in said actions of Ejectment. for they did not know of the contents of said deed nor their rights under the same until they consulted their attorney, about the time the certificate of acknowledgment was made in 1854.

These defendants deny that there is any mistake and misdescription in said deed of the premises sold, and ~~the~~ intended to be conveyed by said George Davenport, by the said deed to Thomas Lindsay, and deny, that it was intended by said George Davenport and Thomas Lindsay at the time said deed was signed by said George Davenport instead of the North West fractional quarter, to convey

to Thomas Lindsay by said deed, the South East fractional quarter of said section Thirty six, they deny that such mistake and misdescription is evidenced by the description in said deed; they deny that there is in front of said South East fractional quarter, a fractional tract of land, such as is mentioned in said deed; which according to the Government Survey then in force, purported to contain five and $\frac{7}{100}$ acres of land; but say that there were two fractions in front of said South East quarter, one of which contained five and $\frac{17}{100}$ acres, and the other, one and $\frac{87}{100}$ acres of land. Now they deny that there is no fractional section between the said North West fractional quarter and the Mississippi river, and say that there was then a fractional tract lying on the Island of Rock Island and directly north and in front of said North West fractional quarter Section South of the main Channel of the river according to the Government Survey.

These defendants deny that such mistake and misdescription in said deed is further evidenced by the fact, that the said North West fractional quarter, was estimated or described by any Government Survey to contain One hundred and ten $\frac{85}{100}$ acres, but was estimated to contain thirty eight $\frac{67}{100}$ acres, both which facts the defendants deny, but if true, the defendants say, that of all modes of describing land, quantity

is the most uncertain, and the words plainly written in said deed, "North West fractional quarter without any ambiguity, cannot be controlled or construed to be controlled by any description of quantity. That the words "North West fractional quarter" are conclusive evidence in any Court of law or Equity to control any quantity of acres which may be named in said deed and was binding on the parties, no matter how small or how large the quantity may have been, nor is it any evidence of mistake in said deed. That said South East fractional quarter is represented on the Survey of the public lands to contain One Hundred and ten ⁸⁵/₁₀₀ acres for the same reason just named.

And the defendants say it may be true, that the said plaintiffs claim the said several parts of said North West fractional quarter, in fee simple which, which are described in said bill, and they may deduce their title in the manner therein set forth; but these defendants say, that the plaintiffs claim the said several tracts of land as devisees of George Davenport, and under and by virtue of his will which said will is in the possession of the Complainants or some of them. the defendants ask that they may be compelled to produce the same and when produced it may be taken as a part of this bill.

These defendants admit that the said parts of said North West fractional quarter were conveyed to George Davenport as set forth in said bill, that he died on the fourth of July 1845 and George L Davenport was his executor; and these defendants say, that said George Davenport made no mention of said North West fractional quarter section in his will, though he did mention a good many tracts of land; and the silence of George Davenport in his will in relation to said North West fractional quarter, is higher evidence that there was no mistake in said deed. ~~There~~ any words on the face of the deed are evidence of a mistake.

The defendants deny that George L Davenport was directed by the said will of George Davenport to sell said North West fractional quarter, among other ~~lands~~; they admit that George L Davenport, Susan Lewis & Gilbert C. R. Mitchell made the various deeds set forth in said bill, but they deny that they had any right to do so.

These defendants say, that said deeds from George L Davenport as executor, to Gilbert C. R. Mitchell, Bailey Davenport & Susan Lewis, and from Gilbert C. R. Mitchell to George L & Bailey Davenport were made under the same assumption by George L Davenport

Susan Lewis and Bailey Davenport that said parts of said North West fractional quarter, were part of the real estate of George Davenport, that all of said deeds from George & Davenport and others, after George Davenport's death down to the marriage Settlement of Susan Lewis were made under the color of George Davenport's will to divide the residuary Estate of George Davenport among the residuary devisees named in his will, that no good or valuable consideration passed between the parties — That no such large sums of money as those named in the deeds were at that time, under the ownership of the parties for such a purpose, and "it is further evidenced" by the fact that George & Davenport has made no return of the receipt and payment of any such sums of money, to the Court of Probate of Rock Island County, to which Court it was his duty to make such returns if it was so.

The defendants admit that Susan Lewis married G. H. Goldsmith and before her marriage made the Settlement named in said bill, and that Goldsmith is dead. They admit that Thomas Lindsay died on the 14th of September 1839 without any will leaving Sarah Ann Lindsay his Widow, Susan and James Lindsay Eleanor M. Bradley Margaret &

Mathews Joseph T. Lindsay, Augustine A Lindsay Andrew Lindsay and Sarah Ann his only heirs at law, all of whom were minors except Susan

They admit that Andrew ~~deed~~ after, his father, intestate; That Sarah Ann, after her father's death married one Dubugne and soon after died without issue.

They say that Sarah Ann the Widow has released her interest in the premises to her surviving children, and that Dubugne's wife having died without issue, he has no interest in the premises.

They admit that Susan married Adam Soil, Margaret D married John B. Mathews & Eleanor M married Horace Brodley These defendants further answering say that said deed from George Davenport to Thomas Lindsay deceased, contained covenants that George Davenport had possession & Seizin of said tracts of land therein conveyed; and it contained covenants of Special Warranty against said Davenport, his heirs and all persons claiming or to claim under or through him, That said George Davenport then had possession, ~~of the~~ but not Seizin or legal title to the North West fractional quarter of Section thirty Six, that the title was

then in the United States, That said George Davernport then had neither possession nor Seizin of the South East or the North East fractional quarter of said Section thirty Six, and that if there was any Mistake in said deed, which these defendants utterly deny, it would be the duty of the Court to require the devisees of said George Davernport, before any correction could be made, to give possession to these defendants both possession and Seizin of this land which they pretend was intended to be conveyed.

These Defendants having now answered all the allegations of said bill, pray that they may be permitted to file their Cross bill against said Complainants

Signed

Whitaker & Grant }
Solicitors

Sarah Ann Lindsay
James Lindsay
Susan & Adam Noel
Eleanor M. & Horace Bradley
Margaret D. & John B. Matthews
Joseph T. Lindsay
Augustine A. Lindsay

Davenport et al
vs
Lindsay et al
Answer

Filed March 3rd 1855

Fraser Wilson
Clerk

Whitaker & Grant

Replication
Grosvenor v. Davenport & al
v
Sudsey & al
In Chancery

Filed March 31st 1855
by Order of Court
Frazier Wilson
Clerk

State of Illinois }
 Rock Island County }
 So

Circuit Court
 March Term 1855

The Hon Ira O. Wilkinson judge
 of the Sixth Judicial District and presiding judge of the
 Rock Island Circuit Court in Chancery sitting.

The petition of James Lindsay a son of the
 late Thomas Lindsay deceased, Susan Noel a daughter
 and Adam Noel her husband, Eleanor McBradley a
 daughter and Horace Bradley her husband, Margaret
 D. Mathews a daughter and John B. Mathews her
 husband, Augustine A Lindsay a son and Joseph
 T. Lindsay a son heirs at law of said Thomas
 Lindsay deceased and of his deceased son Andrew &
 daughter Sarah Ann respectfully show unto your
 honor that on or about the 12th day of June in the
 year of our Lord One Thousand Eight hundred and
 thirty five, George Davenport, deceased, late of
 Rock Island County Illinois, executed to said
 Thomas Lindsay, a deed of sale in substance
 and effect as follows.

Know all men by these presents
 that George Davenport of Rock Island County in the
 State of Illinois for and in consideration of the
 sum of Two hundred Dollars to him in hand well &
 truly paid by Thomas Lindsay of Farnhamburgh
 Illinois, at and before the sealing and delivery hereof
 the receipt whereof is hereby acknowledged by the said

George, who thereof doth acquit and forever discharge the said Thomas his heirs executors and administrators, by these presents has released and forever discharged quit claim and by these presents does release and forever quit claim unto the said Thomas Lindsay and his heirs and assigns, all the estate, and estate shares purports and dividends, right, title, interest, property, claim and demands whatsoever of him the said George Darvport in law or equity or otherwise howsoever, of, into, or out of all that tract or parcel of land known and designated as the north west fractional quarter Section number thirty six in township Eighteen of the second Range of Townships west of the fourth principal Meridian containing One hundred and ten $85\frac{1}{100}$ acres, as also all of the fractional tract or parcel of land lying between the aforesaid described tract and the Mississippi river, containing five and $7\frac{1}{100}$ acres (in the actual possession & seizin of the said George Darvport now being), the aforesaid land being situated in the State of Illinois.

To have and to hold all and sing-
ular the premises hereby remised and released
or mentioned or intended so to be with the apper-
tinences unto the said Thomas Lindsay his
heirs and assigns to the only proper use and behoof
of the said Thomas Lindsay his heirs and assigns
forever, so that neither the said George Darvport

his heirs nor assigns nor any other person or persons
 whosoever lawfully claiming or to claim by from
 or under him the said George shall or may at
 any time or times hereafter have claim challenge or
 demand any estate right title or interest of in
 to or out of the said tract or parcel of land hereby
 remised and released, or mentioned or intended
 so to be, with the appertinences or any part thereof
 but thereof and therefrom, shall and will be utterly
 excluded and forever debarred by these presents

In witness whereof the said George Davenport
 has hereunto signed his name and affixed
 his seal the twelfth day of June Anno Domini Eighteen
 hundred and thirty five, at Rock Island in
 Rock Island County, in the State of Illinois, of
 the United States of America

In presence of
 J. Emerson

Signed
 Geo Davenport 

And

Your petitioners pray to make
 the original of said deed & the acknowledgment
 thereof, when produced - a part of this petition.

Your petitioners further show that said
 Thomas Lindsay departed this life on or about
 the 14th of September 1839 leaving Sarah Ann
 Lindsay his widow, and Susan Noel, James
 Lindsay, Eleanor M. Bradley, Margaret D
 Mathews Joseph T. Lindsay Augustine A. Lindsay

Andrew Lindsay and Sarah Ann Lindsay a daughter, his only heirs at law all of whom except Susan were minors, that Andrew Lindsay died some time after his father intestate, that Sarah Ann married one Dubuque soon after her fathers death, and died in a short time intestate without issue; ~~the~~ and by the laws of Illinois then in force the said Sarah Ann the Widow, and the said James, Susan Eleanor M. Margaret D. Joseph T. and Augustine A. were their only heirs, That the said Sarah Ann, the Mother has released all her interest in said premises to the Complainants

Your petitioner Adam Rod Shows that he intermarried with your petitioner Susan. Your petitioner Horace Bradley Shows that he intermarried with your petitioner Eleanor M. and your petitioner John B. Matthews Shows that he intermarried with your petitioner Margaret D.

Your petitioners further Show that the said Thomas Lindsay departed this life before said deed of sale ~~from him~~ Said George Davenport to him was recorded, and that said deed was not recorded until the year 1854. Your petitioners further Show that Said George Davenport departed this life on or about the fourth day of July 1845, having first put

^{& declared}
 lished his last will and testament, in writing
 which has since his death been duly admitted to
 probate in Rock Island County aforesaid as a
 will to pass both personal and real estate, in
 which said will, after various bequeaths and
 devises, the Said George Davenport devises in
 substance as follows:

I further will and decree
 that all the remainder of my property of every kind
 not otherwise disposed of in this will, shall be sold
 to the best advantage and at such time & on such
 terms as my Son George L. Davenport may di-
 rect, but if sold on a credit, Bond and Mortgage
 to be taken on the land to secure the payment, and
 the sale not to be put off for a longer period than
 three years. The money arising from the sale
 of property and money collected that is due me
 to be disposed of as follows. 1st to pay my debts
 2^d One thousand Dollars to be placed in the hands
 of George L. Davenport to pay the Legatee as di-
 rected in this will to Elizabeth Davenport.
 3^d One thousand Dollars to be placed in the hands
 of George L. Davenport for the support of Andrew
 Serv^t to pay him yearly Seventy Dollars in provisions
 and clothing during his life. At the death of an^d
 Andrew Serv^t the money left for his support = main-
 tenance to go to George L. Davenport and shall
 be in full for his services, as executor of this my will

The balance of all money arising from the sale of my estate to be equally divided between Margaret Davenport Susan Lewis her daughter & George Lott Davenport & Bailey Davenport Share & Share alike and to be divided from time to time as the money is received"

Your petitioners have not the control of said will, but the same is under the control of George L. Davenport Susan M. Goldsmith, and Bailey Davenport, or some of them. Your petitioners ask that they may be compelled to produce the same, or a certified copy and when produced it may be taken as part of this bill.

Your petitioners allege that among the "balance" of the property mentioned in said residuary clause of said will is claimed to be included the aforesaid North West fractional quarter section thirty six, or some part thereof, amounting to twenty four or five acres. And that of the moneys or other property of George Davenport a sum sufficient was or ought to have been collected by said George L. Davenport, who duly took letters testamentary on said Estate, to pay off the debts and legacies before recited, without resorting to a sale of the lands sold by George Davenport deceased, to the said Thomas Lindsay, deceased" and in fact and in law your petitioners show that the said land mentioned in said deed of sale from said

George Davenport to said Thomas, was no part of the property or estate of George Davenport the testator, but the said George L Davenport the Executor, Bailey Davenport and Susan M. ~~Lewis~~ Lewis, who afterwards married Zachariah H. Goldsmith (Margaret Davenport having died soon after her husband George Davenport) combining and confederating together intending and contriving to defraud your petitioners of the said land, and pretending that the testator George was the owner of said land mentioned in said deed to said Thomas, for the purpose of dividing among themselves, the said quarter section of land instead of resorting to a sale thereof to other parties, and dividing the money, the said George L Davenport as executor of the said George the testator, by deed of sale dated July 1st 1848 for the nominal consideration of \$5000.00 but in fact for no money consideration at all, conveyed to Gilbert L R Mitchell his attorney employed by him to manage the Estate of the said George the testator, among other lands, the following part of said quarter section "to wit" a lot of between five and six acres known and marked as lot 6. on the plat of the survey of lots laid out by George Davenport deceased on said North West fractional quarter and said Mitchell

on the 19th of June 1849 for the nominal Consideration of \$5000.00 but in fact for no monied Consideration at all conveyed back said tract among others to said George L Davenport

That said George L Davenport as executor as aforesaid on said 1st of July 1848 for the nominal consideration of three thousand dollars, but in fact for no ^{monied} consideration at all, conveyed to said Susan M. Lewis among other tracts of land part of said North West fractional quarter "to wit" a lot of land known and marked as Lot D. on the plat of the survey of lots laid on said North West fractional quarter Section by George Davenport.

That on said 1st of July 1848 the said George L. as Executor, Conveyed to said Bailey Davenport for the nominal Consideration of \$3000.00 but in fact for no monied Consideration at all, another part of said North West fractional quarter, "to wit" a six acre lot known and marked as Lot E on the plat of Survey of lots laid out by George Davenport deceased, on the North West fractional quarter of section thirty six as aforesaid.

And the said George L. Davenport as executor, as aforesaid on the 1st day of July 1848 by deed of Sale, conveyed, for the nominal Consideration of \$2000.00 but in

fact for no ^{monied} consideration at all, to said Gilbert- left Mitchell, another part of said North west fractional quarter, described as follows "to wit" a tract of land of about 5 or 6 acres, on said fractional quarter, bounded on the North by the Mississippi River, on the East- by land Owned by Gurs Andrews. on the South by the quarter section line and on the West- by a lot known and distinguished on the plat- of the survey of lots laid out by George Davenport on said quarter, as lot A, and said Mitchell afterwards by deed & for a nominal consideration, unknown to your petitioners, but for no ^{monied} consideration at all conveyed the said last named tract to Bailey Davenport-

And said Susan M Lewis George L Davenport and Zachariah H Goldsmith on or about the 15th of June 1849 Executed a deed of Marriage Settlement between said Susan and Zachariah, whereby said Lot D. as afore- said was in consideration of said Marriage Settlement between said Susan and Zachariah conveyed to said George L Davenport in trust for said Susan M, which said several deeds from said George L. to Susan, Bailey & Gilbert and from said Gilbert to George Land Bailey Davenport- (except from the one from G. L. R Mitchell to Bailey Davenport, the date and

Consideration of which is not known to your petitioners) were recorded in the Recorder's office of Rock Island County, before the deed from George Davenport to Thomas Lindsay was recorded. The said deeds above named are not in possession or control of your petitioners but in the possession and under the control of said George L Davenport, Susan M, or Bailey or some of them. Your petitioners pray that they may be compelled to produce them, and when produced, that they may be taken as a part of this bill.

Your petitioners also show that they have instituted actions of Ejectment against said George L and Bailey Davenport in the Rock Island County Circuit Court at the November term 1854 for the recovery of said north West fractional quarter of Section thirty Six, which are now pending in said Court; and your petitioners are advised that in the trial of said actions of Ejectment in said Court, said Defendants George L Davenport, Bailey Davenport and Susan M Lewis, who married said Goldsmith who died in the fall of 1854, will rely for defence against said actions, that said deeds from George L to Bailey, Susan M, and Gilbert C, and from Gilbert C to George L and Bailey and said tripartite deed between George L

Susan M. and Zachariah H Goldsmith were recorded before the deed from George Davenport to Thomas Lindsay aforesaid; which being registered before the said deed from George Davenport to Thomas Lindsay it is material to your petitioners to prove that no money consideration passed from said Bailey Susan M and Mitchell to George L. and from George L & Bailey to said Mitchell and between said George L Susan M & Zachariah or to or from any of them. And your petitioners allege that in truth and in fact said deeds from George L. to Bailey Susan M, and Gilbert and from Gilbert to George L and Bailey were made to effect a division of the said lands mentioned in said deeds, between George L, Susan M & Bailey

Your petitioners allege that said deeds constitute a cloud upon their title. They further allege, that they know of no other person than Gilbert & R R Mitchell and the parties to said deeds, by whom they can prove, that said deeds were made without any valuable money consideration, but for a nominal consideration only. They are advised that said Mitchell being the attorney of said George L, Susan M & Bailey in the whole transaction, and claiming to know nothing except

what was disclosed to him as such attorney, your petitioners cannot call upon him to testify to what has been disclosed to him as such attorney.

Your petitioners further show that said George L. Davenport Susan M. Goldsmith & Bailey Davenport have at the present term of this Court, filed their bill in Equity against your petitioners and their Mother Sarah Ann Lindsay and said Dubuque, wherein they have charged that said deed of the 12th of June 1835 from George Davenport to Thomas Lindsay contains a mistake and they charge that said George & Thomas intended by said deed, the one to convey and the other to purchase the South East fractional ^{quarter of} Section thirty six, and they pray to have said alleged mistake corrected and reformed, and they pray for an injunction against said plaintiffs in said actions of ejectment from proceeding in said actions at law and for a perpetual injunction against them as by said bill now on file in this Court, will more fully appear.

Now your petitioners charge that said George L., Susan M., and Bailey are not bonafide purchasers for a valuable consideration, but they hold the said North West fractional quarter, or the proceeds and value thereof as the devisees of George Davenport.

In tender consideration whereof and for as much as your petitioners are without adequate remedy, save in this honorable Court matters of this kind are properly Cognizable your petitioners pray that your honor's Statute writ of Subpoena be directed to said George L Davenport, Susan M Goldsmith and Bailey Davenport whom they make defendants to this petition, commanding their personal appearance at the Circuit Court for the County of Rock Island on the

then and there on their corporal oaths severally to answer the several matters herein set forth in as full and ample a manner as if the same were repeated, and they especially interrogated as to each particular.

That they may make discovery especially as to the consideration of the said deeds from George L Davenport to Bailey Davenport Susan M Lives and Gilbert C R Mitchell and from Gilbert C R Mitchell to George L Davenport & Bailey Davenport, and if any consideration in each case, what was it? how much it was; what has been done with it? Whether the said George L has made any return of it as executor to the probate Court? And if not? Why not? Whether they do not each claim the said North West fractional quarter, or the parts

thereof named as devisees of George Davenport
 That said George L Davenport Susan
 M Goldsmith and Bailey Davenport be
 decreed to hold the said tracts of land in trust
 for your petitioners that they may be decreed to
 convey the same to your petitioners that the
 Cloud upon ~~the~~ your petitioners title by reason
 of the prior recording of said deeds be removed,
 that said defendants, if said deeds should
 have been actual, bonafide, and not Colorable
 Sales, be decreed to pay the Consideration money
 and interest to your petitioners, That your
 petitioners may have the benefit of the discovery
 prayed for on the trial of their said actions
 at law, and that they may have such other
 and further relief as the nature of their
 case may require.

Whitaker & Grant
 Solicitors for pfs }

James Lindsay
 Susan Abel & Adam Abel
 Eleanor M & Abraci Bradley
 Margaret D. & John B Mathews
 Joseph T. Lindsay and
 Augustus A Lindsay

Davenport et al
vs
Lindsay et al
Cross Bill

Filed March 30th 1855-

Frazer Wilson
Clerk

Whitaker & Grant

State of Illinois } June Term of Circuit Court of
Rock Island County } said County in Chancery Sitting

The joint and several answers of George
L Davenport, Bailey Davenport and Susan M. Glaseneth
Defendants to the Cross Bill of James Lindsey Isaac
Noel, Adam Noel Oliver M. Bradley Horace
Bradley, Margaret I Mathews John B Mathews
Augustine A Lindsey and Joseph T Lindsey com-
plainants in Cross Bill

These Defendants now and
at all times hereafter saving & reserving to
themselves all benefit and advantage of excep-
tions & the many errors & uncertainties and other
imperfections in said Cross Bill contained for answer
thereunto or to so much thereof as these defend-
ants are advised is material or necessary for
them to answer these defendants for answers
thereunto severally say,

They suppose complainants are the heirs
of Thomas Lindsey deceased as set forth in
Cross Bill

That George Davenport deceased executed
to Thomas Lindsey deceased about the 13th June
1835 a deed substantially as set out in the
Cross Bill these defendants do not deny
but they insist there was a mistake made
in said deed in the description of the premises

as hereinafter more fully set forth. Defendants also admit that Thomas Lindsey died in 1839 and that said deed was not recorded until in the spring of 1854.

These Defendants also admit that said George Davenport died on the 4th July 1845 having made his last will & testament and which contains the residuary claim set out in said Crossbill.

These Defendants further answering say that said North west fractional Quarter section thirty six or a portion thereof amounting as defendants believe to about _____ acres thereof is and always has been claimed to be included in and disposed of by said residuary claim in said George Davenports will.

Defendants admit that there was sufficient assets of said Georges estate to pay all the debts and legacies against it without applying there to any of the proceeds of the sale of the said fractional Quarter but these defendants insist that said land claimed by complainants did constitute a part of the estate of said George Davenport and as such was disposed of by George I one of these defendants as executor in accordance with the provisions of said residuary clause in said will. Defendants say that in the deed set out in the Cross Bill a

mistake was made by inserting the North
 West instead of the South East fractional
 Quarter Section thirty six. That said Thomas
 Lindsey & George Davenport both during their life
 time by their words & actions establish & demonstrate
 this mistake. Said Thomas never during his
 life time set up so far as these defendants can
 learn any claim or title to said north west
 quarter nor any pretence that he had ever bought
 it or any part of it but shortly after the date of
 said deed from George Davenport to him he took pos-
 session of said south East Quarter as & for the tract
 he had purchased and built a house on it into
 which he moved and lived and that after the
 date of said deed from said George Davenport
 to Thomas Lindsey to wit" the 12th day of June 1835
 and until he built his house on said South
 East fractional Quarter section and moved into
 it which was as defendants think sometime in
 the fall of 1835 Thomas Lindsey resided on said
 North West fractional Quarter section as the tenant
 of said George Davenport and paid rent therefor
 and said George Davenport down to the day of his
 death claimed full possession of and exercised
 ownership over said North West Quarter

Defendants deny all combination or intention to
 defraud complainants as charged in Crossbill they

admit the several conveyances of portions of said Quarter section by George S. Davenport one of the defendants to G. C. R. Mitchell, to Susan M. Lewis (now Goldsmith) one of said defendants & by G. C. R. Mitchell to George S. and to Bailey Davenport and also the execution of the marriage settlement as stated in the crossbill that said deeds were made for the purpose of complying with & performing the directions contained in said residuary clause in the will of George Davenport which required all the land embraced or contemplated in said residuary clause to be sold within three years after testator's decease and the portions of said north west fractional Quarter section so conveyed were with all the other tracts and lots of land disposed of in said residuary clause divided & allotted to those to whom the proceeds of those lands when sold were directed by said will to be paid and the several considerations stated in said deeds were at the time supposed to be a fair average consideration for the lands upon such division and said George S. Executor of said will says that it is true he has not yet rendered any account of the considerations of said deeds to the Probate Court of Rock Island County and that he has not rendered yet

any final account to said Court for final settlement of said Estate. and that he deems that final settlement the proper time to account for the disposition of said North West fractional Quarter or its proceeds if any account is necessary or required.

And these Defendants on the trial of the ejectment suit mentioned in the Crossbill will probably insist as is their right upon the priority in recording their deed to said portions of said fractional Quarter sought to be unjustly recovered from them in said suits —

Defendants further say that the consideration mentioned in said deed dated 12th June 1835 from George Daouport to Thomas Lindsey has not all been paid neither by said Thomas in his lifetime nor by his heirs or personal representatives since his death. said Thomas Lindsey made his promissory note of same date 12th June 1835 for payment or before the first day of June 1837 to said George Daouport or order of the sum of One Hundred dollars (a copy of which note is herewith filed marked "Exhibit A" and prayed to be taken as part of this answer) and which was given for one half of the consideration of said deed and which has never been paid or any part thereof.

And said Defendant having finally

answered plaintiffs said cross Bill pray to be
herein dismissed with costs &c

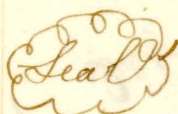
Sworn to and subscribed before } Geo. L. Davenport
me a Notary Public in & for } Bailey Davenport
Scott County & State of Iowa this } Susan McHolmsmith
12th day of June AD 1855.

Witness my hand & seal Notarial



Geo. L. Davenport
Notary Public

Sworn & subscribed to before Bailey Davenport
before me this 14th day of June 1855, Frazer Wilson Clerk
of the Circuit Court as witness my hand and the
seal of the Circuit Court at office in the City of
Rock Island this 14th day of June 1855-



Frazer Wilson Clerk

Sworn & subscribed to by Susan McHolmsmith
before me this 15th day of June 1855.

Frazer Wilson Clerk of the
Circuit Court as witness my hand and the seal
of the Circuit Court at office in the
City of Rock Island this 15th day of June
1855.



Frazer Wilson Clerk

" For value received I promise to pay
 to George Daumont or order the sum of One
 thousand dollars or before the first day
 of June one thousand Eight hundred and
 thirty seven
 Thomas Lindsey "

" Rock Island

June 12 1835

Witness } "

R. I. Circuit, C.

George & Davenport et al

vs

James Lindsey et al

Ans. to Cross Bill

Beardsley & Andrews
Knox & Dury
Mitchell & Putnam

Defts Sols

"

Filed June 15th 1855

Frazier Wilson
Clerk

Rock Island Circuit Court

In Chancery } Between Lindsay heirs Compt^{rs}
 Crop bill } and
 George L Davenport Susan M Goldsmith
 & Bailly Davenport Defendants

Exceptions taken by the Complainants to the
 insufficiency of the answer of said Defendants.
 1st For that the defendants have to the best of
 their knowledge & belief answered as to the intermarriage
 of Susan and Adam Noel. Eleanor M. & Horace Bradley
 and Margaret D & John B Mathews.

2 That the defendants have not answered whether
 the complainants are the heirs of Thomas Lindsay
 deceased. Son Andrew & daughter Sarah Ann.

3. That the defendants have not whether said
 Sarah Ann intermarried with one Dubuque
 and died without issue &c

4 The defendants have not answered whether
 pretending to claim that George Davenport was
 the owner of said North west fractional Quarter
 of section thirty six mentioned in the deed to
 said Thomas Lindsay for the purpose of dividing
 it among themselves instead of resorting to a sale
 thereof to other parties and dividing the money.
 the said George L by deed dated July 1st 1848, for
 the nominal consideration of \$5000, but in fact

for no money consideration conveyed &c.
 And the same exceptions to all the other deeds
 referred to in that portion of said bill from
 George I & Gilbert C B Mitchell &c

5 That the answer does not state whether in
 truth and in fact said deeds were made to effect
 a division of the lands mentioned in said deed
 between George I Susan M & Bailey.

6 That the defendants do not answer whether
 they are not bona fide purchasers for a valuable
 consideration, but held the said North west fractional
 interest or the proceeds or value thereof as devisees
 of George Davenport

7 That the defendants do not answer specifically
 or in substance any of the interrogatories of
 said bill except the one charging George I Davenport
 with not having made no return to the Court
 of Probate

In all which particulars the complainants
 except to the answer of said defendants and
 pray that they may be compelled to put in a
 full and sufficient answer thereto

Whitaker & Grant
 for Compls

Rock Island Co

Lindsey & Co

vs
Daouport & Co

exceptions to answer

In Equity

Filed June 21st 1855

Frazier Wilson clk

Rock Island Circuit Court

November Term 1856

Lindsey & als
 vs
 Quamport & als
 Crop Bill
 Replication to Answer

These repliants saving & reserving unto themselves all and
 and all manner of advantage of the exceptions to the
 manifold insufficiencies of the said Answer, for replication
 hereunto say that they will aver & prove their said bill
 to be true certain and sufficient in the law to be ans-
 =wered unto. And that the said answer of the said defen-
 =dants is uncertain untrue and insufficient to be
 replied to by these repliants without this. That any
 other matter or thing whatsoever, in the said answer
 contained material or effectual in the law to be
 replied unto Confessed and avoided traversed or
 denied is true. all of which matters & things these repliants
 are & will be ready to aver & prove as this honorable
 Court shall direct. & humbly pray us in & by their
 said bill they have prayed

Whitaker & Grant
 for Lindsey & als

Lindsey & als

vs

Davenport & als

Replication & answer
to & Croft Bill

Filed Nov 15. 1856

Frazer Wilson
Clerk

Whitaker & Grant

State of Illinois }
Rock Island County } Circuit Court in &
for said County
Nov. Term. 1856.

George L. Davenport et als }
vs } In Chancery
James Lindsay et als } Bill
and
James Lindsay et als } Cross Bill.
vs
George L. Davenport.

Be it remembered
that at the Term aforesaid this cause
coming on to be heard upon bill
answer & Replication, and Cross Bill
Answer and Replication & proofs filed
to wit, as follows

Rock Island Circuit Court

George L. Davenport

Bailey Davenport & Susan M. Goldsmith } Complainants
vs.

Sarah Ann Lindsay Joseph Lindsay Susan & Adam
Noel, James Lindsay, Eleanor & Horace Bradley, Margaret
& John B. Mathews Augustine A. Lindsay & Dubuque
defendants, Bill for injunction & relief
and

James Lindsay, Susan & Adam Noel Eleanor M,
& Horace Bradley, Margaret & John B. Mathews }
Joseph T. Lindsay & Augustine A. Lindsay }

George L. Davenport, Bailey Davenport & Susan
M. Goldsmith

Crops Bill

It is agreed by the
respective parties that the answers of said George
L. Davenport, Bailey Davenport & Susan M. Gold-
smith shall be construed to admit, and said
parties do admit that the several deeds mentioned
in said Bill & Crops bill, from George L. Davenport
as executor of George Davenport, to Bailey Davenport
Susan M. Lewis & Gilbert C. R. Mitchell and from
Gilbert C. R. Mitchell to George L. Davenport and
Bailey Davenport for the parts of the north west
fractional quarter of Section Thirty Six (36) in
Township Eighteen North, Range two (2) West

of the 4th P.M. were made and executed for the purpose of dividing the same among the said George L. Davenport Bailey Davenport & Susan M. Goldsmith as devisees of George Davenport under his will, and said parties claim the interest in said North West fractional quarter named in said deeds, as conveyed to them respectively, as devisees of George Davenport deceased, and the exceptions to said answer are withdrawn.

The will of said George L. Davenport it is agreed shall be read on the hearing if denied by ^{either} other parties. It is further agreed between said parties that the plaintiffs have not at this time any possession or title to the North East or South East quarter of said Section thirty Six, N.E.B., and that the defendants have not possession of any part thereof. It is further agreed that the certificate or letter of H.W. Wallace register of the land office at Dixon as to the time persons &c when the several parts of Section thirty Six were purchased of the United States marked exhibit B. shall be read on the hearing of this cause without further proof. It is admitted that Thomas Lindsay on the 3^d of June 1839 obtained a preemption to the South West part of the North East fractional quarter of said Section thirty Six, that the same was cancelled in 1844 or 1845 and a preemption allowed to David Hawes, and

that Lindsay's heirs and Hawes' are now litigating the same in the United States Court.

It is further agreed that the plat of said thirty six and the field notes of the survey thereof marked C signed by Geo Loughtborough Surveyor General of Ill & M may be read on the hearings without further proof.

It is admitted that Thomas Lindsay died in Sept AD 1839 leaving as his heirs Susan Noel who was of age & ~~un~~ married to Adam Noel, James Lindsay, Eleanor M Bradley, Margaret D Mathews, Joseph Lindsay, Augustine A Lindsay, Andrew Lindsay & Sarah Ann Lindsay his heirs, all minors except Susan Noel. That Eleanor M has since married Horace Bradley, Margaret D. John B Mathews, Andrew died soon after his father Sarah Ann married one Dubuque and died without issue. They were all of age at the commencement of this suit. It is agreed that a map ^{Survey} of the whole Township, properly certified by the Surveyor Genl may be put in evidence by either party. It is agreed that a copy of the maps of Survey of part of said section thirty six by George B Sargent made in 1844 certified by the Surveyor General may be read in evidence by either party. The initials in the plats surveys & Certificates of Entry A. J. B. are admitted to mean

North of Indian Boundary Surveyed by Filuck
& Bean. S.I.B means South of the said Indian
boundary,

Whitaker & Grant

Attorneys;

for James Lindsay ^{July} Defendants in Bill
& Plaintiffs in Cross bill

J J Beardsley

A. C. B. Mitchell

Sols for Compt's in Original
Bill & for defts in Cross bill

Davenport & Als
vs

Lindsay & Als

&
Lindsay & Als
vs

Davenport & Als

Agreement

about Evidence

Filed Nov 15, 1856

Forayer Wilson CLK

By Quincy Marked copy

The Depositions of Charles H Case, Miles W Conaway, John W Spencer, David Hawes, James Coff, Jacob Smith, Daniel B. Sears, & John H Case, Witnesses produced Sworn and examined before George W. Pleasants on the first day of November AD 1855 at his office in the Court House in the City of Rock Island, Rock Island County & State of Illinois, by agreement of the parties and to be read in evidence on the hearing of a certain cause now depending in the Circuit Court for said County in Chancery Sitting wherein George L. Davenport, Bailey Davenport and Susan M Goldsmith are Complainants and James Lindsay, Susan Noel, Adam Noel, Eleanor M Bradley, Horace Bradley, Margaret D. Matthews, John B Matthews, Augustine A Lindsay and Joseph T. Lindsay are defendants, And Cross bill between the same parties, on the part of the Complainants in the Original bill,

Present both parties by their
Counsel respectively.

Charles H Case being duly Sworn deposes & Says in answer to the following interrogations as follows.

Interrogation 1st Do you know the parties, Complainants & defendants in this cause or any or either of them, and how long have you known them, or any of them?

Answer I have known the Complainants since the Spring of the year 1829. I have known the defendants James Lindsay, Susan Noel, Adam Noel, Eleanor M Bradley & Margaret D Matthews since the fall of the year 1835—

Interroⁿ 2^d Were you acquainted with Thomas Sindsay in his lifetime and at how early a date did you know him?

Ans I was - and knew him from the year 1835 when he first came to Rock Island.

Sub 3^d What is your age & when have you resided for the last twenty five years?

Ans I am forty years of age and have lived in the County of Rock Island State of Illinois from the year 1819 with the exception of an absence of sixteen months in the years 1832-3.

Interⁿ 4th Did you know Thomas Sindsay deceased when he lived in a house now standing on the North West fractional quarter of Section 36 in Township 18 North of Range 2 West of the 4th Principal Meridian?

Ans I did

Interⁿ 5 Under Orhom did the said Thomas Sindsay occupy said house & ~~where did he move when he left it~~

~~Ans I do not recollect precisely how long he occupied it - it was a considerable time several months. he then moved to a house that he built on the east half of the same section who was his landlord?~~

Interⁿ Ans George Davenport

Interⁿ 6 How long did Thomas Sindsay occupy said house & where did he move when he left it?

Ans I do not recollect precisely how long he occupied it. it was a considerable time - several months. he then moved to a house that he built on the East half of the same section

Int 7th When did the said Thomas Lindsay reside during the Spring summer & fall of the year 1835

Ans In Col George Davenport's house on the north west fractional quarter of the same section

Int 8th Did you ever have any conversation with said Thomas Lindsay respecting his purchase in the year 1835 of the South East fractional quarter of said section 36 and also a fractional piece of land between it and the Mississippi River. If you say you did state the same fully" (Question objected to by Counsel for defendants)

Ans I had. He said he had bought a claim of the East half of said section 36, according to the United States Survey, embracing the North East fractional quarter & the South East fractional quarter of said section. that he bought it of Col George Davenport for two hundred dollars

Int 9 After your first acquaintance with said Thomas Lindsay did you continue to know & see him frequently to the time of his decease

Ans. Until he moved across the River into Iowa & saw him frequently there too; but perhaps, I did not see him for six months before he died

Int 10th How long did said Thomas Lindsay reside on any part of said section 36, and where did he move to when he left

Ans. I think he resided there some three or four years, but am not positive as to time - He then moved into the State of Iowa, a little distance above the now City of Davenport

July 11th Did you have frequent conversation with said Thomas Lindsay respecting his claim or title to lands in said Section 36? If so, what portion of said section did he claim, while he resided on the same? (Question Objected to)

Ans. I had frequent conversations with him on that subject. He claimed the East half of said Section 36 - the North east & the South East fractional quarters -

July 12th Did said Thomas ever to your knowledge lay claim to or pretend to have title to any other portion of said section? (Question objected to by council for the Defendants)

Ans. He did not.

July 13th Did said Thomas while he resided on said Section 36 say anything to you respecting Col. George Davenport's conveying to him by Deed - any portion of said section - if so state what he did say?

Ans. He told me that he had a kind of a quit Claim deed of the East half of said section - from Col George Davenport.

July 14th Before the land in the vicinity of Rock Island was sold by the United States, what was the custom in conveying claims from person to person (Question objected to by Defendants Council)

Ans. Sometimes by giving possession - most generally by a quit-Claim, not acknowledged before a Magistrate

July 15th During the year 1835 what was the value in the market of the north west fractional quarter of said Section 36 - Estimating the improvements thereon - inclusive?

Ans. From five to six hundred Dollars - perhaps more. The claim to that was worth that sum.

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Inty 16th Is there any fractional tract or parcel of land between said northwest fractional quarter of said section 36 and the Mississippi River?

Ans. There is none.

Inty 17th Is there any fractional tract or parcel of land between the South East fractional quarter of said section 36 and the Mississippi River

Ans. There is — it is the North East fractional quarter of the section

Cross Interrogatories

X Inty 1st Be good enough to state any circumstances whereby you particularly recollect the conversations with said Lindsay in 1835 touching these lands.

Ans. In that year I went onto this land to cut some timber for fence in the lower part of the town — Col George Davenport wrote me a note stating that he claimed it & I ceased to cut. Afterwards Mr Lindsay came and talked about buying it. New comers were not so common in those days but that it made an impression on us.

X Inty 2^d You have stated in answer to the 15th direct interrogatory that the value of the Northwest fractional quarter including the ^{Houses} ~~improvements~~ as from five to six hundred dollars. Whose houses were they & in whose occupation?

Ans. George Davenport was the landlord and had the management of them.

X Inty 3^d Please to look at the map marked A. Which purports

to be the Survey of Bennett from the land officer, & say
Whether the fraction "5-17" does not lie ^{East} between the North west
fractional quarter of the Section 36 & the Mississippi River?

Ans I think it does not.

X July 4th Looking at the same map, does the fraction "5-17" lie
between the Southeast fractional quarter of said Section
& the Mississippi River?

Ans, It does

X July 5th Please to mark with the letter X where you take Lindsay
House to have been.

Ans I am unable to do so because the map is
incorrect according to our County Surveyors.

X July 6th Supposing the map to be correct where would you
put it?

Ans. In the River

X July 7th Were there any improvements on the East half of said
Section 36, other than those in which said Lindsay
lived?

Ans Not unless it be a small corner of Col.
Davenport's enclosure.

X July 8th Did Col Davenport live on it?

Ans He did not

X July 9th Did said Lindsay tell you that he bought any part
of the enclosure referred to in your answer to the
7th Crofs interrogatory

Ans He never mentioned the enclosure particularly

X July 10th Did Col George Davenport have any claim on
the Northeast or the South East quarter - either or

both so plainly marked or designated that it could be distinguished from the adjacent land
 Ans. There were no marks of claim unless the enclosure before referred to embraced it

X Inty 11 How large was said George Davenport's Enclosure?
 Ans. Not far from One hundred acres.

X Int 12 What was the form of it & did it extend to the west side of said Section 36?

Ans. It extended to the west side. It commenced at the Southwest corner of Section 36. run down north to the middle of the Section - on the west line, thence ~~east through the fraction to Col Davenport's House~~
 about one third across the north west fractional quarter (still north)
 then east through the fraction to Col Davenport's House near the Springs then east till it crossed the line again into the North East fractional quarter, about ten or fifteen rods - then south to the Bluff - then circling along the foot of the Bluff - back to the place of beginning.

X Int 13 How far was the northeast corner of the field referred to in your last answer, from the River?

Ans. Some ten or fifteen rods.

X Inty 14 Did it include on the East side, the grove of trees now around & near the house of Samuel Andrews?

Ans My impression is that it included that Grove.

X July 15 Have you ever surveyed the dividing line between the East and West half of said Section 36?

Ans. I am not a Surveyor. I have never surveyed it.

X July 16 Do you know of your own knowledge where it is?

Ans. I know where the line is.

X July 17 How do you know it?

Ans. By the Established Corners. On the half section corner on the South, next to the Indian boundary & not far from Elisha Reynolds house, there was a white Oak tree marked - the numbers were put down on it.

X July 18 Do you know the difference between the marks on a section & a quarter section corner?

Ans. The section corner gives the Township & Range & the quarter section corner is not near so much marked. I don't know that I could put it down on paper, but I know the difference when I see it.

X July 19 You have said that Bennetts Survey was incorrect. How do you know that?

Ans. I said the plat referred to was incorrect.

X July 20 How do you know that?

Ans. (The witnesses here examined the plat marked A) The field as laid out is incorrect. The North east fraction "5/17" is incorrect according to our County Surveys.

There is land all the way from the center of the Section to the East line of it, between the South line of the North East fractional quarter & the River.

X July 21 Do you know anything about Bennetts Survey of the said Section?

Ans. I was not with him when he surveyed it & know nothing of it more than what purports to be his Survey

X July 22 How old were you when you had the conversation with Thomas Lindsay about his purchase to which you have referred in your direct examination?

Ans. About nineteen years of age.

X July 23 Were you and he intimate friends?

Ans. I was as intimate with him as with any of my neighbors.

X July 24 Are you not a grantee from George Davison port or his executor, for a part of the North West fractional quarter of Section 36 aforesaid?

Ans. I had a deed of one acre and still hold it, with the exception of twenty two hundredths.

X July 25 When was the East line of the fence around the field referred to by you, removed & by whom?

Ans. The fence was removed by pieces, the marks was not obliterated or wholly removed until within twelve years past. I think I pastured my cows in that lot fourteen years ago.

Re-examined by Complainants

Q Int 1 Did Col George Davenport, previous to ^{June} ~~some time~~ in the year 1835. exercise acts of Ownership & possession upon the Southeast fractional quarter of said Section 36? (Objected to by Defts).

Ans He did.

Q Int 2 Did Col George Davenport previous to June in the year 1835 exercise acts of Ownership & possession upon the North East fractional quarter of said Section 36?

(Objected to by Council for Defendants)

Ans. Only so far as as improvements upon a small piece of land - He claimed the whole of it as I understood.

Re-Cross-examined

X Int 1 What acts of Ownership did he exercise upon either of said tracts mentioned in your answer to the two last preceding interrogatories? (Interrogatory put by Defts Council saving his objection to the interrogatories referred to in it)

Answer. He wrote to me not to cut timber on it again, though he suffered me to remove what I had cut as he claimed the whole by Squatters Claim.

X Int 2 Is that all the acts of Ownership by said Davenport upon said tracts, that you know of?

Ans. That is all to my knowledge except his verbal claims.

X Int 3 Where is the letter referred to by you, from said Davenport to you?

Ans. I have not got it

Examination in Chief resumed

{ Int 1 Did the Enclosure of Col George Davenport upon said Section 36. in the fore part of the year 1835 embrace a part of the South East & North East fractional quarters of said Section (Objected to by Defts)

Ans. I think a small part of the North East but a much larger on the South East - I should say from one to three acres in the South East. I cannot say certainly that the enclosure was there in 1835 but my impression is that it was.

Cross.

X Int 1 Did not the enclosure belong to Davenport & Farnham's heirs? (Objected to by Complainants)

Ans. I cannot say, but my impression is that it did - It was generally understood that it was made by Davenport & Farnham previous to 1835.

Charles H. Case

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Miles St. Canway produced Sworn & Examined
deposes & Says in answer to the following interroga-
tories as follows

Int 1

Are you acquainted with the
parties - Complainant & defendant in this Cause or
any or either & which of them. If so how long have
you known them or any of them?

Ans. I know all of the complainants and most
of the defendants - and have known them since the Spring
of 1855.

Int 2^d

State your age and the place of your residence for
the last twenty years.

Ans. I am about fifty nine years of age and have
resided during that time within the limits of the
now City of Rock Island.

Int 3

Are you acquainted with the locality and quarter
section divisions of Section 36 Township 18 North of
Range 2 West of the 4th Principal Meridian

Ans. I don't know that I can say that I am
except from hearsay. I never surveyed it nor was
along when they surveyed it, excepting one line

Int 4th

Did you ever reside on said Section, if so on
what part thereof, & how long did you reside there?

Ans. I cannot speak certainly as to the ~~times~~
I resided at what was called Farnhams burgh from
some time in April until some time in November in the

Year 1835

Int 5

In What house did you reside when you resided on Said Section?

Ans. It was a house that Col George Davenport claimed to own.

Int 6

Is that house now standing?

Ans. I think it is, although it has been repaired - new weather boarding put around it.

Int 7

Can you state on what quarter of Said Section Said house stood?

Ans. It is my impression that it stood on the North East quarter - but I am not positive

Int 8

Can you state where the West line of said Section is?

Ans. The West line runs up near the Depot of the Chicago and Rock Island Rail Road in this City.

Int 9

If the West line of said Section runs near the Depot grounds in said City - is it possible that said house stands on the North East quarter of said Section?

Ans. No I was mistaken in that, it is on the North West-quarter.

Int 10

Is said North West-quarter of said Section a fractional quarter? (Objected to by Defendants Counsel)

Ans. It has always been understood, as I believe.

Int 11 Did you know Thomas Lindsay in his life time & how long did you know him?

Ans Yes Sir I knew him - knew him ever since he came to this country, while he lived here - & while he lived on the other side - from the year 1835 up to the time of his death.

Int 12 Was said Thomas Lindsay the Father of some of the defendants in this Suit?

Ans He was said to be so, they all lived together

Int 13 Did said Thomas Lindsay reside in a part of said house on the Northwest fractional quarter of said Section while you lived in said house.

Ans He did, it was a double log house He lived in one end & I in the other.

Int 14 Did said Thomas Lindsay while he lived in said house have any conversation with you in regard to his purchasing a claim to a portion of said Section 36. (Objected to by Defendants Council).

Ans I do not know Sir. He might or might not I do not recollect

Int 15 Did you ever have any conversation with said Thomas, upon the subject suggested in the next preceding Interrogatory?

Ans. Well I couldnt say. Very likely we had a conversation but I could not recollect what it was

Int 16

Who was your landlord while you lived in the house on the Northwest quarter of said section?

Ans. It was Col George Davenport - I think, I paid him the rent.

Int 17

Did said Thomas Lindsay while you resided in said house make any claim of you for the rent thereof or assert any claim to said Northwest fractional quarter? (Objected to by Defts Council)

Ans. No Sir I think not.

Int 18

How long did said Thomas reside in said house?

Ans. I am not able to say, I was there from April to November. When I left - I think I left Mr Butler there I think Lindsay had left in the mean time.

Int 19

Did said Thomas ever at any time claim rent of you for said house, or insist that he was your landlord or assert any claim to said North West-fractional quarter (Objected to by Defts)

Ans. No Sir.

Int 20

Where did said Thomas ~~with~~ his family remove to when he left said house? (Objected to by Defts)

Ans. He went on the fraction above, the North East fraction I believe.

Int 21

After his removal as aforesaid what portion of said section did he claim? (Objected to by Defts)

Ans. I stated before that we never had any conversation that I could recollect. He once asked (I now recollect,) on what quarter that house stood - that last house - whether the North East or the South East, He claimed that the house he built stood on the North-East fractional quarter & he said - some said it was on the Southeast fractional quarter. He wanted the lines run.

Int 22

What was the value of said Northeast fractional quarter (meaning the claim thereto) including improvements, in the year 1835. (Objected to by Defts)

Ans I couldn't say, I thought it was very valuable that is the land & Spring & all about it - I think I should have been willing to give five hundred dollars for the claim, but I couldn't say how much it was worth.

Int 23

What, in your opinion was the value of the North West fractional quarter, including improvements in the year 1835? (Objected to by Defts)

Ans I don't know what it was worth, I was anxious to get it but Col Darvport would not let it go, so gave it up, and couldn't tell what it was worth

M. M. Leonoway—
Cross interrogations waived.

Then Mr Spencer, a witness produced, Sworn

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and examined, deposes & says in answer to the following interrogatories 'as follows.'

Int 1 Are you acquainted with the parties Complainant & defendant in this Cause, or any & which of them & how long have you known them or any of them?

Ans I knew all the Complainants, and the Defendants, James Lindsay Adam Noel, Susan Noel Eleanor M Bradley & Joseph P Lindsay & perhaps the Others, & have known them from ^{about} the year 1835.

Int 2 What is your age and where have you resided for the last thirty years?

Ans I am fifty four years of age and have resided in the County of Rock Island, in the State of Illinois in the limits of the now City of Rock Island or its vicinity for twenty six years past.

Int 3 Are you acquainted with the locality & Section lines of Section 36. Township 18 North of Range 2 West of the 4th principal Meridian

Ans I think I am, tolerably, well

Int 4 Were you acquainted with Thomas Lindsay in his life time & if so how long did you know him?

Ans I was acquainted with him and knew him I think from the Spring of the year 1835 when he came here, till the time of his death.

Int 5 Where did said Thomas Lindsay reside in the summer of 1835?

Ans. He resided in Col George Davenport's house, on the northwest quarter of Said Section 36.

Int 6 While Said Thomas resided on Said Northwest fractional quarter of Said Section 36, did you have any conversation with him respecting his purchase of a claim (so called) of Col George Davenport? If you say you had such conversation, state the same fully?

(Objected to by Council for Defendant)

Ans - I do not recollect of any.

Int 7 Did you ever after Said Thomas removed from said North West quarter, have any such conversation with him? if so state it fully. (Objected to)

Ans I had a conversation with him in the year 1836. I think I was then on what he called the North East quarter of Said Section - He was harvesting Oats. I asked him if that was on the piece he bought of Col Davenport he said it was, that his purchase included about an acre and a half of the Davenport, Enclosure, the idea I got was that his acre and a half was included in the North East quarter which he purchased of Davenport - (Answer Objected to by the deft-council in the form in which it is given)

Int 8 Did Said Thomas when harvesting Oats as stated by you, harvest them up to the quarter Section North and South line of Said Section? (Objected to)

Ans My impression is that he did.

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Int 9

What lands or claims did said Lindsay inform you he had purchased from Col George Davenport-

(Objected to by Defs Counsel)

Ans. I dont think he was talking to me particularly about his purchases, only that that piece was in his purchase.

Int 10

While said Thomas lived upon the north west quarter of said section, did he inform you under whom he occupied or of whom he rented? (Objected to)

Ans I dont think he ever did.

Int 11

Did said Thomas after he removed from said north west quarter put any improvements on any part of said section, & if so what improvements & on what part of said section were they placed?

Ans. Either directly after he so moved or while he resided on the north west quarter he put a house on the East half of said section & about the dividing line between the ~~north~~ south East & northeast quarter.

Int 12

How long did the said Thomas reside in the Davenport-house so called on said north west quarter?

Ans. I think during the spring and summer of the year 1835.

Int 13

Where did said Thomas remove to, when he & his family left the Darinfort House?

Ans. To the house that he built on the East half of Said Section 36.

Int 14

How long did he continue to occupy said last mentioned house?

Ans. I should think four or five years.

Int 15

Did you ever know of said Thomas exercising any acts of Ownership or possession on said North west quarter after he removed to the East half of Said Section 36? (Objected to by Defts.)

Ans. I never did

Int 16

Is there a fractional piece or parcel of land lying between the Northwest fractional quarter of Said Section 36 and the Mississippi River? (Objected to)

Ans. There is not.

Cross Interrogatories.

X Int 1

Look at this map Marked "A" and see if there is not a fractional piece of land, part of the Northwest quarter, lying north of it - on the Island, between it and the River?

Ans. I should not think there was between it and the River, but there ^{is such a piece} is on Rock Island

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X Sub 2 Look at this map & see if there is not a fractional
piece of land lying East between it & the Mississippi
River?

Ans. It looks like it as represented on this map.

X Sub 3 Look at this map & see if there are not two fractional
pieces between the Southeast quarter & the Mississippi
River?

Ans. There are

X Sub 4 Can you undertake at this remote period today
that Thomas Lindsay, in his conversation with you
referred to, named a particular quarter section of
land that he had bought of George Davenport
and that you can now remember it?

Ans. I can

John W. Spencer.

David Hawes. a witness produced, sworn &
examined deposes, & says in answer to the
following interrogatories as follows:

Int 1 Are you acquainted with the parties
Complainant and defendant in this cause
or any & which of them & how long have you known
them or any of them?

Ans. I know all of the com-
plainants & have known them since the year
1835. I know James Lindsay, the defendant and

others of the children of Thomas Lindsay (Deft in this suit) Since 1837.

Int 2 How old are you, and where have you resided for the last twenty years?

Ans I am fifty six years of age & have resided most of the time for the last twenty years in the County of Rock Island in the State of Illinois.

Int 3 Did you know Thomas Lindsay in his life time & how long did you know him?

Ans I did, I think from 1835 until the time of his death.

Int 4 On what Section Township & Range did said Thomas reside when you knew him?

Ans In Section 36 of Township 18 North of Range 2 west of the 4th Principal Meridian on the Northwest fractional quarter of said section in the House of Col George Davenport

Int 5 State whether said Thomas Lindsay afterwards with his family went to reside on the East half of said Section 36,?

Ans. He did

Int 6 At or about what time did said Thomas remove to the East half of said.

Ans. I cannot answer definitely, I know that in the fall of 1835 he was residing in the house of Col Davenport on the Northwest quarter & in 1837 he was residing in a house on said East half

Int 7 Were you well acquainted with said Thomas when he resided on the East half of said Section, & if so State whether you ever knew him to exercise any act of possession or heard him make any claim to the Northwest fractional quarter of said Section? (Objected to by Defts)

Ans. I was not very intimately acquainted with him. I used to see him frequently. I never heard him set up any claim to the North west-quarter of that section. I don't recollect that I ever saw him exercise any act of possession over it.

Int 8 From the year 1837 to the year 1840 did you reside in the immediate vicinity of said Section 36? (Objected to by Defts Council)

Ans. I did. I resided during that time in the town of Stephenson, now City of Rock Island

Int 9 Are you well acquainted with the section and quarter Section lines of Section 36?

Ans. I am.

Int 10 Is there a fractional piece or parcel of land lying between the Southeast fractional quarter of said Section & the Mississippi River?

Ans. None that ever I knew of.

Proofs by examination

Int 1 - Are there not two fractional pieces or parcels of

land lying between the South east fractional quarter of said Section 36, & the Mississippi River?

Ans. I don't know of but one piece speaking of division by quarter sections - but by dividing into forty's you get two.

X Sub 2

Do you know how the government surveys & plats did divide it in the 1835?

Ans. I am not familiar with the survey in question at that time.

X Sub 3

Look at this map marked "A" & tell how many fractions are made by that map between the said South east fractional quarter & the River, south of the Slough Channel, and how many north of the Slough Channel?

Ans. By this map there are two such fractions upon the South side of the Slough and two upon the North.

X Sub 4

Are you acquainted with the lines of Bennetts survey of said section 36?

Ans. I don't suppose that I am - further than they correspond with subsequent surveys.

X Sub 5

State whether said Thomas Lindsay or any of his heirs are now in possession of any part of the East half of said section 36, or were when this suit was commenced?

Ans. They were not.

84
X Int 6

Does not the same fractional piece or parcel referred to in your answer to the tenth direct interrogatory lie East between the northwest fractional quarter of said Section 36, and the Mississippi River?

Ans. According to the Map, marked "A" it does.

David Hawes

James Coffey, a witness produced, sworn, & examined deposes & says in answer to the following.

Int 1 Are you acquainted with the parties Complainant & defendant in this Cause or any & which of them, & how long have you known ~~them~~ or any of them?

Ans. I know the Complainants & have known them for twenty years or over. I know all of the defendants, children of Thomas Snidsey & also the defendant Adam Noel - the older ones for upwards of twenty years.

Int 2 What is your age & where have you resided for the last twenty years?

Ans. I am about thirty nine years of age & have resided during that time in what is now the City of Rock Island.

Int 3 Did you ever reside or board with ~~the~~ a family in a house situated on the Northwest

fractional quarter of Section 36 Township 18 North
Range 2 west 4th Principal Meridian?

Ans. I did

Int 4 Who lived in said house on said fractional
quarter at the time you resided or boarded there,
& when was it that you resided or boarded there?

Ans. I boarded there with a brother in law
of mine, named John Butler, from the 19th of
August 1835, through several years. My Brother in
law died in the February following but I remained
in the family.

Int 5 Who Owned said house at the time you resided
there?

Ans. Col George Davenport. I paid the rent
to him.

Int 6 Who resided in said house during the Summer
& fall of the year 1835?

Ans. At the time I went there, Miles W
Conway & family Thomas Lindsay & family and
My Brother in law with his family.

Int 7 How long did said Thomas Lindsay continue
to reside in said house after you went to reside
or board in the same?

Ans. I think from four to six weeks.

Int 8 How long did you continue in said house &
on said northwest fractional quarter & under

Whom did you occupy & to whom did you pay rent for the same?

Ans. I remained there until the 16th of March 1838, or thereabout, I occupied under Col Davenport - the farm with the Ferry privilege attached, & I paid rent to him.

Int 9 After the decease of your brother in law - Butler did you become the head or manager of his family while they resided in said house?

Ans. I did.

Int 10th Did you know Thomas Lindsay in his lifetime & how long did you continue to know him?

Ans. I knew him from the Fall of 1835 until his death.

Int 11 Where did said Thomas & his family remove to when he left the Davenport house on said northwest fractional quarter?

Ans. To the East part of the same Section. I was not familiar with the lines then - about half a mile East from the Davenport house.

Int 12 Did said Thomas ever make any claim upon you for rent or possession of any part of the said Northwest fractional quarter? (Objected to)

Ans. He never did

87
Int 13

Did you ever hear him assert any claim whatever to said northwest fractional quarter? (Objected to)

Ans. I never did.

Int 14.

Did said Thomas ever inform you that he had purchased a claim to the Southeast fractional quarter of said Section & the fractional piece of land lying between it & the Mississippi River. If you say he did state the conversation fully? (Objected to by Deft's)

Ans. He did several times, I was not acquainted with the sectional numbers at that time. He stated that he had bought two fractional pieces of land from Col Davenport for the sum of two hundred dollars - one hundred dollars was paid by himself with the assistance of Doctor Emerson, & that the other was on time.

Int 15

What did he say to you, if anything, respecting his building a house & removing on to the same situated on claims bought of Colonel George Davenport?

(Objected to by Deft's counsel)

Ans. He said if he - my brother-in-law & myself could put up with the accommodations (on the northwest fractional quarter) for a few days it would be a great accommodation to him, he was then putting him up a house, He did not mention any numbers at the time.

Int 16

Did said Thomas then inform you that he was putting up said house on the land or claim he had bought of

Col George Davenport? (Objected to.)

Ans. He did.

Int 17 On what part of said section (north of the Indian boundary) did said Thomas erect his said house - on the East or West half?

Ans. On the East half - I have found since I became familiar with the numbers.

Int 18 Did said Thomas remove into said house selected by him when he left the house on the northwest fractional quarter of said section? (Objected to)

Ans. He did.

Int 19 At or about what time did he remove into said house so erected by him?

Ans. On or about the first of October in the year 1835.

Int 20 Did you ever have any conversation with said Thomas about Col George Davenport's deeding to him a portion of said section 36, & if so did he ever point out to you the land or claim so deeded? (Objected to)

Ans. He told me he had a quit claim deed of the South part of the two fractions - about one hundred and ten acres. I mean the South East fraction of the two

Int 21 What land did said Thomas indicate to you that

Col Davenport had conveyed to him by Deed? (Objected to)

Ans. The Southeast fractional quarter of Section 36, Township 18 N 2 West - Containing one hundred & ten acres in one - & five acres between that and the River as he said.

Int 22^d Did said Thomas inform you of this purchase of Col George Davenport before he moved from the house of Col Davenport? (Objected to)

Ans. I do not recollect.

Int 23^d Where were you and the said Thomas at the time he pointed out to you & informed you of the purchase he had made of Col George Davenport of a portion of said Section 36? (Objected to)

Ans. At his House that he built on the East half of said Section - the Southeast fractional quarter - it was supposed he built his house on the line between the two fractional quarters. Some surveyors made it on the Southeast, & some on the North East fractional quarter.

Int 24 How far East of the quarter section line running through said Section from South to North did said Thomas build his house? (Objected to)

Ans. About two thirds the distance from that to the East line of said Section.

C.

James Coffey —

Jacob Morris, a witness produced and sworn & examined, deposes and says in answer to the following interrogatories as follows.

Int 1 Are you acquainted with the parties Complainant & Defendant in this cause or any & which of them & how long have you known them or any of them

Ans. I know the complainants & have known them since the year 1840, & I know the Defendants James Lindsay & Adam Noel - have been acquainted with said James since 1840 and barely know the said Adam - the others I do not know.

Int 2 Have you been well acquainted with James Lindsay one of the defendants since 1840?

Ans. I have been well acquainted with him since 1841.

Int 3 Did you ever have any conversation with said James in respect to a claim he made upon section 36 Township 18 N Range 2 West of the 4th principal Meridian - if so state such conversation fully as nearly as you can? (Objected to by Deft)

Ans. Yes sir, I had such a conversation with him - I can't tell exactly what year it was - It was when the fuss was about the claim - the claim that David Hawes was contending for. He said his father bought the claim that Hawes was contending for - of

Col Davenport - Containing about One hundred & ten acres south of the road, & the fraction between the road & the River - and pre-empted the fraction between the road & the River in 1838 - that Howland of Ottawa had swindled his father out of the One hundred & ten acres north of the road, & he thought it was damned hard to lose the whole. These pieces about which he was speaking as bought of Col Davenport lay east in said section - of the centre north & south line. He said nothing to me about the piece west

Int 4 of that piece. The substance of this Conversation was repeated several times during that year. The impression on my mind is that the first Conversation was on the very day that Sargent made his survey of the fraction between the Road and the River. I was with them. I think it was the year 1844. When I speak of the piece between the road & the River, I mean the road as it now runs to Moline on the centre line of said section running East & West -

Jacob Norris

David B. Sears a witness produced, Sworn & Examined on the part of Complainants deposes and says in answer to the following interrogatories as follows:

Int 1st Are you acquainted with the parties Complainants & defendant in this cause or any and which of them & how long have you known them or any of them?

Ans. I am acquainted with the Complain-

ants in the Original Bill - & have known them for about twenty years. I know such of the defendants as are children of Thomas Lindsay - and have known them also about twenty years. I have known the defendants Adam Noel since the year 1835 & the defendant Horace Bradley since 1837.

Int 2 Are you acquainted with the locality & boundary lines of Section 36. in Township 18. N. of Range 2 West of the 4th Principal Meridian?

Ans. I am.

Int 3 Did you at any time ever have a conversation with Thomas Lindsay in respect to his purchasing a claim to a portion of said section - if you answer yes - state fully such conversation & what the said Thomas said to you in respect thereof? & the time when & the place where said conversation occurred.

(Objected to by Defendants Attorneys)

Ans. I had a conversation with him on that subject. I think it was in the summer of the year 1836, at his house on the Southeast fractional quarter (North of the Indian boundary line) of said section. He told me he had purchased of George Davenport a claim to said South East fractional quarter (North of the Indian boundary) and the North East fractional quarter of said section.

Int 4th Did he at that time or at any other time during his life time, to your knowledge, make any claim to any other portions of said section? (Objected to by the defendants attorneys)

Ans. I did not that I know of.

Int 5 Were you intimately acquainted with said Thomas Sindsay during the time that he resided on said section 36. and down to the time of his decease

Ans. I was.

David B Sears

Jonah H. Case a witness produced, sworn & examined, deposes and says, in answer to the following interrogatories as follows.

Int 1 Are you acquainted with parties Complainant & Defendant in this cause - or with any & which of them and how long have you known them or any of them?

Ans. I am acquainted with all the parties Complainant and Defendant & have known the complainants in the Original bill about twenty three years & the defendants since the year 1835.

Int 2 Where do you reside & how long have you resided there?

Ans. I reside in the vicinity of the City of Rock Island - within a mile and a quarter - and have resided in said City or in its immediate vicinity for ~~twenty~~ three years past.

Int 3^d Were you acquainted with Thomas Lindsay in his lifetime? if so how long & how well were you acquainted with him?

Ans. I was acquainted with him from the time he landed here with his family - in the Spring of 1835 until he removed to Iowa, - and saw him frequently after he removed to Iowa, until the time of his death. I was intimately acquainted with him during that time.

Int 4 Are you acquainted with the section lines of Section 36 in Township 18 N. R. 2 West of 4th P. M.

Ans. I am.

Int 5 Did you ever have a conversation with said Thomas Lindsay in regard to his purchase of a claim to a portion of said Section 36. If you answer Yes: State such conversation fully, and the time when & place where the same occurred.

(Objected to by Defendants Attorneys)

Ans. I had a conversation with him on that subject - I think it was the next day after his purchase of Mr. Davenport - he told me he had so purchased the day before & stated that the claim ran just

below the upper line of the fence which belonged to Col George Davenport's farm; that he had purchased the upper or East portion of said section, north of the Indian boundary. The line he indicated was the quarter section line running through the section north & south - he said he had purchased East of such line. He said that Col Davenport's fence ran a few rods over the line.

Int 6. What did said Lindsay say he paid Col Davenport ~~for~~ said claim? (Objected to by Defts Attys)

Ans. He named the sum, but I cannot positively state it - One or two hundred dollars - He thought it a great price but I did not.

Int 7 At what time did the said conversation with the said Lindsay occur? (Objected to by Defts Attys)

Ans. It was sometime in the summer of 1835.

Int 8 Did said Lindsay in such conversation state what kind of a deed, if any, Col Davenport gave him on such purchase? (Objected to by Defts Attys)

Ans. I think he said it was a deed of relinquishment - a quit claim deed.

Int 9 State the place as precisely as you can, where

Said Conversation occurred (Objected to by Def's Atty)

Ans. It began at my house, which was on the west line of said section - after we had talked a while he wanted me to go up with him & see where he thought the line would come. We accordingly went on to the East half of said section. He claimed the East part of said section between the Indian boundary line and the Mississippi River, as the claim which he said he had bought of Col Davenport.

Int 10th. Did said Thomas Lindsay, after words go to reside on that portion of said section, which he said he had bought of Col Davenport? (Objected to by Def's Atty)

Ans. He did and built a house at the upper end, near the River - near the line between the north East & the Southeast fractional quarter of said section.

Int 11 Did you ever hear said Thomas Lindsay make any claim, during his life time to any portion of the north west fractional quarter of said section?

(Objected to by Defendants Attorney)

Ans. I never did.

Int 12 At what place was said Thomas Lindsay living when the conversation before spoken of by you occurred (Objected to by Def's Attorneys)

Ans. He was living in a house of Col Davenport's - situated on the Northwest fractional quarter of said section

Int 13

Did said Thomas Lindsay, while he resided on said north west quarter of said section inform you by what right he occupied the house he resided in?
(Objected to by Drift's Attorney)

Ans. He said he rented it of Col George Davenport.

Int 14

Did you ever hear said Thomas, after he made the purchase of Col Davenport referred to by you, express an anxiety to remove from said north west quarter, & if so what reason did he assign therefor? (Objected to by Defendants attorneys)

Ans. While he was living in Col Davenport's house as before stated & building his own house on the East part of said section - he said he was anxious to get up his house as soon as possible in order to get rid of paying rent. This was during the time he was building his house on the East part of said section

Jonah H. Case

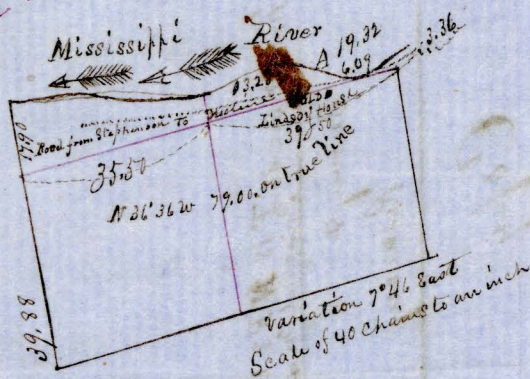
State of Illinois }
Rock Island County } ss I Frazer Wilson, Clerk
of the Court for said County do hereby certify
that Charles H Case Milo R. Conway John W
Spencer. David Hawes, James Kopp, Jacob
Norris. David B Seare and Jonah H Case
whose names are subscribed to the foregoing
Depositions respectively were by me first

Severally and respectively sworn in due form of law, to make true answers to Such interrogatories as should be propounded to them respectively in the causes entitled as is in the Caption to these Depositions set forth, according to their several and respective knowledge or recollection and that said Depositions were afterwards duly sworn to & subscribed by said Witnesses respectively before me

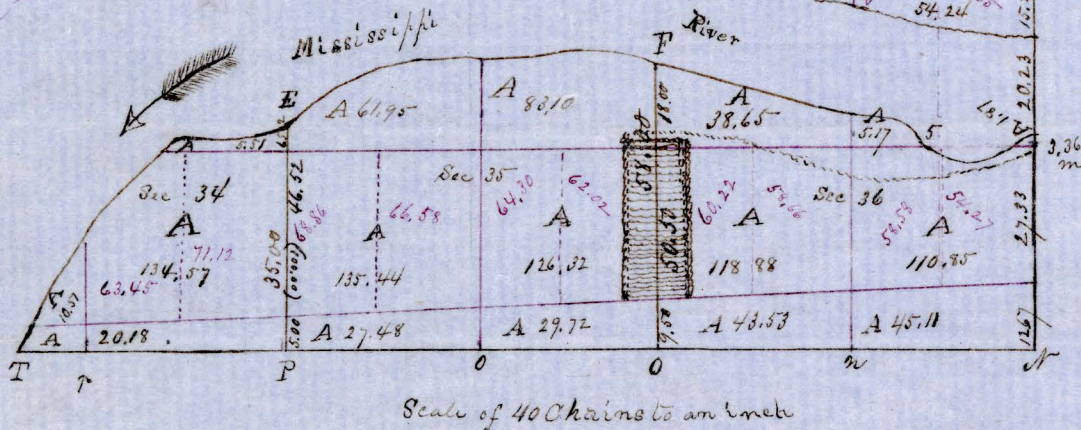


Given under my hand and the Seal
of said Court, at Rock Island this
17th day of December A.D. 1855
Frazier Wilson
Clerk.

T 18. N. R. 2, W of 4th P^l Meridian



(Resurvey)



Fractional Township 18 N Range 2 W of 4th P^l Meridian

Marked "A" by G. W. P.

5th 1/4 Sec 36 T 18 N R 2 W 4th E
Principal Meridian

Survey &
Resurvey

Copy

George S. Davuport
et al.

vs

James Lindsay et al
+ Leroy Bill

Depositions

For value Received I promise to pay to
George Davenport or order the sum of
One hundred Dollars on or before the first
day of June one thousand Eight hundred &
thirty seven

Rock Island

Thomas Lindsey

June 12 1835

Witness

Know all men by these presents that
 George Cairnport of Rock Island and County
 in the State of Illinois for and in Consideration
 of the Sum of One Hundred Dollars to him in
 hand ~~well~~ and truly paid by Thomas Lindsey
 of Farmington Illinois at and before the
 Writing and delivery hereof the receipt whereof is
 hereby acknowledged by the said George, who thereof
 doth acquit and forever discharge the said Thomas
 his heirs Executors and Administrators. by these
 presents has released and forever quit claim, and
 by these presents does release and forever quit
 claim unto the said Thomas Lindsey and his
 heirs and assigns: All the Estate and Estates,
 Shares ~~profits~~ ^{profits} and dividends, right title interest
 property claim and demand whatsoever of
 him the said George Cairnport in Law or
 Equity or otherwise, howsoever of, into or out
 of all that tract or parcel of land, known
 and designated as the North West fractional
 quarter Section Number Thirty six in Town-
 ship Eighteen of the Second Range of Townships
 West of the fourth principal Meridian
 Containing One Hundred and Ten $\frac{95}{100}$ Acres
 as also all of the fractional tracts or parcel
 of land lying between the afo^d described
 tract and the Mississippi River containing
 five and two Acres (in actual possession

& Skizze of the said George Warrenton now
 being) The aforesaid lands being situated
 in the State of Illinois.

Do have and to hold all and
 singular the premises hereby remised and released
 or mentioned or intended to be, with the
 appurtenances unto the said Thomas Lindsay
 his heirs and assigns to the only proper use
 and behoof of the said Thomas Lindsay his
 heirs and assigns forever. So that neither
 the said George Warrenton his heirs nor any
 — other person or persons who ever lawfully
 claiming or to claim by from or under him the
 said George, shall or may at any time or
 times hereafter have claim challenge
 or demand any estate right title or interest
 of in, to, or out of the said tract or parcel
 of land hereby remised and released or mentioned
 or intended to be, with the appurtenances
 or any part or parcel thereof: but thereof and
 therefrom shall and will be utterly excluded
 and forever debarred by these presents.

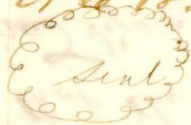
In Witness whereof the said George
 Warrenton has hereunto signed his name
 and affixed his seal the twelfth day of June
 Anno Domini Eighteen Hundred and Thirty-
 five at Rock Island in Rock Island
 County in the State of Illinois of the United

State of Iowa. County of Scott

Personally appeared before me William Britton
a Notary Public in and for said County, having authority to
take Acknowledgments of Conveyances of Real Estate by the
Laws of said State, Antoine LeBlanc a Competent and
reliable Witness and an Inhabitant of the City of Leaven-
worth in said County of Scott and personally known
to me to be Antoine LeBlanc who being duly sworn
saith that he personally knew Geo Leavenworth of Rock
Island County State of Illinois whose name appears to
the foregoing deed as the Grantor thereof. And that he
also personally knew S. Emerson whose name appears
to the said deed as ^{the} Subscribing Witness thereto.
That the said Leavenworth and Emerson are both dead
that the said LeBlanc well knew the hand writing
and Signature of the said Leavenworth and Emerson
being intimately acquainted with both for years
having business transactions with them and having
often seen them write. And that he believes the name
of Geo Leavenworth whose name appears to the said
deed as the Grantor to be in the proper hand writing
of the said George Leavenworth. And that he believes
the name of the said S. Emerson whose name
appears to the said deed as the Subscribing Witness
is also in the proper hand writing of the said

Emerson, And the said Wilson
 Quinter Notary Public as aforesaid do hereby
 Certify that the foregoing deed is Executed and
 proved in Conformity with the laws of the said
 State of Iowa.

In Witness of all of which I have
 hereunto Subscribed my name And affixed the
 Seal of my Office in the City of Leavenworth County
 of Scott aforesaid on this the 26th day of May
 A.D. 1854.



J. Wilson Quinter
 Notary Public aforesaid

Exhibit A

Notes of America
On the presence of
St. Emmeron

George W. Wainwright Seal

Gen. Harcourt
to
Thomas Lindsay

Plus -

Filed for record
May 1886
Recorded in Book
page -

Exhibit A.

Filed Nov 15, 1886

F. Wilson Clerk

Land office Dixon Illinois
May 30th 1854

Sir, Your letter of 27th inst come to hand, in reply - no patent was ever issued to Thomas Linsdley as per the duplicate of which you have furnished me a copy consequently there is no patent here the entry made by Thomas Linsdley as per said duplicate has been cancelled as appears from a letter dated Jan 27th 1853 directed to this office by the Com^r of General Land office. The following is a list of the names of persons who entered sec 36 =

Tracton S.B.	88.44 acres	Oct 19. 1829	by Geo Davenport & Furham
Mr S W pl 1/4 N.B.	60.22 "	March 11. 1836	by Joel Thompson
S. part N. W. 1/4 pl "	38.65 "	" "	by Henry McNeal
E. 1/2 S. W. 1/4 pl "	58.66 "	" "	by Samuel Burtis son
E 1/2 S E pl 1/4 "	54.27 "	" 25 "	by David Thompson
Mr S E pl 1/4 "	56.58 "	" "	by William Johnson Lathrop
W part N E pl 1/4 "	5.17 "	June 3. 1839	by Thomas Linsdley cancelled
S E pt N E pl 1/4 "	1.87 "	Sep 26. "	by Isaac Dearson
W part N E pl 1/4 "	13.23 "	Dec 13. 1845	by David Hawes

I believe the foregoing with the accompanying plat furnishes you all the information asked for
Fees \$1.00

James Grant Esq

Yours Resp
Hugh Wallace
Register

Certificate

Entered

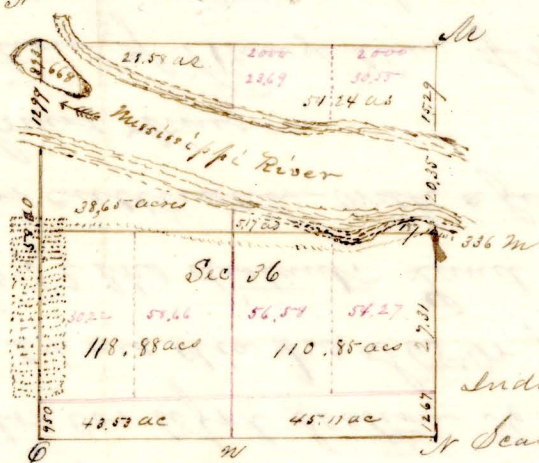
Dec 30, 18 NR 2W

Exhibit B,

Evidence 3

Filed Nov 15, 1856

Frazer Wilson clk

Township 18 North Range 2 W of 4th P M QWilson's Island
0.92 ac

Indian Boundary

Scale of 40 chains to an inch

Field notes of Survey by Black & Bean in 1821

North
chains
12.67

Along the East side Sec 36 T. 18 N. R. 2 W. of the 4th P M
Intersect Indian boundary 34.23 M East of corner, where set a
post corner of fract Tp 18 N. R. 2 W. of fract Secs 31 & 36
from which a W Oak 20 ins in diameter S 54 W 53 M

Land rolling & rich, timber Oak Elm Lynn & undergrowth same

West
4000

Along the South side of sec 36 T. 18 N. R. 2 W.

Set 1/4 Section post from which an Elm 14 ins diameter
N 34 W 3 M distant.

5960

A Brook 5 M wide, it runs north.

80.00

Set a post corner of Secs 35 & 36 from which a Lynn 20 ins dia
to N 8 W 53 M & a W Oak 10 ins dia S 5 W 53 M. Land rolling
rich, timber Oak Hickory Elm Lynn Walnut undergrowth various &c

North

Between Secs 35 & 36 T. 18 N. R. 2 W.

950

Set a post on Indian Boundary line Cor of Secs 35 & 36 from
which a B Walnut 24 ins dia N 85 E 39 M & a Locust
18 ins N 78 W 132 M Land very rolling, rich, Sumac & undergrowth

Field Notes of Survey by Chas R Bennett in 1833

Run from corner of Sec 16 S. 1/4 Sec 36 Tp 18 N. R. 2 W. of
the 4th P M on Range line to Indian Boundary line

for the purpose of ascertaining the Var of said line as ascertained by polar observation is $8^{\circ}20'E$. therefore to run correctly with this line as run formerly from Tp to Indian Boundary line, run the continuation of said line North at the Var of $8^{\circ}E$. having found the trees noted as witness trees at the Corner of Indian Boundary line viz. A W Oak 28 in diameter S, 3 W 53 lks & A W Oak 18 in diam N $33^{\circ}E$ 59 lks, the distance from Tp corner being 12.67 lks run

North from said corner on Indian boundary line as surveyed by Black & Bean on the East boundary of Sec 36 T18 N R2 W

25.00 Enter a bottom

40.00 O N 74 Section corner post from which a White Oak 36 in dia W S $6^{\circ}N$ 65 lks and a W Oak 24 W N $52^{\circ}N$ 196 lks distant. Land until you enter river bottom at 25 chs, broken yet rich, the bottom land is very good & very rich, excellent to cultivate, Timber. W R & B L Oak, Hickory Walnut & Elm, undergrowth hazel, briars & vines

40.75 Road from Rock Island to Galena

43.36 Intersect the Slough or South Channel of Mississippi River dividing the main land from Rock Island, Set post for cor to 1/4 Section 36 T18 N R2 W from which a W Oak 24 in dia W S $65^{\circ}N$ 76 lks & a B L Oak 10 bear N $56^{\circ}E$ 52 lks distant. Land of this fraction 1st quality Excellent for cultivation with a few Oaks & undergrowth of Hazel briars & vines

Oct 16, 1833

North continuation of Range line of R 1 & 2 W T 18 N from SE bank of Slough to Rock Island 43.36 from Tp Corner

of Secs 31 & 36 - 186 T^p 17 & 17 - 18 & 18 N Range 1 & 2 W distant
across slough to S E bank of Rock Island 20' 35 chs plus
43' 36 mark.

63.71

to S E bank of Rock Island Set post for fractional Section
corner of 31 T^p 18 N R 1 W & Section 36 T^p 18 N R 2 W
from which a hickory 10 ins dia (N 74' W 14 lks and
a black Oak 6 br N 49' E 52 lks distant.

80.00

Set post on Island for cor to Sec 25 & 36 T^p 18 N R 2 W
from which a bur Oak 6 ins dia (N 25' W 94 lks
& a bur Oak 4 brs S 65' W 28 lks distant. Land fit
for cultivation level & Rich, timber Oak Lyam Elm
& Hickory. Undergrowth Hazel locust Apple Willow &c
Oct 22. 1833

North

On the line from to Sect 35 & 36 T^p 18 N R 2 W
From corner on Indian boundary line 950 lks dis-
tant from Township Corner, with considerable diffi-
culty & Running on Indian boundary line from
corner of Fract Sec 36 & on T^p line also a survey
from T^p corner to the corner of Sec 35 & 36 - thence North
950 lks distant from said corner of Secs 35 & 36 T^p 18
N R 2 W and found a Walnut Stump about 24 ins dia
and also a locust Stump about 18 in dia. The bearing
and distance ~~agreeing~~ with the bearing and distance
~~and raised~~ given and also finding some marks
on same. I set post and raised a mound for
corner of fract 35 & 36 T^p 18 N R 2 W and ran North.

9.55

Enter a field of Mr Chase containing about 50 acres, the
field being principally to the West of the line - a field belong-
ing to George Davenport, of about 80 acres lying to the

East.

- 40.00 Set a lime stone rock for $\frac{1}{4}$ Sec corner, the description as follows, a lime stone rock about 8 inches square tapering somewhat towards the end, placed in the ground 20 inches in length. Half the length imbedded in the Earth, and placed with the Corner towards the Cardinal points. Land 1st rate Soil very rich, & Excellent for cultivation, covered with Corn stalks & Wheat Stubble
- 44.53 Leave the field of Mr lease & crossed Road from Venice to Rock Island, Course East
- 53.50 House of Mr Chase built of logs, Size about 16 ft by 20
- 58.00 Intersect the East or left bank of Mississippi River & set a large lime stone rock of triangular shape on side about 14 inches & the other two sides about 12 ins broad & 3 feet in length, for Corner on river to frac Sec 35 & 36 T18 N. R. 2 W. Said rock was placed with the broad side toward the river or north & the Corners towards the East. W & S. Land of this fraction of 1st quality Excellent for cultivation - Underneath Corn stalks W & S Stubble

Oct 17, 1833.

On the north boundary of Sec 36 T18 N R 2 W bary 8' E then run down stream with the meanders of the Mississippi river on left or East bank of same. S 76' W 200 chs S 72' W 12.00 chs N 89' W 4.50 chs N 81' W 6.00 chs N 67' W 2.50 chs to the mouth of Spring branch 5 lks wide from SE. N 67' W 7.50 chs N 10' W 2.50 chs N 62' W 5.50 chs N 86' W 1.50 chs S 81' W 5.50 chs N 81' W 9.50 chs N 63' W 3.50 chs to a Spring near Mr Bonds House. N 63' W 3.00 chs to Mr Bonds residence. N 68' W 2.00 chs

110
to ferry across to Rock Island. N 68° W 150 chs N 77° W 500 chs
N 68° W 18.21 chs to the corner of fracl Sec 35 & 36 T18 N R 2 W on
the left bank of the Mississippi River. Land good, rich,
fit for Cultivation.

West
40.00 On a true Line betⁿ Secs 25 & 36 T18 N R 2 W
Set a 1/4 Section Corner post from which a Black Oak
8 ins dia br N 29° E 133 chs, and a haws & bs S 13° W 135 chs
distant. Land fine for Cultivation, timber Small Oak
& hickory Undergrowth Hazel, briars & Vines.

41.43 Enter a field belonging to the fort of about 10 acres, line
passes through the middle

63.63 Recrossed or left same

68.98 Intersect Mississippi river at the West or lower end
of Rock Island Set lime Stone Rock 18 inches in length
& 10 inches square, the Corners placed towards the Cardinal
points and inserted 9 ins in the ground & bearing N 30°
W of the Commandants House within the fort & 12.03 chs
distant therefrom, for corner to fracl Secs 35 & 36 on
Rock Island T18 N R 2 W. Land fine rich and level &
fit for cultivation.

(Note according to my recollection which is corroborated by the notes of Meanders, the Commandants House within the fort is N 30° W from this corner on the Mississippi River, and is not situated as here stated.)

(Chas R Bennet D.S.)

From Corner on Range line of fracl Secs 31 & 36 T18 N R 2 W down stream along fracl Section 36 T18 N R 2 W as follows. N 88° W 8.00 chs N 77° W

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9.00 Chs. N 86° W 14.00 Chs. N 45° W 4.50 Chs. N 81° W 28.50
Chs N 48° W 8.50 Chs. N 83° W 1.32 Chs to the place of corner to
frac Section 25 & 36 T18 N R 2 W of the 4th principal
Meridian. Land good Soil rich fit for cultivation.
but little timber of Oak Hickory Elm & some Sycamore
Undergrowth Crab Apple, briars, Vines &c

Oct 24, 1833

{ Office of the Surveyor General for Illinois & Mo
St Louis 18 August 1854

The foregoing plot & the field notes of Sec 36 in T18
North Range 2 West of the 4th principal Meridian
are correctly Copied from the plats & Books in this
Office. The Said Section was Surveyed in 1833
under the joint Contracts of Chas R Bennett &
L H Bowen, of 20 August 1833

Jno Laugborough
Surveyor General

Copy
Exhibit C

Filed Nov 15, 1856
Grazes Wilson
Clerk

Know all men by these presents that I
 Sarah Ann Lindsay wife of Thomas Lindsay
 deceased late of Rock Island County, Illinois
 in Consideration of the love and affection
 which I bear to my Children have granted
 bargained ~~and~~ sold and by these presents
 do grant bargain and sell unto James Lindsay
 Susan Nell Eleanor M Bradley Margaret &
 Matthews Joseph T Lindsay and Augustine A
 Lindsay my Children all my estate right title
 and interest to the North west fractional Quarter
 of Section thirty six (36) in Township Eighteen 18
 North Range Two 2 West of the fourth Principal
 Meridian in Rock Island County, Illinois
 To have and to hold said premises with the
 appurtenances and all my estate or interest
 therein unto said James Lindsay, Susan Nell
 Eleanor M Bradley Margaret & Matthews Joseph
 T Lindsay and Augustine A Lindsay their heirs
 and assigns to their sole and only proper use
 and behoof forever

In testimony whereof I have hereto set my
 hand and seal this the 25th of October A.D. 1854
 In presence of 3 Sarah Ann Lindsay (seal)
 Abner Dawson
 Wm A Grant

State of Iowa On this the 25th day of
 County of Scott 3 October A.D. 1854

came before the undersigned Abner Davison
 A Notary Public in and for said
 County Sarah Ann Lindsay to me personally
 known as the identical person who executed
 the foregoing deed and before me acknowledged
 that she executed the same voluntarily
 for the uses and purposes therein
 expressed



Given under my hand and seal
 notarial the date above written

Abner Davison
Notary Public

Deed

Sarah A Lindsay
To

James Lindsay
and others

Exhibit in D-
Davenport Lindsay

Evidence 5

No 405

Filed and Recorded Feb 27th

2nd 1855 - Recorded

Vol R - page 378

& Examined J Wilson

Recorder

Filed Nov 15. 1856

Frazer Wilson clk

Whitaker & Grant

File 757

I George Davenport of Rock Island Rock Island County State of Illinois, being in perfect health & understanding, Considering the certainty of death and the uncertainty of the time thereof and being desirous to settle my worldly Affairs

Do therefore make & publish this my last-will & testament in manner & form following, that is to say.

I give and bequeath to Margaret-Davenport and Susan Lewis, her Daughter the following described property to have and to hold and to receive the rents and emoluments jointly for their maintenance and benefit and the survivor to be continual in the occupation and benefits of the property during their life time and then disposed of as further provided in this will, The property and bequeathal to Margaret Davenport and Susan Lewis her Daughter for the purposes above stated, is as follows. In South East fr^e quarter of Section twenty five. Eighteen, North two West-Containing one hundred and fifty seven acres & $2\frac{1}{100}$ Acres with all the buildings and appertinances thereunto belonging. All my house hold furniture books, Cattle, horses, hogs, wagons, Carriages and farming implements and every thing appertaining to my estate as it now stands, And also the rent and proceeds of the following property in Block Six Lots four & five, frame house and stable and the improvements - in Block forty one, Lot five (37) Store and other improvements - in Block forty two - part of Lots Six seven & eight, frame building called White Hall, and the part of Lots now fenced - in Block forty three Lot one Brick house & office and other improvements - In Block forty two Lot four frame House - I again repeat that there may be no mistake in my intention - I give to Margaret Davenport and Susan Lewis

her daughter the above described property - to have the sole management and benefit - during their life time. I give and bequeath to my son George Lott Davenport - the following property "to wit -"

Block forty one Lot one, Brick Store and other improvements - also in Block forty two, Lot three Frame House and improvements Also Out Lot No Seventeen containing four acres of land - South East corner of an^d Leclair's reserve, in Block fifty five Lots four five six & seven in Block fifty seven Lots six seven & eight - in Block fifty three Lots one two three & four and five, in Block fifty two, lots eight nine and ten - Block twenty nine Eight-lots called Longrow. Block twenty three, Brick House Eight-Lots in Town of Davenport, also my gold watch, Chain and Seal and all my guns and pistols. I also give and bequeath to my son George Lott Davenport to have and take possession at the death of his Grand Mother Margaret Davenport or after the death of his mother Susan Lewis, the last that may be the survivor of the two, the South East fractional quarter Section twenty five - Eighteen North, two West, on Rock Island, with all the buildings and appertinences thereunto belonging.

I give and bequeath to my son Bailly Davenport as follows "to wit": My part of Lot four in Block two, House Log Cabins and Stable also Sixty feet - Lot six Block twelve also Lot one and half Lot Eighteen Block Eighteen - also Lot six Block twenty - also the above lots in Town of Rock Island Also South half North west quarter Section one, Seventeen North. two West. Also South half North East quarter Section two, Seventeen North, two West - also lot number two containing fifty acres of land - also No three containing seventy five

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acres of land - The above lots of land, lay on the bank of the Mississippi above the Town of Moline. Also five quarter Sections of Bounty land in Hancock County one quarter Section of land in McDonough County and two quarter Sections in Henderson County - all in the State of Illinois - The numbers of the above Bounty land will be found in Book ^{describing} containing all my property.

I also give and bequeath to my Son Bailey Davenport Lot nine containing two hundred acres in the same tract of land as the above named lots, two three. they will be found on record in the Clerks Office, being the land assigned to me in division of lands with Charles Farnham in Rock Island County.

I also give and bequeath to Elizabeth Davenport Daughter Catherine Point one thousand Dollars, the money to be placed in the hands of my Son George L Davenport - who I hereby appoint her guardian, to pay interest - at the rate of five per cent to Elizabeth Davenport yearly until she arrives at the age of Eighteen and at that time to pay her the one thousand Dollars.

I give and bequeath to my Grandson George Alphonso Davenport - the whole Square number fifty nine containing ten lots fenced round with a board fence - also after the death of Margaret Davenport and Susan Lewis to have in Block number forty three part of Lot Six & Seven - a brick House and other improvements in the town of Davenport, Scott County Iowa Territory. I give and bequeath to Joseph Davenport (my Grandson) at the death of Margaret Davenport and Susan Lewis the property, the property they hold for life in Block forty one

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lot five - frame house and other improvements in Town of
Davenport. Scott County Iowa Territory

I give and bequeath to my
grand daughter Naomi Davenport at the death of Margaret Davenport
and Susan Lewis the property they hold for life in Block forty three
lot one Brick House and other improvements in town of Davenport
Scott County Iowa Territory

I give and bequeath to my grand
daughter Catharine Davenport at the death of Margaret Davenport
and Susan Lewis the property they hold for life in Block forty two
lots or parts of lots as before described - parts of Lots six seven & eight
frame House and other improvements in Town of Davenport
Scott County Iowa Territory.

I give and bequeath to Mrs July
Watts in Block forty four lot one frame House and other im-
provements in town of Davenport Scott County Iowa T.

I do hereby further give and bequeath to my son Bailey
Davenport at the death of Margaret Davenport and his
Mother Susan Lewis, the property they hold for life - in Block Six
Lots four & five frame House and other improvements - also in
Block forty two lot four frame House and improvements in the
Town of Davenport - Scott County Iowa Territory.

I further will and
decree that all the remainder of my property of every kind, not
otherwise disposed of in this will shall be sold to the best
advantage and at such times and on such terms as my son
George E Davenport may direct - but if sold on credit - Bond and
mortgage must be taken in the land to secure payment, and

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the sale not to be put off for a longer period than three years, the money arising from the sale of property and the money collected that is due me, to be disposed of as follows

- 1st To pay my debts
- 2nd One thousand dollars to be placed in the hands of George L. Davenport to pay the legacies as directed in this will to Elizabeth Davenport
- 3^d One thousand dollars to be placed in the hands of George L. Davenport for the support of And^{rs} Hokey sent to pay him yearly seventy dollars in provisions and clothing during his life - at the death of And^{rs} Hokey sent the money left for his maintenance to go to George L. Davenport, and shall be in full for his services as executor of this my will

The balance of all the money arising from the sale of my Estate to be equally divided between Margaret Davenport, Susan Lewis her daughter, George Leste Davenport and Bailey Davenport share and share alike, and to be divided from time to time as the money is received.

And I hereby make and ordain and appoint my son George Leste Davenport my sole executor of this my last will and testament

And further declare that the share given to my wife Margaret Davenport to be in lieu of Dower - and I do hereby revoke all former wills by me made

In Witness whereof I have hereunto set my hand and seal at my place of residence, Indian Lodge, Rock Island, October the twenty fifth day one thousand Eight hundred and forty four

George Davenport (Seal)

Signed, Sealed, published and delivered by the above named George Davenport to be his last will and testament in the presence of us, who at his request and in his presence have subscribed our names as witnesses thereto.

A. H. Miller

B. B. McKeown

G. L. R. Mitchell

Proven in Rock Island County Illinois by G. L. R. Mitchell and A. H. Miller July 28th 1845 before Herman B. Reynolds P. S. P.

George L. Davenport sworn as executor &c in Rock Island Co Ill on the 28th day of July A.D. 1845, before

Herman B. Reynolds P. S. P.

Herman B. Reynolds Probate Justice of the Peace of Rock Island Co Illinois certifies that the foregoing is a true copy of the last will and testament of George Davenport as filed, proven and recorded in the Probate office in SD County &c

Recorded in Book A of letters Testamentary and testamentary matters on page 133 and examined

Attest Herman B. Reynolds P. S. P.

Letters Testamentary and
A true copy of the
Last Will and Testament
of
Col George Davenport with
the Probate thereon and the
Executors Oath.

Exhibit E
1 Copy

Filed Nov 15th 1856
Frazier Wilson
Clerk

Whitaker & Grant
Attys &c Davenport.

A Circuit Court began and held
for Rock Island County in the town of
Stephenson on the 4th day of September 1837

Exhibit A

The Hon^{ble} Dan Stone Judge
Joseph Conway Clerk
Edward Southwick State Atty
Charles Ames Sheriff

In the Matter of George Davenport
and Charles Farnham In Partition

infant and only heir of Russell Farnham
deceased. by his Guardian ad Litem. And
now at this day Came into open Court John
W Spencer. Joel Wells senr. and Miles W
Conway Commissioners appointed at the last
Term of this Court. and make report of
their proceedings in this Case. which being
seen and examined by the Court and no
one objecting to the same it is approved of
by the Court and ordered to be entered of
Record which report and the papers thereto
annexed is in the words and figures
following, to wit:

To the Hon^{ble} Dan Stone Judge
of the Circuit Court in and for the County of

Rock Island State of Illinois. We the
 undersigned Commissioners having been
 appointed by an order of Said Circuit
 Court to make partition of the lands and
 tenements mentioned and described in said
 order of Court (a copy of the petition describing
 the lands is hereto attached & referred to, for
 the description of said lands) between George
 Davenport and Charles Farnham infant and
 only heir of Rufell Farnham deceased. do in
 conformity with law and the said order of
 Court make the following report. That having
 first been duly sworn according to law
 fairly and impartially to make partition of
 said lands between the said parties. if the
 same could be done consistently with the
 interest of the estate, we afterwards on the
 first day of September A D 1837 went upon
 the lands and tenements aforesaid, and
 after having carefully examined the quality,
 and ascertained the quantity by the measurement
 thereof by the United States Survey. we
 proceeded to ascertain by notes and bounds
 the respective shares of each according to
 their several interests therein, in the following
 manner to wit. - in the first place we assigned
 and set apart to said Charles Farnham the
 following described tracts of land (being part of

parcel of said lands) Which are designated
 and bounded as follows - first, the North
 Half of the North West quarter of Section Number
 one. Township Number 17 North Range No 2
 West 4th Principal Meridian. Containing Eighty
 acres, Second the North Half of the North east
 quarter of Section No 2 in same Township
 and Range as above, and adjoining the tract
 just above allotted and set apart. Containing
 eighty acres. Third the North half of the North
 West quarter of the same Section No 2
 above described, adjoining tract No 2 above
 assigned. Containing Eighty acres. Fourth -
 also the North part of the South east fractional
 quarter Section No 13 in same Township &
 Range as above. Containing Eighty acres & $\frac{12}{100}$ ths
 of an acre, be the same more or less. Fifth -
 also the fractional Section No 36 in Township
 No 18 and same Range. Containing eighty
 eight acres & $\frac{44}{100}$ ths of an acre. ($88\frac{44}{100}$ ths acres)
 be the same more or less. Sixth - also the
 fractional section No 35. (adjoining last
 mentioned tract) in the same Township &
 Range Containing fifty seven acres & $\frac{20}{100}$ ths of
 an acre ($57\frac{20}{100}$ ths acres) be the same more
 or less. Seventh, - Also the east Half of the
 fractional section No 34 in same township
 & Range last stated and adjoining the tract

Last mentioned) Containing Ten acres $\frac{2}{3}$ ths
 of an acre ($10\frac{2}{3}$ ths acres). Seventh lot No 4 in
 the tracts of 1280. acres surveyed for the reservations
 of a section each. granted to Francois and
 Antoine Le Cleu as described in the said
 petition and order of Court. Containing Eighty
 acres & Twelve perches meted and bounded.
 according to the recent survey of the same
 made by David Hough. D.E. for Rock Island
 County a plat whereof is herunto annexed.
 Eighth lot No 5 in the said survey of said
 tracts of twelve hundred and Eighty acres
 adjoining lot ^{No} 4. as above described. Containing
 Seventy Eight acres. the plat whereof is
 herunto annexed. Ninth lot No 6. as
 designated on the said survey of D Hough
 of said tracts of twelve hundred & Eighty acres
 adjoining lot No 5 last above described
 Containing Ninety five acres & ten perches. the
 plat whereof is herunto annexed. Tenth lot No 8
 as designated on said survey of D Hough
 of said tracts of Twelve hundred and Eighty
 acres Containing three hundred & Seventeen
 acres & one hundred & twenty perches as may
 appear by reference to said survey of D Hough.
 as above referred to. Lastly the North part of
 lot No 9 in the said survey of D Hough.
 above referred to Containing one hundred

and Twenty three acres. which said North part adjoins the River Mississippi meets & bounds of which said several lots No 4, 5, 6, 8, and North part of lot No 9 are fixed and butted by the Survey of the same. a plat whereof is herewith annexed In the second place we assigned and set apart to said George Davenport the following described tracts of land (being part and parcel of the same lands ordered to be divided) and which tracts are designated and bounded as follows. to wit: First the South Half of the North west quarter Section No 1 Township No 17 North Range No 2 West 4th Principal Meridian. Containing Eighty acres; Second: the South Half of the North east quarter of Section No 2 in the same Township & Range as above, and adjoining the tract of 80 acres last described. Containing Eighty acres; Third - the South Half of the North west quarter of the same section No 2 above described & adjoining the tract of 80 acres last described. Containing Eighty acres; Fourth - the South east fractional quarter of Section No 14 in same Township & Range as above last mentioned Containing Thirty One acres & 76 one hundredths of an acre ($31\frac{76}{100}$ ths of an acre) Fifth the South west fractional quarter of said section No 14 &

adjoining the tract last described.
 Containing Sixty five acres $\frac{34}{100}$ ths of an acre
 ($65 \frac{34}{100}$ ths acres) Sixth the West Half of the
 fractional Section No 34 in Township No 18
 N. in same Range, as above stated. Containing
 Ten acres $\frac{9}{100}$ ths of an acre ($10 \frac{9}{100}$ ths acres) Seventh
 lot No 1, as designated in the said survey of
 D. Hough of said reservations of F. & A. Leclerc
 above referred to Containing twenty acres 132 perches
 meted & bounded as described in said plat
 Eight. lot No 2 adjoining lot No 1 last described
 Containing fifty acres meted & bounded as
 by said survey appears Ninth. lot No 3
 adjoining the last mentioned tract
 Containing seventy five acres 64 perches.
 meted and bounded as appears by said
 survey. Tenth. lot No 4 in said survey
 Containing Two Hundred acres & 60 perches
 meted & bounded as by said survey appears
 Lastly the south end of lot No 9 which
 plat contains Two Hundred & twenty acres
 & 140 perches meted and bounded as by
 said plat appears.

A description of which said
 tracts or parcels of land in partition and
 assigned to the said Charles Farnham
 and George Davenport by metes and bounds
 as aforesaid. will more fully and explicitly

appear by reference to the annexed plats
and explanations which are intended to
be made a part of this report. All which
is respectfully submitted

Witness our hands & Seal this

seventh day of September

A D 1837

John H. Spencer

Miles H. Conway

Joel Wells ser

(Seal)

(Seal)

(Seal)

Note: The South half of Section No 2
Township No 17. North Range No 2 It as
described in the order of Court (tract No 3)
is found to have been Sold & Conveyed by
George Davenport and Russell Farham
in his life time to
of Rock Island County Ill as represented to us

John H. Spencer

Miles H. Conway

Joel Wells ser

Commissioners

A draft of a tract of land resumed & divided the 31st day of August
 & 1.2 & 4 days of September 1837 for Genl Darnport & the heirs of Farnham situate in fractional
 township No 18 North of the base line Range No One West of the 4th principal meridian
 & South of the main shore of the Mississippi containing 1260 acres 118 perches

David George D.S. for Rock Island Co.



The within plat of survey is of the 2
 sections of land referred to in the order of
 Court as granted by Treaty to Francois &
 Antoine Leclerc. Lots 1, 2, 3, 7 & 220 acres ¹⁴⁰ perches
 South half Lot No 9 to George Davenport;
 Lots No 4, 5, 6, 8 & 123 acres & part lot No 9
 to Charles Farnham

September
 7th 1837

John W. Spencer
 Miles W. Conway
 Joel Wells senr

Commissioners

A Copy of Petition annexed to report

To the Hon Dan Stone Judge of the
 Sixth Judicial Circuit State of Illinois
 and Judge of the Circuit Court in and for
 Rock Island County State aforesaid.

The Petition of George Davenport of said
 County of Rock Island & respectfully Sheweth
 That in the life time of Russell Farnham
 in the year 1829 he and your petitioner
 purchased together jointly as tenants in common
 from the United States, the following
 described real estate, situate in the present
 County of Rock Island aforesaid. Namely
 1st North west quarter Section Number One
 (No 1) Township Number Seventeen (No 17)
 Range No 2 Principal Meridian.

Containing One Hundred & Sixty acres
 (160 acres) 2nd North Half section Number
 two (N^o 2) in same Township & Range as
 above. Containing Three Hundred and
 Twenty acres (320 acres). 3rd The South
 Half of same section. Township & Range
 Containing Three Hundred & Twenty acres (320 acres)
 4th The North part of South East fractional
 quarter section Number thirteen (N^o 13) in
 same Township & Range last aforesaid
 Containing Eight acres and $\frac{12}{100}$ ths of an acre
 ($8\frac{12}{100}$ ths acres). 5th The South East fractional
 quarter section Number fourteen (N^o 14) in
 same Township & Range last aforesaid
 Containing thirty One acres and $\frac{76}{100}$ ths of an acre
 ($31\frac{76}{100}$ ths acres). 6th The South West fractional
 quarter of said section Number fourteen (N^o 14)
 in same Township & Range Containing 65 acres
 and 34 one hundredths of an acre. 7th The
 fractional section Number thirty four (N^o 34)
 in Township Number Eighteen (N^o 18) same Range
 as above Containing 20 acres & 18 one hundredths
 of an acre. 8th The fractional section
 (N^o 35) Number thirty five in same Township &
 Range last mentioned Containing 57 acres and
 20 one hundredths of an acre. 9th The
 fractional section Number thirty six (N^o 36)
 in same Township & Range last mentioned

Containing Eighty Eight acres and $\frac{4}{4}$ one
 Hundredths of an acre ($88 \frac{4}{100}$ ths acres) all
 of which were purchased as aforesaid
 Also of two other tracts of land in said
 County each containing one section or 64 acres
 situated on the Mississippi River north of
 and adjoining the line which had
 previous to the year 1829 been drawn due
 West from the most Southern end of
 Lake Michigan to that River being the
 same tracts granted to Francois and
 Antoine Leclau by the treaty of Prairie du
 Chien. dated July 29th 1829 between the
 United States and Chippewa, Ottawa, and
 Pottawtama tribes of Indians and which
 tracts as above granted were by the grantees
 sold and duly conveyed to the undersigned
 George Davenport & said Russell Farnham
 in his life time as tenants in common as
 may appear by Copies of said deeds of
 conveyance herunto annexed and part of
 parcel hereof.

And your petitioner further represents
 that said Russell Farnham died at the
 City of St Louis Missouri in the fall of
 the year 1832 without having made any
 last will & Testament and leaving a widow
 and One child only as his heirs at law

which Child is named Charles & now aged about 6 years and is now residing in St Louis aforesaid and has no Guardian in this County or State of Illinois.

Your Petitioner further States that the Widow of said Russell Farnham hath deceased at St Louis aforesaid since the death of her said Husband.

Your Petitioner further States that being desirous of having "partition" of the said several tracts of land herein before described between him & the said heir at law of said Russell Farnham deceased he hath given Notice in the Cheapest Newspaper of his intention to apply to this Court according to law the said Charles Farnham not being a resident of Rock Island County. Nor of the State aforesaid. which Notice is hereunto annexed he therefore prays that a partition of the said tracts of land in this petition described may be made between your petitioner & said Charles Farnham according to their several rights in the same; & that Commissioners may be appointed for that purpose according to the provision of the Statute in such Case made & provided &c

George Davenport

it was ordered and adjudged by said Court that the complainants in said Original Bill have the prayer thereof granted as per decree of this Court filed herein, to which decision of the court, the said defendants in the Original Bill & plaintiffs in Cross bill excepted then and there and prayed the Court to issue and seal the said bill of exceptions which is accordingly done

Beny. R. Sheldon Seal

Leamport Jan

Sunday Jan

Bill of exceptions

filed Nov 24, 1856

Tracy Winton

clerk

State of Illinois }
County of Rock Island } 88
Of the November Term
of the Circuit Court in and for said County
and of the Six Judicial Circuit of said State A.D. 1856
In Chancery Sitting

George L. Davenport
Bailey Davenport &
Susan M. Goldsmith
Complainants

vs

James Lindsay Susan Noel
Adam Noel Eleanor M. Bradley
Horace Bradley Margaret D.
Mathews, John B. Mathews
Augustine A. Lindsay,
Joseph T. Lindsay -
Defendants.

Original Bill

James Lindsay Susan Noel
Adam Noel, Eleanor M. Bradley
Horace Bradley, Margaret D. Mathews
John B. Mathews, Joseph T. Lindsay
And Augustine A. Lindsay, Complainants

vs

George L. Davenport
Bailey Davenport and
Susan M. Goldsmith
Defendants

Cross Bill

This day came the parties by their Solicitors and
 thereupon this Cause came on to be heard upon the
 Original and Cross Bill and the answers of the said
 defendants to the Original Bill of said Complainants
 therein and the answers of said Defendants to the
 Cross Bill of the therein Complainants and the
 replications thereto and to each Bill respectively
 together with the exhibits and testimony filed
 herein and was argued by Counsel for ^{the} parties
 respectively. On consideration whereof the Court
 do find that the Equity of the case is with
 the said George L Davenport, Barclay Davenport
 and Susan M Goldsmith, Complainants in said
 Original Bill and Defendants in the said Cross
 Bill, that the said Deed from George Davenport
 to Thomas Lindsay bearing date the twelfth day
 of June Anno Domini Eighteen hundred and thirty
 five set forth and described in said Complainants
 Original Bill and conveying to said Thomas
 Lindsay his heirs Executors, administrators
 and assigns all his the said George Davenports
 right, title, interest, property, claim and demand
 in and to the North west fractional quarter
 Section number thirty Six in Township Eight-
 een of the Second Range of Townships West of
 the fourth principal Meridian, and in said
 deed described as containing one hundred and
 ten ⁸⁵/₁₀₀ acres, ought to be reformed and

Connected so that Said Deed shall be held and
 taken to Convey to Thomas Lindsay his heirs
 Executors administrators and assigns in manner
 and form as set forth in Said Deed all that tract
 or parcel of land known and designated as the
 South East fractional quarter Section number
 thirty six in Township Eighteen of the second Range
 of Townships west of the fourth principal Meridian
 containing One Hundred and two $\frac{85}{100}$ acres;
 and in no wise connecting or reforming Said
 Deed except as aforesaid, nor in anywise im-
 pairing or affecting the Grant or Conveyance of
 any other piece or parcel of land mentioned
 and described in Said Deed. and that the Said
 defendants named in Said Complainants
 Original Bill ought to be perpetually Enjoined
 and prohibited from further prosecuting their
 Said Several actions of Ejectments mentioned
 in Said Complainants Original Bill aforesaid
 by virtue of any title acquired to Said several
 premises or pretended to be acquired thereto by virtue
 of Said Deed aforesaid. And that they ought to be
 perpetually Enjoined and prohibited from setting up
 any Claim, title or demand ~~to~~ or to those portions
 of the North West Quarter of Section thirty six
 aforesaid, described in Said Original Bill as
 severally belonging to and owned by Said Com-
 plainants respectively by or through or by virtue

of the Deed aforesaid.

It is therefore Ordered adjudged and decreed that the Said Deed from George Davenport to Thomas Lindsay described and set forth in Said Original Bill of Complaint and bearing date the twelfth day of June Anno Domini Eighteen Hundred and thirty five Conveying by its terms in manner and form as Specified in Said Deed to Said Thomas Lindsay, his heirs Executors administrators and assigns all that tract or parcel of land known and designated as the North West fractional quarter section number thirty six in Township Eighteen of the Second Range of Townships West of the fourth Principal Meridian Containing One Hundred and ten ⁸⁵/₁₀₀ acres, be and the same is hereby reformed and corrected so as to hold taken and deemed to convey in the manner and form as Specified in Said Deed from Said George Davenport to Said Thomas Lindsay his heirs Executors administrators and assigns, all that tract or parcel of land known and designated as the South East fractional quarter section number thirty six in Township Eighteen of the Second Range of Townships West of the fourth Principal Meridian Containing one hundred and ten ⁸⁵/₁₀₀ acres and shall not be holden ^{or} taken

to Convey from said George Davenport to said Thomas Lindsay his heirs Executors administrators and assigns, the said North West fractional quarter Section Number thirty Six.

And it is further ordered adjudged and decreed, that said defendants and all and any of them named in ~~the~~ said Complainants Original Bill of Complaints and all persons claiming from or under them by virtue of or by or through said Deed in respect to the several portions of said North West fractional ^{quarter} section number thirty Six now owned, vested in and held and possessed by said Complainants severally and respectively as set forth in their said Original Bill of Complaints and they hereby are perpetually and forever enjoined and prohibited from setting up in law or Equity by virtue of or by or through said Deed, any claim title or demand in or to any of the parts or portions of said North West fractional quarter section number thirty Six set forth in said Original Bill of Complaints as severally belonging to or owned by said Complainants respectively.

And it is further ordered and adjudged, and decreed that the said defendants named in said Complainants Original Bill of Complaints, be and they are perpetually and forever enjoined and prohibited

from further prosecuting their said several actions of Ejectment mentioned in said Original Bill of Complaints in respect to said several pieces and parcels of land sought to be recovered as therein set forth by or through any title claim or demand, derived or pretended to be derived ~~thereby~~ by virtue of said ~~Land~~.

And it is further ordered and adjudged and decreed that the said Defendants in said Original Bill of Complaints pay one half of the costs herein & that the complainants therein pay the other part thereof

Done in Open Court at the Term aforesaid

Benj' R Sheldon

State of Illinois }
 Rock Island County } J. Linnay Merrill clerk
 of the Circuit Court for said County do
 hereby certify that the foregoing is a true copy
 of the decree in the above named case,
 had and entered at the November Term 1886
 of said Court, and that the papers hereto
 attached are ~~copies~~ and correct copies
 of the Original Bill, Cross Bill, depositions
 evidence Appeal bond &c on file and belong
 to the case above named

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In testimony whereof I have herewith set
my hand and affixed
the seal of said Court at
my office in Rock Island
this twelfth day of February
1857

Quincy M. Neil clk

Decree

George L. Davinport
Bailey Davinport
Susan M. Goldsmith

vs

James Lindsay^{val}
In Chancery

Filed Nov 24, 1856

Frazier Wilson
Clerk

State of Illinois }
Rock Island County } Know all men by these presents
that we Joseph Lindsey, Augustine A Lindsey
principals and James Grant as surety are held and
firmly bound unto George L Davenport Bailey
Davenport & Susan M Goldsmith in the sum
of one hundred & fifty dollars to which payment
we bind ourselves and each of us firmly by these
presents. Given under our hands and seals
this 24th day of November A.D. 1856.

The condition of this obligation is this. Whereas at the
November Term 1856 of the Circuit Court of Rock
Island County in said State in certain proceedings
in Equity in said Court wherein George L Davenport
Bailey Davenport & Susan M Goldsmith were
plaintiffs and James Lindsey, Joseph Lindsey,
Augustine A Lindsey and others were defendants in
an original Bill and said James Lindsey, Joseph
Lindsey, Augustine A Lindsey were plaintiffs in a
Cross bill & said George L Davenport Bailey Davenport
& Susan M Goldsmith were defendants
a decree was rendered by said Court in favor
of said George L Davenport Bailey Davenport &
Susan M Goldsmith and against said James
Lindsey and others and whereas said defendants
in said original bill & plaintiffs in said Cross bill
have appealed from said decision to the Supreme
Court. Now if said appellants shall duly

prosecute said appeal and pay all judgments
cost interest and damages which may be
rendered against them in case said judgment
shall be affirmed.

Then this obligation shall be void otherwise
to remain in full force & virtue

Joseph T Lindsay 
Augustine A Lindsay 
James Grant 

Approved Nov 28. 1856

J M Drury
Judge Ct

George L. Davenport vs

James Lindsey &

Appeal Bond

Filed Nov 28, 1856

Frazier Wilson clk

Now before the Hon Benjamin R. Sheldon
Judge of the fourteenth judicial Circuit
of the State of Illinois sitting in Exchange
with Hon J. W. Dury Judge of the sixth
Judicial Circuit of said State at a term of
the court last aforesaid begun, held and
sitting as a court of Chancery on the
Wednesday after the first Monday in the Month
of November (it being the fifth day of said month)
in the year of our Lord 1886

Present Hon B. R. Sheldon Judge
T. B. Gorton Sheriff
Frederic Wilson clerk

And afterwards took at the term aforesaid
the following preceding writs

James Lindsay, Susan Noel, Adam Noel,
Eleanor M. Bradley, Horace Bradley, Margaret
D. Matthews, John B. Matthews, Augustine A. Lindsay
and Joseph T. Lindsay, Complainants

vs

George L. Davenport, Bailey Davenport
and Susan M. Goldsmith, Defendants

This day came plaintiff by
their attorneys and pray an appeal
from the decree of this court heretofore
entered, And the court having considered

thereof grants the same, and orders that
Complaints enter into bond in the sum
of One Hundred and fifty dollars with
James Grant as Security, conditions as is
required by statute in cases of Appeals, ~~and~~
that the same be filed in twenty days from
the adjournment of this Court, that when
the same is filed the clerk of this Court shall
make out a transcript of the records in this
Case and forward ~~it~~ to the Clerk of the
Supreme Court at Ottawa.

Benj R. Sheldon

State of Illinois }
Rock Island County } I Dickey McNeil
Clerk of the Circuit Court for said County
do hereby certify that the foregoing is a
true copy of the order of Appeal ^{and the appeal bond} in the
above named Case

Witness my hand and the
Seal of said Court this 12th
day of February 1857
Dickey McNeil clerk

Fees 6.97
copy transcripts 65.12
\$73.09

James Lindsay et al

vs

Bailey Davenport et al

Transcript of Record

Filed March 6 1857

S. Leland
Clerk

By J. B. B. B.

Supreme Court of Illinois

At Ottawa

June Term 1857.

James Lindsay et al.

Appellants

vs
George L. Davenport et al.
Appellees

} Appeal from
Rock Island.

And now comes the
said appellants, James Lindsay et al and say
there is error in the judgment of the said
Rock Island Circuit Court and for cause thereof
say.

First. The Court below ought on the Pleadings
and evidence to have rendered a decree for the
defendants below, on their cross bill.

Second. The Court below in decreeing that
there was a mistake in the deed of George Davenport
the ancestor of plaintiffs to Thomas Lindsay
the Ancestor of the defendants - dated 12th of June
1835, did not decree that the parties should
be placed in Statu quo.

Third. The Court below ought to have rendered
a decree for the defendants because Davenport
& his devisees never had any seisin or
possession to the land, which they pretend
Davenport did sell to Lindsay.

Fourth. Because Davenport's deed of 12th June
1835 contained a covenant of special

Warranty of title and neither he nor his devisees
the plaintiffs below have ever had any title
to the land, for which they seek to correct
the deed.

Fifth Because there was no sufficient evidence
to authorise the Court below to correct the deed
of 12th June 1835.

Wherefore the appellants pray that the
judgment below may be reversed and a
judgment rendered in this Court, granting
their title & giving them possession of the
land described in the deed of 12th of June
1835 from George Gainsport to Thomas
Lindsay.

James Grant for
Appellants.

And the appellants say there
is no error in the Record or
proceedings of the Circuit Court
in said case, but that the
verdict & judgment thereof are
just & proper.

Pravody Manning & Munroe
Attys for Appellants

Supreme Court of Illinois
at Ottawa.

Term Term. 1857.

James Lindsay et al
Appellants

vs
Geo L. Davison et al
Appellees.

Assignment of
error.

Jas Grant
Atty for Appellants.

Supreme Court
of Illinois
At Ottawa -

James Sunday Tothers
appellant

George S. Hancock
Tothers, appellee

Rock
Island -

The Counsel for the
appellee in the above named case
waive the filing of a *habeas corpus*
in the above named case, and agree
to appear at the first term of Court
as soon as the record is filed.

Rock Island

25 Feb 1857.

~~And~~ *And* ~~the~~ *the* ~~appellee~~
Sol. for appellee

Supreme Court

James H. Hilditch

John H. Hilditch

George H. Hilditch

John H. Hilditch

John H. Hilditch

John H. Hilditch

John H. Hilditch

John H. Hilditch

John H. Hilditch

John H. Hilditch

John H. Hilditch

John H. Hilditch

John H. Hilditch

John H. Hilditch

John H. Hilditch

John H. Hilditch

John H. Hilditch