

13405

No. _____

Supreme Court of Illinois

G

~~X~~udgel

vs.

Pettigre^W~~X~~

71641  7

STATE OF ILLINOIS,
SUPREME COURT.
Third Grand Division.

No. 90.

Pettigrew
vs
Hudgel

132/05

1261

Malibny Ill
June 8, 1860

J. L. Ireland
Ottawa Ill.

Dear Sir

England

Please find Certificate of Moral
Character in accordance with
your letter of the 23rd ult.

Please forward my license
at your earliest convenience.

Very Truly Yours

E. L. Davidson

STATE OF ILLINOIS, }
SUPREME COURT, } ss.

The People of the State of Illinois,

To the Clerk of the Circuit Court for the County Bureau Greeting:

Because, In the record and proceedings, as also in the rendition of the judgments of a plea which was in the Circuit Court of Bureau County, before the Judge thereof, between James H. Gudzill Elias N. Pettigrews, Abraham Homer & Matthew M. Reid

plaintiffs, and James H. Gudzill & Robert M. Kearns

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

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

Witness, The Hon. John D. Caton, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this 16th day of May in the Year of Our Lord One Thousand Eight Hundred and Sixty.....

L. Leand

Clerk of the Supreme Court.

by J. D. R. Deputy

No 90

Oliver N. Pettigrew

vs

No.

vs.

James H. Gudgeon

Real

WRIT OF ERROR.

This Writ of Error is made a
Supersedeas, and as such is to be
obeyed by all concerned.

L. Leland

^{Gleek}
for him Deputy

FILED September 20 A. D. 1860

L. Leland

^{Gleek}

Know all Men by these Presents, That James H. Gudge
and Robert M. Keerns

as principals and Isaac

Sutherland as security, are held and firmly bound

unto Matthew M. Reed, Elias N. Pettigrew
and Abraham Horner

in the penal sum of Two Thousand Dollars
good and lawful money of the United States, for the payment of which, well and truly
to be made, the said James H. Gudge, Robert M. Keerns
and Isaac Sutherland

bind Themselves, their heirs, executors and administrators,
jointly, severally and firmly by these Presents.

Witness, their hands and seals

this 26th day of May A. D. 18 60

The Condition of the above Obligation is such, That, whereas the above named
Matthew M. Reed, Elias N. Pettigrew, and
Abraham Horner

did, at the March Term of the Circuit Court,
held in and for the County of Bureau in the
State of Illinois, A. D. 1860 recover a judgment against the above bounden James
H. Gudge and Robert M. Keerns, by which judg-
ment the said Gudge was among other things ordered to pay to
the said Reed, Pettigrew, and Horner the sum of five hundred
and eighteen dollars, and by which judgment a sale
of certain Real Estate by the for the sum of Marshall of the
Southern district of Illinois to said Keerns, was among other
things in said judgment ordered, declared void
said James H. Gudge and Robert M. Keerns ^{to reverse which said judgment,}

have sued out a Writ of Error from the Supreme Court, within and for the Third
Grand Division of said State, which Writ of Error is made a Supersedeas. Now if the
said James H. Gudge and Robert M. Keerns

shall duly prosecute said Writ of Error, and pay, or cause to be paid, the amount of said
judgment, and all judgments, costs, interest and damages which the said Supreme Court
shall adjudge against them or either of them.

and abide the order and judgment of said Su-
preme Court in this behalf, then this obligation is to be void, otherwise to remain in full
force and effect.

James H. Gudge [SEAL.]

Robert M. Keerns [SEAL.]

Isaac Sutherland [SEAL.]

[SEAL.]

No. 777 90

SUPREME COURT,

THIRD GRAND DIVISION.

vs.

SUPERSEDEAS BOND.

Filed May 28 1860

L. Lalum Clerk.
blair

State of Illinois.

Bureau County, Ill.

Personally Came
before me, Wm. Macklin, a Justice
of the Peace of said County, Isaac
Guthrie and who, being duly sworn,
according to law deposes and
says that he is ~~well acquainted~~
with a resident of Bureau County
aforesaid, that he is the owner
in fee simple of the West half of the N.
West of 32, S. W. 1/4 22 in 14, N. 8 East
in said County, that he is the
owner of personal property of the
value of eight Hundred Dollars, that
said land is worth about
Three Thousand Dollars, and further
says that his personal and real
Estate are worth one and above
his debts Three Thousand Dollars.

Sworn to and Isaac Guthrie and
Subscribed before
me this 21st day
of May 1860
William W. Macklin J. Peace

90 598
Grazal as Pm -
new class

App of Sapping
of security of fund
Osam Sutherland

Filed May 24, 1860
L. Leland
Clark

Page 1

State of Illinois }
Bureau County } ss.

Be it remembered, that on the
22nd day of August A.D. 1859 came into
the Office of the Clerk of the Circuit Court
within and for the County and State afore-
said. Elias Pettigrew, Matthew M. Reid &
Abraham Horner, by Peters & Porter their
Solicitors and filed their praecipe for Sum-
mons in Chancery in the words and figures
following to wit

Elias Pettigrew
Matthew M. Reid &
Abraham Horner } Bill in Chancery
vs
James H. Gudgeon

The Clerk will please issue
process in Chancery in the above cause
Peters & Porter

Aug 22nd 1859 - Solo for Compt

And on the same day the said complainants by
their Solicitors aforesaid filed their Bill in
Chancery in the words and figures following
to wit

2 To the Hon^{ble}. Mr. E. Hollister Judge of the
9th Judicial Circuit Court in Chancery sitting
Your Orators Elias H. Pettigrew,
Abraham Horner, and Matthew M. Ried
of the County of Bureau and State of Illi-
nois humbly complaining. Sheweth unto your
honor that on the 24th March A.D. 1856 at
said County, Your Orator Elias H. Pettigrew
and James H. Gudgeon, the last of whom
Your Orators pray may be made party defen-
dant to this bill, formed a Co partnership
together to sell goods buy and sell grain
and to do business together as Country merchants
at the village of Pistilwa in said County
that the duration of ^{their} said partnership was
not fixed that said defendant and Your
Orator Pettigrew were to be equal in the
division of the profits and loss of their
business that said Pettigrew put capital
into said firm to the amount of \$1482.96
and Gudgeon some nine hundred hundred
dollars and Gudgeon was not to have put
in one hundred dollars more, and was not
to take out any thing out of the concern
for the first year, unless he paid down
for the same,

That such copartnership con-
tinued until February 27th 1857 up to which
time Pettigrew and Gudgeon did business

3

together as partners as aforesaid that then they took into the concern your Orator Abraham Homer, who paid Pettigrew & Gudgeall for one third of the Partnership property of the firm of Gudgeall & Pettigrew \$391 $\frac{68}{100}$ and was to pay them \$552 $\frac{1}{100}$ with ten per cent interest in addition thereto, that the Partnership property was computed by them to be worth \$3431.37 - That the new firm was called Pettigrew Gudgeall & Co. - That the three were to be ⁴equally interested in the profits & loss of the last firm

That the last partnership continued only to the 22^d July 1837 then Pettigrew bought of Gudgeall his interest in the Stock of goods on hand paying him therefor \$801.00 which amount Gudgeall owed Pettigrew for arrears in Capital which was due from Gudgeall to Pettigrew and also what Gudgeall had become indebted to Pettigrew during their continuance in doing business and Pettigrew also paid Gudgeall in addition therefor \$640 $\frac{26}{100}$ as he agreed within one Year thereafter, and your Orator ^{settled with Gudgeall for his (Gudgeall's) portion of what Homer was in arrears on the Capital stock and at the same time} Homer at the same time, that said Gudgeall so ceased to be a partner in said concern Your Orator Matthew M. Reid became a member of the said concern and a new firm was then formed of Homer Pettigrew & Reid

4 that they were to be Equal partners together to carry on merchandizing and the grain business at Distilow in said County without any fixed period of duration

And at the same time it was arranged between the defendant Gudgeall and your Orators the firm last named that the said last firm should retain the accounts, books and notes of the first firm of Gudgeall & Pettigrew and of the second firm of Gudgeall, Pettigrew & Horner, and to collect the same and they were also to pay the debts of the against said two firms as fast as they should collect of the said accounts books and notes and said last firm were authorized by said arrangement with Gudgeall to proceed and pay off the debts generally faster than they should make collections of the notes and accounts of the said first and second firms of said first and second firms, and Gudgeall agreed to account with them for his proportion of the said debts which they should pay over and above what the said last firm should collect as aforesaid. This arrangement was entered into as both Horner & Pettigrew were desirous that their old debts should be paid promptly and said Reid was also willing as he wished his partners to be paid freed from Embarrassment for debt so far as the same could be done without materially impairing his own interest

5 And your Orators further aver that they proceeded with all reasonable dispatch, in collection of the claims due said first firm & second firms and that they have paid the debts due from said first two firms, much faster than they made collections of the claims due said firms

That your Orators have paid of the debts due from the first firm \$1680 $\frac{26}{100}$ and that they have paid of the debts of the second firm \$3862. $\frac{29}{100}$ while they have only collected of the claims due the first firm \$1529 $\frac{24}{100}$ and only of the claims due the second firm \$2371 $\frac{25}{100}$ making an excess over collections which your Orators have paid of \$150 $\frac{53}{100}$ for the first firm and \$1284 $\frac{24}{100}$ of the second firm - no part of which excess has ever been paid to your Orators by the said defendant

Your Orators further represent that when said last firm was formed & when Gudgeon went out of the concern, the first firm was owing in all to divers persons about \$2274 $\frac{97}{100}$ and that there was due them from others \$2233.79 on book accounts including notes. And that said second firm had in books accounts uncollected due them \$1424 $\frac{20}{100}$ and that said second firm were then owing \$3798. $\frac{24}{100}$ and that said two

Q firms held notes due to them amounting to \$1628.70 - how much of the same was due each of the two firms Your Orators cannot now positively state but the greater portion belonged to the said first firm

That the defendant notwithstanding his agreement that your Orators should retain the control of said account books and notes of the two first firms has managed by intrigue and stratagem, to get the possession of most of the notes belonging to said firms, which they had not already collected and also has so got the possession of all the account books of the first firm and the invoice books of all the firms, that he got the notes under the pretense of getting the money on them to pay debts due from the said first & second firms and of the books by pretending that he wished to examine them & would return them in two or three days and then refused to return the books and also refused to return the notes, and has proceeded and made extensive collections of the notes and accounts belonging to the said two firms, and rendered no account to your Orators and that said defendant had paid no debts due from the said two firms, or offered to do so but on the contrary is endeavoring to collect all he can and avoid the

7 payment of every thing so far as he can

That one William Blake obtained a Judgment some time ago in the Circuit Court of the United States at Chicago against said Gudgeon & Pettigrew for about seven hundred dollars which said Gudgeon agreed to pay which promise was made after he got the books and notes aforesaid in his possession and was proceeding to make collections of the same, but the said defendant sought to defraud the said Pettigrew, bought of the Plaintiffs attorneys the said judgment and procured them to assign the same to one Robert R. Carnes a son in law of the said Gudgeon (whom your Orators pray may be made a party defendant to this bill) for the benefit of the said Gudgeon but that said Gudgeon paid the attys of said judgment creditor two hundred dollars in money, and had said Carnes to give them a trust deed or mortgage to secure the ~~payment~~ remainder due on said judgment on certain real Estate which said Gudgeon conveyed to said Carnes without consideration in order that he could mortgage said real Estate in the name of Carnes to secure the balance of said judgment and that as he thought more effectual cover up and conceal his fraud and breach of good faith that in this business Gudgeon pretended

8 to act as the agent of Carns that Carns himself took no active part in the matter and his name was used by Gudgeon to carry on his scheme aforesaid and that on the 27th June last the said Gudgeon managing the collection of said judgment ran the real estate of your Orator Pettigrew levied upon on an Execution issued upon said judgment and the same was sold by the marshal of the Northern district of Illinois upon said judgment to said Carns nominally but the same is in fact to said Gudgeon and the Execution was returned satisfied by the sale of the said Pettigrews Estate that said Real Estate is as follows to wit part of Section 18 in 15 North of Range 9 East 4th P. M. in Bureau County Ills commencing 66 feet East from the North West corner of the North East $\frac{1}{4}$ of said Section thence running East 66 feet thence South 132 feet thence West 66 feet thence North 132 feet to the place of beginning, also undivided $\frac{1}{2}$ one half of the west half of Lot 134 & the undivided half of North West $\frac{1}{4}$ of Lot 134 in the Town of Pistilwa in said County

Your Orators further represent that they have repeatedly called upon the said Gudgeon for a settlement of the concerns aforesaid and have repeatedly offered to leave their settle

4

ment of their matters to disinterested and impartial men: but that said defendant utterly declined to come to any settlement himself and declined to leave their matters to others for adjustment, but said that he would not settle because then he could not get any more out of said Pettigrew and that he intended to get every thing that said Pettigrew had if he could. That said Gudgeall has already had collected a large amount of claims due the said first two firms and paid nothing that your Orators cannot state how much, nor can they give an accurate description of the claims due the said first two firms in said defendants hands collected and uncollected, for the reason that said Gudgeall will not suffer either of them to examine the books, notes and accounts nor will he give an account of what he has so collected. Your Orators ~~be~~ therefore being remediless at law pray process in Chancery against James H. Gudgeall and Robert M. Earns that they may be required to answer the allegations of this bill fully and particularly as though they were specially interrogated and that in the mean time that the said defendant Gudgeall be required to make no further collections of the claims due the said ^{first} firm of Gudgeall & Pettigrew & said second

10 firm of Gudgeon Pettigrew & Co. until the further
order of this Court and that the Court refer
to the master to state an account between
the parties in reference to the matters afore
said and that a decree be entered for what
ever shall be found to be due from the
said Gudgeon on said account in favor of
Your Orators as may be right and proper
and that a receiver be appointed to proceed
and collect the claims due the firm of
Gudgeon & Pettigrew & Gudgeon Pettigrew & Co.
and also pay whatever debts due from the
said firms that may yet be outstanding
and that after that the proceeds remaining
in said receivers hands may be distributed
as to the Court shall seem right and pro
per and that the sale aforesaid of Pettigrews
property be cancelled and annulled and held
to be invalid and void & the said defendants
be required to surrender to this Court, to be
given up to Pettigrew the certificate of pur
chase and deed or whatever else they may
receive to evidence their purchase and grant
to your Orator such other and further relief
as Equity may require &c.

Peters & Porter

Sols for complt

11

Copy of Summons
 State of Illinois } The People of the State of Illinois
 Bureau County } ss To the Sheriff of said county greeting

We command you to summon James H. Gudgell if he shall be found in your County to be and appear before our Circuit Court for said County on the first day of the next term thereof to be holden at the Court House in the Town of Princeton on the third monday of September next to answer to a certain bill of complaint filed in our said Circuit Court on the Chancery side thereof against him by Elias Pettigrew, Matthew M. Reed & Abraham Hooper and further to do whatever our said Court shall then and there consider and adjudge in that behalf and this he shall in no wise omit: Hereof fail not and make due return of this writ with an Indorsement of the manner in which you execute the same

(Seal)

Witness Edward M. Fisher Clerk of our said Circuit Court and the seal thereof at Princeton in said County this 22nd day of August in the Year of our Lord One thousand Eight hundred & fifty nine

E. M. Fisher Clerk
 Per Wm. Hall Jenkins dep. Clerk

12 ^{Endorsement}
Served this ~~next~~ 9th day of September 1859 by leaving
a true copy of this writ the wife of James^{#6} Gudfell
at his usual place of abode, she being a white
person of the age of ten years & upwards a mem-
ber of his family and informing her of the
contents of the same

D. E. Norton Sheriff Bu Co. Ills
By S. H. Mitchell deputy

Pleas before the Honorable M. E. Hollister
Judge of the North Judicial Circuit of
the State of Illinois at the September term
of the said Circuit Court begun and held at
the Court House in Princeton within and
for the County of Bureau on Monday the
nineteenth day of September in the Year of
our Lord one thousand Eight hundred and
fifty nine

Present Hon. M. E. Hollister Judge
Edward M. Fisher Clerk
David E. Norton Sheriff

Elias Pettigrew Matthew
M. Rice & Abraham Hornes

vs

Bill

James H. Gudfell

To wit on the 24th day of
said term to wit 15th Oct. 1859

Now come the said complainants by
Peters and Porter their Solicitors and on motion
a rule is taken on said defendant to answer

13 to said complainants bill filed herein by the
first day of November next

And on the ninth day of November ^{a.d. 1854} the said
defendant by Flagg & Stipp his Solicitors filed
his answer to the said complainants bill
in the words and figures following to wit

State of Illinois) Circuit Court To the
Bureau County.) December term a.d. 1854

Elias N. Pettigrew
Abraham Hornes &
Matthew M. Reid

vs

Bill in Chancery

James H. Gudfell
& Robert M. Hearn

The answer of James H.
Gudfell one of the defendants to the bill of
complaint of the complainants, Elias N. Pet-
tigrew Abraham Hornes & Matthew M. Reid
This defendant ^{now and} at all times hereafter saving
and reserving unto himself, all benefit and
advantage of Exception which may or can be
had or taken to the many errors and un-
certainties and other imperfections in the
said complainants bill of Complaint, continued
for answer therunto, or unto so much and such
parts thereof as this defendant is advised is or

14 are material or necessary for him to make answer unto, this defendant answering saith that he admits that he and Elias N. Pettigrew entered into copartnership but they so entered into copartnership about the first of March A. D. 1836, but did not begin to sell goods untill the 24th of that month, but this defendant denies that they entered into such copartnership upon the terms alleged in ^{their} said bill of Complaint

And this defendant further answering saith that the business and object of said Copartnership was to buy and sell goods & grain and to do business generally as Country merchants in Fiskawa in Bureau County Ills as alleged, in said Bill of complaint.

And this defendant further answering says that the terms upon which he and the said Elias N. Pettigrew entered into said partnership were that said Pettigrew were to put into the capital of said partnership an old stock of goods which he then had on hand, estimated at \$1442 ²⁶/₁₀₀ \$ and was also to put into said Capital 40\$ in money to pay his Expence to Boston to buy goods for said partnership against which he the said Gadsell was to put into said Capital 1000\$ in money.

15 that said partnership was to continue for one Year at the End of which time, if this defendant did not like the business or was not satisfied with the said partnership was to be dissolved and the said Pettigrew was to take the assets of said partnership and pay to this defendant his 1000 \$ capital and 800 \$ for his share in the profits but in case this defendant was satisfied with said business then the partnership was to continue and said defendant was to have ^{1/2} the profits said Pettigrew was also to furnish a store and all buildings for carrying on said business to keep the books of said partnership and attend to all the business in said store and this defendant was to attend to ~~all~~ the Grain department of the business and to assist in the store if he thought proper and this defendant was not bound to sustain any part of any loss that might accrue in said business and this defendant expressly denies that he was bound by the said contract of partnership not to take out anything during the first Year of said partnership unless he paid down for the same

And this defendant further answering says admits that said Pettigrew put into said capital said goods & also said sum of 400 \$
And this defendant further answering

16 Says that he put into said partnership 1100\$ being more than he was required by the sum of 100\$ and this defendant expressly denies that he only put in 900\$ as alleged in said complainants bill of complaint

And this defendant further answering admits that the said partnership continued until the 27th February 1857 and that at that time he the said defendant and the said Pettigrew took into the said concern the said Abraham Horner that they sold to said Horner one third of the partnership personal property the firm not owning any real property that the said partnership property was estimated by this defendant, the said Pettigrew and the said Horner at about 3431³¹/₁₀₀\$ that said Horner was to pay one third of that amount to defendant and said Pettigrew, one half of which he was to pay down and the balance in one Year with ten per cent interest of which sum the said Horner has paid to this defendant ^{about} the sum of 181\$ and whether said Horner has ever paid any more of said sum or not to the benefit of this defendant this defendant does not absolutely know but believes and charges that he has not

And this defendant further answering admits that said new firm was called

1st

Pettigrew. Gudgeon H^o.

And this defendant further answering admits that this defendant and said Gudgeon and Horner were to share the profits equally but it was not agreed that this defendant was to bear an equal share of the losses there was nothing said about losses

And this defendant further answering says that at the said partnership of Pettigrew Gudgeon and Horner continued as alleged, in said Bill of complaint until the 23rd day of July A.D. 1854 and that at that time the said ^{Pettigrew bought the said} defendant's interest in the goods on hand for the sum of 1010⁰⁰/₁₀₀ \$ to be paid by said Pettigrew to said Gudgeon in one year and if not paid then to be from that time until paid at ten per cent interest and the terms of said purchase were not as alleged in said bill of complaint and this defendant was not indebted to said Pettigrew for arrears of capital or otherwise

And this defendant further answering says that at the same time, the said Pettigrew bought of this defendant his interest in the assets of the firm of Pettigrew and Gudgeon for the sum of 800⁰⁰/₁₀₀ \$ or 800⁰⁰/₁₀₀ \$ and some cents as near as this defendant can now remember, certainly for as much as 800⁰⁰/₁₀₀ \$ which he was to pay in goods out of

18 the Store of the said Pettigrew Reed & Horner
or 20 percent above original cost thereof
Horner to this defendant, and was in addition
thereto to pay all the debts owing to the said
firm of Pettigrew & Gudgeon, and it was at the
same time agreed by the said Pettigrew,
Horner and Gudgeon that the assets of the
said firm of Pettigrew Gudgeon & Horner
were more than sufficient to pay the debts
owing by that firm and that they the said
Pettigrew & Horner would collect said assets
and would pay all debts owing by said firm
of Pettigrew Gudgeon & Horner and pay one
third of the Surplus to this defendant, this
defendant only to assist in collecting said
assets during that fall

And this defendant denies that said
Pettigrew ever paid this defendant anything
on the said sum of 1010 ⁰⁰/₁₀₀ \$ which he was
to pay him for his said interest in the goods
of Pettigrew Horner & Gudgeon but admits
that he has received some goods of the firm
of Reed Pettigrew & Horner which were to
be in part payment of the said sum of 800 ⁰⁰/₁₀₀ \$
for his interest in the said assets of the
said firm of Pettigrew & Gudgeon but does not
exactly know how much he has so received
but believes it is not more than 250 ⁰⁰/₁₀₀ \$
and expressly denies that said Pettigrew
paid him as alleged in said bill 640 ⁰⁰/₁₀₀ \$

19

or any part thereof otherwise than in this answer already mentioned, stated

And this defendant further answering says that he admits that the said Horner settled with him for the arrears of capital at the time of the dissolution of the partnership of Pettigrew, Gudgeon & Horner, but it was afterwards acknowledged by Horner that there was a mistake in said settlement which Horner rectified with defendant by giving him a note for about 146£ and there is still due to defendant on said note about 95£ on which note the defendant has sued the said Horner but although this defendant settled with said Horner for said arrears of capital yet defendant does not know whether said Horner ever paid any other portion of said capital or not except what he paid to this defendant which inclusive of the balance on the note yet unpaid is about 276£ and does not believe as before stated that said Horner ever paid any more to the benefit of this defendant

And this defendant further answering says admits that at the time he ceased to be a member of said firm, ^{the said Matthew M Reid became a member of said firm} and that a new firm was then formed of Horner Pettigrew and Reid but as to the terms of the contract

between them this defendant knows nothing and does not now recollect that he ever heard the terms of the partnership between them stated,

And this defendant further answering denies that any arrangement whatever was made with said last named firm as to their retaining the books notes and accounts of the firm of Pettigrew & Gudgeon or of the second firm of Pettigrew Gudgeon & Horner or either or both of them and also expressly denies that any contract whatever was made with said firm in relation to any matter pertaining to either of said firms of Pettigrew & Gudgeon or Pettigrew Gudgeon & Horner except that it was agreed as aforesaid by said Pettigrew to pay this defendant \$800.00 out of the said store of Pettigrew Reed & Horner to which this defendant believes the said Reed & Horner consented and this defendant says that the whole matter alleged in said bill of complaint, as to any custody of the said books and accounts collections and payment of debts of either of said first or second firms by the said firm of Pettigrew Horner & Reed is wholly untrue that as before stated the books and accounts ^{of notes} of the first firm of Pettigrew & Gudgeon were to belong to and be collected by the said Pettigrew and he

21

was to pay all the debts of said firm of Pettigrew & Gudgeon and the said Pettigrew and Horner were to collect all the notes accounts and debts due to the said firm of Pettigrew Horner & Gudgeon with the assistance in such collection of this defendant during the fall of 1857 and they the said Pettigrew and Horner were to pay all the said debts of Pettigrew Horner & Gudgeon & Horner and pay over to this defendant one third of the surplus as aforesaid)

And this defendant further answering denies that the said firm of Pettigrew Reed & Horner or either or any of them or any one of them proceeded with all reasonable diligence to collect the said debts of either the said ^{two} first ~~two~~ firms or either of them

And this defendant further answering says that he does not know how much of the debts of the ^{Pettigrew & Gudgeon the said firm of} said firm of Pettigrew Reed & Horner have paid but believe they or some of them have paid some of the debts of the last named firm, but ask ^{that} they may be held to proof of what they have paid as this defendant is wholly ignorant of what they have paid and this defendant says that he is wholly ignorant as to what they have paid of the debts of the second firm and is also wholly ignorant of what amount

22 of the debts due to either or both of said first and second firms: but this defendant believes that the said firm of Pettigrew, Horner & Reed or some of them have collected large amounts of the debts of said two first firms and have applied the moneys or part thereof to their own use and asks that they may show by proof what amounts, of whom and what has been done with what has been collected.

And this defendant further answering says that it was Pettigrews calculation at the time he went out of the concern that the firm of Pettigrew & Gudgeall owed debts to the amount of 2274 ⁷⁰⁰/₁₀₀ \$ according to the best of this defendants recollection, but this defendant does not know what the true amount was and believes that no one could tell from the books of said firm of Pettigrew & Gudgeall what they did owe and this defendant further says that according to his best recollection Pettigrew stated at the same time there was owing to said firm 2253 ⁷⁹/₁₀₀ \$ on Book accounts exclusive of notes but this defendant does not know what was due to them and cannot find out from the Books.

And this defendant further answering says that according to the statement of said Pettigrew the said firm of Pettigrew Gudgeall

23

and Homer, had of book accounts impleaded 4424 $\frac{20}{100}$ \$ but this defendant had no knowledge & has none now as to the true amount and has no means of ascertaining

And this defendant does not know what amount said last named firm owed and has no means of ascertaining

And as to the amount of notes due to the said two first firms this defendant does not know how much was due to either or both of said firms upon notes and cannot find out

And this defendant further answering says that he expressly denies that he got the Books of either of said firms by any intrigue or stratagem and says that the said Pettigrew having broken his agreement with this defendant that he would pay the debts of the firm of Pettigrew & Gudgeon and this defendant having with said Pettigrew been sued upon several of the debts of said firm of Pettigrew & Gudgeon this defendant went to said Pettigrew & requested him to deliver the books of that firm to him for the purpose of collecting the accounts to pay the debts of said firm and said Pettigrew gave him said books of said firm of Pettigrew & Gudgeon for that purpose

And this defendant further answering

24 Says that a part of the notes of the said firm of Pettigrew & Gudgeon & Pettigrew Gudgeon & Horner which are now in his possession were given to him defendant by said Pettigrew with the consent of said Horner to indemnify this defendant against the payment of about 250\$ to Edwin Merrick the firm of Pettigrew & Gudgeon being indebted to said Merrick in ^{about} the sum of 500\$ and the said Gudgeon by the terms of the ^{aforsaid} contract being bound to this defendant to pay said debt it was finally agreed by said Merrick Pettigrew & Gudgeon that this defendant should give to said Merrick his note for one half the said debt and that said Pettigrew should give his note with security to said Merrick for the other half which agreement was consummated by them and it was then agreed as before stated by Pettigrew & this defendant with the consent of said Horner that about 249\$ of notes should be given to this defendant to indemnify him against the payment of the said note of 250\$ to the said Merrick and about that amount of notes belonging partly to each of said firms of Pettigrew & Gudgeon & Pettigrew Gudgeon & Horner, were then delivered by the said Pettigrew to this defendant for that

25 purpose. And the defendant further says that the said Pettigrew & Horner after so giving him said notes, collected a part of said notes and receipted against them to the amount of about 50¢ and all the other notes in possession of this defendant not received for accounts on the said Books were notes which had been pledged to the creditors of said first two firms and who surrendered them to this defendant after having collected their debts, and this defendant expressly denies that he ever received any of said notes clandestinely or by stratagem And this defendant denies that he promised to return the said Books in two or three days

And this defendant further ^{answering} says that he has only collected upon said notes and accounts the sum of about 86¢ and denies that he has made extensive collections of them and affiant admits that he has not paid over or accounted to the said Pettigrew or Horner for said sum of 86¢ because they nor either of them ever asked him to do so and denies that said Reed had any right to any account from him and says also that said Reed never ^{requested} ~~sought~~ any account thereof.

And this defendant admits

26 that he is trying to collect said debts as fast as he can and admits that he has tried to compel the said Pettigrew to pay the debts of the said firm of Pettigrew, Gudfell as he said Pettigrew agreed to do, and has also been trying to compel the said Pettigrew & Horner, to pay the debts of the said firm of Pettigrew Gudfell & Horner, as they agreed to do, and denies that he is endeavouring or has endeavoured to avoid the payment of any of said debts, otherwise than to so manage as to have said debts collected out of Pettigrew & out of Pettigrew & Horner, so as to put the saddles on the right horses

And this defendant further answering says that he has no desire to appropriate to his own use any of the assets of either of said last mentioned firms any further than in Equity & Justice he is entitled thereto

And this defendant further answering admits that one William Blake obtained a judgment against the said Pettigrew & Gudfell in the U.S. Cir Court in Chicago for about 700\$ but this defendant expressly denies that he ever agreed to pay said judgment, but this defendant offered to said Pettigrew, to turn out his dwelling house to be levied on & sold to pay said judgment provided Pettigrew would secure to him that it should be redeemed, ^{but} _{and}

23

~~and~~ Said Pettigrew refused to do so

And this defendant further says that the said Pettigrew shortly before the said judgment was obtained mortgaged all his real Estate - except his Homestead to the said Reed for the purpose of as this defendant verily believes of avoiding the payment of said judgment & to compel this defendant to pay the same, well knowing that he himself in Equity & good conscience ought to pay the same & that this defendant ought not to pay it.

And this defendant further answering denies that he purchased the said judgment himself or for himself and says that the said Kearns purchased it for himself, but says that he ^{that he was with said Kearns when he purchased it} desired that said Kearns should purchase it, and loaned to said Kearns part of the money to purchase it to wit, the 200\$ paid by Kearns at the time of the purchase of said judgment, & admits that he requested said Kearns to purchase said judgment and that he assisted in negotiating said purchase.

And this defendant further admits that he conveyed to said Kearns a part of the real Estate which he mortgaged to secure the balance of the purchase of the said judgment without any consideration other than his desire that said Kearns should purchase said judgment but says that the said Kearns also mortgaged

28 real Estate of his own along with that so conveyed to him by this defendant, amply sufficient to secure the purchase money of the said Judgment, and this defendant expressly denies that said purchase was made with any intent to defraud the said Pettigrew, or that in desiring said purchase this defendant had any purpose to defraud him, but this defendant on the contrary, requested and assisted said Kearns to purchase said Judgment and did all that he did about it for the express purpose of preventing the said Pettigrew from defrauding and cheating this defendant as he lawfully might; and this defendant denies that he managed the collection of said Judgment.

And this defendant denies that Kearns took an active part in the purchase of said Judgment and denies that this defendant had the real Estate of said Pettigrew sold, and says that the Marshall at the instance of the said Kearns agent E. C. Wilson Esq^r was about to levy upon the said Pettigrews interest in the Stone of the ^{firm of} said Pettigrew, Reed & Hornes then the said Reed released the mortgage aforesaid upon the real Estate of the said Pettigrew and the Marshall levied upon the real Estate described in the said bill of complaint and sold it to the said Kearns and this defendant denies that said

29 Earns purchased it for this defendant, this defendant admits that the said Earns is the son in law of this defendant, and that said Earns could have collected the said judgment out of the property of this defendant and admits that the said Earns favored this defendant in not doing so, as he lawfully and justly and Equitably ought to have done

And this defendant denies that the Complainants or any of them called upon this defendant to settle up the said concerns but admits that they offered to leave the settlement to other persons but this defendant offered to the said Pettigrew to settle with the said Pettigrew & Horner themselves but he alleged that we could never agree, and would not try to settle and this defendant denies that he ever declined to settle; but on the contrary has been anxious ^{to settle} up the whole matter and he intended to get every thing Pettigrew ^{had} and denies that he ever said, ^{denies that he ever said} he would not settle because then he could get no more out of Pettigrew, but this defendant did say that he intended to get his own out of Pettigrew if he was ever worth it

And this defendant further answering says that he is informed believes and charges that the said Pettigrew has collected and appropriated to his own use large amounts

36 of money belonging to the firm of Pettigrew & Gudgeon and also large amounts belonging to the firm of Pettigrew, Gudgeon & Horner.

And this defendant further says that the books of Pettigrew & Gudgeon which is in custody of said Gudgeon Pettigrew have been in many places altered and important Entries Erased.

And this defendant further says that the said Pettigrew has cheated and defrauded this defendant in the said partnership matters and that it is his intention to continue so to do to the best of his ability and for these reasons this defendant has been unwilling to allow the said Pettigrew again to have any books notes or other things belonging to said firms in his power and has therefore refused to deliver up said books or notes.

And this defendant is ready & willing to a fair settlement of all said matters and that the Master in Chancery should state the accounts between the several parties and that a receiver should be appointed, all which matters and things this defendant is ready and willing to aver maintain and prove as this Honorable Court shall direct & prays that the whole matters and things concerning said partnership may be referred to the Master in Chancery of this Court to state the accounts between the several parties and this defendant, and that

31

a receiver be appointed to take all the notes accounts and choses in action belonging to said firms of Pettigrew & Gudgeon. & Pettigrew, Gudgeon & Horner as well in the hands of the said defendant as in the hands of the said complainants or either of them and to collect the same and pay the proceeds to those to whom the same may be found to belong - and this defendant prays for leave to take the deposition of the said Horner and for such other and further relief as he may be entitled to in equity & good conscience

Stiph. Sparling & Welch
Sols for dft

} James H. Gudgeon

State of Illinois }
Bureau County ss }

James H. Gudgeon being duly sworn according to law deposes & says that the foregoing answer by him subscribed is true in substance and in fact

James H. Gudgeon

Subscribed & sworn to before me this 9th day of November

A.D. 1859, Joseph S. Williams J. P. Read

Copy of the answer of Robert M. Kearns
Filed November 9th 1859

State of Illinois } Circuit Court to the Decem
Bureau County SS } -ber Term A.D. 1859

Elias H. Pettigrew
Abraham Horner &
Matthew M. Reed

vs

James H. Gudgeon &
Robert M. Kearns

Bill in Chy

The answer of Robert M.
Kearns one of the defendants to the bill of
complaint of the complainants, Elias H. Pettigrew,
Abraham Horner & Matthew M. Reed)
This defendant now and at all times hereafter
saying and reserving to himself all benefit &
advantage of Exception which can or may be
had or taken to the many errors uncertainties
and other imperfections in the said complainants
said bill of complaint ~~mentioned~~ contained
for answer therunto or unto so much and such
parts thereof as this defendant is advised is
or are material or necessary for him to make
answer unto, answering saith that as to all
^{that part} of the said bill of complaint touching the
said partnership he is ignorant and cannot
answer except that he is informed and believes

13

that the said Elias H. Pettigrew has been defrauding and trying to defraud the said defendant Gudfell in relations to said matters

And this defendant further answering says that he admits that one William ~~Blake~~ recovered a Judgment against the said Pettigrew & Gudfell in the U. S. Circuit Court in Chicago as alleged in said Bill and says that he purchased said Judgment himself & for himself and admits that said Gudfell requested him to purchase it and assisted him in the purchase and admits that a part of the Judgment property which he mortgaged to secure the ~~payment~~ purchase money of said Judgment was conveyed to him by said Gudfell without any consideration ~~mentioned~~ paid by him and merely for the purpose of enabling him to give satisfactory security upon said purchase money but says that he mortgaged other property of his own amply sufficient to secure it together with the property so conveyed to him and admits that the said Gudfell loaned him 200\$ to make such purchase

And this defendant further answering says that he denies that he made said purchase with the intent to defraud ~~him~~ said Pettigrew by means thereof or otherwise, and this defendant admits that he is the son in

34 law of the defendant Gudgeon and this defendant denies that he took no active part in the purchase of said judgment & says that he went to Peru to Effect and did Effect said purchase himself with the assistance of said Gudgeon and this defendant denies that said Gudgeon managed the collection of said judgment so far as this defendant knows but he says that he himself, employed E. E. Wilson to write to the Marshall & have the collection made, and this defendant believes that said Wilson did write to the Marshall & cause him to come to Piskilwa to collect said judgment, and said Marshall did come and levy upon the Real Estate described in the complainants bill of complaint, And this defendant himself personally for himself, and not for said Gudgeon bid off said property at the Marshall's Sale and received a certificate of purchase therefor

And this defendant admits that he purchased said judgment and collected it out of Pettigrews property because he could do so without losing anything and to accommodate his said Father in law, and prevent the said Pettigrew from committing a fraud upon the said Gudgeon, and not with any intention of defrauding the said Judge Pettigrew and denies that any thing he has done in the

35 matter is only fraud upon the said Pettigrew
that he did all that he did do in the matter
for just and lawful purposes as he verily
believes. And this defendant says that he
still holds said certificate of purchase,
All which matters & things this defendant
is ready and willing to aver maintain
and prove as this Honorable Court shall
direct and prays to be hence dismissed
with his reasonable costs in this behalf
most wrongfully sustained

Stark Spaulding & Welch

Sols for defr

Robert M. Stearns

State of Illinois }
Bureau County SS &

The said Robert Stearns
being duly sworn according to law deposes
and says that the foregoing answer by him
subscribed is true in substance & in fact
Subscribed & sworn to before me.

this 9th day of November A.D.

1859. Joseph F. Williams J. Read

Robert M. Stearns

And on the 15th day of November A.D. 1859
the said complainants by their Solicitors
aforesaid filed their Application to the Separate
answers of the said defendants severally in

the words and figures following to wit

State of Illinois } In Circuit Court of said County
Bureau County } So Decr Term 6. 9 1859

Elias M. Petegnew
Matthew M. Reed &
Abraham Horner

vs

James H. Gudsell &
Robert M. Kearns

Bile in Chancery.

The Replication of Elias M.
Petegnew, Matthew M. Reed & Abraham Horner
to the separate answer of James H. Gudsell
Respondent

These Replicants saving and re-
serving to themselves all and all manner of
advantage to the manifold insufficiencies of the
said answer for Replication therunto saith that
they will aver and prove their said bill to be
true certain and sufficient in the law to be
answered unto and that the said answer of the
said Respondent is uncertain untrue and insuf-
ficient to be replied to by these Replicants;
without this that any other matter or thing
whatsoever in the said answer contained, ma-
terial or Effectual in the law to be replied
unto, confessed and avoided traversed, ordered
is true, all which matters & things these Re-
plicants are and will be willing ready to aver

By

and prove as this Honorable Court may direct
and pray. as in and by their said Bill they
have already prayed.

Peters & Farwell

Compts Solicitors

State of Illinois }
Bureau County }

In Circuit Court of said
County To Decr term A.D. 1859

Elias Pettigrew

Matthew M. Reid &

Abraham Homes

vs

James H. Gudgeon

& Robert M. Keerns

Bill in Chancery

The Replication of the
said complainants to the separate answer of
Robert M. Keerns Respondant

The Replikants saving and reser-
ving to themselves all and all manner of
advantage of the manifold insufficiencies of
the said answer for replication thereunto say
that they will aver and prove their said bill
to be true certain and sufficient in the law
to be answered unto and that the said answer
of the said Respondent is untrue, uncertain
and insufficient to be replied to by these
Replikants; without this, that any other matter
or thing whatsoever in the said answer contained

material or Effectual in the law to be replied
into, confessed and avoided traversed or denied
is true all which matters and things these
Replikants are and will be willing ready to
aver and prove as this Honorable Court may
direct and may as in and by their said
bill they have already prayed

Peters & Forwell

Compts Solicitors

Plead before the Honble M. E. Hollister
Judge of the ninth Judicial Circuit of the State
of Illinois at a term of said Circuit Court begun
and held at the Court House at Princeton in
the County of Bureau and State of Illinois
on Monday the 12th day of December in the
Year of our Lord one thousand Eight hundred
and fifty nine

Present Honble M. E. Hollister Judge

Edmund M. Fisher Clerk

David E. Norton Sheriff

Elias Pettigrew

Matthew M. Reid

Abraham Horner

vs

Bill

James H. Guffell
v Robert M. Heermans

To wit on the 10th day of said
term, being 22nd Decr 1859

Now come the said Complainants
by Peters and Porter their Solicitors and the defen

39

dants come by Slipp & Slagg their Solicitors and file their arbitration bonds herein, severally in the words and figures following to wit

I know all men by these presents that me Elias Mc. Pettigrew and Matthew Mc. Reid as principals and Jacob Bowman as security are held and firmly bound unto James H. Gudgell in the penal sum of Two thousand dollars for the payment of which well and truly to be made we bind ourselves our heirs Executors and administrators jointly severally and firmly by these presents witness our hands and seals this 13th day of December A.D. 1859

The condition of this obligation is such that whereas it has been this day agreed between the said Pettigrew & Reid on one part and said Gudgell on the other part that the suit in Chancery now pending in the Circuit Court of Bureau County Ills in which said Pettigrew & Reid and one Abraham Horner as complainants and the said James H. Gudgell is defendant together with all the matters touching the partnership concerning which the same is brought shall be submitted to three arbitrators to be appointed by the said Court according to the Statute in such case made and provided and whereas it has also been agreed by said Pettigrew Reid and ~~Horner~~ Gudgell

40 that the said complainants shall well & truly abide by perform and keep the award to be made by the said arbitrators upon the hearing of the said cause. Now if the said agreement shall be well and faithfully performed by the said Pellegrue & Reed and if the said complainants shall well and truly abide by perform, and keep the said award so to be made by the said arbitrators so to be appointed then this bond to be void otherwise in force

attest

Elias N. Pellegrue (Seal)

Mr. M. Reed. (Seal)

Jacob Borman (Seal)

I know all men by these presents that we James H. Gudgeon as principal and Robert Kearns as security are held and firmly bound unto Elias N. Pellegrue and Matthew M. Reed in the penal sum of two thousand dollars for the payment of which well and truly to be made we bind ourselves our heirs Executors and administrators jointly severally and firmly by these presents witness our hands and seals this 13th day of December A.D. 1859

The condition of this obligation is such whereas it has this day been agreed between the said Gudgeon on the one part and the said Pellegrue and Reed on the other part, that

41

the Suit in Chancery now pending in the Circuit Court of Bureau County Ills in which said Pettigrew and Reid & one Abraham Horner are complainants and the said Gudgeall is defendant together with all the matters touching the partnerships concerning which the same is brought shall be submitted to three arbitrators to be appointed by the said Court according to the Statute in such case made and provided and whereas it has also been agreed by said Pettigrew Reid and Gudgeall that the said defendant shall well and truly abide by perform and keep the award to be made by the said arbitrators upon the hearing of the said cause now if the said agreement shall be well and faithfully performed by the said Gudgeall and if the said defendant shall well and truly abide by perform and keep the said award so to be made by the said Arbitrators so to be appointed then this bond to be void otherwise in force

Attest

Albert J. Arnold

} James H. Gudgeall (Clerk)
} Robert M. Kearns (Sind)

Elias Pettigrew

Matthew Mc Reid &

Abraham Horner

vs

Bill

James H. Gudgeall &
Robert M. Kearns

To wit on the 17th day of
said Term

Now come the said complainants by Peters & Porter their Solicitors and the defendants come by Stipp & Flagg their Solicitors and on motion and by agreement of parties herein, It is considered by the Court this cause be submitted to Samuel E. Morris, Jos. W. Harris, & Samuel M. Knox as arbitrators that said arbitrators make their award and make their Report thereof to this Court

And on the 29th day of February A.D. 1860 the said arbitrators filed their award herein in the words and figures following to wit

Whereas by a certain order made by the Circuit Court of Bureau County State of Illinois at the January term 1860 thereof in a certain Chancery cause then pending in said Court wherein Elias M. Pettigrew Abraham Horner and Matthias M. Reid were complainants and James H. Giddell & Robert M. Kearns were defendants it was by the agreement of parties and their counsel ordered that said Chancery cause be referred & submitted to Samuel E. Morris Joseph Harris and Samuel M. Knox as arbitrators and whereas it appears by the Record in said cause, and the bonds of submission entered into by said parties (reference to which is hereby had) that

43

the subject matter of said suit and all partnership affairs concerning which said suit was brought were embraced in such submission

Now therefore we the said Samuel E. Morris, Joseph Harris and Samuel M. Knox having been first duly sworn according to law and taken upon ourselves the execution of said reference, and having met at Piskilwa in said County, and heard and duly considered the allegations vouchers and proofs of the said parties touching the premises do make this our award in manner following

First

We do award arbitrate and determine that said James H. Gudfell shall well and truly pay to said Elias N. Pettigrew, Abraham Homer & Matthew M. Reid composing the firm of Pettigrew Reid & Co. the sum of Five hundred and eighty-two dollars

Second

We do further award and determine that said James H. Gudfell shall within sixty days from the date hereof well and truly pay satisfy and discharge two certain judgments against the firm of Pettigrew & Gudfell heretofore obtained one of said judgments being obtained in the Circuit Court of Bureau County Illinois in favor of Eckels & Style of Bureau County Ill for the sum of one hundred and ten dollars and the other in favor of George W. Flanders & Co. of Chicago Ill and assigned by him to

114

Robert M. Kearns of said Bureau Co. for the
Sum of One hundred and ten dollars

Third

We do further award and determine that the Sale
heretofore made by the Marshall of the Northern
District of Illinois (under an execution issued
upon a judgment in favor of William Blake
against said Pettigrew & Gudfell obtained in the
United States Circuit Court at Chicago and
now belonging to said Robert M. Kearns) of the
Real Estate of Elias M. Pettigrew described and
situated as follows to wit, part of section Eighteen
(18) in Township fifteen (15) North Range nine
(9) East of the fourth principal meridian in
said Bureau County, commencing 66 feet East
from the North west corner of the North East
Quarter of said section thence running East 66
feet thence South 132 feet thence West 66 feet
thence North 132 feet to the place of beginning
also the undivided one half of ^{of Lot 124 and the undivided one half of} the North West
Quarter of lot 134 in the Town of Piskewa in
said County) be cancelled and annulled and
held invalid and void and that said James H.
Gudfell and Robert M. Kearns or one of them
do within sixty days from the date hereof
Surrender and deliver up into the possession
of said Elias M. Pettigrew the certificate of
purchase and deed and whatever else they have
or either of them received to Evidence their purchase
of said premises

45
Fourth

We do further award and determine that A. B. Woodford of said Bureau County, be and he is hereby appointed a receiver to take into his custody the Books accounts notes and claims of the firm of Pettigrew & Gudgeon and of Pettigrew, Gudgeon & Co. and to proceed and collect all claims due said firms respectively and to pay as fast as such claims are collected to debts of said firms yet remaining due and outstanding, and if after the payment of such debts and the costs of collection any surplus remains then and in such case such surplus, to be paid over by said receiver to the proper parties to receive the same in proportion to their respective interests

Fifth

We do further award and determine that in the first instance the said Elias H. Pettigrew shall pay the fees of the arbitrators in this cause they being the sum of one hundred & two dollars as appears by the bill of costs here to attached & marked A¹ and also that he pay the further sum of fifteen dollars as his share of costs & witness fees by him made by virtue of this arbitration

Sixth

We do further award and determine that said James H. Gudgeon shall within sixty days from the date hereof pay or cause to be paid to the said Elias H. Pettigrew or his order the sum of fifty one dollars it being one half of said arbitrators fees, which we hereby award and determine

46 that the said James H. Gudgeon should pay
to said Elias H. Pettigrew by virtue of said
arbitration

and seventh We do further award and determine that the
said James H. Gudgeon shall further pay the
sum of thirty four dollars & fifty six cents it
being the amount of said Gudgeon's costs for
witness and constables fees in this arbitration

In testimony whereof we have here
unto set our hands this 27th day of February
A.D. 1860

Samuel E. Morris
Joseph W. Harris Arbitrators
Samuel M. Knox

State of Illinois } In the Circuit Court
Bureau County } thereof December Term A.D. 1859
Elias H. Pettigrew
Matthew M. Reed
Abraham Hornes

vs Bill in Chancery
James H. Gudgeon
& Robert Eams

Samuel E. Morris, Samuel
M. Knox and Joseph W. Harris arbitrators
to whom, the said cause was referred by order
of the said Court of the said term being each
duly sworn according to law does each for him^{self}
and/or depose and say that he will faithfully

47 and fairly hear examine and determine the
said cause according to the principles of Equity
and justice, and make a just and true award
according to the best of his understanding
Suborn to and subscribed
before me this 31 day of } S. E. Morris
January A.D 1860 } S. M. Knox
C. C. Wilson J. Reid } Joseph W. Harris

Al. Bill of costs layed in the arbitration of the suit
of Elias N. Pettigrew, Abraham Horner, & Matthew
Mc. Reid composing the firm of Pettigrew Reid & Co.
vs James H. Gudgeon & Robert M. Kearns as made
out by Samuel E. Morris, Joseph Harris and
Samuel M. Knox the arbitrators chosen in said
cause as follows

Arbitrators fees

Samuel E. Morris 17 days at \$2.00	\$ 34.00
Joseph Harris " " " "	\$ 34.00
Saml M. Knox " " " "	\$ 34.00
	<u>\$ 102.00</u>

Constables fees

Orrin Wilkinson attendance on arbitrators & serving subpoenas \$10.00

Justice fees

Serving sub & swearing witnesses	\$ 1.56
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Witness fees

48	L. M. Cook one day	\$1.00
	Hiram Vennum " "	\$1.00
	Warren Eastman " "	\$1.50
	Homer Parish " "	\$1.00
	Robert Hinman " "	\$1.50
	Jonathan ^{Pettigrew} Eastman 10 days	\$10.00
	John Vanziles 2 "	\$2.00
	James M. Pettigrew 10 "	\$10.00
	Thos. Smith 1 "	\$1.00
	James Porter 1 "	\$1.00
	Richard M. Feley 1 "	\$1.00
	Rawley Rich 3 "	\$3.00
	L. J. Pearls Esq 5 "	\$5.00
		38.00 \$38.00
	Sum. Total	131.56

S. E. Morris
 Joseph W. Harris
 Samuel M. Knox

} arbitrators

Copy of notice

State of Illinois Bureau County B.
 Circuit Court of said County
 To the March Term thereof A.D., 1860

Elias H. Pettigrew, Abraham Keener & Matthew M. Reid Partners &c vs James H. Giddell and Robert M. Keems	}	Bill in Chancery sub- mitted at the January term A.D. 1860 of said Court to Samuel E. Morris, Joseph Harris and Samuel M. Knox as arbitrators
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49

To James H. Gudgeall & Robert M. Starns

Sirs

Whereas the award of said arbitrators is now on file in the Office of the Clerk of said Circuit Court in the above mentioned cause, You are therefore hereby notified that at the said March term A.D. 1860 of said Court, on the first of the term thereof, or as soon thereafter as counsel can be heard, the above named complainants in said bill mentioned will apply to said Court to have final judgment rendered on said award, and such other and further orders & proceedings on said award as may be deemed lawful, all of which you are hereby notified & may appear and defend if you see proper

Yours &c Elias H. Pettigrew, Abraham
Homer & Matthew H. Reid & By

March 1st 1860

J. Porter Jr. their atty

Affidavit of Gudgeall
Copy

State of Illinois } Circuit Court of the March
Bureau County } Term A.D. 1860

Elias H. Pettigrew

Matthew Reid & Abraham Homer

vs

James H. Gudgeall

Bill in Chancery

The said James H. Gudfell being duly Sworn according to law deposes and Says that the arbitrators by their award in said cause have done great injustice to affiant

- 1 Affiant Says that the books of Pettigrew Gudfell & Co. as kept by the firm of Pettigrew Reid & Co. show that the said firm of Pettigrew Gudfell & Co. are indebted to the firm of Pettigrew Reid & Co. only in the Sum of \$ 597. $\frac{31}{100}$
- 2 Affiant further Says that the Books of Pettigrew & Gudfell as kept by said Pettigrew Reid & Co. only show Pettigrew & Gudfell indebted to said firm of Pettigrew Reid & Co. in \$ 332. $\frac{00}{100}$
- 3 Affiant further Says that the books of Pettigrew & Gudfell as kept by Pettigrew show only a balance against affiant of \$ 227. $\frac{30}{100}$
- 4 Said last named books show and indebtedness of said Pettigrew to said Pettigrew & Gudfell \$ 179.09
- 5 Affiant Says that the books of Pettigrew Gudfell & Co. as kept by Pettigrew & Horner show and indebtedness of said Horner to said last named firm of 100.29
- 6 And affiant further Says that the books of the firm of Pettigrew Gudfell & Co. as kept by Pettigrew & Horner show and indebtedness of three hundred & three Dols & 10 cents on the part of the said Pettigrew to the said firm \$ 303. $\frac{10}{100}$

Page 54. 7 And affiant further says that the books of the firm of Pettigrew Gudgeon & Co. as kept by the said Pettigrew & Horner show that the said Gudgeon is indebted to said firm in the sum of $\$259 \frac{48}{100}$

8 And this affiant further says that at the time of the dissolution of the partnership between Pettigrew Gudgeon & Co. there was on hand ^{as shown} by the books of the said firm and which the said Pettigrew & Horner retained $1946.14 \frac{1}{2}$ of which sum the said Gudgeon was the owner individually of $633 \frac{85}{100}$ and the residue thereof was the property of the said firm

9 All of which shows that Pettigrew & Horner on account of said money on hand alone, are indebted to this affiant in the sum of $1504. \frac{64}{100}$ that the individual debt of affiant to Pettigrew Reid & Co. is only $215 \frac{22}{100}$ allowing him to pay one third of the debt of Pettigrew Gudgeon & Co. to the said Pettigrew Reid & Co., & that the said Pettigrew & Horner are each largely indebted to this affiant and affiant further says that he verily believes that if said books are not correct, and that if any error is in them, that the error is against him and not in his favor - And affiant further says that there is a large amount of debts which said

131

firms of Pettigrew & Gudfell & Pettigrew & Gudfell & Co. are liable for and unpaid affiant also says that he has out of his own means secured a debt from Pettigrew, Gudfell & Co. to Eckels & Tyne of about \$110. and has also secured to S. H. Mitchell deputy Sheriff of Bureau, 203 ⁶⁶/₁₀₀ of the debts of said Pettigrew & Gudfell & Co. all which is not shown by the books of said firm affiant further says that he has paid off the debts of Pettigrew & Gudfell to Barrett King & Co. 88\$ to Webb & Co. 65\$ to Alsa Barney about 30 and to James Crissman about 17\$ making 220\$ not shown by the Books of said firm affiant further says that among other liabilities of the firm of Pettigrew & Gudfell is a judgment against them in the U. S. Court at Chicago of 586. ²¹/₁₀₀ \$ costs & all, affiant says there are various other liabilities of said firms outstanding & unpaid - and affiant further says that he is the only member of either of said firms of Pettigrew & Gudfell or Pettigrew Gudfell & Co. who has any property liable to execution or which can be reached by the creditors of said firms Affiant further says that he was a farmer not acquainted with book keeping & for that reason the account books of Pettigrew & Gudfell were kept by said Pettigrew and the accounts of said firm of Pettigrew Gudfell & Co. were kept by the said Pettigrew & Hornes

53

affiant further says that he cannot see how
the said Arbitrators made any such award as
they have made without committing some
gross mistake, or without rejecting said Book
of account as Evidence

Subscribed & sworn to before me

this 23rd day of March A.D. 1860

E. M. Fisher Clerk

Per Wm. Hall Jenkins Dep. Clerk

James H. Gudgeon

Filed before the Honble M. E. Hollis-
ter Judge of the ninth Judicial Circuit of the
State of Illinois at a term of said Circuit
Court begun and held at the Court House
in Princeton in the County of Bureau and
State of Illinois on Monday the 12th day of
March in the Year of our Lord one thousand
Eight hundred & Sixty

Present Honble M. E. Hollister Judge

Edward M. Fisher Clerk

David E. Norton Sheriff

Elias N. Pettigrew

Matthew M. Reid &

Abraham Hornes

vs

Bill

James Gudgeon &

Robert M. Kerns

To wit on the 17th day of
said Term, March 30, 1860

This day came the parties in the above cause by their Solicitors and thereupon this cause came on for hearing upon the original and amended Bills the answers and replications thereto together with the award of Arbitrators to whom this cause was submitted at the December Term 1839 of this Court and whereas it appearing that this cause was submitted to Samuel E. Morris, Joseph W. Harris and Samuel M. Ingham as arbitrators, by order of this Court made at said December Term 1839 upon agreement of the parties, and that the subject-matter of said suit and all partnership affairs concerning which said suit was brought were embraced in such submission and whereas the award of said arbitrators has been returned into Court and is here produced to the Court upon this hearing, the Court thereupon finds the Equity of this case as shown by said award, and it is therefore ordered adjudged and decreed by the Court that the award of the said arbitrators made as aforesaid be confirmed and Established; and in conformity with said award It is further ordered adjudged and decreed by the Court

1st That the said James H. Goffe shall well and truly pay to Elias W. Pettigrew, Abraham Horner & Matthew W. Reid composing the firm of Pettigrew Reid & Co. the Sum of five hundred and Eighteen dollars

5th 2nd That the said James H. Gudgeon shall within sixty days from the making of said award to wit within sixty days from the 27th day of February 1860 well and truly pay and satisfy and discharge two certain judgments against the firm of Pettigrew & Gudgeon, heretofore obtained, one of said judgments being obtained in the Circuit Court of Bureau County Illinois in favor of Eckels & Tyle for the sum of one hundred & ten dollars and the other in favor of George W. Flanders & Co. for the sum of one hundred & ten dollars and by them assigned to Robert M. Kearns

3rd That the Sale heretofore made by the Marshall of the Northern district of Illinois (under an Execution issued upon a judgment in favor of William Blake against said Pettigrew & Gudgeon obtained in the United States Circuit Court at Chicago and now belonging to said Robert M. Kearns of the Estate of said Elias M. Pettigrew described and situated as follows to wit part of section Eighteen (18) in Township Fifteen (15) North Range nine (9) East of the 4th principal meridian in said Bureau County commencing 66 feet East from the north west corner of the North East Quarter of said section, thence running East 66 feet thence South 132 feet thence west 66 feet thence North 132 feet to the place of beginning, also the

56

undivided one half of Lot 124 and the undivided half of the North west quarter of Lot 134 in the Town of Tiskilwa in said County be cancelled and annulled and held invalid and void and that said James H. Gudgeon and Robert M. Kearns or one of them do within sixty days from the date of the making of said award, to wit within sixty days from the 27th day of February 1860 surrender and deliver up into the possession of said Elias H. Pettigrew the certificate of purchase and deed or whatever else they ~~they~~ or either of them received to Evidence their purchase of said premises

4th That A. B. Woodford of said Bureau County be and he is hereby appointed, ^{a receiver} who shall after having given bond in the penal sum of two thousand dollars to the comptrol & dept Gudgeon for the faithful discharge of his trust with security to be approved by the Clerk of this Court shall take into his custody the books accounts notes and claims of Pettigrew & Gudgeon & of Pettigrew Gudgeon H^{os} and to proceed and collect all claims due said firms respectively and to pay as fast as such claims are collected the debts of said firms yet remaining due and outstanding and if after the payment of such debts and the costs of collection any overplus remains

5th

then in such case such overplus to be paid over by such receiver to the proper parties to receive the same in proportion to their respective interests

3^d That the cost of the arbitration aforesaid shall be paid by the said defendant Gudfell as provided for by the said award

And it is further ordered adjudged and decreed by the Court that the said James H. Gudfell shall pay to the said Pettigrew Reid & Co. the aforesaid sum of Five hundred and eighty-seven dollars (with interest thereon from the date of making such award to wit the 27th day of February 1865 until paid) within thirty days from the adjournment of this Court and that in default thereof execution issue therefor as on judgments at law - That in case the said James H. Gudfell fail to pay two certain judgments heretofore mentioned to wit the judgment of Eckels & Kyle against Pettigrew and Gudfell for the sum of \$110. and the judgment of George W. Flanders & Co. against Pettigrew & Gudfell for the sum of \$110. & assigned to Robert M. Kearns; within the time of sixty days from the 27th day of February 1865 as aforesaid then the said Elias H. Pettigrew shall be permitted to pay off such judgments and ~~give~~ filing vouchers of such payments with the Clerk of this Court Execution

shall issue against said James H. Gudgeon
for the amount of such vouchers as on judgments
at law and that the costs of this suit except
as provided by the award aforesaid be paid
by the defendant James H. Gudgeon.

State of Illinois }
Bureau County } ss

I, Edward M. Fisher Clerk of
the Circuit Court in and for said County in the
State aforesaid do hereby certify the above and fore-
going to be a true and perfect copy of all of the pro-
ceedings in the above entitled cause as the same ap-
pear of on file and of record in my office

Witness my hand and official Seal
at Princeton in said County this
23rd day of April A.D. 1860

E. M. Fisher Clerk
per Wm Hall Jenkins Dep't Clerk

Clerk's fees for transcript \$13.65

Certificate & Seal .35

\$14.00 Paid by Defendant J. H. Gudgeon

E. M. Fisher Clerk
per Wm Hall Jenkins Dep't Clerk

Supreme Court of Illinois 3^d Division

April 1st 1860

Elias Pettigrew et al
vs
James H. Guazell et al

And now come the plaintiffs in
error & say that on the record & proceedings
in this case there is manifest error in this

1st The award & decree are not certain fi-
nal & conclusive

2^d The arbitrators have in said award
exceeded their authority under the law & under
the order of reference

3^d The Court erred in confirming the
award & rendering the decree for complainants

Said pts in error therefore pray for a re-
versal of said decree

Leland & Leland

For index in error

Peters & Winslow

attys for pts in error

for pts in error

Judgel et al vs Come the Defendants in error
 and says in the record and proceedings
 Pettigrew et al vs aforesaid there is no error, where
 April 7th before the said Defendants pray the
 1861. Supreme Court that the said judgment
 Court of may be in all things affirmed
 Also and that they recover their Costs &c
 April 18th 1861
 Peters & Winslow
 attys for Defts
 in Error

399 90
 Pettigrew Recd & Co.

399

James H. Gudgeon et al

Certified transcript
 of Record

Bureau County Ill.

Filed May 14/86

L. E. Howard
 Clerk