

No. 14636

Supreme Court of Illinois

Lockwood

vs.

Mills

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STATE OF ILLINOIS,

April 1864

SUPREME COURT,

THIRD GRAND DIVISION.

Replevin

No.

187

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

14636

SUPREME COURT OF ILLINOIS,

THIRD GRAND DIVISION,

APRIL TERM THEREOF, A. D. 1864.

RALPH LOCKWOOD, *Appellant*, }
vs. } *Appeal from Marshall.*
 ELISHA S. MILLS *et al.*, *Appellees*. }

APPELLANT'S POINTS AND BRIEF.

I.

The attorneys of appellees failed to show any sufficient authority to commence the suit. The language of the statute is imperative.

Scates, Trent, and Black. Stat. 215, sec. 14 and 15.

11.

The court should have suppressed the deposition of Frances Brouse last filed, on motion, it having no revenue stamp, as required by law of Congress, to the certificate of the notary. See excise law.

III.

The agreement referred to in deed from Harris and others to Mills should have been produced with deed.

I V .

The acknowledgment is insufficient. The officer certifies that Lyon was one of the parties described in the deed. For aught that appears, it might have been one of the other parties.

V .

The witness Mrs. Brouse was incompetent. If the title of plaintiffs should be established as heirs of Cephas Mills, she would be entitled to dower; and the heirs could not dispute the title of the ancestor as could a stranger.

W I .

The proceedings in county court and the sale by Green as administrator, were sufficient to pass the title in this collateral proceeding.

Bowle's heirs vs. Rouse, 3 Gil. 419.
 Herdman vs. Short, 18 Ills. 60.
 Gibson vs. Roll, 17 Ills. 92.
 Hopkins vs. Wesley, 19 Ills. 113.
 Grangang vs. Merkle, 22 Ills. 251.
 Fridley vs. Murphy, 25 Ills. 146.
 Iveson vs. Loberg, 26 Ills. 179.
 Moline, &c., vs. Webster, 26 Ills. 235.
 Stone vs. Kimball, 28 Ills. 93.
 Fitzgibbons vs. Lake, 29 Ills. 177.

We refer to the last case cited particularly, as being in point as to the effect of such sales in collateral proceedings, and authorities cited in reported brief in that case.

V I I .

If Green the administrator was, through Parker as agent, a purchaser at his own sale, this would not render the sale void, but only voidable in equity, at the election of the *cestui que trust*.

Thorp vs. McCullen, 1 Gil. 614.

VIII.

The court had no more authority to change its own finding, after the argument of the motion for a new trial, than it would the verdict of a jury.

IX.

Plaintiffs took a voluntary non-suit, and on a subsequent day of the term, and without notice, the court reinstated the cause. This was error. "A non-suit is a legal ending of the case, and it can not be taken off and the cause reinstated without the consent of the defendant."

McDermaid vs. Earnest, 4 Strobl. 192.
Smith vs. Wilson, 26 Ills. 188.

BANGS & SHAW.

Counsel.

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Lockwood

vs

Meills

Appellants' Printed
Brief

Filed May 11, 1864
J. L. Smith

SUPREME COURT OF ILLINOIS.

Third Grand Division.

APRIL TERM, A. D. 1864.

RALPH LOCKWOOD, Appellant,
vs.
ELISHA L. MILLS ET ALS, Appellees. }

APPEAL FROM MARSHALL.

DEFENDANT'S BRIEF.

I. The County Court of Marshall County did not have jurisdiction of the subject matter in decreeing the sale of the Real Estate in controversy, for the reasons to wit:

1. The Record of said Court does not show that there was any evidence or proof before the Court, as to the residence of deceased, whether a resident or non-resident, or whether he left a widow or other relative surviving, there being no affidavit of facts such as is required by law, to call out the power of the Court in granting letters of Administration.

2. The Record does not show that Green applied for the appointment of Administrator as a creditor of the Estate, or that Green was appointed as Public Administrator, or that Mills died *intestate*, which were essential facts, and their existence cannot be inferred. Sec. 55, 56, 57, and 58 St. Wills, Purp. St., 1202. Unknown Heirs of Langworthy *vs* Baker, 23 Ill. 484. Propst *vs* Meadow 13 Ill. 165—169. see order of Court appointing Green Administrator (abstract p. 30.)

3. The notice and petition for sale of the Real Estate, disclose the facts, that Mills was a non-resident, and had no personality in this State, and in that event, Letters could be issued to no one except the public Administrator. St. Wills, sec. 55. Hence, the Court not having jurisdiction in granting said Letters, the order granting the same and all the subsequent proceedings of the Court in the premises were absolutely void. Taller on Executors, 128, 3 Term Rep. 125. Griffith *vs* Frazier, 8 Cranch, 9—30. 15 Johnson, 141. 19 Johnson 33. Pardon *vs* Dwire et al, 23 Ill. 572.

II. The said County Court did not have jurisdiction of the persons of the parties interested in said real estate in the proceedings for the sale, and the order of sale and the proceedings of administrator in pursuance thereof were *void*.

The notice of the application for said sale by the Administrator is in the words and figures following, to wit :

"ADMINISTRATOR'S NOTICE.

Notice to whom it may concern, that the undersigned will make application to the County Court of Marshall County, at the December Term 1856, to be held at the Court-House on Monday the first day of Dec. next, for an order or decree to sell the Real Estate of the late Cephas Mills, late of the County of Berrian and State of Michigan, to pay the debts of said deceased.

Iacon, Sept. 27 1856.

W. B. GREEN, Administrator."

See Record p. 52.

Said notice is insufficient in this, to wit :

1. It does not purport to emanate from the administrator of the estate of Cephas Mills, deceased.

2. It does not state in what *state* said County Court of Marshall County is, in which the petition will be filed non-constat, but that it referred to the County Court of Marshall County in some other state, seven of them having each a Marshall County. St. Willis, sec. 103.

3. The notice does not designate or describe the lands to be sold.

4. The parties are thereby notified that the petition would be filed Dec. 1st,—the petition was not filed until the 12th of Dec.

5. The notice does not as required by the statute, request "all persons interested in said real estate to show cause why it should not be sold for the purposes aforesaid." St. Wills 103, and further, to the said several objections to said notice, appellees refer to 3 Gill, 409. 16 Ill. 226. 19 Ill. 113. 13 Ill. 127. 1 Gill, 149. 3 Scam, 238, 24 Ill. 625, 25 Ill. 67. 8 Greenleaf, 542.

III. The decree of the County Court of Marshall County, Illinois, for the sale of the Real Estate in question, in addition to the causes above enumerated, was void for the following additional reasons.

1. An Inventory of the Real and personal property must be made filed by the administrator, before or at the time of filing the petition, there was none filed in this case. St. Wills, sec. 81—108, Ford vs Wallsworth, 15 Wend, 450.

2. The administrator made no just and true account of the personal estate and debts of the deceased, as required by sec. 103, St. Wills.

3. There is no record, save the recitation in the decree, that any debt was ever allowed against the Mills estate by said County or Probate Court—there was no judgment on or order allowing the note found among the files in the case. 20 Ill. 338, 13 Ill. 127.

4. The record and files in the said case show that the administrator gave no *general notice* for the presentation of claims against the estate, or any other notice, as is required by sec. 95, St. Wills.

5. Neither the record of the County Court, the petition nor the decree, show that the personalty belonging to the estate was insufficient to pay the debts against the estate *Waston vs Waston*, 10 Conn. 77, *Whitmore vs Johnson*, 10 Humphry, 610.

6. The decree does not state that there was any proof of the death of Mills, and the entire probate record in said case (See transcript, p. 54—60) including the decree, (transcript p. 52—53) does not show that there was any proof or evidence that Cephas Mills had died *intestate*, or that notice had been given to the parties in the Real estate—the said Mills Heirs, the transcript further showing that a part, if not, all of the appellees were then minors (see appointment of, and answer of Guardian ad litem—transcript page 51 and 54—60), the evidence, if any such offered, should have been preserved in the record, and the Court will not *presume* that such existed unless it *appears of Record* 4 Gill. 385. *Carr et al vs Fielden*, 18 Ill. 77, *Tibbs et al vs Allen*, 27 Ill. 129.

7. The note found among the files of papers in the matter of said estate, and which appellant insists, was the claim allowed against said estate, was at the time of its presentation barred by the statute of limitations, (see copy of notice, endorsement, and affidavit of Green on the back thereof, transcript p. 46)—the note became due June 1st, 1839, more than 17 Years before said administration was granted, and the notice presented for adjustment and allowance, *Heath vs Wills*, 5 Pick, 140. 3 Mas, 541. 4 do, 155. *McCoy vs Morrow*, 18 Ill. 519. *Heirs of Langworthy vs Baker*. 23 Ill. 484, 2 Conn. 615.

8. The note in question if presented by and allowed in favor of any one, it was said Green, the Administrator, and in that case the Court had no jurisdiction to adjudicate upon the claim, without first appointing some discreet person to appear and defend in behalf of the estate, as in such case required by sec. 121, St. Wills—there was no such person appointed in this case, 16 Ill. 177, *Hopkins et al vs McCann*, 19 Ill. 133.

IV. The obtaining of the decree for the sale, and the sale of the land to Parker, by the Administrator and his confederate, the appellant in this case was an *unmitigated fraud* against the estate and the rights of the appellees, and the deed to Parker therefore void—see the testimony of Charles Parker, and Wm. B. Green [the administrator] p. 6 abstract and pages 60 and 61 of the transcript, [the abstract not stating the same fully]—further the, inadequacy of price for which the land was sold to Parker —\$210, when the evidence showed the land to have then been worth from \$1000 to \$1600.—the want of any consideration in the deeds from Green to Parker, and from Parker to Green [see Parker's evidence], and from Green to Lockwood, [see Green's evidence]—the neglect of the Administrator in not pleading the statute of Limitations against the note, and indeed the entire record of said proceedings, and the acts and doings of said administrator in the premises, conclusively prove the fraud as aforesaid; 14 Ill. 374. *Rogers vs Brent* 5 Gill, 394. *Jamison vs Beanbian*, 3 Seam, 113. 10 Johnson, 457. 6 Hals, 385.

That though the rule is well settled that when the orders or judgment of a court are *void*, for want of Jurisdiction of the subject matter, or of the person, or on account of fraud, advantage may be taken of the same in collateral proceedings, wherein any right is attempted to be enforced, based on such order or judgment. Yet appellees refer the Court to the following authorities: *Pardon vs Dwire et al* 23 Ill. 572. *Border vs Fitch*, 15 Johnson, 141. *Mills vs Martin* 19 Johnson, 33. 1 A. K. Marshall, 304.

The decree and deed to Parker being void, the order of the Court, confirming and approving the sale is of no avail, 8 Cowen, 362. 11 Wend. 652. 19 Ill. 226.

The appellant urges as error in the court below, the changing the original finding after the same had been announced, and motion for new trial argued, and submitted. In this we submit to the court, there was no error—the case was tried by the court, the court in its finding announced that he “found for the Plaintiffs,” thereupon Defendant moved for new trial, and as an argument, and as the only argument submitted, that one of the Plffs. Allen Turner was not seized in fee of the land or any part thereof, whereupon the Court announced that he found for the Heirs at law of said Mills naming them, see page 2 abstract.—the Court had the right to change, alter or correct any of its findings, orders or judgments at any time during the same Term of Court and before the final adjournment thereof, *Stahl et al vs Webster et al*, 11 Ill. 518, *O'Connor vs Mullen*, 11 Ill. 59. *Frink et al vs King*, 3 Scammon, 149.

The Court below did not err, as is alledged by appellant, in holding that authority was shown by Appellees' Attorney to commence the suit. See Power of Attorney from appellees to S. L. Fleming, one of their attorneys, and his affidavit, briefly referred to on p. 1 of abstract, and found in full on pages 2–4 of the Transcript.

Purp St. 506, sec. 15 Tit. Eject.

There was no error in the proceedings of the Court below, at the Oct. Term, in vacating the order of dismissal, and voluntary nonsuit, and re-instating the cause on the dockets, in compliance with Plaintiffs motion.—the granting or refusing the motion was entirely at the discretion of the Court, and its decision cannot be questioned here, or error assigned thereon, *Lombard vs Cheever*, 3 Gill. 469. *Rankin vs Curtinius*, 12 Ill. 334. The abstract is not full on this point, and appellees refer the Court to page 13, Transcript, where it appears that the motion to set aside nonsuit and reinstate &c, was based on an affidavit made and filed by S. L. Fleming, which affidavit, the appellant has not incorporated in the Transcript, and hence the appellant cannot here dispute the sufficiency of said affidavit—and that the attorneys, Bangs and Shaw appeared, and argued and opposed the said motion.

The appellees do not consider the other errors assigned sufficiently material to be particularly mentioned.

The Court by its finding, in effect decided that administrators title set up by defendant Lockwood, was void, of no account, and in this, we think there was no error.

McCOY & FLEMING, for Appellees.

Filed May 9. 1864.
L. Island
Ch.

[illegible]

SUPREME COURT OF ILLINOIS,

THIRD GRAND DIVISION,

APRIL TERM THEREOF, A. D. 1864.

RALPH LOCKWOOD, *Appellant*, }
vs. } *Appeal from Marshall.*
 ELISHA L. MILLS *et al.*, *Appellees*. }

ABSTRACT OF RECORD.

This was an action of ejectment brought by appellees against the tenants of appellant, and which he was let in to defend to the special June term, A. D. 1863, of circuit court of Marshall county, for the NW $\frac{1}{4}$ Sec. No. 36, T. 30 N., R. 1 W. 3d P. M.

1-3 Declaration and notice filed, and defendant ruled to plead in twenty days, June 8, 1863.

Defendants in vacation after June term, at Chambers, moved for a rule on plaintiff's attorneys, affidavits and motion having been filed and given, to produce authority for commencing the suit in the name of plaintiffs.

Plaintiffs produced a power of attorney to Samuel S. Fleming, one of the attorneys of record, purporting to be signed by all the defendants, except Allen Turner; and also read the affidavit of S. L. Fleming, who swears that he is the duly authorized attorney of plaintiffs; that the power of attorney was procured by him for the express purpose of commencing the suit; that he drew it and forwarded it by mail to Elisha L. Mills at Montreal, and was returned in due course of mail, signed by each of plaintiffs as affiant believes; that he could not testify to the signatures of any, except Elisha L. Mills; that all the correspondence was had with Elisha, and that he has a contract with parties touching the prosecution of the suit.

Defendant objected to the sufficiency of the authority; but the court held it sufficient and refused to grant the rule, and defendant excepted, all of which was preserved by bill of exceptions.

Plea, general issue.

At October term, 1863, plaintiffs enter a motion for continuance, which is overruled. On same day, on motion of plaintiff, a *nolle pros.* is entered.

On motion of plaintiff, the order of non-suit is set aside, annulled and vacated, and the cause reinstated, continued.

Jan. T., 1864.

Motion by defendant to suppress the deposition of Francis Brouse last filed, and overruled. Deposition of same witness first filed suppressed. Ralph Lockwood substituted defendant.

Jury waived and trial by the court.

The court finds "that the defendant is guilty of unlawfully withholding the premises in the plaintiff's declaration mentioned and described, to-wit: * * and doth assess the plaintiff's damages for the detention of the same to one cent. And the court doth find that the plaintiffs, Elisha L. Mills, Cyrus M. Mills, Cephas Mills, Hannah Mills and Mary Turner's title to the said premises is in fee simple."

Motion for a new trial. Overruled.

Judgment for the possession, and writ of possession awarded, and exception.

Appeal prayed and allowed.

Bill of exceptions shows, that on trial the following proceedings were had and evidence offered, &c.:

Plaintiff's Evidence.

1. Patent from United States to Hezekiah Lyons, Josiah L. James and James H. Harris, dated Nov. 1st, 1839, for lands mentioned in declaration. *Admitted.*

2. A deed of conveyance from patentees and wives of James and Harris to Cephas Mills, for lands mentioned in declaration, dated 3d Jan., 1837.

23 Special warranty, "subject, nevertheless, to the covenants contained
in certain articles of agreement, dated 5th October, 1835, made and exe-
cuted by the parties to these presents, together with others therein
named, in relation to lands of which the above described form a part."

24 One of the certificates of acknowledgment was as follows:

25 Deposition of Francis Brouse read in evidence showed that the plain-
tiffs Mills and May Turner were the only heirs at law of Cephas
Mills, deceased, who died in Feb., 1842.

30 Defendant proved that witness was wife of Cephas Mills at the time
of his death, and moved to exclude said deposition on the ground of
interest, but the court refused to exclude the same, and defendant
excepted.

Here plaintiffs rested.

Defendant read in evidence the following order of probate court of
Marshall Co.:

"On this day appeared Wm. B. Green, and asks that administration
be appointed upon the estate of Cephas Mills, deceased, and it appear-
ing to the satisfaction of the court that the said deceased departed this
life on or about the — day of —, A. D. 1842: It is therefore ordered
by the court, that said William B. Green be and is hereby appointed
administrator of all and singular the goods and chattels, and personal
estate of Cephas Mills, deceased; and it is further ordered, that said
Wm. B. Green enter into bond in the penal sum of fifteen hundred
dollars, conditioned as the law directs." The above was admitted
against objection of plaintiff that court had not jurisdiction to appoint

administrator, and the order did not show the essential facts to authorize the court to act. Plaintiff excepted.

- 31 Defendant then produced and read in evidence the bond, oath and letters of administration in pursuance of the above appointment, the same being in the usual form.

- 33 Plaintiff's objected.

Defendant read in evidence a decree of the said county court for the sale of said lands to pay debts, which decree was obtained by Green, as administrator. Decree recites that it appeared to the satisfaction of the court that due notice had been given, &c., and the unknown widow of deceased was defaulted. G. W. E. Cook was appointed guardian *ad litem* for the unknown heirs of said deceased.

- 34 Answer of minors filed. It further appearing to the satisfaction of the court, that the petitioner was duly appointed administrator of the estate of Cephas Mills, deceased, and gave bond, and he was duly qualified according to law, and that there has no assets come to his hands as such administrator, and that there has been debts proved up and allowed according to law against said estate, amounting to the sum of five thousand five hundred and sixty-nine and 75-100 dollars, and which are unpaid, and that said Cephas Mills died, seized of the following described real estate. Here follows description, and concludes with an order to sell so much of the real estate as may be sufficient to pay the debts, on a credit of six and twelve months, for the purpose of paying the debts. And that he execute conveyances and take security and report. The same was admitted under objection of plaintiffs.

- 35 The report to County Court of sale by administrator of all the lands mentioned in decree, was read in evidence, together with a decree confirming sale against the objection of plaintiffs.

- 37 Defendant having shown that the original was not in his possession, power, or control, read in evidence a certified copy of deed from Green, as administrator, made in pursuance of above sale, to Charles Parker, which deed recited decree of sale, and other proceedings was in due form acknowledged, and dated 3d February 1857, and filed for record in said county February 18, 1857, and included lands in controversy.

- 41 Defendant having shown that the original was not in his keeping or
42 control, read in evidence, against the objection of plaintiff, a deed of conveyance from Charles Parker to William B. Green, of the lands in controversy, dated March 10th, 1857, and filed and recorded April 10, 1857.

- 43, 44 Defendant read in evidence a deed of conveyance from Wm. B. Green to defendant, of the lands in controversy, dated February 2d, 1858. Admitted against objection of plaintiffs.

Defendant rested.

Plaintiffs witness, Henry Cram, testified: Examined papers shown me, are files in Mills' estate; am deputy clerk, and have custody of papers; these were turned over to us by former clerk; can not say whether they are all the papers which belong to the files, but think they are all that were turned over to us.

- 45-6 Plaintiffs read in evidence said files, which were:

1st. Administrator's Bond.

2d. Oath of Administrator.

3d. Letters of Administrator, same as by defendant, and recites death, and that decedent had, at time of his death, personal property in this State.

4th. Note signed Cephas Mills, dated June 1st, 1838, due in twelve months, for \$2,500 payable to order of John E. Mills, endorsed in blank.

5th. Affidavit by Green that note is just, and due on same, \$5052.

- 47-8 6th. Appointment of appraisers, and oath.

7th. Another Administrator's Bond.

8th. Inventory.

9th. Report of appraisers.

- 49 10th. Another appointment of appraisers, and their oath.

11th. Report of appraisers.

12th. Petition of Administrator for sale of real estate, filed to December term, 1856.

- 51 13th. Answer by Guardian *ad litem*.

14th. Affidavit of publication, and copy of notice.

- 52-3 15th. Decree for sale.

16th. Report of sale.

Defendant objected to the reading of each and all the above, on the ground that the same was incompetent, irrelevant, and immaterial. Overruled, and exception.

- 54-60 Plaintiffs read in evidence a transcript from the County Court in the matter of said estate, which is substantially the same as the files read, and other papers previously in evidence.

Charles Parker testified. Know land in dispute; I bought the land at administrator's sale, at the request of Wm. B. Green; I paid no consideration for the land, and afterwards quit-claimed. Do not know to whom I quit-claimed. Deed was recorded, and Green paid for recording; Lockwood knew of sale. Do not know whether he was here; think heard Green and Lockwood talking about sale; I did not buy it for myself; I bought it for Green; remember having heard Green and Lockwood say they had bought some claims against the estate of Cephas Mills; this was before the sale; may have been two or six months; that was only time I bought land at administrator's sale of Green.

Witness could recollect nothing about the number of tracts, description, nor date of deed.

- 61 *Wm. B. Green* testified. Was once public administrator of Marshall County, and made sale of land in controversy, as administrator of estate of Cephas Mills. Charles Parker purchased three pieces of Mills' land; Lockwood knew all the facts and circumstances of the sale to Parker; knew how title was obtained; was interested with me in getting the title to the property. Lockwood got the note from Mr. Beers, and brought it to me. The note was from Mills to his brother; this is note I refer to; (same as above). We were to get the title, dispose of the land, and divide the profits; I appeared in County Court as a creditor. (Shown administrator's report, in evidence). Signature is not mine; did not authorize any one to sign it; don't believe I ever authorized any one to make the report. Geo. Cook was present at sale; think I made out memorandum of sale in pencil and gave to Geo. Cook's father, who was the county clerk. Did not hand him that as my report; Lockwood and I talked about the sale matter before the sale; he was not here at time of sale; Lockwood did not give me anything for the land.

Plaintiffs proved land worth, at time of sale by administrator, from six to ten dollars per acre.

- 62 The above was all the testimony. Court found for plaintiffs *in fee*, and so entered it as the finding of the court on the judge's docket.

Motion for a new trial, and for reasons say

Finding against the law and evidence. Court found the *fee* in all the plaintiffs, when no title was shown in plaintiff Allen Fuller.

After argument of motion for new trial, the court changed its finding previously announced, and entered as the finding of the court, so as to find the *fee* in plaintiffs, except Fuller. To all of which defendant objected and excepted, and thereupon motion for a new trial was overruled, and exception. Motion in arrest, overruled.

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63-65

Judgment. Appeal Bond filed and approved pursuant to order granting appeal.

Errors Assigned.

- 1st. Admitting incompetent testimony.
- 2d. In finding for appellees.
- 3d. In changing the original finding after the same had been announced, recorded, and motion for a new trial argued and submitted.
- 4th. In overruling motion for new trial.
- 5th. In overruling motion in arrest of judgment.
- 6th. In holding that authority was shown by attorneys to commence suit.
- 7th. In not excluding deposition of Francis Brouse.
- 8th. In overruling appellant's motion to suppress deposition of Francis Brouse, last filed.
- 9th. In reinstating the cause on the docket, and in vacating the order of dismissal and voluntary non-suit.
10. Judgment was for appellees, when it should have been for appellant.

BANGS & SHAW.

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Ralph Lockwood

^{Mr.}
Eliza J. Mills
et al.

Abstract 1899
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Filed Aug 26. 1864

L. Giland. CLK

was before the Circuit Court of Marshall County at a
Special term thereof, begun and holden at the Court House
in the City of Vaco in said County of Marshall in the State
of Illinois, On Monday the Eighth day of June in the year
of Our Lord One thousand Eight Hundred and sixty
three, present the Hon Samuel V. Richmond Judge of
the 23rd Judicial Circuit of the State of Illinois, presiding,
James St. C. Boal State Attorney for said Judicial Circuit
Joseph R. Taggart Sheriff of said Marshall County &
Helden Arnold Clerk of said Circuit Court,

Be it Remembered that on this day "to wit" the 8th day of
June A.D. 1863, A Declaration and Notice in Ejectment was
filed in said Court, which is in the words and figures
following "to wit"

State of Illinois } In the Marshall Co. Circuit Court
Marshall County } Of June Special Term in the year of Our
Lord One thousand Eight Hundred and
sixty three, Elisha V. Mills, Cephas Mills, Cyrus W. Mills
Mary Turner late Mary Mills and Allen Turner her husband
& Hannah Mills, Plaintiffs, by Fleming & Purples their Attorneys
Come and Complain of Thomas Riley and Michael Voag
Defendants, who are notified by Notice and Copy of Declaration
according to the Statute, in a plea of Ejectment,
For that Whereas, The said Plaintiffs on the twenty ninth
day of May in the year of Our Lord One thousand Eight
Hundred and sixty three, were possessed of One Certain tract
of Land with the appurtenances, situate in the said County
and known, designated and described as follows Viz:
The North West quarter of section Thirty six (36) in
Township 34 North Range One (1) East of the

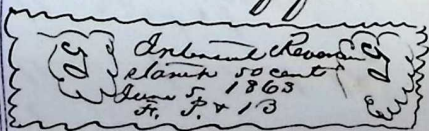
their principal residence in the County aforesaid. The title
to which said premises, the Plaintiffs claim in fee,
and the said Plaintiffs being so possessed thereof the
said Defendants afterward "to wit." On thirtieth day of
May in the year of Our Lord One thousand Eight hundred
and sixty three, Entered into the premises, and Ejected the
said Plaintiffs therefrom, and unjustly withhold from
the said Plaintiffs the possession thereof to the damage of
said Plaintiff. Of One Hundred Dollars and therefore
they bring suit Etc.

Fleming & Purple Attorneys
for Plaintiffs

To: Thomas Riley & Michael Soag the above named
Defendants, You are hereby notified, that the
Declaration, with a copy whereof you are hereby notified
served, and to which Copy this notice is attached
will be filed in the Circuit Court of Marshall Co. Va.
On the 8th day of June 1863, of the said Court, or
as soon thereafter as Counsel can be heard.

That upon filing the same a Rule will be Entered
requiring you to appear and plead to the said declaration
within twenty days after the Entry of such Rule, and
that if you neglect so to appear and plead in default
by default, will be Entered against you, and the
Plaintiffs will recover possession of the premises specified
in the said declaration.

Dated this fifth day of June A.D. 1863;



Fleming & Purple Attorneys
for Plaintiffs

On the back of which said Declaration and Notice so filed as
aforesaid is an indorsement in the words and figures
following "to wit."

A. M. Taggart being first duly sworn On his Oath says
that On the 8th day of June AD 1863, he served the within
Declaration On Michael Voag One of the within named
Defendants by delivering to him a true Copy of the within
Declaration and Notice

Subscribed and sworn to }
before me this 8th day of }
June AD 1863, }
Sheldon Arnold }
Clerk, }

A. M. Taggart

On the same day "to wit" June 8th AD 1863, the same being
One of the days of said Court of said Special Term
AD 1863, An Order was Entered of Record in said
Court which is in the words and figures following
"to wit.."

Elisha V. Mills Cyrus W. Mills
Cephas Mills Hannah Mills
Mary Turner late Mary Mills &
Allen Turner her husband

vs

Thomas Riley & Michael Voag

Ejectment

On this day
by George C. Turner his Attorney
and On his motion The
Defendant Michael Voag is
by the Court Ruled to plead
herein in twenty days,

And afterwards "to wit.. June 26th AD 1863, the Defendants
filed their Bill of Exceptions herein, in said Court, which
is in the words and figures following "to wit.."

4
State of Illinois } ss. In Circuit Court of said County in
Marshall County } Vacation after special June term AD 1863,

Elisha V. Mills Cephas Mills

Cyrus M. Mills, Mary Turner

late Mary Mills, Allen Turner

her husband & Hannah Mills

vs.

Thomas Riley & Michael Voag

Ejectment

1 Be it Remembered that on this

26th day of June AD 1863, Came

the parties to the above named

suits, before Hon. S. V. Richmond

Judge of the 23rd Judicial Dist,

at his Chambers at Vacen, the said Plaintiffs appearing
by Fleming & Purple and Defendants by Bangs & Shaw, his
Attorneys, and the said Defendants present and submit
to the said Judge the following petition of said Plaintiff
and agreement,

"In Marshall County Circuit Court

Special June Term AD 1863,

Elisha V. Mills, Cyrus M. Mills

Cephas Mills, Hannah Mills

Mary Turner late Mary Mills &

Allen Turner her husband

vs.

Thomas Riley & Michael Voag

Ejectment,

Your Petitioners Thomas Riley
and Michael Voag Defendants

in the above suit, sheweth

unto your Honor that the

above suit has been commenced in the said Court against
them by Messrs. Fleming & Purple atty in the name of said
Plaintiffs, who pretend to act as attorneys for the Plaintiffs
therein named. That said Defendants, nor either of them have
never been served with proof in any way of the authority of
the said Fleming & Purple to use the names of the Plaintiffs
stated in said declaration therein or any of them and

that said Attorneys have not so far as your Petitioners are informed any such Authority to use the Names of said Plaintiffs in said suit or any of them,

Your Petitioners therefore pray that your Honor will grant an Order requiring the production of such Authority by said Attorneys, and that all proceedings in said Cause may be stayed until the same shall be produced,

To Hon J. V. Richmond }
Judge of said Court }

Michael Souge

State of Illinois } ss. Thomas Riley and Michael Souge
Marshall County } Defendants in the said suit and the above

named Petitioners being duly sworn on their Oaths say that the matters and things set forth and alleged in said Petition by them signed are true,

Subscribed and sworn to }
before me this 8th day of June }
A.D. 1863, }

Michael Souge

Mark Bangs
Notary Public
N. P.

We hereby waive the affidavit of more than one Defendant to the above petition

Fleming & Purple

Attys / Plffs

And said Defendants also present and submit to the said Judge the following Notice and affidavit

In the Marshall County Circuit Court Special Term A.D. 1863

Elisha V. Mills Cyrus M. Mills

Ejectment

Cephas Mills, Hannah Mills

Mary Sumner late Mary Mills

Allen Sumner her husband

Thomas Riley & Michael Souge

To said Plaintiffs or their Attorneys

Take Notice that on the 26th day

of June 11th 1863, the said Defendants will make application to his
Honor S. V. Richmond Judge of said Court at Chambers in Vacuo
for a Rule on the said Attorneys to Compel them to produce to
said Court their Authority for Commencing said action in the
name of said Plaintiffs and to stay all proceedings therein
until the same shall be produced to be supported by the proper
Affidavit
I Bangor & Shaw, Attys for Defs
Vacuo June 16, 1863,

State of Illinois } ss. J. M. Shaw being duly sworn on his oath
Marshall County } says that he served the within notice on
Geo. O. Barnes on the 17th day of June A.D. 1863,
by delivering to him a true Copy thereof, and that said
Barnes is the Only Atty who has appeared in said Cause
and who took the Rule to plead herein

Subscribed & sworn to
J. M. Shaw
before me June 17, 1863,
Wm. E. Bangor
Notary Public

And thereupon the Defendants moved the said Court for an
Order in said Cause requiring the said Fleming & Purple to
produce to said Court their Authority to use the names of said
Plaintiffs in said suit, and to stay all proceedings therein
until the same Order should be complied with

And thereupon the said Fleming & Purple produced and
submitted to said Judge the following Power of Attorney
and affidavit thereto attached,

Know all men by these presents that we Elisha V. Mills
and Hannah Mills of the City of Montreal Canada East
Mary Mills wife of Allen Turner of Brookville Canada
West, Cephas Mills and Cyrus M. Mills of the Village
of Iroquois Canada West,

Have made Constituted and appointed and by these
presents do make constitute and appoint Saml V
Fleming of Verington County in the State of Illinois
Our true and lawful Attorney for us and in our
names place and stead to Commence and prosecute
to final termination all suits in County Equity
in all Countries necessary therefor to Establish our
right to, and recover possession of the following
described Real Estate situated in Marshall County
Illinois "to wit" the South East quarter of section
Twenty five, and the North West quarter, and the South
East quarter of section Thirty six, all in Township Thirty
North of Range One West of the third principal meridian
giving and Granting to Our said Attorney full power and
Authority to do and perform all and Every act and thing
whatsoever required and necessary to be done in and
about the premises as fully to all intents and purposes
as we might or could do if personally present hereby
ratifying and Confirming all that our said Attorney
shall lawfully do or cause to be done by virtue thereof
In Witness whereof we have hereunto set our hands and
seals the 28th day of February 1863

Elisha Symon Mills

Hannah Mills

Cephas Mills

Cyrus Mason Mills

Mary Mills Turner

State of Illinois }
Marshall County }

Samuel V. Fleming being duly sworn on
Oath says that he is ~~the~~ duly authorized
Attorney of the Plaintiffs in the two suits now pending in
the Circuit Court of said County of Marshall to wit the
suit of Elisha V. Mills Cyrus, Mr. Mills, Cephas Mills
Hannah Mills. Mary Turner late Mary Mills & Allen Turner
her husband vs. Thomas Riley and Michael
and the suit in behalf of the same Plaintiffs vs. Robert
Mays, George Weedman & William Whisler, each of said
suits being in Ejectment; and affiant further states
that the power of Attorney from the said Plaintiffs
is in part his Authority for commencing and prosecuting
said suits, That the same was procured by this
affiant for the Express purpose of procuring
Authority to act as such Atty. in Case the Authority
so to act should be questioned by the Defendants in
said suits. Affiant further states that the signature of
Elisha Vignean Mills to said Power of Atty. he knows
to be in the hand writing of Elisha V. Mills one of
the said Plffs & believes the same to be the signature of
the said Plaintiff in said suits. - that the said
power of Atty. was Originally drawn by this affiant &
Copied at his Office by a Clerk, that the same was
mailed to the said Elisha V. Mills at Montreal
Canada on or about the first of February 1863, with
a written request to him that he Execute the said
Power of Attorney and also get his Brothers and sister -
the other Plaintiffs in said suits to sign & Execute the
same, & that the said Power of Attorney was returned
to this affiant by due Course of Mail signed by each
of said Plaintiffs as this affiant believes; affiant

would further state he has but One Other paper signed
by the said four last named Plaintiffs, "to wit," the written
Contract between the said Plffs and this affiant as to
the terms on which this affiant was to prosecute the
said Plaintiffs Claim for the lands named in the
declarations filed in said suits & hence Cannot state positively
as to the signatures of the said four last named Plffs.
But the negotiation of the terms for prosecution of said
Claim, and all Correspondence of said Plaintiffs (they
being Brothers & sisters & Heirs at Law of One Cephas Mills
dec^d) was had by this affiant directly with the said
Elisha V. Mills he being the Oldest son & Heir of said
Cephas Mills dec^d.

Subscribed & sworn to before } Saml. V. Fleming
me this 26th day of June }
A.D. 1863, Enoch P. Sloan }
Clk.

Defendants Objected to the sufficiency of said authority
for the reasons first that the Execution of the Power of
Atty was not sufficiently proved, and second that one
of the Plaintiffs had not signed said Power of Atty, - and
Defendants insisted and asked the Judge to grant the rule
above moved for. But the Court adjudged said authority
sufficient and sufficiently proven, and refused to make
the said Order and the Defendants then and there Excepted
to the decision of said Judge in refusing to make said Order
as asked for, and inasmuch as the said matters do not
otherwise fully appear of Record the Defendants then
and there prayed the Court to sign and seal this his
Bill of Exceptions herein and make the same a part of
the Record herein, and the same is done accordingly
and this Bill made a part of the Record and so it is

Petition, affidavit, Power of Attorney & agreement ordered to
to be filed with the Clerk of said Court,

Given under my hand and seal this 26th day of June
AD 1863, And I Certify that said Bill of Exceptions
Contain a full true and correct statement of the
proceedings in said Cause before me at Chambers in
Saginaw Marshall County Illinois

H. V. Richmond *Seal*
Judge 23rd Judicial Dist

And afterwards "to wit", June 27th AD 1863, a plea was
filed in said Court, which is in the words and figures
following "to wit"

State of Illinois } ss, In Marshall County Circuit
Marshall County } Court, In Vacation after special Term
Term 1863,

Thomas Riley &
Michael Voag
ads

Ejectment,

Eliska V. Mills Cephas Mills

Cyrus W. Mills Mary Turner

late Mary Mills, Allen Turner

her husband, & Hannah Mills

And the said Defendants

Thomas Riley & Michael Voag

Come by Bangs & Shaw, their Attorneys and defend the
force and injury where, and say that they are not
guilty of the said supposed trespass and Ejectment
above laid to their charge or any part thereof in manner
and form as the said Plaintiffs have above thereof
complained against them, and of this the said Defendants
put themselves upon the Country &c, Bangs & Shaw
Attys for Defendants,

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H. A. 7. 1
Filed before the Circuit Court of Marshall County in the
State of Illinois at a term thereof begun and holden at
the Court in the City of Vaco in said Marshall County
On Monday the fifth day of October in the year of our
Lord One thousand Eight Hundred and sixty
three, Present the Hon Samuel V. Richmond Judge of
the 23rd Judicial Circuit of the State of Illinois, presiding
Joseph R. Tiggart Sheriff of said Marshall County
& Sheldon Arnold Clerk of said Circuit Court,
James St. C. Boal States Attorney for said 23rd Judicial
Circuit being, the Hon Mark Bangs, is appointed by
the Court States Attorney Protem, for said Judicial
Circuit,

Afterwards to wit. October 10th AD 1863, the same being one
of the days of said Circuit Court of said October term
AD 1863, an Order was Entered of Record in said Court
which is in the words and figures following to wit.

Elisha V. Mills	Cyrus M. Mills	Ejectment, On this day came the Plaintiffs by George O. Boal their Attorney and as well the said Defendant by Bangs & Co. their Attorneys and the Plaintiffs Enter a motion
Cephas Mills	Hannah Mills	
Mary Turner late Mary Mills		
Allen Turner her husband		

vs

Thomas Kelly	Michael Veag	
--------------	--------------	--

for a Continuance of this Cause, and the Court having
considered said motion and being fully advised in the
premises doth Order that said motion be Granted,
Whereupon again came the Plaintiffs by their said Attorney
and moved the Court to direct a new suit herein by reason
of the premises, and the Court having considered said

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motion and being fully advised in the premises, doth order
that said motion be sustained, and that the Plaintiffs
be nonsuited herein, It is therefore Considered by the
Court that the Defendants go hence without day and
recover of the said Plaintiffs their Costs in this behalf
Expended and that Execution issue therefor,

And afterwards "to wit" the 14th day of October AD 1863,
the same being One the days of said Court of
said October Term AD 1863, an Order was Entered of
Record in said Court which is in the words and
figures following "to wit"

Elisha V. Mills	Cyrus M. Mills	} Ejectment, On this again the Plaintiff by Fleming their attorney files his affidavit and enters a motion to set aside the Order heretofore made and Entered of Record at a former day of this term dismissing this suit, and to reinstate the same, and also for a Con- tinuance of this Cause, for the reasons set forth in said affidavit,
Cephas Mills	Hannah Mills	
Mary Turner late Mary Mills	+	
Allen Turner her husband		
vs.		
Thomas Riley	+ Michael Voag	

Afterwards to wit, October 15th AD 1863, the same being
One of the days of said term of said Court of the said
October term AD 1863, an Order was Entered of Record
in said Court which is in the words and figures following
"to wit"

Elisha V. Mills Cyrus W. Mills
Cephas Mills. Hannah Mills
Mary Turner late Mary Mills +
Allen Turner her husband
vs.
Thomas Riley + Michael Voag.

Ejectment,

On this day again Come the
Plaintiffs by Fleming their
Attorney, and as well the
said Defendants by Bangs
+ Shaw, their Attorneys, and

this Cause Come On to be heard upon the affidavit and
motion of Plaintiffs Attorney, which affidavit was filed
and motion made An yesterday to set aside the Order
heretofore made and Entered of Record at a former day
of this term dismissing this suit, and to reinstate the
same, and also for a Continuance of this Cause, for the
reasons set forth in said affidavit, and was argued
by Counsel, and the Court having Considered said motion
to set aside said Order dismissing this suit, and to
reinstate the same and also for a Continuance of this
Cause, and being now fully advised in the premises, do
Order that all said motions be sustained, but the Order
heretofore made and Entered of Record herein dismissing this
suit, be and the same is hereby set aside annulled. Vacated
and henceforth for nothing Estimated; and that the same
be reinstated, but at the Costs of said Plaintiffs, It is
further Ordered by the Court that this Cause be Continued,
and that the Clerk of this Court may upon all deposition
in the next Vacation which may be received by him to
be used in Evidence in this Cause, during said Vacation,
It is therefore Considered by the Court that the Defendants
Have and recover of the said Plaintiffs their Costs, and
Charges in and about their defense herein Expended to
this date, and that Execution issue therefor,

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Was before the Circuit Court of Marshall County in the
State of Illinois at a term thereof begun and holden at
the Court House in the City of Vaco in said Marshall County
On Monday the twenty fifth day of January in the year
of Our Lord One thousand Eight Hundred and sixty
four, Present the Hon Samuel V. Richmond Judge of
the 23rd Judicial Circuit of the State of Illinois, presiding,
James H. C. / Boal States Attorney for said Judicial Circuit,
Joseph R. Taggart Sheriff of said Marshall County
& Sheldon Arnold Clerk of said Circuit Court,

Afterwards "to wit," January 26th AD 1864, the same being
One of the days of said term of said Court of the January
term AD 1864, an Order was Entered of Record in said
Court, which is in the words and figures following
"to wit"

Elisha V. Mills. Cyrus M. Mills	{ Ejectment
Cephas Mills Hammak Mills	
Mary Turner late Mary Mills &	
Allen Turner her husband	
Thomas Riley & Michael Vrag	{ On this day came the Plaintiffs by Fleming. R. F. Winslow & Barnes their Attorneys, and as well the said Defendants by Bangor Shaw their Attorneys,

and thereupon the Defendants Enter a motion to suppress the
Deposition of Frances / Brouse, which was by the Plaintiffs
last filed in this Cause, and the Court having considered
said motion and being fully advised in the premises doth order
that said motion be Overruled, and thereupon the Defendants
Enter a motion to suppress the Deposition of Frances / Brouse
which was by the Plaintiffs first filed in this Cause, and

the Court Having Considered said Motion and being fully advised in the premises, doth Order that said Motion be sustained, and that the Deposition of Francis Prouse first filed by the Plaintiffs in this Cause be and the same is hereby suppressed, And thereupon by agreement of the parties, it is Ordered by the Court, that Ralph Vockwood be substituted as Defendant in this Cause, in place of the Defendants of Record. said Ralph Vockwood Claiming to Own the premises in Controversy herein, thereupon again Come the parties by their Counsel and agree to waive a Jury and submit this Cause to the Court for trial, upon the issues Joined between them, and the Court Having Heard the Evidence, and the arguments of the Counsel, and not being fully advised in the premises Held the same for further Consideration,

Afterwards "to wit," January 27th, AD 1864, the same being one of the days of said term of said Circuit Court of January term AD 1864, An Order was Entered of Record in said Court which is in the words and figures following "to wit"

Elisha V. Mills Cyrus M. Mills

Cephas Mills, Hannah Mills

Mary Turner late Mary Mills +

Allen Turner her husband

vs.

Thomas Riley + Michael Seay

Ejectment,

On this day again Come the parties by their Counsel, and on the Court having held the Cause under advisement since yesterday, and being now fully advised in the premises, doth find that the Defendant is guilty of unlawfully withholding the premises in the Plaintiffs declaration mentioned and described, "to wit" the south West quarter of section Thirty six (36) in Township (30). North of Range One West of the third

principal Meridian in Marshall County Illinois, and do
assess the Plaintiffs damages for the detention of the same to
One Cent, and the Court doth further find that the Plaintiffs
Elisha V. Mills, Cyrus M. Mills, Cephas Mills, Hannah Mills
and Mary Turner's title to the said premises is in fee simple,
And thereupon Comes the Defendant by his Counsel, and
Enters a motion for a new trial herein, and the Court
Having considered said motion and being fully advised
in the premises doth Order that said motion be Overruled,
And thereupon again Comes the Defendant and Enters a motion
in arrest of the Judgment, And the Court Having considered
said motion and being fully advised in the premises doth
Order that said motion be Overruled, It is therefore considered
by the Court that the Plaintiffs Elisha V. Mills Cyrus
M. Mills, Cephas Mills Hannah Mills, and Mary Turner
have and recover of and from the Defendant Ralph
Voerkwood the possession of the said North West quarter
of section Thirty six (36) in Township (30) Thirty north of
Range One West of the third principal Meridian in
Marshall County Illinois, And that they have a Writ
of possession directed to the Sheriff of said County of
Marshall Commanding him to deliver the possession
of said premises to said Elisha V. Mills, Cyrus M. Mills
Cephas Mills Hannah Mills and Mary Turner aforesaid,
And that the said Elisha V. Mills, Cyrus M. Mills Cephas
Mills, Hannah Mills and Mary Turner have and recover
of the said Ralph Voerkwood the said sum of One Cent
damages aforesaid, also their Costs and Charges in this
behalf Expended and that Execution issue therefor,

Whereupon Comes the Defendant by his Counsel and
prays an Appeal to the Supreme Court of this State, which
Appeal is allowed upon Defendants Entering into Bond

in the sum of Fifteen Hundred Dollars Conditioned
according to View, to be filed in thirty days and to be
approved by the Clerk by agreement of the parties. and by
Consent of the parties thirty days is given the Defendant
to file his Bill of Exceptions herein,

Afterwards "to wit", February 24.th AD 1864, Comes the
said Defendant by his Attorneys Bangs & Shaw
and file in said Court his Bill of Exceptions
therein, which is the words and figures following
"to wit",

State of Illinois
Marshall County } f.

In Circuit Court of said County, January Term A.D. 1864

Elisba. L. Mills,
Ephras Mills,
Lyons. M. Mills
Hannah Mills
Mary Turner late
Mary Mills and
Allen Turner her
Husband,

Ejectment

vs.

Ralph Lockwood
Substituted Def.
vica Thomas Riley &
Michael Lutz.

Be it remembered that on this 26th day of
January, A.D. 1864, it being one of the days of said term of said Court
and the same being judicially sitting, this cause came on to be heard
upon the issues joined by the Court, the parties hereto having waived a jury,
the plaintiffs to maintain the issues on their part offered and read in evidence
the letters patent from the United States in words and figures as follows to wit,
Certificate } The United States of America.

No. 14,777 } To all to whom these presents shall come greeting.

Whereas Hazeckiah Lyon Josiah L. James and John H. Harris of Tazewell
County Illinois have deposited in the General Land Office of the United
States, a certificate of the Register of the Land Office at Springfield, whereby
it appears that full payment has been made by the said Hazeckiah Lyon,
Josiah L. James and John H. Harris, according to the provisions of the Act
of Congress of the 24th of April, 1820, entitled "an act making further provisions
for the sale of Public Lands". for Section thirty six. in Township thirty North of
Range one West of the third principal meridian in the District of lands subject

to sale at Springfield Illinois, containing six hundred and forty acres, according to the Official plat of the survey of the said lands, returned to the General Land Office by the Surveyor General, which said tract has been purchased by the said H Ezekiah Lyon, Josiah L. James and John H. Harris - Now know ye, that the United States of America in consideration of the premises, and in conformity with the several acts of Congress in such case made and provided, have given and granted, and by these presents do give and grant unto the said H Ezekiah Lyon, Josiah L. James and John H. Harris, and to their heirs, the said tract above described: To have and to hold the same, together with all the rights, privileges, immunities and appurtenances of whatsoever nature, thereto belonging, unto the said H Ezekiah Lyon, Josiah L. James and John H. Harris, and to their heirs and assigns forever.

In testimony whereof, I, Martin Van Buren, President of the United States of America, have caused these letters to be made Patent, and the seal of the General Land Office to be hereunto affixed



Given under my hand at the City of Washington the first day of November in the year of our Lord One thousand eight hundred and thirty nine, and of the Independence of the United States the sixty fourth,

By the President Martin Van Buren

Per J. W. Van Buren Secy

J. M. Garland Recorder of the General Land Office

Plaintiffs then read to the Court as preliminary proof to the introduction of the certified copy of the deed next herein read in evidence the affidavit of S. L. Fleming in words and figures following to wit,

State of Illinois

In the Circuit Court thereof March Term A.D. 1864:

Marshall County

Elisha L. Mills, Leophas Mills,

Lyons H. Mills, Hannah Mills &

Mary Turner late Mary

Mills & Allen Turner her Heirs and

vs.

John Ejectment

Thomas Riley &
Michael Long

Samuel L. Fleming being first duly sworn on oath says that he is the attorney for the said Plaintiffs in the above entitled cause, that the original of a certain deed to wit: a deed of conveyance duly acknowledged according to the laws of this State, from Josiah L. James et ux. and John H. Harris et ux. & Hezekiah Lyon grantors to Joseph Mills, conveying to said Mills the South East quarter Section of Section 25, the South East quarter of Sec. 36, and the North West quarter of Sec. 36, all in Township thirty (30) North of Range one (1.) West of the third principal meridian, is lost, and is not in the power of the said plaintiffs nor of this affiant to use or produce the same on the trial of this cause. Said deed and acknowledgements is recorded in the Office of Recorder of deeds for the said County of Marshall, in Book 26. on pages 370, 371 & 372, and further affiant saith not.

Subscribed & sworn to before me

this 25th day of January A.D. 1837

Sheldon Arnold, Clerk

Samuel L. Fleming
Atty. for said Plaintiffs.

Plaintiffs there produced and offered to read in evidence a certified copy of a deed of conveyance and certificate of acknowledgement in letters and figures following

This indenture made and entered into this third day of January 1837, between Josiah L. James and Aurelia his wife and John H. Harris & Catharine his wife of the County of Tazewell, State of Illinois, and Hezekiah Lyon of New York City County, and State of the first part, and Joseph Mil^r of New York City of the second part, Witnesseth, that the said party of the first part for and in consideration of the sum of nine hundred dollars in hand, by said party of the second part, the receipt whereof is hereby acknowledged, have granted bargained and sold, and by these presents do grant bargain and sell unto the said party of the second part, their heirs and assigns, a certain tract or parcel of land, situate, lying and being in the County of Putnam, State of Illinois, known and designated as follows, to wit: The South East 1/4 Section

Filed June 12th / 52

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twenty six, and the North West $\frac{1}{4}$ Section thirty six, and South East $\frac{1}{4}$ Section thirty six, Township 30, North Range 1 West of the third principal meridian, and the South $\frac{1}{2}$ of the North East $\frac{1}{4}$ of Section 23, and the East $\frac{1}{2}$ of the North West $\frac{1}{4}$ of Section twenty six Township thirty North Range two West of the third principal meridian, containing six hundred and forty acres, be the same more or less, Town lots Nos. 5, 12, 17 and 24, in Block 27, and 5, 12, 17 & 24, in Block 28. Lots Nos. 4 & 16, in Block 1, & 4 & 16, in Block 2, Lots 5 & 17, in Block 31, and 5 and 17, in Block 32, each being 30 feet front and rear, and one hundred and eighty five feet in length, be the same more or less, in the Town of Lyons, Putnam County and State of Illinois, being laid out on the West half of the South East quarter, and the East half of the South West quarter Section twenty eight, Township thirty North, Range One West of the third principal meridian, To have and to hold the aforesaid tract or parcel of land, together with all and singular the privileges and appurtenances thereunto belonging or in any wise appertaining to the only proper use and benefit of them the said party of the second part, their heirs and assigns forever, and the said party of the first part do covenant to and with the said party, that they will forever warrant, warrant and defend the said tract of land from the claim of them the said party of the first part, their heirs and assigns, subject nevertheless to the covenants contained in certain articles of agreement dated 5. October 1835, made and executed by the parties to these presents, together with others therein named, in relation to lands of which the above described form a part.

In witness whereof the said party, of the first part have hereunto set their hand and seal the day and year first above written

Sealed and delivered

in presence of

Morris Franklin as to

H. Lyon

Josiah L. James

Seal

Annella James

Seal

John H. Harris

Seal

Catharine Harris

Seal

Hegokiah Lyon

Seal

State of Illinois } ss.
Putnam County }

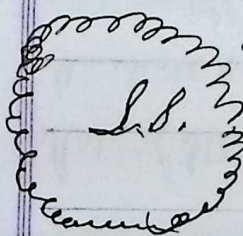
I John H. Morrison Clerk of the County

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Commissioners Court in and for the said County, do certify that Josiah L. James & Amelia his wife, and John H. Harris and Catharine his wife whose signatures appear to the foregoing deed of conveyance, and who are personally known to me to be the identical person who signed the same, this day appeared before me, and they acknowledged that they had signed, sealed and delivered the same as their free act and deed for the uses and purposes therein expressed. And the said Amelia James and Catharine Harris being by me examined separate and apart from their said husbands, and the contents hereof being made known to them acknowledged that they had executed the same freely and voluntarily, without any threats or coercion from their husbands, that they relinquished all right of dower to the lands and tenements therein conveyed.



Given under my hand and seal of Commissioners
Court at Fremont this 21st day of February A.D. 1837,
J. H. Morrison Clerk

City & County of New York. ss. I certify that on this twelfth day of October A.D. 1841. before me Morris Franklin a Notary Public in and for the State of New York, duly commissioned &c. personally appeared Hezekiah Lyon, to me known to be one of the parties described in, and who executed the within conveyance, and duly executed and acknowledged the same as his act and deed.



In testimony whereof I have hereunto subscribed my name and affixed my seal of Office the day and year in this certificate above written.

Morris Franklin
Notary Public

State of New York

City & County of New York } ss.

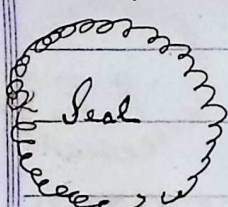
I Nathaniel Jarvis Clerk of the City & County of New York, and also Clerk of the Court of Common Pleas for the said City and County, do hereby certify that Morris Franklin whose name is subscribed to the certificate of the proof or acknowledgement of the annexed instruments, and thereon written, was at the time of taking

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such proof or acknowledgement a Public Notary in and for the State of New York, dwelling in the said City, commissioned and sworn, and further that I am well acquainted with the hand writing of such Notary, and verily believe that the signature to the said certificate of proof or acknowledgement is genuine.

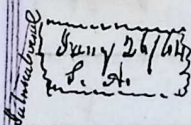
 In testimony whereof I have hereunto set my hand & affixed the seal of the said Court and County the 18th day of November 1861.

Nathl Jarvis Clerk

State of Illinois
Marshall County *Sup.* I Sheldon Arnold Clerk of the Circuit Court and Ex Officio Recorder in and for said County of Marshall in the State of Illinois, do hereby certify that the foregoing is a true and correct copy of the Record of an instrument of writing purporting to be a copy of a deed from Josiah L. James & Amelia his Wife, John H. Harris & Catherine his Wife & Elizabeth Lyon to Joseph Mills, as appears of Record in my Office in Volume K. at pages 370, 371 & 372, the same being one of the Records of deeds of said Marshall County.

 In testimony whereof I have hereunto set my hand & affixed the seal of said Court at Leon this 26th day of January A.D. 1864.

Sheldon Arnold - Clerk



Fees \$1 ⁵⁰/₁₀₀ paid by Plffs. atty.

Defendant objected to the introduction in evidence of said deed, on the ground that the execution of the same had not been proved, and that the certificate of acknowledgement by Morris Franklin was insufficient, and that plaintiffs should offer in evidence with said deed the articles of agreement referred to in the deed. But the Court overruled said objections and each of them, and permitted the same to be read in evidence and the same was then read in evidence in letters and figures as above first set forth. To which decisions of the Court and each of them in overruling said objections to said deed, and in permitting the same to be given

in evidence, the defendant then and there excepted.
Plaintiffs then read in evidence the deposition of Francis Bruce filed herein
January 25th A.D. 1864, which deposition as read in evidence is in letters
and figures following to wit,

State of Illinois } In the Circuit Court of Marshall County
Marshall County }
Isaiah S. Mills, Byrns M. Mills
Cephas Mills, Hannah Mills
Mary Turner late Mary Mills &
Allen Turner her husband } Exponents
vs.
Thomas Riley & Michael Swag

The said defendants are hereby notified that
the said plaintiffs will on the second day January A.D. 1864. sue out a Com-
mission or Subpoena Repleatorem directed to Philip Common Esquire a Commissioner
of Queen's Bench at the Village of Troyes in the County of Dundas and Province
of Canada one of the British American Provinces, to take the deposition of Mr Francis
Bruce of Matilda in said County of Dundas on the Interrogations hereto annexed
to be read in evidence on the trial of the above entitled cause on behalf of
said plaintiffs.

Salem Marshall County
December 21st A.D. 1864.

Samuel L. Fleming
att'y. for Deffs.

Interrogations to be propounded to said witness Mr Francis Bruce

First
Second

What is your name, age and place of residence
Are you acquainted with the Plaintiffs in the above entitled cause? if you
state how long you have known them, and what relation if any they are
to you?

Third

Who was the father of the first five named plaintiffs, and what relation
did you sustain toward him, when the said plaintiffs were born?

Fourth

Is the father of the said last named plaintiffs living or dead? If dead where
and where did he die?

Fifth

If in answer to the third Interrogatory you answer that Cephas Mills was the

father of said plaintiffs, then state the names and ages of the children of said Cephas Mills, and if any of them are deceased, state the time of their decease, and also whether they left any child or children or heirs surviving them.

Sixth

Did said Cephas Mills and family ever reside in the State of Michigan?

If yes when, for how long a period, and where?

Seventh

Do you know any other matter or thing touching the interests of the plaintiff in the matter in controversy? If you state the same as fully and particularly as though especially interrogated thereto.

Rec. the foregoing notice & interrogatories, given Dec. 21, 1863.

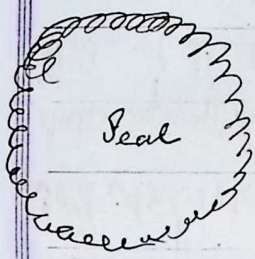
Bangs & Shaw

Attys. for Defendant

State of Illinois, Marshall County, ss. The People of the State of Illinois
To Philip Carman Esquire a Commissioner of Queens Bench at the Village
of Froquis in the County of Dundas and Province of Canada one of the British
American Provinces ^{meeting}

Know ye, that we, confiding in your ability, skill and fidelity, have appointed you, and by these presents ^{do} appoint, authorize and empower you, at a certain time and place to be by you appointed for that purpose to cause the witness whose name is mentioned in the caption of the annexed Interrogatories, to come before you, and then and there diligently and faithfully to examine them on oath upon the said interrogatories, in the order in which they are propounded; and you will cause ^{and sign} of the witness thereto, to be reduced to writing, in the order in which they shall be proposed and answered; and you will then cause the witness to sign their name to the same in your presence. You will also annex a certificate, subscribed by yourself at the foot of the deposition, stating that the same was sworn to and signed by the deponent, and the time and place when and where the same was taken. The deposition thus taken and subscribed, and all exhibits produced or referred to by the witness, together with this commission and the annexed interrogatories, you will inclose, seal up and direct to the Clerk of the Circuit Court of the County of Marshall, in the State of Illinois, with the names of the

parties litigant endorsed thereon.



Witness Sheldon Arnold clerk of the Circuit Court of said County of Marshall, and the seal of said Court being hereto affixed, this second day of January in the year of our Lord One thousand eight hundred sixty four
Sheldon Arnold Clerk.

Province of Canada, United Counties of Stormont, Dundas & Glengary
To wit,

The deposition of Mrs Francis Brouse of the Township of Matilda in the County of Dundas, in the Province of Canada aforesaid, A witness of lawful age produced, sworn and examined upon her corporal oath on the twelfth day of January in the year of our Lord One thousand eight hundred and sixty four, at the Office of Philip Larnan Esquire in the Village of Brockville, in the County of Dundas aforesaid, by me Philip Larnan Esquire one of Her Majesty's Justices of the peace in and for the said United Counties of Stormont Dundas and Glengary, and a Commissioner duly appointed by a Decree of Potestatis or Commission issued out of the Clerk's Office of the Circuit Court of Marshall County in the State of Illinois, bearing date in the name of Sheldon Arnold Esquire Clerk of the said Circuit Court, with the seal of the said Court affixed thereto, and to me directed as such Commissioner, for the examination of the said Frances Brouse a witness in a certain suit and matter in controversy now pending and undetermined in the said Circuit Court, wherein Colisha L. Mills, Cyrus M. Mills, Ephraim Mills, Hannah Mills, Mary Turner late Mary Mills and Allen Turner her husband is Plaintiffs, and Thomas Riley and Michael Loag are Defendants, in behalf of the said Plaintiffs, as well upon the cross interrogatories of the defendants as on the interrogatories of the plaintiffs, which were attached to or enclosed with the said Commission, and upon none others. The said Frances Brouse being first duly sworn by me the said Commissioner as a witness in the said case previous to the commencement of her examination to testify the truth as well on the part of the Plaintiffs as the Defendant in relation to the matter in controversy between the said Plaintiffs and defendants so far as ^{she} should be interrogated, testified and

36

deposed as follows.

Interrogatory First. What is your name, age and place of abode or residence,

Answer to first Interrogatory. I am sixty two years of age, and reside in the Township of Matilda, in the County of Dundas and Province of Canada.

Interrogatory Second. Are you acquainted with the Plaintiffs in the above entitled cause. If yes, state how long you have known them, and what relation if any, they create you?

Answer to second Interrogatory. Yes, I have known ~~the~~ the first five from their birth, and the last named since one thousand eight hundred fifty.

The first five are my children, the one last named is my son in law.

Interrogatory third. Who was the father of the first five named plaintiffs, and what relation did you sustain towards him when the said plaintiffs were born.

Answer to third Interrogatory. Cephas Mills. I was the wife of the said Cephas Mills.

Interrogatory fourth. Is the father of the said last named plaintiffs dead? If yes when and where did he die.

Answer to fourth Interrogatory. Yes, He died on the ninth day of February A.D. 1842, in the City of Buffalo, in the State of New York.

Interrogatory fifth. If in answer to the third Interrogatory you answer that Cephas Mills was the father of said plaintiffs then state the names and ages of all of said Cephas Mills' children, and if any of them are deceased state the time of their decease, and also whether they left any child or children or heirs surviving them.

Answer to fifth Interrogatory. Eliza, daughter of Mills born September 29th A.D. 1823, Francis Mills born March 23rd A.D. 1826, died September 11th A.D. 1854, in London England. Mary Mills born September 28th A.D. 1829, Cephas Mills born October 10th A.D. 1831, Cyrus M. Mills born May 29th A.D. 1836, Emma Bess Mills born February 4th A.D. 1839, died February 27th A.D. 1856, Hannah Mills born July 30th A.D. 1841. The deceased never had any children.

Interrogatory sixth. Did said Cephas Mills and family ever reside in the State of Michigan? If yes, when, how long a period, and where.

Answer to sixth Interrogatory. Yes from July A.D. 1838, to the time of

Mr. Mills death, and the family remained there until the fall of the year A.D. 1844. In the Townships of Miles and Berthoud in the County of Berrien.

Interrogatory Seventh. Do you know any other matter or thing touching the interests of the Plaintiffs in the matter in controversy? If yes, state the same as fully and particularly as though especially interrogated thereto.

Answer to Seventh Interrogatory. I am aware that Cephas Mills owned large tracts of land in the State of Illinois, but do not know what disposition was made of them, as many of his papers were burned in the conflagration of our dwelling house in Montreal.

Frances Brouse,

S. C.

I Philip Corman of the Village of Groques in the County of Dundas in the Province of Canada a Commissioner duly appointed to take the deposition of the said Francis Brouse a witness whose name is subscribed to the foregoing deposition, do hereby certify that previous to the commencement of the examination of the said Francis Brouse as a witness in the said suit between the said Elisha L. Mills, Cyrus M. Mills, Cephas Mills, Hannah Mills, Mary Turner late Mary Mills and Allen Turner her husband Plaintiffs, and the said Thomas Riley and Michael Loag defendants, she was duly sworn by me the said Commissioner to testify the truth in relation to the matter in controversy between the said Elisha L. Mills, Cyrus M. Mills, Cephas Mills, Hannah Mills, Mary Turner late Mary Mills and Allen Turner her husband Plaintiffs, and the said Thomas Riley and Michael Loag defendants, so far as she should be interrogated concerning the same. That the said deposition was taken in my office in the Village of Groques, in the County of Dundas in the Province of Canada on the twelfth day of January in the year of our Lord One thousand eight hundred and sixty four. and that after the said deposition was taken by me, the oath being administered by me the said Commissioner at the place, and on the day and year last aforesaid.

Philip Corman Commissioner

Fees & disbursements \$5.00

Defendants moved to exclude said deposition on the ground of interest

and called Samuel L. Fleming, who being duly sworn, testified as follows, I know Elisha L. Mills the plaintiff. He had a conversation with him, in which he stated that the witness Francis Brouse was at the time of the death of Ephraim Mills his wife & the above was all the evidence on the question of the interest of said witness.

The Court thereupon overruled said motion to exclude said deposition, and Defendant then and there excepted. And here the Plaintiffs rested.

Defendants to maintain the issue on his part produced and read in evidence the following order from the Record of the County Court in and for said Marshall County, the identity of the record being admitted. Said Order is as follows.

July Term A.D. 1856.

Saturday morning July 12/56, Court met pursuant to adjournment. Present same as yesterday.

On this day appeared Mr. B. Green and asks that administrator be appointed upon the estate of Ephraim Mills dec. and it appearing to the satisfaction of the Court that said dec. departed this life on or about the day of A.D. 1842. It is therefore ordered by the Court that said Mr. B. Green be, and is hereby appointed administrator of all and singular of the goods, chattels and personal estate of Ephraim Mills deceased. and it is further ordered that said Mr. B. Green enter into Bond in the penal sum of fifteen hundred dollars, conditioned as the law directs.

Plaintiffs object that the said County Court had not jurisdiction to appoint said Administrator; that the said Order did not show the essential facts for the Court to act in the premises such as to give jurisdiction for said appointments. But the Court overruled said objection, and admitted the same in evidence, and the same was then read in evidence. To which decision of the Court in overruling said objection, and in admitting the same to be read in evidence, the Plaintiff then and there excepted.

Defendant then produced and offered to read in evidence the Bond, oath and letters of administration of said William B. Green in the matter of the

estate of said Joseph Mills. Plaintiffs admitted that said papers belong to the files in the matter of the estate of Joseph Mills dec'd in County Court of said County. Which Bond is as follows.

Know all men by these presents that we Wm B. Green, S. L. Fort of the County of Marshall and State of Illinois, are held and firmly bound unto the People of the State of Illinois for the use of _____ in the penal sum of fifteen hundred dollars, current money of the United States, which payment well and truly to be made and performed, we and each of us bind ourselves, our heirs, executors and administrators, jointly, severally and firmly, by these presents. Witness our seals this 12 day of July One thousand eight hundred and fifty 6.

The condition of the above obligation is such that if the said Wm B. Green, Administrator of all and singular the goods and chattels, rights and credits of Joseph Mills deceased, do make or cause to be made a true and perfect inventory of all and singular the goods and chattels, rights and credits of said deceased, which shall come to the hands, possession or knowledge of him the said Wm B. Green as such Administrator, or to any other person or persons for him, and the same so made, do exhibit or cause to be exhibited in the County Court for said County of Marshall, agreeably to law, and such goods and chattels, rights and credits do well and truly administer according to law, and all the rest of said goods and chattels, rights and credits which shall be found remaining on the account of the said Administrator, the same being first examined and allowed by the County Court, shall deliver and pay unto such person or persons respectively as may be legally entitled thereto, and further, do make a just and true account of all his ~~sayings~~ ^{doings} and doings herein when thereunto required by the said Court, and if it shall afterward appear that any last will and testament was made by the deceased, and the same be proven in Court, and letters testamentary or of administration be obtained thereon, and the said _____ do in such case, on being required thereto, render and deliver up the letters of administration granted to him as aforesaid, and shall in the general do and perform all other acts which may be required of him by law, then this

Obligation to be void, otherwise to remain in full force and virtue.

Signed, sealed and delivered

William B. Green

in presence of

Greenberry L. Fort

G. M. E. Cook

And which settle is in words as follows:

I do solemnly swear that I will well and truly administer all and singular the goods and chattels, rights, credits and effects of Joseph Mills deceased, and pay all just claims and charges against his estate so far as his goods, chattels and effects shall extend and the law charge me, and that I will do and perform all other acts required of me by law to the best of my knowledge and abilities.

Sworn & subscribed before me

William B. Green

this eighteenth day of March A.D. 1856

W. E. Cook Clerk Co. Court.

And which letters of administration are as follows,

State of Illinois

Marshall County, } To all whom these presents shall come, Greeting.

Know ye, that whereas Joseph Mills of the County of Marshall and State of Illinois, died intestate as it is said, on or about the day of A.D. 1842, having at the time of his decease, personal property in this State which may be lost, destroyed or diminished in value, if speedy care be not taken of the same. To the end therefore that said property may be collected and preserved for those who shall afterwards have a legal right or interest therein, the County Court do hereby appoint W. B. Green of the County of Marshall, State of Illinois, Administrator of all and singular the goods and chattels, rights and credits which were of the said Joseph Mills at the time of his decease, with full power and authority to secure and collect the said property and debts, wherever the same may be found in this State, and in general to do and perform all other acts which now or hereafter may be required of him by law.



Witness my hand and the seal thereof at Salem this 12 day of July A.D. 1856.

Washington E. Cook Clerk
By G. M. E. Cook Depy

Plaintiff objected to the said papers being read in evidence, and each of them, because first, the said Bond contained a material ~~error~~ which is unexplained

2. That said letters are indefinite, uncertain and otherwise imperfect.
 3. Because the same are a fraud upon the heirs of said Mills;
 4. Said letters are signed by Deputy Clerk.
 5. Said Court had no jurisdiction upon the face of the record to grant said letters.
 6. Because there was no proof that Administrator had taken the oath required by law.
- The Court overruled said objections, and each and every of them, and permitted said Bond, oath of Administrator and letters of Administration to be read in evidence. To which decision of the Court in overruling said objections, and each of them, and in permitting the said Bond, oath and letters to be read in evidence, and each of them, the plaintiff then and there excepted.

Defendant then produced the Book of Records of the proceedings of the County Court of said County, admitted to both same, and produced and offered to read therefrom in evidence a decree of said Court in letters and figures following, to wit,

In the matter of the petition of
William B. Green Administrator
of the estate of Josephus Mills dec'd
in the last will and testament of J. B. Green

Decree to sell real estate.

Ralph Lockwood

Elisha L. Mills

et al

It is admitted that the said
~~document is a copy of a~~
of which this agreement is
attached, has the following filing on
the Book thereof. Filed Dec. 12

M. C. Cook

Barrett

Ag. 80

Plaintiff objected to the said papers being read in evidence, and each of them, because first, the said Bond contained a material ~~error~~ which is unexplained.

2. That said letters are indefinite, uncertain and otherwise imperfect.
 3. Because the same are a fraud upon the heirs of said Mills.
 4. Said letters are signed by Deputy Clerk.
 5. Said Court had no jurisdiction upon the face of the record to grant said letters.
 6. Because there was no proof that Administrator had taken the oath required by law.
- The Court overruled said objections, and each and every of them, and permitted said Bond, oath of Administrator and letters of Administration to be read in evidence. To which decision of the Court in overruling said objections, and each of them, and in permitting the said Bond, oath and letters to be read in evidence, and each of them, the plaintiff then and there accepted.

Defendant then produced the Book of Records of the proceedings of the County Court of said County, admitted to both same, and produced and offered to read therefrom in evidence a decree of said Court in letters and figures following to wit,

In the matter of the petition of
William B. Green Administrator
of the estate of Josephus Mills decd
in the County Court of Marshall
County Illinois

Decree to sell real estate.

This day came the petitioner by Elias Ramsay his Solicitor, and it appearing to the satisfaction of the Court, that due notice has been given by advertising the same in the Leon Intelligencer a public weekly newspaper printed and published in the City of Leon in said Marshall County, for four successive weeks, the first insertion thereof being more than six weeks before the first day of the present term of the Court, and the said unknown Heirs of said deceased being three times solemnly called, come not, but made default, it is therefore ordered that said complainant's petition as to heretaken for confessed. And on motion of said complainant's Solicitor B. M. E. Cook is appointed is appointed Benjamin A. Lile for the unknown

heirs of said deceased, and said Guardian Ad Litem having filed his answer herein, and it further appearing to the satisfaction of the Court that said petitioner was duly appointed Administrator of the estate of Joseph Mills dec'd and gave Bond, and he was duly qualified according to law, and that there has no assets come to his hands as such Administrator, and that there has been debts proved up and allowed according to law against said estate, amounting to the sum of five hundred and sixty nine dollars and seventy five cents, and which are unpaid, and that the said Joseph Mills died seized of the following described real estate to wit, The South East quarter of Section twenty five, the North West quarter and the South East quarter of Section thirty six, also an interest in the $\frac{1}{2}$ of the S.E. $\frac{1}{4}$, and the East $\frac{1}{2}$ of the S.W. $\frac{1}{4}$ of Section twenty eight, in Township No. thirty North of Range No. one West of the third principal meridian. Also the South half of the North East quarter of Section twenty three, and the East half of Section twenty six, both in Township thirty North of Range two West of the third principal meridian. It is therefore Ordered, adjudged and decreed by the Court that the above described real estate, or so much thereof as may be necessary, be sold by said Administrator at public vendue, at door of the Court houses in said County on a credit of six and twelve months, for the purpose of paying the debts, with the interest and costs of settling said estate. The petitioner giving the notice by law, and taking Bond with approved personal security for the purchase money, and a mortgage upon the premises sold, and that he convey said real estate to the purchaser or purchasers thereof by deed or deeds. And that he report his proceedings herein to this Court. And this cause is continued.

P. M. Janney, Lou. Judge.

Plaintiffs objected to the same being read in evidence, because

- First That no notice was given as required by law of the filing of the petition in said cause.
- Second That the petition did not state the names of the heirs.
- Third That decree was entered at a different time from the time mentioned in notice.
- Fourth That decree does not show upon its face that any proof was before the Court to give the Court jurisdiction.

But the Court overruled said objections and each and every of them, and admitted the same in evidence, and the same was read in evidence. In which decision by the Court in overruling said objections and each of them and in permitting the same

to be given in evidence the plaintiff then and there excepted.

Defendant then produced and offered to read in evidence a report of the sale by said Administrator, which report is in the letters and figures as follows, to wit:

~~As the matter of the~~

Estate of ~~Report of sale of real estate~~
Josephus Mills dec'd

~~As shown by the Administrator of the estate of Josephus Mills deceased, and presented his report of the sale of real estate, which after being examined by the Court, is ordered by the Court of record, filed and read as follows:~~

Report of sale of real estate belonging to the estate of Josephus Mills deceased sold February 2nd 1857.

The S.E. 1/4	25	30, 1 hr. 160, Charles Parker	200.00
" N.W. 1/4	36	" " 160 "	200.00
" S.E. 1/4	36	" " 160 "	200.00
" S. 1/2 N.E. -	23	" 2 hr. 80, Milton Trugel	200.00
E 1/2 N.W.	26	" " 80 Chas. Parker	225.00
S 1/2	28	" 1 hr. 320 " "	100.00
			<u>1135.00</u>

Wm. B. Green Administrator & Clerk

G. W. E. Cook Clerk

Plaintiffs admitted that said report belongs to the files in the matter of said estate.

Plaintiff objected to the reading of said report in evidence, because it was not made by the Administrator. ~~And~~ ^{But} the Court overruled said objection, and permitted the same to be read in evidence, and the same was read in evidence. To which decision of the Court in overruling said objection, and in permitting the same to be read in evidence the Plaintiff then and there excepted.

Defendant then produced and offered to read in evidence a decree of the said County Court from the same Record Book of said County Court as herein before mentioned. Which decree was in letters and figures following

In the matter of the

Estate of

Report of sale Real estate

Leophas Mills dec^d

Now comes Wm B. Green Administrator of the estate of Leophas Mills deceased, and presents his report of the sale of Real Estate, which after being examined by the Court is Ordered by the Court approved, filed and recorded, and is in words and figures as follows

Report of sale of real estate belonging to the estate of Leophas Mills deceased, sold February 2nd 1857.

Shad. E. 1/4	26	30	1 Hr.	160.	Charles Parker	200.00
" N. W. 1/4	36	"	"	160	" "	210.00
" S. E. 1/4	36	"	"	160	" "	200.00
" S. 1/2 N. E.	28	"	2 Hr.	80	Milton Frezel	200.00
" E. 1/2 N. W.	36	"	"	80	Chas. Parker	225.00
" S. 1/2	28	"	1 Hr.	320	" "	600.00
						1135.00

Wm B. Green Administrator & Clerk

G. W. E. Cook Clerk

The Plaintiff objected to the reading of said decree in evidence, because the same was not signed by the County Judge.

The Court overruled said objection, and admitted the same in evidence, to which decision of the Court, in overruling said objection, and in admitting the same to be read in evidence the Plaintiff then and there excepted.

Ralph Lockwood the defendant being duly sworn orally in open Court stated to the Court upon oath that a certain deed from Wm B. Green as Administrator of the estate of Leophas Mills deceased dated Feb. 5th 1857, conveying the lands in controversy ^{any} to Charles Parker, which deed was duly recorded in the Recorder's Office of said Marshall County, was not and has never been in his power, custody or control.

Defendant then offered to read in evidence a certified copy of said deed, which deed as certified with the Recorder's Certificate are in letters and figures following

Filed Feb. 15
1857. at 9 A.M.
James W. Scott
Clerk

This deed made and entered into this third day of February in the year 1857, between William B. Green Administrator of the estate of Ephras Mills deceased, of the first part, of the County of Marshall and State of Illinois, and Charles Parker of the same County and State, of the second part, Witnesseth, that whereas at the December term A.D. 1856. of the County Court of Marshall County Illinois, the following Order or decree was made and entered of record in said Court and was in words and figures following to wit,

In the matter of the petition of William B. Green Administrator of the estate of Ephras Mills deceased, In the County Court of Marshall County, Illinois, This day came the petitioner by Elias Ramsay his Solicitor, and it appearing to the satisfaction of the Court that due notice of his intended application has been given by advertising the same in the Lacon Intelligencer a public weekly Newspaper printed and published in the City of Lacon in said Marshall County, Illinois, for four successive weeks, the first insertion thereof being more than six weeks before the first day of the present term of the Court. And the said unknown Heirs of said deceased being three times solemnly called, came not, but made default. It is therefore Ordered that said complainant's petition as to her be taken for confessed. And on motion of said complainant's Solicitor, B. M. & Co. Broke is appointed Guardian Ad Litem for the unknown Heirs of said deceased, and said Guardian Ad Litem having filed his answer herein and it further appearing to the satisfaction of the Court that the said petitioner was duly appointed Administrator of the estate of Ephras Mills deceased, and gave bond, and was duly qualified according to law. And that there was no assets come into his hands as such administrator. And that there has been debts proved up and allowed according to law against said estate amounting to the sum of five thousand five hundred and sixty nine dollars and seventy four cents, and which are unpaid. And that the said Ephras Mills died seized of the following described real estate, to wit, The South East quarter of Section twenty five, the North West quarter and the South West ^{East} quarter of Section thirty ~~22~~, also an interest in the West

half of the South East quarter, and the East half of the North West quarter of Section twenty eight, in Township No. thirty North of Range No. one West of the third principal meridian. Also the South half of the North East quarter of Section twenty three, and the East half of the North West quarter of Section twenty six, both in Township thirty North of Range two West of the third principal meridian. It is therefore Ordered, and adjudged and decreed by the Court that the above described real estate or as much thereof as may be necessary be sold by said Administrator at public vendue, at the door of the Court house in said County, on a credit of six and twelve months, for the purpose of paying with the interest & costs of settling said estate, the petitioner giving the notice required by law, and taking bond with approved personal security for the purchase money, and a mortgage upon the premises sold. And that he convey said real estate to the purchaser or purchasers thereof by deed or deeds. And that he report his proceedings herein to this Court, and this cause is continued.

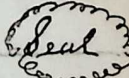
P. M. Jammy County Judge

And having given notice in the Illinois Gazette a public weekly newspaper printed and published in the City of Leon in Marshall County Illinois for six successive weeks, the first insertion thereof being more than six weeks before the day of said sale, and by posting up printed notices of the time and place of said sale for the same length of time, in four public places in said County. One of which was the door of the Court house in said County, and particularly describing said lands and the terms of said sale. I did on the third day of February A.D. 1857. at the door of the Court house in the City of Leon in said County, between the hours of 10. O'clock A.M. and 4 O'clock P.M. of said day offer for sale all of said lands. And that for the South East quarter of Section twenty five, in Township thirty North of Range 1. West of the 3^d P.M. Charles Parker bid the sum of two hundred dollars, and that being the highest and best bid therefor the same was struck off to him as the purchaser. And that for the North West quarter of Section thirty six, in the same Township and Range he bid the sum of two hundred and ten dollars, and that for the South East quarter of Section thirty six in the same Township and

Range bid the sum of two hundred dollars - and that for the East half of of the North West quarter of Section twenty six, in Township thirty North of Range two West of the third principal meridian, Charles Parker bid the sum of two hundred and twenty five dollars. and that for the South West quarter of Section twenty eight, in Township thirty North of Range one West of the third principal meridian, Charles Parker bid the sum of One hundred dollars. And said several sums being the highest and best bids for each of said tracts of land, the same were struck off to him as the purchaser under said decrees.

Now therefore know all men by these presents, that I William B. Green Administrator as aforesaid, by virtue of the matters and things before recited, and the sums of nine hundred and thirty five dollars to me in hand paid at and before the sealing of these presents, do hereby grant, bargain, sell, convey and confirm unto him the said Charles Parker, the South East quarter of Section twenty five, the North West quarter of Section thirty six, the South East quarter of Section thirty six, and the South West quarter of Section twenty eight, all in Township thirty North of Range one West of the third principal meridian, also the East half of the North West quarter of Section twenty six, in Township thirty North of Range two West of the third principal meridian. To have and to hold the same to him, his heirs and assigns forever,

In witness whereof I have hereunto set my hand and seal the day and year first above written,

William B. Green 

State of Illinois

Marshall County

I, Silas Ramsey a Notary Public in and for said County, do hereby certify, that William B. Green Administrator of the estate of Joseph Mills deceased, whose name appears to the foregoing deed, and who is personally known to me as the identical person signing the same, this day appeared before me, and acknowledged the signing and sealing the same as his free and voluntary act and deed for the uses and purposes therein expressed.

 Seal

Witness my hand and official seal this 3rd day of Feb'y 1857

Silas Ramsey Notary Public

State of Illinois

Marshall County

I Sheldon Arnold Clerk of the Circuit Court and Ex Officio Recorder in and for said County of Marshall in said State, do hereby certify that the foregoing is a true and correct copy of the record of an instrument of writing purporting to be a copy of an Administrator's ^{deed} Record from William B. Green Administrator to Charles Parker, as appears of Record in my Office in Volume, V. page 136, 137 & 138. The same being one of the Records of said Marshall County.



In testimony whereof I have hereunto set my hand and affixed the seal of said Court, at Laramie the 26th day of January A.D. 1864.

Sheldon Arnold, Clerk

Given under my hand and the seal of said Court this 26th day of January 1864.

First.

Plaintiff objected to the reading of said certified copy of said deed in evidence, because the decree under and by virtue of which the same was made is not correctly recited in deed.

Second

Said deed does not show notice of sale.

Third

Said deed is not signed by Green as Administrator.

Fourth

The proceedings of said Administrator as recited in the deed are not in accordance with the decree. And because the said deed being based upon the proceedings of the Court from the appointment of Administrator to the final decree, and the same were void for want of jurisdiction in the County Court, because said Records and files of said County Court showed the entire proceedings fraudulent, and therefore void; that the sale to Parker was void, because he was Green's agent, and acting for him.

The Court overruled each and every of said objections, and permitted said said certified copy of said deed to be read in evidence, and the same was read in evidence as above set forth. To which decision of the Court in overruling said objections and permitting the same to be read in evidence the plaintiffs then and there excepted.

Ralph Leck said the defendant further stated to the Court upon call that a certain deed from Charles Parker and Maria his Wife, dated the tenth day of March A.D. 1857, conveying among others, the land in controversy in this suit to William B. Green which deed was duly recorded in the Recorder's Office

of said Marshall County is not in the power, possession, custody or control of said defendant.

Defendant then produced and offered to read in evidence a certified copy of said deed from said Parker at us to said Green. Which certified copy of said deed and certificate of Recorder thereto is in letters and figures following, to wit,

This Indenture made the tenth day of March in the year of our Lord One thousand and eight hundred and fifty seven between Charles Parker and Maria L. Parker his Wife of the County of Marshall and State of Illinois parties of the first part, and William B. Green of the County and State aforesaid party of the second part Witnesseth that the said parties of the first part for and in consideration of the sum of nine hundred dollars lawful money of the United States of America to them in hand paid by the said party of the second part, at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, have remised, released and quit claimed, and by these presents do remise release and quit claim unto the said party of the second part, and to his heirs and assigns forever all those certain lots, pieces or parcels of land situated in the County of Marshall and State of Illinois, and known and described as the South West quarter of Section twenty eight, and the South East quarter of Section twenty five, and the North West quarter of Section thirty six, and the South East quarter of Section thirty six, all in Town thirty, North of Range One, West of the third principal meridian, containing six hundred & forty acres more or less. Together with all and singular the tenements, hereditaments and appurtenances thereto belonging or in any wise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof and all the estate, right, title, interest, dower and right of dower, property, possession, claim and demand whatsoever, as well in law as in equity of the said parties of the first part of, in or to the above described premises, and every part and parcel thereof, with the appurtenances. To have and to hold all and singular the above mentioned and described premises, together with the appurtenances, unto the said party of the second part, his heirs and assigns forever.

In witness whereof the said parties of the first part have hereunto

Filed Apr. 10

1857. at 3, P.M.

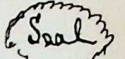
Jas. W. Scott

Clk

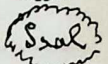
set their hands and seals the day and year first above written,

Signed, sealed and delivered
in the presence of 

Charles Parker

 Seal

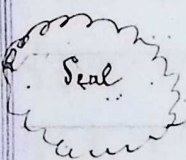
Maria L. Parker

 Seal

State of Illinois

County of Marshall } ss.

On this tenth day of March A.D. 1857, before me came Charles Parker and Maria L. Parker, to me known as the persons whose names appear to the foregoing deed of conveyance as having signed the same, and severally acknowledged that they executed the same for the uses and purposes therein expressed. And Maria L. Parker Wife of said Charles Parker, on a private examination, separate and apart from her husband, acknowledged that she executed the same freely & without any fear or compulsion of her said husband, and relinquished her right of dower to the premises therein conveyed, and is still satisfied in

 Seal

Witness my hand and official seal at my Office in the City of Lacon this the day and year above written.

Washington G. Cook Clerk

By B. M. E. Cook Deputy

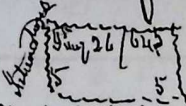
State of Illinois

Marshall County } ss.

I Sheldon Arnold Clerk of the Circuit Court and Ex. Office Recorder in and for said County of Marshall in the State of Illinois, do hereby certify that the foregoing is a true and correct copy of the Record of an instrument of writing purporting to be a copy of a deed from Charles Parker and Maria L. Parker his Wife to William B. Green as appears of Record in my Office, in Volume 1, at page 326 & 327. the same being one of the records of deeds of said Marshall County.

 Seal

On testimony whereof I have hereunto set my hand and affixed the seal of said Court at Lacon this 26th day of June - my A.D. 1864.

 Seal
May 26/64

Sheldon Arnold Clerk

Plaintiffs objected to the reading of said certified copy of the deed in evidence because the acknowledgement is insufficient, and also for the same reasons as those made by plaintiffs to the deed from Green to Parker.

The Court overruled said objection, and admitted said certified copy of said deed in evidence, and the same was then read in evidence as above set forth. To which decision of the Court in overruling said objection and in admitting said certified copy of said deed the plaintiffs then and there excepted.

Defendant then produced and offered in evidence a deed of conveyance from William B. Green to Ralph Lockwood which deed and the certificate of acknowledgment thereon written, are in the words, characters and figures following to wit,

This Indenture made the twenty second day of February in the year One thousand eight hundred and fifty eight, between William B. Green of the County of Marshall, State of Illinois (Midwestern) party of the first part and Ralph Lockwood of said County and State aforesaid, party of the second part, together, that the said party of the first part, in consideration of the sum of seven thousand and five hundred dollars to me duly paid before the delivery hereof, has bargained and sold, and by these presents do grant and convey to the said party of the second part, his heirs and assigns forever, all those certain lots, pieces or parcels of land situated, lying and being in the County of Marshall and State aforesaid, bounded and described as follows, to wit: The South East quarter of Section twenty five, Township thirty North of Range one West of the third principal meridian also the North West and the South East quarters of Section thirty six, Township thirty North of Range one West of the third principal meridian, containing in all four hundred and eighty acres, be the same more or less, with the appurtenances, and all the estate, title and interest of the said party of the first part therein. And the said party of the first part doth hereby covenant and agree with the said party of the second part, that at the time of the delivery hereof, the said party of the first part is lawful owner of the premises above granted, and seized thereof in fee simple absolute. And that he will warrant and defend the above granted premises in the quiet and peaceable possession of the said party of the second part, his heirs and assigns forever.

In witness whereof the said party of the first part have hereunto set his hand & seal the day and year first above written.

Sealed & delivered in presence of
W. E. Locke

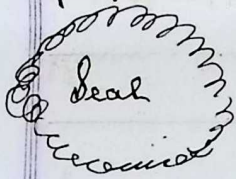
William B. Green

Seal

State of Illinois

County of Marshall

I Washington L. Cooke Clerk for said County, do hereby certify that on this day before me personally appeared William B. Green, whose name appears subscribed to the foregoing deed of conveyance, as having executed the same, and who is personally known to me to be the real person, who, and in whose name the acknowledgement is proposed to be made, and acknowledged the execution thereof as his voluntary act and deed for the uses and purposes therein expressed.



Witness my hand and the seal of said Court this the 22^d day of February A.D. 1858.

Washington L. Cooke Clerk

Plaintiff objected to the reading of said deed in evidence, on the ground that the acknowledgement was insufficient, and also for the same reasons as those made by plaintiffs to the deed Green to Parker, and the deed from Parker to Green.

The Court overruled said objection, and admitted said deed of conveyance in evidence, and the same was read as above set forth. To which decision of the Court in overruling said objection and in admitting said deed in evidence plaintiffs then and there excepted.

Defendant here rests.

Thereupon plaintiffs produced Henry Horne a witness who being first duly sworn testified as follows,

I have examined papers shown me. They are the files in the matter of the estate of Ephras Mills deceased, in Marshall County Court. Am deputy clerk of said Court, and have custody of the papers &c. These were turned over to us by the former clerk. Cannot say whether they are all the papers which were filed and belong to the case, but I think they are all that were turned over to us.

Plaintiff offered in evidence the files in said estate. Which papers and the files thereon are in letters and figures as follows.

Know all men by these presents that we W. B. Green S. L. Post of the County of Marshall and State of Illinois, are held and firmly bound unto the People

People
 of the State of Illinois, for the use of in the penal sum of fifteen hundred
 dollars, current money of the United States. Which payment well and truly to
 be made and performed, we and each of us bind ourselves, our heirs, executors and
 administrators, jointly, severally and firmly by these presents. *Witness* our seals
 this 12. day of July. One thousand eight hundred and fifty 6.

The condition of the above obligation is such, that if the said Wm. B. Green Admin-
 istrator of all and singular the goods and chattels, rights and credits of Joseph
 Mills deceased, do make or cause to be made a true and perfect inventory of
 all and singular the goods and chattels, rights and credits of said deceased,
 which shall come to the hands, possession or knowledge of him the said
 Wm. B. Green as such Administrator, or to any other person or persons for
 him, and the same so made, do exhibit or cause to be exhibited in the County
 Court for said County of Marshall, agreeably to law, and such goods & chattels,
 rights and credits do well and truly administer according to law and all the
 rest of said goods and chattels, rights and credits which shall be found re-
 maining on the account of the said Administrator, the same being first examined
 and allowed by the County Court, shall deliver and pay unto such person
 or persons, respectively as may be legally entitled thereto; and further do make
 a just and true account of all his doings and things herein when thereunto
 required by the said Court. And if it shall afterwards appear that any last will
 and testament was made by the deceased, and the same be proven in Court,
 and letters testamentary, or of Administration be obtained thereon, and the said
 do in such case, on being required thereto, render and deliver
 up the letters of Administration granted to him as aforesaid, and shall in the
 general do and perform all other acts which may be required of him by law,
 then this obligation to be void, otherwise to remain in full force and virtue.

Signed, sealed & delivered in presence of

G. W. Co. Cook

William B. Green

Greenberry L. Fort



I do solemnly swear that I will well and truly administer all and singular
 the goods and chattels, rights, credits and effects of Joseph Mills deceased, and
 pay all just claims and charges against his estate, so far as his goods, chattels
 and effects shall extend, and the law charge me, and that I will do & perform

all other acts required of me by law, to the best of my knowledge and abilities.

Sworn to & subscribed before me

William B. Green

the eighteenth day of March A.D. 1856.

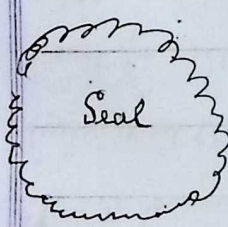
W. E. Cook Clerk Co. Court.

State of Illinois

Marshall County } To all to whom these presents shall come & resting.

Know ye that whereas Lephas Mills of the County of Marshall and State of Illinois, died intestate as it is said, on or about the day of A.D. 1842 having at the time of his decease, personal property in this State, which may be lost, destroyed or diminished in value, if speedy care be not taken of the same. To the end therefore that said property may be collected and preserved for those who shall appear to have a legal right or interest therein, the County Court do hereby appoint W. B. Green of the County of Marshall, State of Illinois, Administrator of all and singular the goods and chattels, rights and credits which were of the said Lephas Mills at the time of his decease, with full power & authority to secure and collect the said property and debts, wherever the same may be found in this State. And in general to do and perform all other acts which now, or hereafter may be required of him by law.

Witness Washington E. Cook Clerk of the County Court, in and for said County, and the seal thereof at Lacon this 12. day of July A.D. 1856.



Washington E. Cook Clerk

By G. W. E. Cook Dep.

\$2500

New York June 1st 1858.

Twelve months after date I promise to pay to the order of John E. Mills Esq., at the Union Bank, twenty five hundred dollars, value received.
Lephas Mills

Endorsed on the back of note as follows, to wit,

John E. Mills,

State of Illinois

Marshall County

W. B. Green being duly sworn, says the within note is just, and that five thousand and fifty two dollars

and four cents is due, he verily believes

Sworn & subscribed before me

this 15th Sept. 1856.

W. B. Green

W. E. Cook Clerk.

Filed Sept. 8/56.

State of Illinois

To Mark Bangs, Abraham Green & A. Whipple of the
County of Marshall and State of Illinois

This is to authorize you jointly to appraise the goods, chattels and personal estate of Deophus Mills late of the County of Marshall and State of Illinois, deceased so far as the same shall come to your sight, each of you having first taken the oath hereto annexed, a certificate whereof you are to return annexed to an appraisement bill of said goods, chattels and personal estate by you appraised, in dollars and cents. And in said bill of appraisement you are to set down in a column or columns opposite to each article appraised, the value thereof.

XXXXXX
Seal
XXXXXX

Witness Washington E. Cook Clerk of the County, located in and for said County, and the seal thereof at Lacon this 12. day of July A.D. 1856.

Washington E. Cook Clerk

By W. E. Cook Clk

You and each of you do solemnly swear that you will well and truly, without partiality or prejudice value and appraise the goods, chattels and personal estate of Deophus Mills deceased so far as the same shall to your rights and knowledge, and that you will in all respects perform your duty to the best of your skill and judgment, so help you God.

Sworn and subscribed before me

this 22nd day of July A.D. 1856

W. E. Cook Clerk Co. Court.

By W. E. Cook Clk

Mark Bangs

Abraham Green appraisers

E. A. Whipple

Know all men by these presents that we William B. Green & Charles Parker Jr. of the County of Marshall and State of Illinois are held and firmly bound unto the People of the State of Illinois, in the penal sum of two thousand dollars, current money of the United States, which payment well and truly to be made and performed, we and each of us bind ourselves, our heirs, executors and

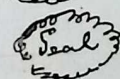
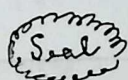
administrators jointly, severally and finally by these presents. Witness our hands and seals the 10th day of March One thousand eight hundred and fifty.

The condition of the above obligation is such, that if the said William B. Green Administrator of all and singular the goods and chattels, rights and credits of Ephraim Mills deceased, do make or cause to be made a true and perfect inventory of all and singular the goods and chattels, rights and credits of said deceased, which shall come to the hands, possession or knowledge of the said William B. Green as such Administrator, or to the hands of any person or persons for him, and the same make do exhibit or cause to be exhibited in the County Court for said County of Marshall agreeably to law: And such goods and chattels, rights and credits do well and truly administer according to law, and all the rest of said goods and chattels rights and credits which shall be found remaining upon the account of the Administrator, the same being first examined and allowed by the County Court shall deliver and pay unto such person or persons respectively as may be legally entitled thereto: And further do make a just and true account of all his doings and doings therein, when thereto required by the said Court. And if it shall hereafter appear that any last will and testament was made by the deceased, and the same be proved in Court, and Letters Testamentary or of Administration be obtained thereon, and the said William B. Green do in such cases on being requested thereto render and deliver up the Letters of Administration granted to him as aforesaid, and shall in general do & perform all other acts which may at any time be required of him by law, then this obligation to be void, otherwise to be and remain in full force and virtue.

Signed, sealed & delivered in presence of me,

William B. Green

Chas. Parker Jr



To the County Court of Marshall County for,

The undersigned Administrator of the estate of the late Ephraim Mills deceased has leave to report that said deceased died seized of the following real estate in said County, subject however to encumbrances of sales for taxes, and perhaps possession of claimants under said tax sales, to wit,

S. & Co. 25

N. W. 36

S. & Co. 36

} Town 30 N. Range 1 West 3^d P. M.

S $\frac{1}{2}$ N.E. 23E $\frac{1}{2}$ N.W. 26 } 30 North Range 2. N. 3^d T. 11.

November 25. 1856. at Lacon.

William B. Green Admin of
Estate of Joseph Mills decd.

We the undersigned appraisers appointed by the County Court of Marshall County to appraise the goods, chattels and personal estate of Joseph Mills deceased, do hereby certify that we are informed by W. B. Green administrator of said estate that there is no personal property belonging to said deceased.

Given under our hands this the 22 day of July A.D. 1856.

Abraham Green

Mark Brang

E. A. Whipple

} appraisers,

The People of the State of Illinois, To Albert Ramsey, Charles Parker Jr and Henry Liborne of the County of Marshall and State of Illinois Greeting.

This is to authorize you jointly to appraise the goods, chattels and personal estate of Joseph Mills late of the County of Brabant and State of Michigan deceased, so far as the same shall come to your sight and knowledge, each of you having first taken the oath hereto annexed, a certificate whereof you are to return annexed to an appraisement bill of said goods, chattels and personal estate by you appraised, in dollars and cents: and the said bill of appraisement you are to set down in column or columns opposite to each article appraised the value thereof.



Witness Washington E. Cook Clerk of the County Court for said County, and the seal thereof, at my office in Lacon the 18th day of March A.D. 1857.

Washington E. Cook Clerk.

You and each of you do solemnly swear that you will well and truly, without partiality or prejudice value and appraise the goods, chattels and personal estate of Joseph Mills deceased, so far as the same shall come to your sight and knowledge. and that you will in all respects perform your duty as appraisers to the best of your skill and judgment.

Chas. Parker Jr.

Albert Ramsey

J. C. L. Green

Sworn & subscribed before me
the 29th day of March A.D. 1857
W. E. Cook Clerk Co. Court.

appraisers appointed to appraise the personal estate of L. Hills.

We the undersigned are informed by the Administrator of the within named estate that there is no personal property within this County to the best of his knowledge & belief, belonging to said estate. March 29th 1856.

Albert Ramsey
 Chas Parker Jr.
 Henry L. Crane

State of Illinois, Marshall County and County Court.

To December Term A.D. 1856.

To the Honorable the Judge of the County Court of Marshall County Illinois.

Your petitioner William B. Green of said County, would represent unto your Honor, that on or about the day of in the year A.D. 1842, one Lephias Hills late of the County of Berrien in the State of Michigan, departed this life intestate, seized in fee simple or some other estate, of the following described real estate, to wit, the South East quarter of Section twenty five, and the North West quarter of Section thirty six - and also the South East quarter of Section thirty six - also an interest in the South half of Section twenty eight, in Township thirty North of Range one West of the third principal meridian. and also the South half of the North East quarter of Section twenty three, and also the East half of the North West quarter of Section twenty six, in Township thirty North of Range two West of the third principal meridian. all in the County of Marshall and State of Illinois. Said deeds being on record in the Records Office of Marshall County Illinois, and in the possession of your petitioner, reference thereto being had. Your petitioner would further represent unto your Honor that after the decease of the said Lephias Hills, and proof of his death being duly made in the County Court of Marshall County Ills. to wit on or about the 12th day of July A.D. 1856. your petitioner was duly appointed Administrator of all and singular the goods and chattels, rights and credits of the said Lephias Hills in his lifetime. and your petitioner thereupon duly qualified himself for that trust by giving bond ~~and~~ with approved security, and taking the oath required of him by law, and entered upon the performance of his duties as such Administrator, and filed and Inventory and appraisement Bill, there

being no goods or chattels belonging to said estate to the knowledge of your petitioner. And your petitioner would further represent unto your honor that there has no personal estate or money come into his hands as such administration.

Your petitioner further shews unto your honors that said deceased owed divers debts at the time of his decease which have been exhibited unto said County Court of Marshall County Illinois, in all so far as your petitioner is informed to the sum of five thousand five hundred and sixty nine dollars and seventy four cents. An inventory of said debts, and which your petitioner believes to be just and owing is on file in said Court, reference being thereunto had. That said deceased left him surviving his Widow and three minor heirs, whose names are to your petitioner unknown, and who are nonresidents of the State of Illinois. Your petitioner further shews that he gave legal notice of the time and place of presenting his said petition by causing notice thereof to be inserted in the Lawn Intelligence, a public weekly news paper printed and published in the City of Louis in said County of Ill for four weeks successively, the first publication being more than six weeks before the first day of the present term of this Court. Wherefore your petitioner prays the aid of this honorable Court in the premises. And that he may be authorized and empowered to make sale of said real estate, or so much thereof as may be necessary to pay the debts of said deceased. And to make and execute all proper and necessary deeds for the conveyance of said real estate so sold. And to do and perform all other acts and things in the premises which shall be right and proper, and for such other and further Order and relief as shall be equitable and just. And as in duty bound will ever pray &c.

S. Ramsey Atty.

Wm B. Green Adm of the estate
of Lephias Mills decd

In the matter of the petition
of William B. Green adm of
Lephias Mills decd.

County Court of Marshall County Ills.
To Dec Term 1856.

And now comes Geo. W. Co. book who was by the Court at the present term appointed Guardian ad litem for the unknown minor heirs of Lephias Mills decd: and for answer says he is ignorant of the

matters and things in the said complaint ~~are~~ alleged, and asked the Court to require of the petitioner proof thereof

G. M. E. Cooks Clerk
Miner's Lophas Mills

State of Illinois }
County of Marshall } William B. Green being duly sworn says that the annexed notice was published in the Sacon Intelligence, a public Weekly newspaper printed and published in the City of Sacon in said County for four successive weeks, the first insertion thereof was on the twenty seventh day of September or thereabouts A.D. 1856.

Sworn to and subscribed on
this 12th day of Dec. 1856.

William B. Green

Adm. of E. M.

W. E. Cooks Clerk

Administrators Notice

Notice to whom it may concern, that the undersigned will make application to the County Court of Marshall County at the December term 1856, to be held at the Court House on Monday the first day of December next, for an Order or decree to sell the real estate of the late Lophas Mills, late of the County of Berrien and State of Michigan, to pay the debts of said deceased.

Sacon Sept. 27, 1856.

Wm B. Green Administrators

In the matter of the petition of William B. Green Administrator of the estate of Lophas Mills dec. in the County Court of Marshall County of Marshall County Illinois.

This day came the petitioner by Silas Ramsey his Solicitor, and it appearing to the satisfaction of the Court that due notice of his intended application has been given by advertising the same in the Sacon Intelligence, a public Weekly news paper printed and published in the City of Sacon in said Marshall County Ill. for four successive weeks, the first insertion thereof being more than six weeks before the first day of the present term of this Court. And the said unknown Heirs of said deceased being three times solemnly called, came not, but made default. It is therefore Ordered that said Complainant's petition as to her be taken for confessed and on motion

of said complainants Solicitor G. W. C. Cook is appointed Guardian Ad Litem for the unknown minor heirs of said deceased, and said Guardian Ad Litem having filed his answer herein. And it further appearing to the satisfaction of the Court that the said petitioner was duly appointed Administrator of the estate of the said Ephras Mills decd, and gave Bond, and was duly qualified according to law, and that there has no assets come into his hands as such Administrator, and that there has been debts proved up and allowed according to law against said estate, amounting to the sum of five thousand five hundred and sixty nine dollars and seventy four cents, and which are unpaid, and that the said Ephras Mills died seized of the following described real estate to wit, the South East quarter of Section twenty five, the North West quarter and the South East quarter of Section thirty six in Township thirty, North of Range two, one West of the third principal meridian, also an interest in the $\frac{1}{2}$ of the North East quarter the East half of South West quarter of Section twenty eight North of Range two, one West of the third principal meridian, also the South half of the North East quarter of Section twenty three, and the East half of the North West quarter of Section twenty six both in Township thirty North of Range two West of the third principal meridian. It is therefore Ordered, adjudged and decreed by the Court that the above described real estate, or so much thereof as may be necessary, be sold by said Administrator at public vendue, at the Court house in said County, on a credit of six and twelve months for the purpose of paying the debts with the interest, and costs of settling said estate, the petitioner giving the notice required by law, and taking bond with approved personal security for the purchase money, and a mortgage upon the premises sold. And that he convey said real estate to the purchaser or purchasers thereof by deed or deeds, and that he report his proceedings herein to this Court. And this cause is continued.

P. M. Denny County Judge

Report of sale of Real estate belonging to the estate of Ephras Mills deceased, sold February 2nd 1859.

The S. E. $\frac{1}{4}$	25	- 30	- 1 M	- 160	- Chas Parker	- 200.00
" N. W. $\frac{1}{2}$	36	"	"	160	" "	210.00
" S. E. $\frac{1}{4}$	"	"	"	160	" "	200.00
" S. $\frac{1}{2}$ N. E.	23	"	2. M	80	- Milton Feazel	200.00

"	Ex ^{pt} N. W. - 26 - 30	- 2 W. - 80	Chas. Parker	-	225.00
+	S ^{pt} - 28 - 30	- 1 W. 320	" "		100.00
					1135.00

W. B. Green Administrator & Clerk

G. W. E. Cooke Clerk

Defendant objected to the reading of the same in evidence, on the ground that the same were incompetent, irrelevant and immaterial; but the Court overruled said objection, and permitted the same to be read in evidence, and the same was read in evidence as above set forth. To which decision of the Court in overruling said objection and in permitting said files to be read in evidence, the defendant then and there excepted.

Plaintiff then produced and read in evidence the following transcript of the Record in said County Court in the matter of said estate of Joseph Mills deceased

July Term A.D. 1856.

Saturday morning July 12/56. Court met pursuant to adjournment. Present same as yesterday.

On this day appeared W. B. Green and asks that Administrator be appointed upon the estate of Joseph Mills dec. And it appearing to the satisfaction of the Court that said dec. departed this life on or about the day of A.D. 1842. It is therefore Ordered by the Court that said W. B. Green be and is hereby appointed Administrator of all and singular of the goods, chattels and personal estate of Joseph Mills deceased. And it is further Ordered that said W. B. Green enter into bond in the penal sum of fifteen hundred dollars, conditioned as the law directs.

In the matter of the

Estate of

Order to Record Bond

Joseph Mills decd

Now comes W. B. Green Administrator of the estate of Joseph Mills dec and presents his Bond as Administrator of said estate, with G. E. Fort as security. Which is Ordered by the Court approved, filed & recorded in the Record for Administrators Bonds &c.

In the matter of the
Estate of
Leophas Mills decd -

Order to record Letters.

Ordered that letters of Administration issue to Wm. B. Green as administrator of the estate of the estate of Leophas Mills decd. and it is further ordered that said letters be filed and recorded, and is in words and figures as will be found in the record of Administrators Letters &c.

In the matter of the
Estate of
Leophas Mills decd -

Order to record Admins Oath.

Ordered that the oath of Wm. B. Green as administrator of the estate of Leophas Mills decd be approved, filed and be recorded in the record of Administrators oaths &c.

In the matter of the
Estate of
Leophas Mills decd -

Appraisers appointed.

Ordered that Mark Bangs, Abram Green and E. A. Whipple be, and are hereby appointed appraisers of all and singular the goods, chattels and personal estate of Leophas Mills decd -

Daily Term A.D. 1856.

In the matter of the
Estate of
Leophas Mills decd

Order to issue appraisers Warrant.

Ordered that Warrant issue to Abram Green, Mark Bangs and E. A. Whipple of the appraisers of the goods, chattels and personal estate of Leophas Mills decd and it is further ordered that said Warrant be filed and recorded, and is in words and figures as follows.

State of Illinois } To Mark Bangs, Abram Green and E. A. Whipple
Marshall County } of the County of Marshall State of Illinois Greeting.

This is to authorize you jointly to appraise the goods, chattels and personal estate of Leophas Mills late of the County of Marshall and State of Illinois deceased, so far as the same shall come to your sight, each of you having first taken the oath hereto

annexed, a certificate whereof you are to return annexed to an appraisement bill of said goods, chattels and personal estate by you appraised, in dollars and cents. and in said bill of appraisement you are to set down in column, or columns opposite to each article appraised, the value thereof. Witnesses Washington E. Cooke Clerk of the County Court in and for said County, and the seal thereof, at Salem this 12th day of July A.D. 1856.



Washington E. Cooke Clerk

In the matter of the
Estate of
Leophas Mills dec.

Record of oath of appraisers

Ordered that the oath of Mark Bangs, Abram Green and E. A. Whipple be and is hereby recorded, and is in words and figures as follows. You and each of you do solemnly that you will well and truly, without partiality or prejudice value and appraise the goods, chattels and personal estate of Leophas Mills deceased, so far as the same shall come to your sight & knowledge. And that you will in all respects perform your duties as appraisers, to the best of your skill and judgment. So help you God.

Sworn to and subscribed to before
me the 12th day of July A.D. 1856
W. E. Cooke Clerk Co. Court

Mark Bangs
Abraham Green
E. A. Whipple

Order Court adjourns

August Term A.D. 1856.

Friday morning August 5th A.D. 1856. Court met pursuant to adjournment, present same as yesterday.

In the matter of the

Estate of
Leophas Mills dec.

Record of Appraisement Bill.

Now comes W. B. Green Administration of the estate of Leophas Mills dec. and presents the appraisement bill of the personal estate of said deceased, which is Ordered approved, filed and recorded, and is in words and figures as follows.

We the undersigned Appraisers appointed by the County Court of

Marshall County to appraise the goods, chattels and personal estate of Cephas Mills deceased, do hereby certify that we are informed by Wm B. Green Administrator of said estate, that there is no personal property belonging to said deceased. Given under our hands and seals this the 22 day of July A.D. 1856.

Abraham Green
Mark Bangs
E. A. Whipple } Appraisers

Ordered Court adjourn until tomorrow morning 8 o'clock.

December Term 1856.

Friday morning December 12th A.D. 1856. Court met pursuant to adjournment.

Present same as yesterday.

In the matter of the

Estate of

Application Order for sale Real Estate

Cephas Mills dec

Now comes Wm B. Green Administrator of the estate of Cephas Mills, and presents his petition for an Order to sell real estate to pay the debts of said dec. And it is Ordered by the Court that said petition be filed, and it is further Ordered that Geo W. E. Cook be and is hereby appointed Guardian ad litem of the minor heirs of said deceased, and that he make report to this Court.

In the matter of the

Estate of

Answer of Guardian ad litem

Cephas Mills dec -

Now comes Geo W. E. Cook and presents his answer as Guardian ad litem of the minor heirs of Cephas Mills dec, which is Ordered by the Court, approved, filed and recorded, and is in the words and figures as follows.

In the matter of the

Petition of Wm B. Green Adm

Cephas Mills dec

To the County Court of Marshall County

Ills. 10 December Term A.D. 1856.

And now comes Geo W. E. Cook who was by the Court at the present term appointed Guardian ad litem for the unknown minor heirs of Cephas Mills deceased. And for answer says he is ignorant of the matters

and doings in the said complainants bill alleged, and asks the Court to require proof thereof of the petition.

Geo. M. E. Cook Guardian Athol

Minor heirs Joseph Mills.

In the matter of the petition of
William B. Green Administrator of
the estate of Leechas Mills dec in
the County Court of Marshall
County Illinois.

Director sell real estate.

This day came the petitioner by Elias Ramsey his Solicitor. And it appearing to the satisfaction of the Court that due notice has been given by advertising the same in the Sacon Intelligence a public weekly news paper printed and published in the City of Sacon in said Marshall County for four successive weeks, the first insertion thereof being more than six weeks before the first day of the present term of the Court, and the said unknown Widows of said deceased being three times solemnly called came not, but made default. It is therefore Ordered that said complainants petition as to her be taken for confessed, and on motion of said complainants Solicitor G. W. K. Cook is appointed Guardian ad litem for the unknown heirs of said deceased and said Guardian Ad litem having filed his answer herein. And it further appearing to the satisfaction of the Court that said petitioner was duly appointed Administrator of the estate of Joseph Mills dec. and gave bond, and he was duly qualified according to law, and that there has no assets come to his hands as such Administrator, and that there has been debts proved up and allowed according to law against said estate amounting to the sum of five thousand five hundred and sixty nine dollars and seventy five cents, and which are unpaid. And that the said Joseph Mills died seized of the following described real estate, to wit: the South East quarter of Section twenty five, the North West quarter, and the South East quarter of Section thirty six. Also an interest in the $\frac{1}{2}$ of the $\frac{1}{4}$, and the $\frac{1}{2}$ of the S.W. $\frac{1}{4}$ of Section twenty eight in Township No. thirty, No. 10 of Range No. one West of the third principal meridian. Also the South half

of the North ~~West~~^{East} quarter of Section twenty three, and the East half of Section twenty six, both in Township thirty North of Range two, West of the third principal meridian. It is therefore Ordered, adjudged and decreed by the Court that the above described real estate or so much thereof as may be necessary be sold by said Administrator at public vendue at door of the Court house in said County, on a credit of six and twelve months for the purpose of paying the debts with the interest and costs of settling said estate, the petitioner giving the notice by law, and taking bond with approved personal security for the purchase money, and a Mortgage upon the premises sold, and that he convey said real estate to the purchaser or purchasers thereof by deed or deeds, and that he report his proceedings herein to the Court, and this cause is continued.

J. M. Janney Co. Judge

Ordered Court adjourn until tomorrow 9. O'clock A.M.

February Term 1857.

Friday morning February 3rd A.D. 1857. Court met pursuant to adjournment.

Present same as yesterday.

In the matter of the

Estate of

Report of sale Real Estate.

Leophas Mills dec'd.

Now comes Wm B. Green Administrator of the estate of Leophas Mills deceased, and presents his report of the sale of real estate, which after being examined by the Court, is Ordered by the Court approved, filed and recorded, and is in words and figures as follows.

Report of sale of Real estate belonging to the estate of Leophas Mills deceased, sold February 2nd 1857.

The S.E. 1/4	25	30	1 A.	160	Chas Parker	-	200.00
" N.W. 1/4	36	"	"	160	" "		210.00
" S.E. 1/4	36	"	"	160	" "		200.00
" S 1/2 N.E.	23	"	2 A.	80	Milton Fenzel		200.00
" S 1/2 N.W.	26	"	"	80	Chas Parker		225.00
" S 1/2	28	"	1 A.	320	" "		100.00
							1135.00

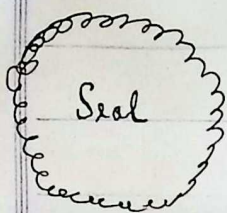
Wm B. Green Administrator & Green

J. M. Janney Co. Clerk

State of Illinois

Marshall County }
Jas. R. Chapman

I Jason, R. Chapman, Clerk of the County Court in and for said County, do hereby certify that the foregoing are all the proceedings, as appears of record in my Office in the matter of the estate of Cephas Mills deceased.



In testimony whereof I have hereunto set my hand and affixed the seal of the County Court at Salem this nineteenth day of November A.D. 1862,

J. R. Chapman
Clerk

Charles Parker a witness produced and sworn as a witness on part of Plaintiffs, testified as follows.

I know the parties to the suit, I know the land in dispute. I bought the land at Administrators sale at the request and for William B. Green. I paid no consideration for the land and afterwards quit claimed. Do not know to whom I quit claimed. The deed was recorded, and Green paid for the recording. Lockwood knew of the sale. Do not know whether he was here when the sale took place. Think I heard Green and Lockwood talking about sale. I did not buy it for myself. I bought it for W. B. Green. Remember hearing Green and Lockwood say they had bought some claim against the estate of Cephas Mills. All I knew was that they had bought some claims. This was before the sale, may have been two or six months. Have not heard Lockwood say anything about it since the sale. That was the only time I bought land at Administrators sale of Green.

Examination.

At what sale a dozen different tracts of land were sold. I don't think I ever bid at any other sale. Am not certain that I may not have done so, can't tell the numbers of the land I bought. Can't say what prices they were. Could not give a single quarter. Cannot tell how many pieces there were. I did not bid off all the lands of Cephas Mills. Cannot tell how many tracts in deed from me to Green. Cannot tell who took the acknowledgement. Don't think I read the deed. Know I looked at it at the numbers of the land

but have no recollection about it. He saw it because I never sign deed without looking at the description. The land East of Mr. Shaw's was bought at the same sale. Witnesses also testified that one reason why he could not give the land he bought was that he was not buying for himself.

William B. Beers a witness on the part of plaintiff produced and sworn testified as follows.

I was once Public Administrator of Marshall County, and made the sale of land in controversy as Administrator of the estate of Ephus Mills deceased. Charles Barker purchased three pieces of the Mills land. Lockwood knew of all the facts and circumstances of the Administrator's sale to Barker. Lockwood knew how title was obtained, was interested with me in getting the title to the property. Lockwood got the note from Mr. Beers and brought it to me. The note was from Mills to his brother. This is the note I refer to (said note was as follows.

New York June 1st 1838.

\$2500. Twelve months after date I promise to pay to the order of John. E. Mills Esq. at the Union Bank twenty five hundred dollars, value received.

Ephus Mills

Lockwood was interested with me in getting a perfect title to the land we were to get the title, dispose of the land and divide the profits. I appeared in County Court as a creditor, he did not tell when the sale was without looking up the papers (the paper in evidence as Administrator's report shown to him) Signature to this paper is not my signature. Did not authorize any one to sign it. I don't believe I ever authorized any one to make the report. George Looker was present at sale. I think I made out a memorandum of the sale in pencil, and gave to George Looker's father who was then County Clerk. Did not hear him that as my report. Lockwood and I talked about the matter before the sale. He was not here at the time of the sale. Lockwood did not give me any thing for the land. No other lands given in exchange. Three quarters were sold at that time.

The land was worth at the time of sale by administrator.

George Q. Barnes sworn as a witness on the part of plaintiff, testified as follows. Am acquainted with the land in controversy and also

the other two quarters in Administrators deed. The land was worth at times of sale from six to ten dollars per acre. Now worth at least a thousand dollars to the quarter section.

The above was all the testimony in the case.

The Court having heard the arguments of Counsel, adjourned until eight O'clock A.M. of the then next morning.

Now again on this day of January A.D. 1864. it being one of the days of said term of said Court, and the same being judicially sitting, came the parties to said cause by their respective Attorneys. and the Court having considered the evidence and arguments of Counsel in said cause, ~~doth~~ find that the plaintiffs are the owners in fee of the land mentioned in declaration as therein alleged. And that defendant is guilty as charged in Narr. And announced and entered the same on the Judges docket, the same as the finding of the Court. To which opinion and finding of the Court the defendant then and there excepted.

Defendant therefore moved the Court to grant to defendant a new trial herein on the ground first, That the Court erred in admitting improper testimony on behalf of plaintiffs.

Second. The Court found for plaintiffs. And such finding was against law and evidence.

Third. The Court found the fee in all the plaintiffs, when there was no title shown in one of the plaintiffs Allen Fuller.

And said motion for a new trial having been argued by Counsel, the Court intimated an opinion that the finding should have been that the fee in the lands mentioned was in the plaintiff Elsie L. Mills, before Mills, Byrnes, M. Mills, Hannah Mills and Mary Turner, and that the Court had the power and would then and there correct said entry on the Judges docket, and so enter said finding as to obviate said objection. To which opinion of the Court that the Court then had the right to so change the said entry on the Judges docket, the defendant then and there ~~objected~~ ^{excepted}.

And thereupon the Court against the objection of said defendant changed an entry on the Judges docket, ~~corrected~~ ^{was corrected} said, so that the same was as follows

The Court find the plaintiffs Leisher S. Mills, Leaphar Mills, Keyner M. Mills, Hannah Mills and Mary Turner the owners in fee of the land mentioned in Narr. and that defendant is guilty.

To which opinion and decision of the Court in changing said finding after the same had been announced and recorded, and after the argument of the motion for a new trial. The defendant then and there excepted.

And thereupon the Court overruled said motion and refused to grant to defendant a new trial herein. To which decision of the Court in overruling said motion and in refusing to grant to defendant a new trial, defendant then and there excepted.

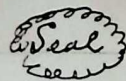
The Court being about to enter judgment on the finding of the Court, the defendant entered a motion in arrest of judgment. Which motion in arrest of judgment the Court overruled. To which decision of the Court in overruling said motion in arrest of judgment, the defendant then and there excepted.

After which the Court entered judgment on the finding.

And inasmuch as the matters aforesaid do not otherwise fully appear of Record, the defendant then and there prayed the Court to sign and seal this his bill of exceptions in said cause and make the same a part of the record in said cause. Which was then and there done accordingly, and this bill of exceptions made a part of the Record in said cause.

February 24th 1864.

S. L. Richmond
Judge 23rd Judicial Dist.



And afterwards "to wit" February 24th AD 1864, Comes the Defendant and files in said Court his appeal & Bond which is in the words and figures following "to wit"

Know all men by this present that One Ralph Vockwood as principal and Aaron R. Chapman, John P. [unclear] are held and firmly bound unto Elisha V. [unclear] Cephas Mills, Cephas Mills, Warrman Mills, Mary Turner [unclear] and Allen Turner her husband, in the several sum of Fifty Hundred Dollars for the payment of which, well and truly to be made we bind ourselves our heirs, Executors Administrators and assigns, Jointly, severally and firmly by the presents Given under Our Hands and seals this 20th day of February AD 1864,

The Condition of the above Obligation is such that Whereas the above named Obligees, did on the 27th day of January AD 1864, in the Marshall County Circuit Court in the State of Illinois recover a Judgment in Ejectment in a certain suit then pending in said Court to be given them against the above named Ralph Vockwood for the North West quarter of section No. Thirty six, T. 36 N. R. One N, of the 3^d P. M, as well as their Costs of suit therein Expended in which suit said Obligees were Plaintiffs and said Vockwood was Defendant, And whereas the said Obligees did on the same day and in the same Court in another suit then pending in said Court recover a Judgment in Ejectment against said Vockwood for the South East quarter of section No. Twenty five, and the South East quarter of section Thirty six, all in T. 36 N. R. 1 N, 3^d P. M, as well as their Costs of suit therein Expended in which suit, said Obligees were Plaintiff and said Vockwood was Defendant, And whereas said

Defendant has prayed an appeal to the Supreme Court of said State from the Judgment first above named but said appeal has been allowed.

Now if the said Defendants shall duly prosecute said appeal with Effect, and shall also well and truly pay, or cause to be paid all money due or to become due on said Judgment and all Costs, and interest and damages in Case the said Judgment shall be affirmed, And shall also well and truly pay or cause to be paid the Judgment in the second Case above mentioned, and all Costs and interests and damages therein in Case the said Judgment appealed from shall be affirmed in said Supreme Court, then the obligation to be Void, Otherwise to remain in full force,

Interlined "of section "

J. M. Shaw,

Ralph V. Ackland
John P. P.
Casin R. Chapman

On the back of which said appeal Bond there appears the following endorsement "to wit"

"Taken, approved and filed this 25th day of Feb, A.D. 1864

Sheldon Arnold

Clk. R.

State of Illinois } ss. J. Sheldon Arnold Clerk of
Marshall County } of the Circuit Court in and for
said County of Marshall in the
State aforesaid do hereby Certify that the foregoing
is a true, correct and complete copy of the matters
and things therein contained in said cause
mentioned therein as appears of Record in my
Office

In testimony whereof I have
hereunto set my hand and affixed
the seal of said Court at Vicksburg
this fifteenth day of April A.D. 1864
J. Sheldon Arnold
Clerk,

And said appellants comes and says that
the record and proceedings aforesaid
there is manifest error to wit

1. Said Circuit Court erred in admitting
improper and incompetent testimony
on part of appellees
2. Said Court erred in finding for appellees
instead of for appellants and the finding
was against the law and the evidence
3. Said Court erred in changing the
original finding to the benefit of the
same had been announced entered
and judgments, of motion for a new trial
4. The said Court erred in overruling appellees
motion for a new trial in said cause
5. The said Court erred in overruling
motion in quest to judgment

- 6 The said Court ended in holding that the authorities of Attorneys to commence said was sufficient.
- 7 The said Court ended in not excluding from the of Frances Brown on motion of Appellant.
- 8 The said Court ended in overruling Appellant's motion to suppress the deposition of Frances Brown from the
- 9 The said Court ended in remitting said Cause on the docket and vacating the order ^{dismissal and} of voluntary non suit submitted to by Appellants -
- 10 The judgment was for Appellants, where of the Cause of the land of the land had been for Appellants. And because of said Cause Appellants had their said judgment reversed and he restored to all that he had lost thereby and Appellants ^{by Bond of the} ^{his} ^{Appellants}

1877 11/2
Elisha D. Wells Secy.

1877

Ralph D. Woodward
Clerk

Copy of Record

Filed April 12 1884

J. L. Leland
Clerk