

No. **12462**

Supreme Court of Illinois

Comstock

vs.

Gregory

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64, Nov 177

John Comstock
vs

Richard A Gregory

106
1857

1857

12462

X

Refused

State of Illinois } Pleas in the circuit court in and for the
Peoria County } county of Peoria and state of Illinois before
the Honorable Judge of said court presiding therein according to law:- To all whom it may concern, Know ye, that the records of said court being inspected and examined, there appears of record among the records and proceedings of said court the following matters and things, to wit.

Be it remembered, that there was filed in the clerk's office of the Peoria County Circuit Court, in said state, on the third day of September A.D. 1853, a Petition for Partition, in words and figures following, to wit:-

To the Hon. Nelson Peters Judge of the Circuit Court in and for the County of Peoria and State of Illinois in Chancery Sitting

The petitioners of Richard A. Gregory and Anna Gregory his wife of the City of St Louis in the State of Missouri respectfully represent

That on the ^{eighteenth} ~~eighteenth~~ day of May A.D. 1838 James P. Morris then in full life but since deceased recovered judgment in the Circuit Court of Peoria County in the State of Illinois for the sum of four thousand three hundred and ninety seven Dollars and forty seven Cents debt and Costs of Suit against William H. Savago and William J. Austin and on the 10th Day of June A.D. 1838 an Execution was issued on said judgment to the Sheriff of Peoria County commanding him of the goods and chattels lands and tenements of said William H. =

Savago and William J. Austin to levy & make the amount of the aforesaid judgment and costs

And your petitioners further show that on said 18th Day of May A.D. 1838 Edward Tracy then in full life but since deceased and Alfred Tracy recovered judgment against said William H. Savago and William J. Austin in said Circuit Court of Peoria County for the sum of Thirteen hundred and Eight Dollars and costs of suits and your petitioners further show that an Execution also issued on said last named judgment directed to the Sheriff of Peoria County and dated on the 12th Day of June A.D. 1838. And your petitioners further represent that the then Sheriff of Peoria County under and by virtue of said two Executions so issued by the Clerk and under the Seal of said Circuit Court against said William H. Savago and William J. Austin levied the same upon Lots Fifteen, Twenty one, Twenty two, Twenty four, Twenty Six, Twenty Eight, Thirty one, Thirty two, Thirty four, Thirty Six, and Thirty nine (Lots 15, 21, 22, 24, 26, 28, 31, 32, 34, 36, & 39,) in Mills addition to Peoria in Range nine, in the County of Peoria and State of Illinois and said Sheriff after having duly advertised said Lots for sale on the Eleventh Day of August A.D. 1838 sold the said Lots at public sale vendue and then and then openly struck off the same to said James P. Morris and Edward Tracy and Alfred Tracy at and for the sum of _____ Dollars & your petitioners show that said sale in all respects legal and in conformity to the provisions of the Statute in such cases made and provided and at the

time & place provided by law and as mentioned in said advertisement

And your petitioners further Show that on the eighteenth Day of June A.D. 1849 Christopher Orr then acting as Sheriff in and for the County of Pima aforesaid, Executed in due form of law a Deed for said Lots 15, 21, 22, 24, 26, 28, 31, 32, 34, 36, & 39 in said Mills addition to Pima to said James P. Morris Edward Tracy and Alfred Tracy as will fully appear by said Deed a copy of which your petitioners will produce on the hearing of this cause and offer the same in evidence

Your petitioners further Show that although by these terms of said Deed it would appear that ~~each~~ each of the grantees in said Deed took & held the one undivided their part of said Lots yet your petitioners Show that at and before the time of said Sale it was understood and agreed by said James P. Morris and said Edward and Alfred Tracy by Parol that inasmuch as the judgment in favor of said James P. Morris was much larger in amount than the judgment in favor of said Alfred & Edward Tracy that they would take a conveyance of the property jointly but that upon a division or sale of said Lots said James P. Morris should hold and have the in undivided two thirds ~~a~~ parts of said Lots and that said Edward and Alfred Tracy should only have and hold the remaining one undivided third part of said Lot

And your petitioners further Show that said James P. Morris and Edward and Alfred Tracy (during the life time of said James P.

Morris and Edward Tracy) allway assented to and acted upon said agreement & understanding and said James P. Morris during his life time paid two thirds of the taxes assessed upon said Lots and said Albert and Alfred Tracy paid But one third of the taxes assessed on said Lots

And your petitioners. Expect to prove to the Satisfaction of your honor and so Charge that - said James P. Morris was in fact the Equitable owner of two thirds of said Lots and that - said Edward and Alfred Tracy were the owners of but one undivided third part of said Lots

And your petitioners further represent that - or about the year 1850 said James P. Morris departed this life leaving Anna Gregory (one of your petitioners) Lydia L. Gover and James Morris his Children and sole heirs at Law. Your petitioners further show that - said Anna inter-^{married} ~~married~~ with your petitioners Richard A. Gregory and that Lydia L. Gover is the Wife of and Married to Robert L. Gover and that - said Lydia L. Gover and Robert Gover and said James Morris (and when your petitioners pray may be made parties defendant hereto) reside in the City of St Louis in the State of Missouri

And your petitioners further show that - said Edward Tracy departed this life or about the last Day of September A.D. 1848. leaving Charles F. Tracy, Edward N. Tracy, John N. Tracy, Henry W. Tracy, Augustus C. Tracy Alfred B. Tracy William F. Tracy

and Eliza R. Tracy his Children and Sole heirs at law
all of whom reside in the State of Missouri and whom your
petitions pray may be made parties dependent to the petition
and your petitions further represent that said Alfred
R. Tracy, William F. Tracy and Eliza R. Tracy are
infants under ^{the} age of twenty one years.

And your petitions further show that said
Alfred Tracy is a resident of the City of St Louis in said
State of Missouri and your petitions pray that said Alfred
maybe made a party dependent to this petition.

And your petitions show that these
* and the owners of the undivided two ninth parts of said
Lots and pray that the same maybe set off and apportioned
to them in severally.

Your petitions further show that said lots
and the Lands embraced in them and entered and purchased
of the general government by John L. Bogardus on the 17th
Day of May 1852 and that said John L. Bogardus sold &
conveyed the same to Benjamin Mills on said 17th Day
of May A 1852.

Your petitions further show that said
Benjamin Mills on this 30 Day of April A.D. 1853 conveyed
said Lots to William A. Savage, that on the ninth Day
of February A.D. 1856 said Savage executed a power of
attorney to one John L. Rutger authorising him to
convey said Lots and said Rutger under and by virtue
of said Power of attorney conveyed said Lots to John
C. Flannagan and Johnathon D Harris by Deed dated
May 21. 1856 and on the first Day of May 1856 said

Glennan & Harris executed a Deed of trust on said
lots to William H. Savage and William J. Austen
and on the 28th Day of April A.D. 1837 said John C.
Glennan and Johnathan P. Harris by these Deeds of ~~that~~
that-date conveyed said lots in fee simple to William
H. Savage and your petitioners show that said levy & sale
of said lots so made by said Sheriff under and by virtue
of said two Executions vested the fee simple in said lots
in said James P. Morris Edward Tracy and Alfred
Tracy and your petitioners on the hearing of this Cause will
produce all of the ~~original~~ ^{originals} conveyance in their power and
control in evidence and in case they can not produce
any or all of said original conveyance they will appear
in evidence copies of said conveyance as they appear in
the records of Iron County showing a regular claim
of title from the government of the United States down
to the Father of said Anna ^{& said Edward & Alfred Tracy} your petitioners therefore
pray that the writ of summons may issue to all the
heretofore named defendants that they may answer
all and singular the premises without oath the oaths
of said defendants being expressly warned that upon the
final hearing of this Cause a guardian ^{and} ^{trustee} ^{let} may be
appointed for said infant defendants and that commissioners
as maybe appointed to make partition of said lots accord-
ing to the equitable rights of the parties in interest & that
the two ninth parts of said lots may be set off and
aparted to your petitioners and that in case partition of
said lots cannot be made without manifest injury

to the proprietors thereof thus - the same may be sold
and the proceeds thereof applied ^{applied} ~~applied~~ to the payment
of the costs and expences of this proceeding and the
balance remaining after the payment of the costs and
expences be divided and distributed among the
parties entitled thereto according to their respective share
in interest - & your petitioners ^{will} ~~will~~ ever pray

By Grove & McCoy
Sols for Compts

Richard A. Gregory &
Anna Gregory his Wife

vs.

Sydia L. Gover
Robert. Gover
James Morris
Alfred Tracy
Charles F. Tracy
Edward N. Tracy
John N. Tracy
Henry W. Tracy
Augustus C. Tracy
Alfred R. Tracy
William F. Tracy
Eliza R. Tracy

In the Circuit Court of
Pena County
For partition
In Chancery

Alexander McCoy being
duly sworn on oath says that
the several statements in the
petition hereto annexed wherein
Richard A. Gregory and Anna
his Wife are petitioners as Sydia
L. Gover & others are defendants
are true in substance and in fact & that said Sydia L.
Gover, Robert Gover James Morris Alfred Tracy Charles F.
Tracy Edward N. Tracy John N. Tracy Henry W. Tracy, Augustus
C. Tracy Alfred R. Tracy William F. Tracy and Eliza R.
Tracy are not residents of the State of Illinois but said

defendants all reside as affiant is informed and believes in
the State of Illinois Superior

A McCoy

Subscribed & Sworn to before

me this 3rd Day of September 1853-

Jacob Gale Clerk

The Clerk will please
issue Summons in above entitled Cause

To Jacob Gale Esq

Grove & McCoy

Solo for Compt

And afterwards, but on the day of the filing of the
foregoing Petition for Partition as aforesaid, there was
issued from the clerk's office aforesaid, a summons
in chancery, in words and figures following, to wit:
"The People of the State of Illinois, To the Sheriff of Peoria
County Greeting:— We command you to Summon Lydia
L. Gover, Robert Gover, James Morris, Alfred Tracy,
Charles F. Tracy, Edward A. Tracy, John A. Tracy, Henry
W. Tracy, Augustus C. Tracy, Alfred R. Tracy, William F.
Tracy, and Eliza R. Tracy, if they may be found in your
county, to appear before our circuit Court on the
first day of the next term thereof, to be held at Peoria
within and for the said county of Peoria, on the third
Monday of November next, then and there, in our
said Court, to answer the matters and things con-
tained in a certain bill or petition for partition of
Real Estate, exhibited against them in our said Court
on the chancery side thereof, by Richard A. Gregory

I Anna Gregory his wife and make return of this writ, with an endorsement of the time and manner of serving the same, on or before the first day of the term of the said Court to be held as aforesaid. —

 Witness, Jacob Gale, Clerk of our said Court, and the seal thereof, at Peoria, this 3rd day of September in the year of our Lord one thousand eight hundred and fifty-three.

Jacob Gale, Clerk."

Which said Summons was afterwards returned to the office of the circuit court clerk, aforesaid, with an endorsement upon it in words and figures following to-wit:—"The within named defendants were not found in this county, this 12th day of September 1853. L. B. Cornwell, Sheriff, by John Bryner, dep't."

Proceedings in chancery, before the circuit court at a term thereof begun and held at the court house in the city of Peoria, in and for the county of Peoria, in the state of Illinois on the first Monday of March in the year of our Lord one thousand eight hundred and fifty-four, it being the sixth day of said month. The Honorable Ouslow Peters judge of the sixteenth Judicial Circuit in the state of Illinois, presiding to-wit:—

Thursday, March 30th A.D. 1854.

Richard A. Gregory & others

18. Petition for Partition
Lydia L. Gover & others

On motion of the petitioners
leave is given them to amend their bill, and
this cause is continued to next term.

And afterwards, to wit: on the sixteenth day of
December, in the year of our Lord, 1854, there was
filed in the office of the clerk aforesaid, an
amended and Supplemental petition in words
and figures following to wit:

*
Richard A. Gregory & Anna Gregory his wife
vs.
Lydia L. Gover et al.

In the Circuit Court
of Penna County
Petition for Partition

Richard A. Gregory & Anna Gregory his wife by way of amendment & supplement to their original bill filed in this cause further state that said James P. Munn at the time of his Decease left four children his sole heirs at Law and that Caroline C. Austin one of said children & heir at Law of said James P. Munn since the filing of the original petition in this cause conveyed all her interest in said Lots 15, 21, 22, 24, 26, 28, 31, 32, 34, 36, & 38, to your petitioner Richard A. Gregory and that said Caroline C. Austin has now no interest in said premises

Your petitioners further show that since the filing the original petition in this cause Administration on the Estate of Edward Tracy deceased was granted in due form of law by the County Court of Penna County to Ezra L. Sanger of said County & said Sanger took upon himself the duties of administration & gave ^{bond} ~~Law~~ according to Law — And your petitioners further say that said Sanger as administrator on the Estate of said Edward Tracy did file his petition in the said County Court of Penna County praying for an order and decree of said Court ^{authorizing him} ~~and the bying herein~~ to sell all the interest in said Lots that said Edward Tracy held therein at the time of his decease and said County Court in pursuance of the prayer of said petition did order a Sale of said interest

of Said Edward Tracy in Said premises and Said Savago
 pursuant to the order and Decree of Said Court after
 giving due Notice according to Law of the time place
^{terms} ~~being~~ and Conditions of Said Sale together with a correct
 description of the premises to be sold at the time & place
 mentioned did sell off Stake off and convey to John Corn-
 stock all the right title interest and Estate of Which Said
 Edward Tracy Died Seized of inst Said Lots 15, 21, 22,
 24, 26, 28, 31, 32, 34, 36, & 39, in Said petition mentioned
 so that by reason of Said Sale and Conveyance to Said John
 Cornstock Said Charles F. Tracy, Edward A. Tracy, John
 N. Tracy, Henry W. Tracy, Augustus E. Tracy, Alfred
 R. Tracy, William S. Tracy & Eliza R. Tracy Children
 and heirs at Law of Said Edward Tracy Deceased have now
 no interest in Said premises nor any part thereof.

Your petitioners further Show that
 Said Savago and Said John Cornstock before and at the
 time of the Sale of Said Lots in Said petition mentioned
 by Said Savago to Said Cornstock had both actual and
 Constructed Notice that Said Estate of Edward Tracy
 only had an undivided Sixth part of Said Eleven Lots
 & that Said Cornstock purchased & took a Conveyance
 of Said interest with a full Knowledge of the Claim
 of the heirs of Said Morris & that your petitioners petition
 was then pending in the Court for hearing & partition
 Your petitioners further Show that Since the filing of the
 original petition in this Cause the interest of Said Alfred
 Tracy in & to one undivided Sixth parts of Said Eleven Lots has

been conveyed to said John Comstock so that said
Alfred Tracy has now no interest in said Lots or in
either of them Your petitioners further charge that said Com-
stock purchased and took a conveyance of the interest of
said Alfred Tracy with a full knowledge that your peti-
tioners original petition filed in this Cause was then pen-
ding and undetermined in this Court & with full
Notice that said Alfred only could convey an unamended
third part of said premises Your petitioners further charge
that said John Comstock is entitled to have the
one thirds part of said Eleven lot set off to him and
no more and that your petitioners Lydia L. Gover and
James Morris are the owners of and are entitled to have
set off to them the two thirds parts of said Lots
Your petitioners therefore pray that said John Comstock
maybe duly summoned & made defendants herein that
he may answer all and singular the premises herein
and in ^{the original petition} ~~unto to the original hereafter mentioned~~. that on the
hearing of this Cause partition may be made of said
premises that one third part maybe set off and aperted
to said John Comstock and the remaining two thirds
parts of said Lots 15. 21. 22. 24. 26. 28. 31. 32. 34. 36. & 38
may be set off and aperted to your petitioners & said Lydia
L. Gover & said James Morris in Common & that your petitioners
may have such & their and further relief as Equity & good
Conscience may require

By Grove & McLean
the Sols

Proceedings in Chancery before the circuit Court
at a term thereof begun and held at the court house
in the city of Peoria in and for the county of Peoria
in the state of Illinois, on the third Monday of
November in the year of our Lord 1854. Hon. Ouslow
Peter, judge of the 16th judicial circuit in the state
of Illinois, presiding, to wit: -

Saturday, December 16th A.D. 1854.

Richard A. Gregory

Anna Gregory

vs.

Petition for Partition

Lydia L. Gover & others

On motion of the petitioners it is ordered
that alias summons be issued in this cause to
the defendant John Comstock, returnable to next
term of court.

And afterwards to wit, on the twelfth day of Jan-
uary in the year of our Lord, 1855, there was is-
sued from the office of the circuit court clerk
aforesaid, an Alias Summons in Chancery in
words and figures following to wit: -
The People of the State of Illinois, To the sheriff of
Peoria county - Greeting; We command you to summon
John Comstock if he may be found in your county, to
appear before our circuit court on the first day
of the next term thereof, to be held at Peoria, within and

for the said county of Peoria, on the first Monday of February next then and there, in our said Court, to answer the matters and things contained in a certain bill or petition for partition of Real Estate exhibited against him & Lydia L. Gover, Robert Gover, James Morris, Alfred Tracy, Charles F. Tracy, Edward A. Tracy, John A. Tracy, Henry W. Tracy, Augustus E. Tracy, Alfred R. Tracy, William F. Tracy & Eliza R. Tracy, in our said court on the chancery side thereof by Richard A. Gregory & Anna Gregory his wife, and make return of this writ with an endorsement of the time and manner of serving the same, on or before the first day of the term of the said Court to be held as aforesaid. Witness, Jacob Gale, Clerk of our said Court, and the seal thereof, at Peoria, this twelfth day of January in the year of our Lord one thousand eight hundred and fifty-five

 Jacob Gale, Clerk."

Which said summons was afterwards returned endorsed in words and figures following to-wit: "State of Illinois, Peoria County, ss. Served on the within named John Coustock by reading and giving him a true copy of this writ, January 13th 1855. David D. Bour, Sheriff, Peoria Co."

Proceedings in Chancery before the circuit court

at a special term thereof begun and held at the court house in the city of Peoria in and for the county of Peoria in the state of Illinois on the first Monday in February in the year of our Lord one thousand eight hundred and fifty five, it being the fifth day of said month. The Honorable Ouslow Peters, judge of the sixteenth judicial circuit in said state presiding, to wit:-

Thursday, February 8, A.D. 1855.

Richard Gregory

Anna Gregory

vs.

Petition for Partition

Lydia L. Gover & others

on motion of the complainants by Alexander McCoy their solicitor, it is ordered that the defendant Comstock answer the complainants bill by the second day of March term of this court."

Proceedings in Chancery before the Circuit Court at a term thereof begun and held at the court house in the city of Peoria in and for the county of Peoria in the state of Illinois on ~~the~~ Monday the fifth day of March in the year of our Lord, eighteen hundred and fifty-five. The Honorable Ouslow Peters judge of the sixteenth judicial circuit in the state of Illinois, presiding -
to wit:-

Wednesday, March 28th A.D. 1855.

Richard A. Gregory

Anna Gregory

vs.

petition for partition

Lydia L. Gover & others.

By agreement of parties this cause is continued to next term of court and the time for the defendants to answer herein is extended to the first day of May next.

And afterwards to wit, on the eleventh day of May, A.D. 1855, there was filed in the clerk's office of said county, the answer of John Cornstock, in words and figures following to wit.

State of Illinois
Peoria County 3^d Peoria Circuit Court May Term
A.D. 1853

Richard A. Gregory & Wife
vs.

Sydia Gover & others } The answer of John Comstock
to the petition of Richard A. Gregory and Anna Gregory,
his Wife filed herein and also to the amended petition
herein filed

Said Comstock answering unto so much of
said original and amended petition as he is advised is
necessary to be ^{answered} ~~answered~~ unto says "That it is true as stated
in said original petition James P. Morris in his lifetime
and about the time stated in said petition recovered
judgment for the amount and against the persons therein
stated and that Execution issued at the time and in the
manner stated in said original petition

That it is true on the 18th Day of May 1853
Alfred and Edward Tracy recovered judgment against said
William H. Savago and William J. Austin in the manner
and for the amount stated in said original petition and
that a writ of Execution also issued in said last named
judgment at the time & in the manner stated in said
original petition and that each of said Executions was levied
upon at the time & in the manner stated in original petition
and that the said property so levied upon was at the time
& in the manner stated by petition struck off and sold to
said James P. Morris and Edward & Alfred Tracy and
afterwards on the 18th Day of June 1854. deemed by the

Sheriff of Peoria County to said purchasers

This respondent further answering says that ~~it~~ does appear as strongly intimated in said original petition that said Sheriff Deed was made deeding said Lots to said Morris and Edward & Alfred Tracy vesting an interest in each of our undivided third part of said premises and this respondent states it to be the fact that said Alfred & Edward Tracy and James P. Morris each by virtue of their said purchase and Sheriff's Deed to them became & was seized both in law & equity of one equal undivided third part of said premises so purchased

This respondent says it is not true & therefore denies that either before or after said Sheriff Sale there was an agreement or understanding between said Morris Edward & Alfred Tracy by above the said Edward & Alfred were upon a division or sale of said premises to have only an interest of one third undivided interest therein and he denies all manner of agreement or ^{arrangements} ~~assents~~ for that purpose or to that effect but on the contrary says that said James P. Morris Edward & Alfred Tracy were after their said purchase at said Sheriff Sale and for a long time thereafter tenants in common of said property such seized of our legal undivided third part thereof.

Further answering he says that it is not true and therefore he denies that said James P. Morris Edward & Alfred Tracy always or at any time assented to or acted upon said supposed understanding & agreement

Respondent further says he does not know whether said Morris in his lifetime paid two thirds of the taxes assessed on said premises or not - or whether he paid any part of the taxes thereon, ^{and therefore} calls for the proof He further says that if said Morris did pay two thirds of the said taxes he done so of his own accord and without any agreement or understanding that he was paying Tax on two thirds of said premises as his own property.

Respondent believes it to be true that said James P. Morris ~~did~~ died leaving his Widow Anna who is the Wife of Richard Gregory the petitioner out of this he has no other means of knowing them the statement to that effect in said original Petition and therefore for the sake of ^{marriage} certainty calls for the Proofs of such Death and ~~marriage~~

He further answering says he does not know whether said James P. Morris at his death left heirs at law the said persons named in said original petition and if this asks for the proof

Respondent further answering says he believes it to be true that said Edward Tracy departed this life about the time stated in said original petition leaving children & heirs the persons stated therein. Further answering respondent says that the statements in said original Petition in regard to the manner in which the title to said premises ^{came} from the general government - done to the said James P. Edward & Alfred Tracy by a regular chain of conveyances are true except as to the quantity of interest - each of the last-named persons obtained by the Deed from said Sheriff

and further answering by way of defence to said petition Respondent denies that said Richard Gregory and his said wife at the time of filing their said original petition herein ~~had~~ secretly or fraudtly or in any manner whatever any interest in said premises that would then or ~~will~~ now entitle them or either of them to claim a division & partition of said premises and that by their own showing of they or either of them have any such Right. Such right has been acquired since the commencement of this suit and respondent therefore submits to the Court as a question of Law whether they ^{can} for the reasons above stated, maintain this action and insists upon the same as if said petition was demanded to on that account.

Respondent further answering says that he is not advised and therefore insists upon proof of the statement in petition amended & supplemental petition that Caroline C. ^{Austen} ~~Morris~~ one of the children & heirs at Law of said James P. Morris died since the filing of said original petition in this cause conveyed her interest in said premises to said petitioner Richard Gregory.

He further answering says he believes the statement in said amended & supplemental petition ^{is} related to the administration on the estate of said Edward Tracy ^{decd} ~~and~~ are true and further states that it is true that respondent believes the purchaser of the interest of said Edward Tracy in said premises at the administrator sale thereof which interest respondent supposed was at the time of said adm^r sale and still believing to be our Equal

undivided third part of said premises

Respondent further answering denies the statement made in said Supplemental petition that-as the time & before said Adms Sale this respondent had actual & constructive notice. that said Estate of Edward Tracy only had an undivided sixth part of said premises and that this respondent purchased & took a conveyance of said premises with a full knowledge of the claim of the heirs of said Morris but on the contrary he states the fact to be that he purchased his interest in said premises firmly believing that he was purchasing two undivided third parts in said premises and further that he never had any notice or information from any source whatever relative to said pretended agreement & understanding and said pretended claim of the heirs of said Morris stated in said original & amended and Supplemental petition

He further states that it is true that this respondent purchased out the interest of said Alfred Tracy in said premises but he denies that he took a conveyance of the interest of said Alfred Tracy with any notice of the pretended claim of said petitioners or the heirs of said Morris as supposed in said petition on the contrary respondent purchased the interest of said Alfred believing it to be an interest of one undivided third part thereof

Respondent says it is not true that he is only entitled to have set off to him one equal third part of said premises but on the contrary he shows and charges that he is the owner of two equal undivided thirds in said premises and

has a right to have two thirds of said premises set-off to him in case partition and division shall be made of said premises Respondent further answering says that by the first section of the 44th Chapter of the revised Statutes of the State of Illinois entitled a frauds and Reggumio to be found on page 238 of said Revised Statutes it is enacted that no action shall be brought whereby to charge any Executor or administrator upon any special promise to answer any Debt or damage out of his own Estate or whereby to charge the defendant upon any special promise to answer for the debt default or miscarriage of another person or to charge any person upon any agreement made upon consideration of marriage or upon any contract for the sale of lands tenements or hereditaments or any interest in or concerning them for a longer term than one year or upon any agreement that is not to be performed within the space of one year from the making thereof unless the promise or agreement upon which such action shall be brought or some memorandum or note thereof shall be in writing and signed by the party to be charged therewith or some other person thereunto by him lawfully authorized and respondent further says that the said agreement & understanding set up in said original & amended and Supplemental petition is and was within the Statute and respondent here insists upon the said Statute as if the same were more particularly and especially pleaded herein

and lastly said respondent answering says
that all the matters and things stated in said
petition original & Supplemental except that
which is hereinbefore expressly admitted ^{are untrue} ~~are untrue~~
without that, that any other matter or thing in
said petition original amended & Supplemental
and not hereinbefore answered unto admitted
or denied is true and this he is ready to ^{verify} and
prove as this Hon^{ble} Court shall direct and
pray to be dismissed &c

John Cornstock
By Lindsay & Lauder
his Solicitors

And afterwards to wit- on the nineteenth
day of November A.D. 1855, there was
opened under a general order of court
and filed in this cause in the office of the
Circuit Court clerk aforesaid, the follow-
ing depositions - to-wit:-

Interrogatories to be propounded to Alfred Tracy
Caroline C. Austin Charles F. Tracy and Edward N. Tracy
which with the answers thereto will be read in evidence in
the hearing of a certain Cause in Partition now pending in
the Circuit Court of Sonoma County wherein Richard A
Gregory and Ann Gregory are Petitioners and Lydia L
lover and others are defendants, in the form of Petitioners
Interrogatory 1'

To Caroline C. Austin

What is your age, Where
do you reside, and what were the names of your Father
and Mother, are they or either of them Dead? When and
where did they die, What are the names of all and each of
their Children, Where do said Children reside.

Int 2., are either of the Children of said James P.
Morris dead if yea, did they die leaving children, When
surviving of so State the names and ages of such Children
and are they or either of them alive

Int 3., Are any of the Daughters of said James P.
Morris, Married if so to Whom Where and Where were they
Married, and have the Husbands of either of them Since
deceased, if so State Which, When and Where and the
means you have of Knowing said facts

Int 4. Do you know and can you State any other matter
or thing of advantage or benefit to the Petitioners of so State the
Same fully and particularly

(2)
To Alfred Tracy,
Interrogatory 1

What is your age and where do you reside

Int 2.

Int 2. Were you acquainted with Edward Tracy & James Morris either of them, if so when where and how long were you acquainted with them: are they or either of them dead, if so state when and where they died, and state whether they or either of them left children then surviving. State the names of the children of said James P. Morris and of said Edward Tracy, and are said children still alive, if not state which have died when & where.

Int 3. Are any of the Daughters of said Morris married, if so state their names, to whom were they married when & where, are all their husbands still alive or not which of their said husbands are dead.

Int 4. Did you at any time own or hold or claim at any time any interest in any town or city lots in the town or city of Peoria in the County of Peoria and State of Illinois. If so state how many lots you owned or claimed an interest in, where were they situated, how did you derive title thereto to whom did you convey said interest or titles, who else was interested, in said lots with you as joint owners or tenants in common, state their names and the interest of each in said lots and state how they acquired said interest.

instrument, did you expect that said instrument should be ~~used~~ as evidence in the trial of this cause?

Int 3. Do you know any other matter or thing of advantage or importance to the petitioners of So State the same particularly & fully
To Charles F. Tracy,

The Commissioned ~~will~~ ^{will} pro-found to this Witness the Interrogatories numbered 1, 2, 3, 4, addressed to Alfred Tracy.

Int 5. Do you know whether James P. Morris & Edward Tracy in their life time and Alfred Tracy owned or claimed any interest in or title to any lots or real Estate in the City of Peoria. If So State how many Lots they claimed to own or have an interest in Where Were Said Lots Situated, How did they derive their titles thereto and What was the understanding and agreement between them during their lives respectively as to the part each should own and hold of Said lots & What was the understanding and agreement between the heirs of Morris the heirs of Edward Tracy and Alfred Tracy since the Death of Morris and Edward Tracy as to the interest or share or part that belonged to the heirs of Morris. State the same particularly and fully

Int 6. What was the understanding and agreement between those interested in Said lots. as to the part

Int 5. What was the understanding or agreement between you and Edward Tracy and Sain James P. Morris as to the share or part each should have in said Lots. State the same fully and particularly. State also which part or proportion of the taxes on said Lots were paid from time to time by said James P. Morris in his life time, and by his heirs or others for them since his deceased & State what part or proportion was paid by you & when. State also the understanding or agreement that existed between you Edward Tracy and Sain James P. Morris as to the part or proper term of the taxes such should pay. Have you paid any taxes or redemption money on said Lots since 1843, if so how much.

Int 6. Were said lots at any time sold for taxes if so when for what amount, and who paid the redemption money. What part was paid by the heirs of Morris or by Mr Gregory for them. What part by you & Edward Tracy and how were the taxes and redemption money divided between you. State also how it happened that the deed to you Edward Tracy and James P. Morris was executed to you jointly.

Int 7. Look at the instrument hereto annexed Marked "A" and State whether you executed the same if so State when where, and does said writing state correctly the interest you and the heirs of Edward Tracy claimed in said Lots & what was your intention in executing said

proportion and amount each should pay of the taxes and assessments levied or assessed on said Lots and what proportion of said taxes or assessments was paid by said Morris or his heirs or by others for them and what proportion or part was paid by Edward & Alfred Tracy or by the heirs of Edward. State fully & particularly annex to your answer all the receipts for taxes and certificates of redemption of said Lots from sales for taxes you have in your house or control or that may be exhibited to you for that purpose. State the aggregate amount of all the taxes paid and money paid to redeem said Lots from tax sales. State the amount paid by Morris & his heirs and the amount paid by Alfred Tracy & Edward Tracy & his heirs

Int 7. Look at the written instrument annexed marked "A" State who executed the same. State when and where said instrument was executed & the object of executing the same & State whether it was to be used as evidence on the trial of this cause

Int 8. Look at the instrument marked B. hereto annexed and state who signed the same. State when and where the same was executed. and state also whether Gregory paid you the money as therein stated and what Lots or parcels of land does the same refer or relate to

(6)

Do you know of any other matter or thing of importance or benefit or advantage to the petitioners if so state the same fully and particularly
To Edward N. Tracy

The Commissioned Will propound to this Witness interrogatories numbered 1, 2, 3, 4, 5, 6, 7, 8, 9 as propounded to Charles H. Tracy

Int 9. Were you present at a conversation that took place some six years ago between your Father and Mr Richard A. Gregory in reference to the Lots in Penna if so What was said by your Father as to the part share or proportion of said Lots that he & Alfred Tracy claimed. State all that was said by the parties in that conversation. When and Where did said conversation take place & Who was present.

Int 10. Was there an agreement or understanding made or had between you and your Father & Alfred Tracy in which they were to convey their interest in said Lots to you. If so state When and Where said agreement was made. Was reduced to Writing State the reasons why a conveyance was not made to you for the same

Int 11. What acts and things were done by you and Mr R. A. Gregory with the view of dividing said Lots between you. When did you make the effort and what progress did you make towards dividing said Lots What part interest proportion or share did you claim

and What part interest proportion or share did you conclude to belong to the heirs of Morris.

Int 12. What amount of money did Mr Gregory pay to Mr Francis Vornis at that or any other time for taxes paid on said Lots & Commission & What amount did you pay for the same purpose. Look at the Exhibit annexed marked "B," & State whether Alfred Tracy had paid any other or further amount of taxes or for to redeem said premises from sales for taxes since the year A 1843. and State who has paid said taxes since that time.

Int 13. Do you know any other matter or thing of advantage to the Petitioners if so State the same fully.

Richard A. Gregory et al ^{vs} Petition for Partition
in Peoria Circuit Court
S. L. Gover. et al

Cross Interrogatories
propounded by the Defendants John Cornstock
to Caroline C. Austin

1st Is your Mother still living What was her given name
if Dead When and Where did she die?

2. What interest in the Peoria Lots have you & What part
of the proceeds of Sale (if Sale is made) are you to have

3. Is your Husband Dead or living if Dead When & Where
did he die?

4th Which one of the Husbands of one of the Daughters of
James P. Morris Went to California & Where is he now
& how long has he been gone?

5th Have you and Mr Gregory had any Conversation on
the Subject of the Peoria Lots. and What interest each
of the Parties interested have in the Same, and is
not your Knowledge on this Subject mostly gathered
from Conversations with Gregory and the other heirs
at Law of James P. Morris dead?

Cross Interrogs to Alfred Tracy

Interrog 1st Were you acquainted with the Husbands of Caroline
C Austin if yea Where is he now? When did you

last hear of him & did the husband of any one of the Daughters of Jas. P. Morris go to California some time since if so where is he now?

~~Interrogatory~~

Interrogatory 2 Had you & Edward Tracy & Jas. P. Morris any account between each other in the life time of said Morris. if yes. Was said account all settled up in said Morris's lifetime?

3^d When did you first hear that the heirs of Jas. P. Morris claimed an interest of two thirds in the Alma Lots?

4th Can you state that there ever was any agreement made between yourself & Edward Tracy (decd) of the one part & James P. Morris of the other part. Changing the legal Effect of the Sheriff's Deed for said Lots or by which agreement yourself & Edward Tracy was to have a less interest in said Lots. than the title papers to said Lots ~~there~~ then showed you entitled to?

5th If you state that yourself & Morris made any agreement relative to said Lots. State also whether Edward Tracy was present at the making thereof or was a party thereto, and state further if such agreement was ever made whether the same was verbal or written?

6th Who had the Management of said Lots the payment of taxes &c before the Death of said Morris & Edward Tracy?

7th Can you state Whether or not you & Edward Tracy of the one part & Jas P. Morris of the other part paid unequal portions of the purchase money for said Lots at the time of your purchase if yes have you in any Settlement of accounts with said Morris or his heirs accounted to him or them for the difference so as to make the amounts of such purchase money paid by each party equal?

8th Who was present and made the purchase for you & Edward Tracy & said Morris at the time your purchase was made?

9th Do you know Exactly how you and Edward Tracy derived your title to said Lots and the amounts each party interested paid for the same Except from the Statements of the Morris heirs?

10th If you say you Executed the instrument - Marked A., State What the consideration of your agreement was and also State at Whose instance said instrument was made?

- 11 Have you sold out your interest in said Lots to John Comstock or any one else if yea. What interest did you represent you had in said Lots at the time of your sale

Cross Interrog to Edward N Tracy

1st If you state in your direct- Examination that there was an agreement or understanding between your Father & Alfred Tracy & Jas P. Morris or the heirs of Morris as to the interest each party interested should have in the Peoria Lots. State also whether said agreement was in Writing, if in Writing whether or not Edward Tracy did was a party to and signed said agreement?

2nd Do you know of your own Knowledge how J. P. Morris Edward & Alfred Tracy derived their title to the Peoria Lots?

4th What sum or sums of money or other consideration did Jas P. Morris or his heirs since his Death pay Edward Tracy deceased & Alfred Tracy as a consideration for their agreement relative to the Peoria Lots?

5th If you state in answer to your 11th Interrog that you made an effort to divide the Peoria Lots among the Parties interested. State also the time when such division was attempted? and state further between whom the agreement to divide was made? Whether Edward Tracy was a party to such agreement? Whether or not said agreement to divide was in Writing if yes by whom signed? and state fully the reasons why said division was not made by you?

6th Was not the agreement to divide said Lots (if ever any was made) made between the heirs of Morris yourself & others since the death of Edward Tracy?

7th Do you know anything about what amount of taxes & Redemption Money has been paid by each party interested on account of Peoria Lots except from statements of Morris heirs?

8th When did you first begin to take a part in the management of the Peoria Lots?

9 Do you remember of any settlements of accounts between Edward & Alfred Tracy and Dad P. Morris if yes what was such settlements ^{concerning} ~~concerning~~?

Lindsay & Lauder
of Conestoga

The Depositions of Caroline C. Austin and Charles H. Tracy, of the City of St Louis in the County of Saint Louis and State of Missouri. Witnesses of lawful age produced. Sworn and Examined on their respective ~~Corsperal~~ ⁱⁿ oaths on the twenty seventh Day of August in the year of our Lord one thousand eight Hundred and fifty five at my office in the City of Saint Louis in the County of Saint Louis and State of Missouri by me Garret T. Van Wagener a Commissioner duly appointed by a *Quidam* *Testatum* or Commission issued out of the Clerk's office of the Circuit Court of the County of Peoria in the State of Illinois, bearing teste in the name of Jacob Gale Esq Clerk of the said Circuit Court. With the Seal of the said Circuit Court affixed thereto and to me directed as such Commissioner for the Examination of the said Caroline C. Austin and Charles H. Tracy and others, Witnesses in a certain Suit and Matter in Controversy now pending and undetermined, in the said Circuit Court. Wherein Richard A. Gregory and Anna Gregory are Petitioners and Lydia L. Goves and others are defendants, in behalf of the said Petitioners as well upon the Cross Interrogatories of the Defendants, as on the Interrogatories of the Petitioners which were attached to ~~exclude~~ or enclosed with the said Commission and upon none others. The said Caroline C. Austin and Charles H. Tracy being first duly sworn by me as Witnesses in the said Cause, previous to the Commencement of their Examination

to testify the truth as well on the part of the petitioners as the Defendants in relation to the Matters in Controversy between them the petitioners and Defendants. So far as they should be interrogated testified and deposed as follows..

Interrogatories propounded to the Said Caroline C. Austin, a Witness produced and sworn as aforesaid on the part of the Said Petitioners and her answers thereto as follows?

Interrogatory first: What is your age Where do you reside and What were the names of your Father and Mother. are they or either of them dead. When and Where did they Die? What are the names of all and each of their Children and Where do said Children Reside?

Answer, to Interrogatory first, my age is thirty nine years I reside in the City of Saint Louis in the County of Saint Louis and State of Missouri, my Fathers name was James P. Morris; my Mothers name was Ruth Morris; they are both Dead. my Father died in the State of Illinois in St Clair County my Mother died in the City of Saint Louis aforesaid my Father died on the 17th Day of October A.D. 1842. my Mother died on the 10th Day of March A.D. 1839 the names of each of the Children and all of them are Caroline, James, Ruth, Anna + Lydia L. Caroline that is myself and Ruth Anna, reside at or in

the City of Saint Louis in the County of Saint Louis
and State of Missouri. James & Lydia L. reside in
St. Clair County in the State of Illinois

Interrogatory Second, are either of the Children of said James
P. Morris dead if yea, did they die leaving children
then surviving if so state the names and ages of
such Children, and are they or either of them
alive

Answer to Interrogatory Second, none of the Children named
in my answer to Interrogatory first are dead. I should
have said in that answer that he had three
children before he came to the West about twenty
three years ago, but two of them died while infants
and the third died aged about thirteen years.
those of course left no Children.
continued from page Second

Interrogatory third, are any of the Daughters of said James P.
Morris. ~~if so to Married~~ if so to whom when and
where were they married, and have the husbands
of either of them since deceased, if so state which
where, and what are the means you have of knowing
said facts.

Answer to Interrogatory third, all of the Daughters of said
James P. Morris are married except myself - Ruth
Anna is married to Richard A. Gregory. Lydia L. is

married to Robert Gover. I was married to William I. Austin. Ruth Anna was married to Richard A. Gregory on the 3rd Day of October A.D. 1848. Lydia L. Gover was married to Robert Gover on the 8th Day of August A.D. 1846. I was married to William I. Austin on the 11th Day of September A.D. 1834. all of the Sisters were married in the City and County of Saint Louis and State of Missouri. my Husband William I. Austin died the 25th Day of ~~September~~ March A.D. 1852. the means I have of knowing these things are that I am the oldest of the Children and lived in the City of St Louis State of Missouri since I was fourteen years of age.

Interrogatory fourth Do you know and can you state any other Matter or thing of advantage or benefit to the Petitioners if so state the same fully and particularly.

Answer to Interrogatory fourth I cannot state any other matter or thing of advantage to the Petitioners except that I have always heard my Husband state that my Father owned two thirds of the Perna property now in controversy between the parties, and Mr Edward Tracy owned the other third part I always understood the same from my Father James P. Morris in his lifetime. and always believed it to be so that was long before this ^{suit} ~~suit~~ between the petitioners & the Defendants - Comstock

Cross Interrogatory propounded to the Witness
Caroline C. Austin produced and Sworn as aforesaid
on the part of the Said defendant John Comstock.

Cross Interrogatory first Is your mother still living What was her
given name if Dead When and Where did she die

Answer to Cross Interrogatory first - my Mother is Dead her given
name was Ruth. She died in the City of Saint Louis
County of Saint Louis and State of Missouri on the
____ Day of ____ A.D. 18__

Cross Interrogatory Second. What interest in the Peoria Lots have you
and what part of the proceeds of sale (if sale is made)
are you to have

Answer to Cross Interrogatory Second "I have no interest in the Peoria
Lots, never have had Would not have & do not expect
to have and am not to have any part of the proceed
if sale is made

Cross Interrogatory Third "Is your husband dead or living if Dead
When and Where did he Die

Answer to Cross Interrogatory Third "my husband is Dead he died on
the 25th Day of March A.D. 1853. in the City of Saint
Louis in the County of Saint Louis and State of Missouri

Cross Interrogatory Fourth Which one of the husbands of one of the Daughters of James P. Morris went to California and where is he now and how long has he been gone

answer to Cross Interrogatory Fourth neither of the husbands of any or either of the Daughters of James P. Morris went to California that I know of or ever did

Cross Interrogatory Fifth Have you and Mr Gregory had any conversation on the subject of the Peoria Lots and what interest each of the Parties interested have in the same and is not your knowledge on this subject mostly gathered from conversations with Gregory and the other heirs at Law of James P. Morris Deceased.

answer to Cross Interrogatory Fifth Mr Gregory and myself have had no further or other conversation on the subject of the Peoria Lots. than he asked me if I knew anything about the ownership of the Peoria Lots and I stated to him what I have already stated in my direct ~~Examination~~ Examination to wit. that I had heard my husband say repeatedly that my Father owned the two third interest in them and Mr Edward Tracy one third my knowledge as stated in my testimony now given is not gathered from conversations with Gregory and the other heirs at Law of Jas P. Morris deceased

Caroline C. Austin

Interrogatories propounded to the Witnesses Charles F. Tracy produced and sworn as aforesaid on the oath of the said petitioner and his answers thereto as follows

Interrogatory first What is your age and where do you reside

Answer to Interrogatory first. I am thirty three years of age and reside in the City and County of Saint-Louis and State of Missouri

Interrogatory second Were you acquainted with Edward Tracy and James P. Morris or either of them if so When ~~and~~ Where and how long were you acquainted with them, are they or either of them Dead if so State When and Where they died and State Whether they or either of them left children then Surviving State the names of the children of said James P. Morris and of said Edward Tracy, and are such Children still alive, if not State Which have died When and Where

Answer to Interrogatory second. I was acquainted with Edward Tracy I was not acquainted with James P. Morris. Edward Tracy was my Father, and I have been acquainted with him since my infancy until the time of his Death he died in the month of November A.D. 1852. in the City and County of Saint Louis and State of Missouri James P. Morris left Children Surviving him that I know of viz Caroline Wife of William A. Austin deceased, Anna Wife of Richard A. Gregory, and Lydia Wife of a Mr Gores Edward Tracy

left-Children also surviving him. viz Charles F. Tracy, Edward N. Tracy, John N. Tracy, Henry W. Tracy, Alfred R. Tracy, William F. Tracy and Eliza R. Tracy. I believe the Children named by me as surviving James P. Morris are all alive. all of Edward Tracy's Children named by me as surviving him are alive except John N. Tracy. Who died in California about October A.D. 1853. I have left out the name of one of the Children of Edward Tracy in my Examination above it is Augustus E. Tracy-

Interrogatory Third are any of the Daughters of said Morris married. If so state their names, to whom were they married when and where, and are their husbands still alive if not which of their said husbands are Dead

answer to Interrogatory Third. Caroline Daughter of said Morris was married to William J. Austin now deceased. Anna married to Richard A. Gregory, and Lydia L. was married to a Mr Gover I do not know when and where they were married, but believe and my best recollection is that they were married in the City of Saint Louis. Richard A. Gregory husband of Anna is still alive. I do not know whether Mr Gover is dead or alive.

Interrogatory Fourth. Did you at any time own or hold or claim at any time any interest in any town or City Lots, the town or City of Peoria in the County of Peoria and State of Illinois if so state how many Lots you owned or claimed and

interest in Where Were they Situated. How did you derive title thereto. To Whom did you convey said interest or titles Who else Were interested in said lots With you as joint owners or tenants in Common State their names and the interest of each in said Lots and State how they acquired said interest

Answer to Interrogatory Fourth: I did claim and owned an interest in the City or town Lots in the town or City of Peoria in the County of Peoria and State of Illinois. I claimed one sixth of Eleven Lots in Mill Second addition in the Town of Peoria in the County of Peoria and State of Illinois being the same lots bought by Edward Tracy and Alfred Tracy doing business at the time of purchase under the name style and firm of E & A. Tracy and James P. Morris under an Execution against Savage and Austin. I derived my title by a quit-claim Deed from Alfred and Ellen Tracy his Wife for their interest to said Lots. I conveyed my interest in said Lots to John Comstock by a quit-claim Deed. The Morris heirs that is the heirs of James P. Morris were interested in said Lots with me as joint owners or tenants in Common. John Comstock one of the Defendants in this cause was also interested in said Lots by purchase from the administrator of Edward Tracy deceased. The interest belonging to estate of said Edward Tracy deceased. I cannot state the names and the interest of each in said Lots other than as I have already stated or how they acquired said interest.

Interrogatory Fifth Do you know whether James P. Morris and Edward Tracy in their life time and Alfred Tracy owned or claimed any interest in or titles to any lots or real Estate in the City of Peoria. If so State how many lots they claimed to own or have an interest in where these said lots situated. How did they derive their title thereto, and what was the understanding and agreement between the heirs of Morris, the heirs of Edward Tracy and Alfred Tracy since the death of Morris and Edward Tracy, as to the interest or share in part that belonged to the heirs of Morris. State the same particularly and fully—

Answer to Interrogatory Fifth I do know that James P. Morris and Edward Tracy in their life time and Alfred Tracy claimed an interest in a title to lots and real Estate in the City of Peoria they claimed to own or have an interest in Eleven lots in Mills Second Addition in said City of Peoria they derived their titles thereto by purchase at Sheriffs Sale under and by virtue of an Execution in their favour against Messrs Savage and Austin. Edward and Alfred Tracy was considered as one interest. the amount of their interest was determined in proportion to the amount of their judgments, as compared with the judgment in favor of James P. Morris whatever the respective Will and the understanding between the said James P. Morris and Edward Tracy & Alfred Tracy in the respective life time of said James P. Morris and Edward Tracy was that the property should be divided

among them according to their respective claims E & A. Tracy claiming only one interest. that is they were partners and considered as one person in Law. and James P. Morris was to have an interest according to his claim or judgment the understanding between the heirs of James P. Morris. and the heirs of Edward Tracy. Since the death of said Morris and Edward Tracy, as to the interest or share or part that belonged to the heirs of Morris was that the interest belonging to the heirs of Morris was two thirds of the whole property and that the interest of Edward = Tracy's heirs. and Alfred Tracy was one third of the whole property.

Interrogatory Sixth. What was the understanding and agreement between those interested in said Lots as to the part, proportion and amount each should pay of the taxes and assessments levied on assessed on said Lots. and what proportion of said taxes or assessments was paid by said Morris or his heirs or by others for them and what proportion or part was paid by Edward & Alfred Tracy or by the heirs of Edward. State fully and particularly. annex to your answer all the receipts for taxes and certificates of redemption of said Lots from sales for taxes you have in your power or control or that maybe exhibited to you for that purpose. State the aggregate amount of all taxes paid and money paid to redeem said Lots from tax sales. State the amount paid by Morris and his heirs. and the amount paid by Alfred Tracy and Edward Tracy and his heirs

Answer to Interrogatory Sixth. the understanding and agreement was that the heirs of James P. Morris were to pay two thirds of all the taxes and assessment levied and assessed or to be levied and assessed on said Lot or property and the heirs of Edward Tracy one third. Two thirds of the taxes and redemption money was paid by Mr Richard A. Gregory for and on behalf of the Morris heirs one third of the taxes and redemption money was paid by Edward A. Tracy and myself on behalf of the Tracy interest. Alfreda Tracy never paid any taxes.

not being able to complete the taking of the Deposition of Charles F. Tracy by reason that there is not sufficient time to Day, I adjourned the further taking of the same till tomorrow. then to be continued at the same place at Eight O'clock in the forenoon in the City of Saint Louis in the County of Saint Louis, State of Missouri

Garret A. Van Wagener
Commissioner

Pursuant to adjournment as above stated on the twenty eight Day of August in the year Eighteen Hundred and fifty five at Eight O'clock in the forenoon at my office in the City and County of Saint Louis and State of Missouri. I continued the taking of said Deposition as follows viz Charles F. Tracy in his Deposition commenced yesterday on his oath further says. I have no receipts for taxes and certificates of redemption of said Lots from Sales for taxes in my power or control. they all having been given

up to Richard A. Gregory, on the 8th Day of August A.D. 1853. except the one now attached to the commission in this case and now shown to me marked Exhibit B. I cannot state the aggregate amount now of all taxes paid and money paid to redeem said Lots from tax sales, for the reason that I have not the papers & receipts, they being given up to Gregory as already stated. Whatever amount whatever that was paid by me on account of the Tracy interest two thirds, was repaid to me on account of said Tracy interest by Richard A. Gregory, as per Exhibit marked B, annexed as before stated. Alfred Tracy never paid any money for taxes or redemption of said Lots.

Interrogatory Seventh. Look at the written instrument annexed marked "A." State who Executed the Same. State When and Where said instrument was Executed and the Object of Executing the Same and State Whether it was to be used as evidence in the trial of this Cause.

Answers to Interrogatory Seventh. I have looked at the written instrument marked "A." I Executed the Same at the City of Saint Louis, in the County of Saint Louis, in the State of Missouri on the 3rd Day of October 1853. the object of Executing the Same was that I supposed that Commissioners would be appointed by the Court in Peoria County in the State of Illinois for the purpose of dividing the property belonging to the heirs of Morris and the heirs of Edward Tracy and Alfred Tracy. This instrument of Writing was to be evidence to said Commissioners to be appointed that

Edward & Alfred Tracy claimed but one third of the property in Peoria sold under an Execution, against Savage and Austin and bought-in by Morris and E. A. Tracy, and it was not intended particularly to be used as evidence in this cause, because I did not know of the existence of the present cause, but ~~was~~ ^{was} to be used for the purpose of establishing the interest on said property belonging to the Morris heirs and the Tracys.

Interrogatory Eight Look at the instrument marked "B." hereto annexed and state who signed the same, state when and where the same was executed, and state also whether Gregory paid you the money as therein stated and what lots or parcels of land does the same refer or relate to.

Answers to Interrogatory Eight I have looked at the instrument marked "B." I signed the same at Saint Louis, Missouri, on the 8th Day of August A.D. 1853. Gregory paid me the money as therein stated and it relates and refers to the property and lots in Peoria in the State of Illinois already spoken of by me in my Examination as the lots purchased at Sheriff's Sale under an Execution against Savage and Austin, by James B. Morris and Edward and Alfred Tracy.

Interrogatory — Do you know of any other matter or thing of importance or benefit or advantage to the petitioner, if so state the same fully and particularly.

Answer to last Interrogatory: I do not know of any other matter or thing of importance or benefit or advantage to the petitioner that I know of. Chas. F. Tracy

J. Garret S. Van Wagoner of the City of Saint Louis in the
County of Saint Louis and State of Missouri a Commissioner
duly appointed to take the Depositions of the Said Caroline
C. Austin and Charles F. Tracy, two Witnesses whose names
are subscribed to the foregoing Depositions, do hereby certify
that previous to the commencement of the Examination
of the Said Caroline C. Austin and Charles F. Tracy
respectively, as Witnesses in the Said Suit Between the Said
Richard A. Gregory and Anna his Wife Petitioners and
Lydia S. Gover and others defendants, they were respectively
duly sworn by me as such Commissioner to testify the truth
in relation to the matter in controversy. Between the Said
Richard A. Gregory and Anna his Wife Petitioners and Lydia
S. Gover & others Defendants. So far as they respectively
should be interrogated. Concerning the Same, that the
Said Deposition of Caroline C. Austin was taken on the
27th Day of August A.D. 1855, and that the Said Deposition
of Charles F. Tracy was taken on the 27th And 28th Day of
August A.D. 1855, both Depositions taken at my office
in the City and County of Saint Louis and State of
Missouri on the Day and Days last aforesaid, and that
after Said Depositions were taken by me as aforesaid, the
interrogatories and answers thereto as written Down were
read over to the Said Witnesses respectively and that there-
upon the Same were respectively signed and sworn to by the
Said deponents respectively before me as such Commissioner
at the ~~Face~~ place and on the Days and year ^{last} aforesaid
Garret S. Van Wagoner ---
Commissioner

not being able to complete the taking of the Depositions of Alfred Tracy and Edward A. Tracy because they have not as yet been found in the City of Saint Louis in the County of Saint Louis in the State of Missouri. So that a Subpoena could be served on them. I adjourned the further taking of the Depositions. till the tenth Day of November A.D. 1855. at 8 o'clock in the forenoon then to be continued at the same place

Garret S. Van Wagener
Commissioner

City of St Louis Mo. August-28th 1855.

Pursuant to adjournment as above stated on the 10th Day of November A.D. 1855. at 8 o'clock in the forenoon I continued the taking of the Depositions as will appear as follows to wit:

The Depositions of Edward A. Tracy of the City of Saint Louis in the County of Saint Louis and State of Missouri a Witness of lawful age produced Sworn and Examined upon his Corporal oath on the 10th Day of November A.D. 1855. at my office in the City of Saint Louis in the County of Saint Louis and State of Missouri by me Garret S. Van Wagener a Commissioner duly appointed by a *Quidam Potestatum* or commission issued out of the Clerk's office of the Circuit Court of St. Louis in the State of Illinois deposing teste in the name of Jacob Gale Esq. Clerk of the said Circuit Court with the Seal of the said Clerk affixed thereto. and to me directed

as Such Commissioner for the Examination of the Said Edward A. Tracy and others as a Witness in a certain suit and matter in controversy now pending and undetermined in the Said Circuit Court wherein Richard A. Gregory and Anna his Wife are Petitioners and Lydia L. Govee and others are defendants, in behalf of the Said Richard A. Gregory and Anna his Wife as well upon the Cross Interrogatories of the Defendants as on the Interrogatories of the Petitioners, which were attached to or enclosed with the Said Commission and upon none others, the Said Edward A. Tracy being duly sworn by me as a Witness in the Said Cause, previous to the commencement of his Examination to testify the truth as well on the part of the petitioners as the defendants in relation to the Matter in Controversy between the Said petitioners and defendants so far as he should be interrogated, testified deposed as follows: —

Interrogatory first— What is your age and where do you Reside—

Answer to Interrogatory First. I am thirty one years of age and in my thirty second year I reside in the City and County of Saint Louis, in the State of Missouri =

Interrogatory Second. Were you acquainted with Edward Tracy and James P. Morris or either of them, if so when where and how long were you acquainted with them, are they or either of them Dead if so State where and when they died and State whether they or either of them left Children

them Surviving. State the names of the Children of
Said James P. Morris and of Said Edward Tracy
and are Said Children Still alive if not State which
have died When and Where.

answer to Interrogatory Second. I was acquainted with Edward
Tracy, he was my Father. I was not acquainted with
James P. Morris only by sight. not to speak to him my
Father and James P. Morris are both Dead my Father
Died I think three years ago this month in Saint Louis Missouri
I do not recollect When James P. Morris died or Where.
they both left children them Surviving. the names of
the Children of James P. Morris I cannot State. the names
of the Children of Edward Tracy are Charles F. Edward A.
Henry W. Augustus C. Alfred R. William J. and Eliza
R. Tracy. all of the Children of Edward Tracy are still
alive I cannot say as to the Children of James P. Morris

Interrogatory Third. are any of the Daughters of Said Morris
Married if so State their names. to Whom were they married
When and Where. and are their husbands still alive if
not Which of their Said husbands are Dead.

answer to Interrogatory Third. I believe all of the Daughters are
married. one married a Mr Austin one married a Mr
Richard A. Gregory. one married a Mr Gover Mrs.
Gregory was married in Saint Louis. I cannot say When
I cannot say When or Where Mrs Austin or Mrs Gover

were married, the husband of Mrs Gregory is the only one that I know of that is alive. Mr Austin is Dead and I know nothing about Mr Gover.

Interrogatory Fourth. Did you at any time own or hold or claim at any time any interest in any town or city Lots in the Town or City of Peoria in the County of Peoria and State of Illinois if so State how many Lots you owned or claimed an interest. Where were they situated. how did you derive title thereto. To Whom did you convey said ~~Lot~~ interest or title Who else were interested in said Lots with you as joint owners or tenants in Common State their names and the interest of each in said Lots and State how they acquired said interest.

answer to Interrogatory Fourth. I did claim an interest in certain Town or City Lots in the Town or City of Peoria in the County of Peoria and State of Illinois. I claimed the one undivided one third of Eleven Lots in Mills Second addition in the said City of Peoria. I had ~~not~~ a Tax title for four or five years back. My Father Edward Tracy told me if I could redeem the property which had been sold for taxes, that he would make me a Deed in Connection with Alfred Tracy for the amount of property that they owned in Connection with James B. Morris. Which was the undivided one third of Eleven Lots in Mills addition to the City of Peoria in the County of Peoria Illinois. James B. Morris owned the other two thirds of said Eleven Lots. I never conveyed my interest or title to any person or persons.

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The heirs of James P. Morris were interested in Said Lots with me as joint owners or tenants in common. I cannot state their names or their interest of any or how they acquired Said interest unless by descent. — — —

Interrogatory Fifth Do you know whether James P. Morris & Edwarda Tracy in their life time and Alfreda Tracy owned or claimed any interest in or title to any Lots or real Estate in the City of Peoria if so State how many Lots they claimed to own or have an interest in Where were Said Lots situated How did they derive their title thereto and What was the understanding and agreement between them during their lives respectively as to the part each should own and hold of Said Lots and What was the understanding and agreement between the heirs of Morris the heirs of Edwarda Tracy and Alfreda Tracy since the Death of Morris and Edwarda Tracy as to the interest or Share or part that belonged to the heirs of Morris State the same particularly and fully

answer to Interrogatory Fifth I do know that James P. Morris & Edwarda Tracy in their life time and Alfreda Tracy owned or claimed title to Eleven Lots of ground in Mills addition in the Town or City of Peoria in the County of Peoria in the State of Illinois. they derived their title to the Said Lots by virtue of Sheriffs Sale against Savage & Austin. I do not know what understanding or agreement existed between them during their lives

respectively as to the part each should own and hold of
Said Lots except what I have heard my Father Edward
Tracy say, that was that Edward and Alfred Tracy who
were doing business under the name style & firm of E. &
A. Tracy, owned one third of the Eleven Lots in Perna
aforesaid, in connection with James P. Morris or rather
his ^{heirs} as Mr Morris was Dead. I do not that there was any
particular understanding and agreement between the
heirs of Morris the heirs of Edward Tracy and Alfred Tracy
since the death of Morris and Edward Tracy as to the
interest or share or part that belonged to the heirs of
Morris except that it was always understood that the
heirs of Edward Tracy and Alfred together owned one
third and the heirs of Morris two thirds of said Perna
property.

Interrogatory Sixth, What was the understanding and agreement
between these interested in said Lots as to the part
proportion and amount each should pay of the
taxes and assessments levied or assessed on said Lots
and what proportion of said Taxes or assessments was
paid by said Morris or his heirs or by others for them and
what proportion or part was paid by Edward and Alfred
Tracy or by the heirs of Edward State fully and particularly
annex to you answer all the receipts for taxes and
certificates of redemption of said Lots from sales for taxes
you have in your power or control or that may be exhibi-
ted to you for that purpose State the aggregate amount of
all the taxes paid and money paid to redeem said lots

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from tax Sales State the amount paid by Morris
& his heirs and the amount paid by Alfred Tracy &
Edward Tracy & his heirs

Answer to Interrogatory Sixth, as regards any agreement between
James P. Morris and Edward and Alfred Tracy as to the
part-proportion or amount each of the taxes or assess-
ments levied or assessed on said Lots I know nothing
except what I have heard my Father say. That Morris
paid two thirds and E. & A. Tracy one third. Richard A.
Gregory paid on behalf of the Morris heirs two thirds of
the taxes and paid one third of the taxes for Edward &
Alfred Tracy. Since Alfred Tracy sold his interest in the said
Lots he Alfred Tracy paid me back the one half of the taxes
I paid. Which was the one sixth of the whole taxes on said
property I cannot annex the receipts for taxes and
certificates of redemption of said Lots from sales for taxes
because they have all been handed over to Richard A.
Gregory. the aggregate amount of all taxes paid and
money paid to redeem said Lots from tax sales was the
amount paid ~~by and behalf~~ ^{on behalf} Morris & his heirs was
and the amount paid by or on behalf of Alfred Tracy &
Edward Tracy and his heirs was

Interrogatory Seventh. Look at the ^{written} ~~written~~ instrument annexed
marked Ex. A. State who executed the same State when and
where said instrument was executed and the object of
executing the same. and State whether it was to be used
as evidence on the trial of this Cause

answer to Interrogatory Seventh. I have looked at the within instrument annexed to the Interrogatories marked "A" and can only state it is in the Hand Writing of my Brother Charles F. Tracy and signed by him, and signed by Alfred Tracy whose signature I also find to be his ⁱⁿ his own proper Hand Writing all that I know of where it was Executed ~~Executed~~ ~~and~~ and when is from the face of it that is at St Louis Oct 5th 1853. the object I suppose was to make a division and of defining the interest in said property therein mentioned between the Morris heirs and the heirs of Edward Tracy and Alfred Tracy and was not to be used as evidence on this trial ^{that} ~~and~~ I know of.

Interrogatory Eighth Look at the instrument marked "B" hereto annexed and state who signed the same, state when and where the same was Executed, and state also whether Gregory paid you the money as therein stated and what Lots or parcels of Land does the same refer to or relate to.

answer to Interrogatory Eighth. I have looked at the instrument marked "B" and know nothing about it whatever.

Interrogatory Ninth Were you present at a Conversation that took place some six years ago between you Father and Mr Richard A. Gregory in reference to the lots in Peoria. if so what was said by your Father as to the part share or proportion of said Lots that he & Alfred Tracy claimed. State all that was said by the parties in that Conversation when and where did said Conversation take place & who was present

answer to Interrogatory Ninth. I was present at a conversation that took place some six years ago between my Father and Richard A. Gregory in the front of the Planters House in the City of Saint Louis Missouri in reference to the Lots in Iowa but I cannot state what was said or who was present. save us three.

Interrogatory Tenth. Was there an agreement or understanding made or had between you and your Father & Alfred Tracy in which they were to convey their interest in said Lots to you if so state when and where said agreement was made. Was it reduced to writing state the reason why a conveyance was not made to you for the same

answer to Interrogatory Tenth There was an agreement between my Father and me (Alfred Tracy at that time was not here) but my Father said as soon as Alfred Tracy came home he would make him convey also his interest. Which would make the interest of both in said Lots to me. the agreement was made in St Louis Missouri in the year A.D. 1848 it was not reduced to writing the reason why a conveyance was not made to me for the same was that Mrs Alfred Tracy claimed her right in it.

Interrogatory Eleventh What acts and things were done by you and Mr R. A. Gregory with the view of dividing said Lots between you when did you make the effort and what progress did you make towards dividing said lots

What part interest proportion or Share did you claim
and What part interest proportion or Share did you
concede to belong to the heirs of Morris.

answer to Interrogatory Eleventh I had a power of attorney from
Edward Tracy to sell or divide the Peoria Lots belonging
to Edward & Alfred Tracy I took ~~these~~ ^{the} lots for the one
third being Edward and Alfred Tracy's proportion Mr R. A.
Gregory took the Ballance of the Lots being Eight in number
for the heirs of Morris. I think that was in the year A.D.
Eighteen hundred and forty eight.

Interrogatory Twelfth What amount of money did Mr Gregory
pay to Mr Francis Voris at that or any other time for
taxes paid on said Lots and Commissions and What
amount did you pay for the same purpose.

answer to Interrogatory Twelfth I cannot say What amount of
money Mr Gregory paid to Mr Francis Voris at that or
any other time for taxes on said Lots or Commissions or
What amount I paid. I know I paid my proportion to
Mr Gregory he having paid Voris the whole amount

Part of Interrogatory Twelfth Look at the Exhibit annexed marked
"B" and state Whether Alfred Tracy or Edward Tracy or the
heirs of Edward Tracy have paid any other or further
amount of taxes or for to redeem said premises from sales
~~for~~ ^{for} taxes since the year A.D. 1843 and state who
has paid said taxes since

Answer to Interrogatory Twelfth. I know Mr Gregory and myself redeemed said property from the year 1843 to the year 1848 I think Mr Gregory and my brother Charles F. Tracy have redeemed the property from sales for taxes since the year 1848 to a short time ago Mr Gregory paying two thirds always and I + my Brother when we paid always one third of the taxes or redemption money.

Interrogatory Thirteenth. Do you know any other matter or thing of advantage to the petitioners if so state the same fully

Answer to Interrogatory Thirteenth. Nothing more of advantage to the Petitioners

Cross Interrogatory propounded to the Witness. Edward N. Tracy (produced and sworn as aforesaid) on the part of the said Defendant John Constock.

Cross Interrogatory First. If you state in your direct Examination that there was an agreement or understanding between your Father + Alfred Tracy + Jas P. Morris or the heirs of Morris as to the interest each party interest should have in the Seona Lots State also whether said agreement was in writing if in writing whether or not Edward Tracy Decd. was a party to and signed said agreement.

Answer to Cross Interrogatory First. I have already stated in my direct Examination that I knew of no agreement or.

understanding between my Father & Alfred Tracy & Jas P. Morris or the heirs of Morris as to the interest each party interested should have in the Seona Lots except what my Father told me. I know state that I know of no agreement in writing in relation to the interest referred to in said Lots and of course Edward Tracy Deed did not to my knowledge sign any written agreement.

Cross Interrogatory Second. Do you know of your own knowledge how Jas P. Morris, Edward & Alfred Tracy, derived their title to the Seona Lots.

Answer to Cross Interrogatory Second. I do not know of my own knowledge how Jas P. Morris, Edward & Alfred Tracy derived their title to the Seona Lots except from seeing a Sheriff's Deed to them, that as to James P. Morris & E & A. Tracy

Cross Interrogatory Fourth. What sum or sums of money or other consideration did Jas P. Morris or his heirs since his death pay, Edward Tracy, deceased & Alfred Tracy as a consideration for their agreement relative to the Seona Lots

Answer to Cross Interrogatory Fourth. I know nothing about that
Whatever

Cross Interrogatory Fifth If you state in answer to your 11th Interrogatory that you made an effort to divide the Seona Lots among the parties interested, state also the time when such Division was attempted, and state further between whom the agreement to divide was made. Whether

Edward Tracy was a party to such agreement - Whether or not said agreement to divide was in Writing if yes by Whom signed and state fully the reasons why said division was not made by you

answer to Cross Interrogatory Fifth. The time was in the year 1848 between Richard A Gregory for the heirs of James P. Morris and myself by power of attorney from Edward Tracy who acted also for Alfred Tracy. I acted in behalf of Edward Tracy by virtue of his within power of attorney for him & Alfred Tracy. So far he was a party to my agreement with R. A. Gregory the agreement between R. A. Gregory & myself was not in Writing to divide said Senia Lots. the reason why the division was not made at that time was because some of the Morris heirs were away cannot say which one

Cross Interrogatory Sixth Was not the agreement to divide said Lots (if ever any was made) made between the heirs of Morris yourself & others since the Death of Edward Tracy.

answer to Cross Interrogatory Sixth. I have never had any conversation with the heirs of Morris in relation to the division of the Senia Lots since my Brothers Death

Cross Interrogatory Seventh. Do you know any thing about what amount of Taxes and redemption money has been paid by each party interested on account of Senia Lots except from statement of Morris heirs.

~~Edward Tracy was a party to~~

answer to Cross Interrogatory Seventh See I know how much I paid on the one third of the taxes and redemption I never heard the Morris heirs make any statement in relation to it;

Cross Interrogatory Eighth When did you first begin to take a part in the management of the Penn Lot

answer to Cross Interrogatory Eighth in the Summer of 1848

Cross Interrogatory Ninth Do you remember of any settlement of accounts between Edward & Alfred Tracy and Jas P. Morris if yes what was said settlement concerning,

answer to Cross Interrogatory Ninth I do not know of any settlement of accounts between Edward & Alfred Tracy and Jas P. Morris & do not know that they ever had any settlement

Edw N. Tracy

J. Garrett S. Van Wagener of the County of Saint Louis and State of Missouri, a Commissioner duly appointed to take the Deposition of the said Edward N. Tracy a Witness whose name is subscribed to the foregoing Deposition do hereby certify that previous to the commencement of the Examination of the said Edward N. Tracy, as a Witness in the said suit between the said Richard A. Gregory and Anna his Wife Petitioners and Lydia E. Gower and others Defendants, he was duly sworn by me as such, Commiss-

issued to testify the truth in relation to the matter in controversy between the said Richard A. Gregory and Anna his Wife Petitioner and Lydia L. Gove & others Defendants. So far as he should be interrogated concerning the same that the said Deposition was taken at my office in the City and County of Saint-Louis in the State of Missouri on the Tenth Day of November A.D. 1855. and that after said Deposition was taken by me as aforesaid the interrogatories and answers thereto as written down were read over to the said Witness, and that thereupon the same was signed and sworn to by the said deponent Edward A. Tracy before me as such Commissioner at the place and on the Day and year last aforesaid.

Garret S. Van Wagener
Commissioner

Not being able to complete the taking of the Depositions of Alfred Tracy by reason that there is not sufficient time to Day. I adjourned the further taking the same until the 13th Day of November A.D. 1855. then to be continued at the same place at Eight O'clock in the forenoon in the City of Saint-Louis in the County of Saint-Louis and State of Missouri.

Garret S. Van Wagener
Commissioner

Saint-Louis November 10th 1855 6. O. C. P. M.
Pursuant to adjournment as above stated on the 13th Day of November A.D. 1855. at Eight O'clock in the forenoon. I continued the taking of the Depositions as

will appear as follows to wit:

The Depositions of Alfred Tracy of the City of Saint Louis and in the County of Saint Louis and State of Missouri a Witness of lawful age. produced sworn and Examined upon his Coramur oath on the 15th Day of November A.D. 1855. at my office in the City of Saint Louis in the County of Saint Louis and State of Missouri by me Garret S. Van Hagen a Commissioner duly appointed by a Decree Potestatum or Commission issued out of the Clerk's office of the Circuit Court of Peoria County in the State of Illinois bearing Date in the name of Jacob Gale Esq. Clerk of the said Circuit Court with the Seal of the said Clerk affixed thereto and to me directed as such Commissioner for the Examination of the said Alfred Tracy and others, as a Witness in a certain Suit and Matter in Controversy now pending and undetermined, in the said Circuit Court Wherein Richard A. Gregory & Anna his Wife are Petitioners and Lydia L. Gower and others are Defendants in behalf of the said Richard A. Gregory and Anna his Wife as well upon the Cross. Interrogatories of the Defendants as on the Interrogatories of the Petitioners, which were attached to or enclosed with the said Commission, and upon none others, the said Alfred Tracy being duly sworn by me as a Witness in the said Cause previous to the commencement of his Examination to testify the Truth as well on the part of the Petitioners as the Defendants in relation to the Matters in Controversy between the said Petitioners and Defendants so far as he should be interrogated testified and deposed as follows,

Interrogatory First. What is your age and Where do you reside

answer to Interrogatory first. I reside in the City and County of Saint Louis State of Missouri my age is fifty three

Interrogatory Second. Were you acquainted with Edward Tracy and James P. Morris or either of them if so When Where and how Long Were you acquainted with them are they or either of them Dead if so State Where and When they died and State Whether they or either of them left Children then Surviving State the names of the Children of Said James P. Morris and of Said Edward Tracy and are Said Children still alive if not State Which have died When and Where

answer to ~~Ques~~ Interrogatory Second I was acquainted with Mr Edward Tracy ever since I was Born. I did not know Mr James P. Morris I was acquainted with Mr Tracy in St Louis in the latter part of his life Mr Edward Tracy is dead he died in St Louis 6th November 1852. he left Children then Surviving the names of his Children are Charles F. Edward. N. John N. Henry N. Augustus C. Alfred R. William J. and Eliza R. all alive Except John N. Tracy who died in California in 1853. I believe I did not know of my own Knowledge any thing about Mr Morris or his Family

Interrogatory Third. are any of the Daughters of Said Morris married if so State their names to Whom were they married When and Where and are their husbands still alive if not Which of their Said husbands are Dead

answer to Interrogatory Third. I know nothing in relation to the matter of my own knowledge.

Interrogatory Fourth. Did you at any time own or hold or claim at any time any interest in any Town or City ^{Lots} in the Town of or City of Peoria in the County of Peoria and State of Illinois. if so state how many Lots you owned or claimed an interest in. Where were they situated how did you derive title thereto. To Whom did you convey said interest or title. Who else were interested in said Lots with you as joint owners or tenants in common. State their names and the interest of each in said Lots and state how they acquired said interest.

answer to Interrogatory Fourth. I was interested with Mr Edward Tracy as his partner in Eleven Lots in the City of Peoria in the County of Peoria in the State of Illinois. I don't know what part of the City of Peoria they were situated. We derived title thereto by virtue of a Sale under a Suit in our favor against Savage & Austin. I conveyed my interest to Charles F. Tracy. Mr Edward Tracy was interested with me as joint owner. That is all I know.

Interrogatory Fifth. What was the understanding or agreement between you and Edward Tracy and said James S. Morris as to the share or part each should have in said Lots state the same fully and particularly. State also what part or proportion of the taxes on said Lots were paid from time to time by said James S. Morris in his

life time and by his heirs or others for them since his decease & State what part or proportion was paid by you & when State also the understanding or agreement there existed between you, Edward Tracy and said James S. Morris as to the part or proportion of ^{the} taxes each should pay have you paid any taxes or redemption money in said Lots since 1843. if so how much.

Answer to Interrogatory Fifth. There was no understanding between us that I know of not to my knowledge. I know nothing about any taxes that Mr Jas S. Morris or others for him or his heirs may have paid Mr Edward Tracy as my partner. During his life time attended to all matters concerning the Peoria Property and I gave myself no concern about it. Consequently I know nothing about any understanding between him & Mr Morris & his heirs or any other person I have paid no taxes or redemption money in the said Peoria Lots since 1843. I know not what Mr Edward Tracy has done.

Interrogatory Sixth. Were said Lots at any time sold for taxes if so when, for what amount, and who paid the redemption money, what part was paid by the heirs of Morris, or by Mr Gregory for them what part by you & Edward Tracy and how were the taxes and redemption money divided between you. State also how it happened that the Deed to you Edward Tracy and James S. Morris, was executed to you jointly.

answer to Interrogatory Sixth. I do not know any thing about the matter at all. I do not know it was that the Deed was Executed to Edward Tracy, myself and James P. Morris jointly.

Interrogatory Seventh. Look at the instrument hereto annexed marked "A." and State whether you Executed the Same if so State when Where and does said Writing State correctly the interest you and the heirs of Edward Tracy claimed in said Lots and what was your interest intention in Executing said instrument. did you Expect that said instrument should be used as evidence in the trial of this Cause.

answer to Interrogatory Seventh. I have looked at the instrument hereto annexed marked "A." I did Execute the Same on the Day and place it bears date. I believe the said Writing States correctly the interest I and the heirs of Edward Tracy claimed in said Lots I do not now recollect what was my intention in Executing said instrument. it was not to be used as evidence in the trial of this Cause that I know of

Interrogatory Eighth. Do you know any other matter or thing of advantage or importance to the petitioners if so State the Same particularly & fully.

answer to Interrogatory Eighth. I do not know any other matter or thing of advantage or importance to the petitioners that I know of

Cross Interrogatories propounded to the Witness
 Alfred Tracy, produced and sworn as aforesaid on the
 part of the Defendants John Comstock.

Cross Interrogatory First Were you acquainted with the husband of
 Caroline C. Austin if yes where is he now where did you
 last hear of him did the husband of any one of the
 Daughters of Jas P. Morris go to California some time
 since if so where is he now

answer to Cross Interrogatory First I was acquainted with the husband
 of Caroline C. Austin he is Dead, died some 3 or 4 years
 ago in St Louis Mo. I do not know whether the husband
 of any one of the Daughters of Jas P. Morris went to Califor-
 nia some time since or ever did.

Cross Interrogatory Second Had you and Edward Tracy and Jas P.
 Morris any account between each other in the life time
 of said Morris if yes was said account all settled up in
 said Morris lifetime.

answer to Cross Interrogatory Second I & Edward Tracy and Jas P. Morris
 had no account between each other in the life time
 of said James P. Morris

Cross Interrogatory Third When did you first hear that the heirs of Jas.
 P. Morris claimed an interest of two thirds in the Leona
 Lots

answer to Cross Interrogatory Third. I do not Recollect-

Cross Interrogatory Fourth. Can you state there ever was any agreement made between yourself and Edward Tracy (Decd) of the one part and James P. Morris of the other part - Changing the legal Effect of the Sheriff's Deed for said Lots or by which agreement yourself & Edward Tracy was to have a less interest in said Lots, than the title papers to said Lots then showed you entitled to.

answer to Cross Interrogatory Fourth, no I cannot state that there ever was any agreement made between us, which entitled us to a less interest in said Lots than the title papers to said Lots showed us entitled to.

Cross Interrogatory Fifth. If you state that yourself and Morris made any agreement relative to said Lots, state also whether Edward Tracy was present at the making thereof or was a party thereto, and state further if such agreement was ever made, whether the same was Verbal or Written.

answer to Cross Interrogatory Fifth, there being no agreement, of course Mr Edward Tracy was not present, and it was neither Verbal or Written.

Cross Interrogatory Sixth. Who had the management of said Lots, the payment of Taxes &c before the Death of said Morris & Edward Tracy.

answer to Cross Interrogatory Sixth, Edward Tracy had the whole of the management of our interest before his Death. I do not know anything about the Morris interest. Who had the management.

Cross Interrogatory Seventh, Can you state whether or not you & Edward Tracy of the one part, and Jas P. Morris of the other part paid unequal portions of the purchase money for said Lots at the time of your purchase if yes, have you any settlements of accounts with said Morris or his heirs accounted to him or them for the difference so as to make the amount of such purchase money paid by each equal.

answer to Cross Interrogatory Seventh, If I recollect aright James P. Morris obtained a judgement against Savage & Austin, at the same time of the Tenth Circuit Court ^{or same Court} that we did, the property was sold by the Sheriff and bid off by us or by our agents & by Mr. Morris or his agents and a joint deed given by the Sheriff. I know nothing further about the interest as Edward Tracy attended to it.

Cross Interrogatory Eighth, Who was present and made the purchase for you & Edward Tracy & said Morris, at the time your purchase was made.

answer to Cross Interrogatory Eighth, I cannot say.

Cross Interrogatory Ninth, Do you know exactly how you and Edward Tracy derived your title to said Lots and the amounts each party interested paid for the same except from the statements of the Morris heirs

answer to Cross Interrogatory Ninth, I do not know any thing and never heard any thing from the Morris heirs at all in relation to the interest of Edward Tracy & myself all I know is we got a title to the title we did have under a judgment as already stated.

Cross Interrogatory Tenth, If you say you executed the instrument marked "A" state what the consideration of your agreement was and also state at whose instance said instrument was signed.

answer to Cross Interrogatory Tenth, I do not now recollect anything about it, that is what the consideration was I presume it was signed at the instance of Charles F. Tracy.

Cross Interrogatory Eleventh, Have you sold out your interest in said Lots to John Comstock or any one else if yes what interest did you represent you had in said Lots at the time of your sale

answer to Cross Interrogatory Eleventh, I sold out my interest in said lots to Charles F. Tracy I sold all my right ^{and} title interest whatever that might be I did not Represent that I had any particular interest because I did not ~~know~~ exactly know what interest I had

Alfred Tracy

I Garret S. Van Wagoner of the City and County of Saint Louis and State of Missouri a Commissioner duly appointed to take the Deposition of the said Alfred Tracy, a Witness whose name is subscribed to the foregoing Deposition do ^{hereby} certify that previous to the Commencement of the Examination of the said Alfred Tracy as a Witness in the said suit between the said Richard A. Gregory and Anna his Wife Petitioners and Lydia L. Gover & others Defendants he was duly sworn by me as such Commissioner, to testify the truth in relation to the matters in Controversy between the Richard A. Gregory & Anna his Wife ~~Petitioners~~ Petitioners and the said Lydia L. Gover & others Defendants. So far as he should be interrogated concerning the same that the said Deposition was taken at my office (on the thirteenth Day of November 1855) in the City of Saint Louis in the County of Saint Louis and State of Missouri, and that after said Deposition was taken by me as aforesaid the interrogatories and answers thereto as written down were read over to the said Witness, and that thereupon the same was signed and sworn to by the said Dependent Alfred Tracy, before me as such Commissioner at the place and on the Day and Year last aforesaid

Garret S. Van Wagoner
Commissioner

And afterwards to wit on the thirteenth Day
of November A.D. 1855. there was filed in the
clerk's office of said Court, and instrument of
writing in words and figures following, to wit.
State of Illinois }
Peoria County } ss In the Circuit Court of Peoria County

Richard A. Gregory }
& Anna Gregory }
vs. } the Chancery for partition
Lydia L. Gover }
Robert Gover }
James Morris }
John Cornstock }
& others }

James Morris one of the
Defendants in the above entitled cause. Comes
and waives the issuing & service of process upon
him and enters his appearance in this cause and
consents to the rendition of a decree providing and
requiring a partition of the several Lots of land
in the petition mentioned among the equitable
owners thereof so that the two thirds part may be
set off and apportioned to said Richard A. Gregory,
Anna Gregory, Lydia L. Gover, Robert Gover, & this
defendant in common, and for answers to said
original & supplemental petition this defendant
admits the facts therein stated to be true
James Morris.

And on the same Day to wit. the thirtieth Day
of November A.D. 1855. there was filed in the Clerk's
Office of said Court. the following instrument of
writing. in words and figures to wit:
State of Illinois }
Peoria County } In the Circuit Court of Peoria County.

Richard A. Gregory
vs. Anna Gregory

vs.

Lydia L. Gover
Robert Gover
James Morris
John Comstock
& others

In chancery for Partition

Lydia L. Gover one of the de-
fendants in the above entitled cause. Comes and
waives the issuing & service of process upon her and
enters her appearance in this cause and consents to
the rendition of a decree providing and requiring a
partition of the several Lots of land, in the petition
mentioned, among the equitable owners thereof
so that the two thirds part may be set off and
apart to said Richard A. Gregory, Anna Gregory,
Robert Gover, James Morris, and other defendants
in common, and for answer to said original
and supplemental petition this defendant
admits the facts therein stated to be true
Lydia L. Gover.

And afterwards to Mr. on the Nineteenth Day of
December A.D. 1855. there was filed in the office
of the clerk aforesaid, the following Exhibits
and copy of Sheriffs Deeds, in words and figures
following: to Mr.

Presumption
certificate
No 6020

The United States of America
To all to Whom these presents shall come

Whereas Benjamin Mills Assignee of John L. Bogardus has 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 John L. Bogardus - according to the provisions of the act of Congress of the 24th of April 1820. Entitled "an act making further provision for the sale of the public Lands" for fractional Section ten in township eight north of range eight East of the fourth principal meridian in the District of Lands Subject to sale formerly at Springfield (now at Quincy) Illinois containing thirty acres and sixty six hundredths of an acre according to the official plat of the survey of said Lands returned to the general Land Office by the Surveyor General Which said tract has been purchased by the said John L. Bogardus

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 Benjamin Mills and to his heirs the said tracts above described To have and to hold the same together with all the Rights privileges immunities & appurtenances of whatsoever nature hereto Belonging unto the

(2)
Said Benjamin Mills and to his 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
Seals of the General Land Office to be hereunto affixed
Given under my hand at the City
of Washington the Eighteenth Day of March in
the year of our Lord one thousand Eight hundred and
thirty seven and of the Independence of the U.S. the Sixty
first.
By the President
Martin Van Buren
By A Van Buren Secy -

Audson M. Garland Recorder of the general
Land Office
Recorded Vol. 18. Page 486.

General Land Office Apr 7th 1847. I Richard M.
Young Commissioner of the General Land Office do hereby
certify that the annexed is a true and literal exempli-
fication from Vol 18. Page 486. of the Patent Record in the
Office. In testimony Whereof I have hereunto Subscribed
my name and caused the Seal of this Office to be
affixed at the City of Washington on the Day and
Year above Written
Richard M. Young
Commissioner of the
General Land Office

This Indenture made and entered into this thirteenth Day
of April 1853. between Benjamin Mills of Jo Davis County
State of Illinois Councillor at law of the first-part- and
William H. Savage of St Louis State of Missouri Merchants-
of the second part- Witnesseth that the said party of the
first-part-for and in consideration of the sum of one thousand
three hundred and ninety dollars in hand paid by the
party of the second part- Have granted bargained and sold
and by these presents have granted bargained and sold and
quit-claimed unto the said second party his heirs and assigns
all his right title and interest in and to the following lots
of ground in the town of Peoria known and described in the
plat recorded in the County of Peoria by the said first-party as
lots number fifteen, twenty one ^{and} twenty two twenty four twenty
six twenty eight thirty one and thirty two thirty four thirty six
and thirty nine. in range nine reference to said plat. Well
more fully appear To have and to hold the said lots to the
only proper use benefit and behoof of the said party of the
second part- his heirs and assigns forever and the said
party of the first-part-covenants with the second party that
he will forever warrant and defend the said tract or lot-
of land from the claim of him the said the said party of the
first-part- his heirs and assigns and against the claims of
any other person or persons Whosoever. In Witness Whereof this
party of the first-part- hereto sets his hand and seal

Sealed and delivered in
the presence of A. M. Hunt

Benjamin Mills 

State of Illinois
Peoria County

Be it Remembered that on this
Eleventh Day of May 1853. personally

appeared before the Subscribers and acting Justice of the Peace Benjamin McBills Esqr personally known and acknowledged the foregoing Deed to be his hand and seal and delivered for the purpose therein mentioned A. M. Hunt J. P. ~~and~~

State of Illinois } ss.
County of Peoria } I James S. Barkman Clerk of the
Circuit Court and ex officio Recorder for the County of Peoria
in the State of Illinois do hereby certify that the foregoing is
a full and correct Copy from the Records of a Deed and of the
Certificate of acknowledgment thereof as the same stand recorded
on pages 137 + 138 in Book "D." in the Recorders office in said Coun-
ty

In witness whereof I hereto set
my hand and affix the Seal of
the said Court at my office in
Peoria this 24th Day of April
in the year of our Lord one
thousand eight-hundred and
fifty six

V
W. H. Savage Know all men by these presents that I William H. Savage
J. L. Rutgers of St Louis in Missouri do hereby constitute and appoint John
L. Rutgers of the Same place my true and lawful attorney for
me and in my name and Seal to sell grant and convey at such
prices and on such terms as to him may seem proper every and all
lands town lots hereditaments and their appurtenances belonging
to me or in which I have any interest - lying in the town of
Peoria in Illinois or adjacent to that town in the County of Peoria
in said State and on such such sale or any part thereof to
give in my name and under my Seal any deed or deeds in fee
simple with or without general Warranty executing and deliver-
ing such Deed or deeds in my name and Seal and receiving
the Consideration thereof and in general to do all acts and
things necessary or proper in the premises in as ample a
manner as I could do where I personally presen - hereby ratify-
ing and confirming whatever my said attorney shall lawfully
do in the premises In testimony whereof I have hereunto set
my hand and Seal this twenty ninth Day of February in
the year of one thousand Eight hundred and thirty six
W. H. Savage Seal

State of Missouri }
County of St Louis } ss. On this twenty ninth Day of
February eighteen hundred and thirty six before me D.
Kough a Notary Public for the County aforesaid duly
Commissioned and qualified and residing in the City of
St Louis appeared William H. Savage who is personally
known to me to be the person whose name is subscribed
to the foregoing instrument of writing as a party thereunto

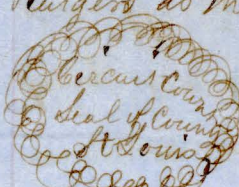
6)

and acknowledged the said instrument to be his act and
Deed for the purposes therein mentioned In testimony
Whereof I the said Notary have herunto subscribed
my name and affixed my notarial seal the Day and year
aforesaid

Daniel Hough Notary Public

State of Missouri }
County of St Louis } ss. I John Rutland Clerk of the
Circuit Court and ex officio Recorder of said County of St
Louis do certify the foregoing to be a full and correct transcript
of the power of Attorney from William H. Savage to John L.
Rutgers as the same now remains of record in my office In
testimony Whereof I have set my hand and
affixed the seal of said Court-as office this
Twenty third day of May in the year of our
Lord one thousand Eight hundred and thirty six

Jno Rutland Recorder



State of Illinois }
County of Peoria } ss. I James S. Barkman Clerk of the
Circuit and ex officio Recorder for the County of Peoria in the
State of Illinois do hereby certify that the foregoing is a full
and correct Copy from the Records of a Power of Attorney
and of the Certificate of acknowledgment thereof as the same
stands recorded on page 371 in Book G. in the Recorders office
said County

In Witness Whereof I hereto set
my hand and ~~that~~ affix the seal of said Court-as my
office in Peoria this twenty fourth Day of April AD. 1856

William H. Savage

To
Glanagan & Harris

This Deed made this twenty first Day of May in the
Year of our Lord one thousand Eight-hundred and thirty Six
between William H. Savage & Maria A. Savage his Wife
of St Louis parties of the first-part-and John C. Glanagan
and Johnathan D. Harris parties of the second part-Witnesseth
that the said parties of the first-part-for and in consideration
of the sum of five thousand Dollars to them in hand paid
at and before the sealing and delivering of these presents
hereof by the said parties of the second part have granted
bargained aliened enfeoffed and confirmed and by these
presents do grant sell alien enfeoff and confirm unto the
said Glanagan and Harris the following lots of ground
lying in the town of Peoria State of Illinois known and
described on the plat-recorded by Benjamin Mills in the
County of Peoria as Lots numbers fifteen twenty one twenty two
twenty four twenty six twenty eight thirty one thirty two thirty
four thirty six and thirty nine in Range nine To have and
to hold the said Lots of ground and all rights and privileges
and appurtenances thereunto belonging unto them the said
parties of the second part-their heirs and assigns forever
being the same lots conveyed to said Savage by Benjamin
Mills by deed dated the the thirteenth day of April Eighteen
Hundred and thirty three and the said William H. Savage
Will and doth for himself his heirs and representatives
former Grants-and defend the said lots and each of them
unto the said Glanagan and Harris their heirs and
assigns against all persons claiming or to claim the same
and against all liens and incumbrances. Whatever Testimony
whereof said parties have hereunto set their hands and

Seals the day and year first above written

signed sealed and
delivered in presence of
Jno. S. Hopkins
Wm James Austin

John L. Rutgers
Attorney in fact for Wm H. Savage

State of Missouri }
County of St. Louis } Be it Remembered that on this
twenty third Day of May, Eighteen hundred and thirty six
before me D. Hough, Notary Public, within and for the
County aforesaid, appeared John S. Hopkins and Wm J. Austin
both personally known to me to be the persons whose names are
subscribed to the foregoing instrument of writing as subscribing
witnesses and made oath that John L. Rutgers whose name
is subscribed to the said instrument of writing as attorney in
fact for William H. Savage is the real person who executed
the same. that the said John L. Rutgers subscribed, sealed
and delivered the same in their presence and acknowledged
the same to be his act and deed for the purposes therein
mentioned and that they the said John S. Hopkins and
William J. Austin subscribed the said deed, as witnesses
in the presence and at the request of the said John L. Rutgers

John Snowden, Hopkins
Wm James Austin

Given under my hand the Day and year aforesaid. In Wit-
ness Whereof I have herunto subscribed my name and affixed
my Notarial Seal this 23rd Day of May A.D. 1836
D. Hough, Notary Public

State of Illinois 3rd ss.

Peoria County } I, James S. Parkman clerk of the
Circuit Court and ex officio Recorder for the County of
Peoria and State of Illinois do hereby certify that the foregoing is a
full and correct copy from the records of a deed and of the certificate
of acknowledgment thereof, as the same remains of record on
page 572, in Book H, in the Recorder's office in said County.

In witness whereof I hereto set
my hand and affix the seal
of the said Court at my office
in Peoria this 25th Day of April
in the year of our Lord one
thousand eight hundred and
fifty six

This Deed, made this twenty first Day of May, in the year of Eighteen hundred thirty six, between John C. Flanagan & Johnathan D. Harris parties of the first part William J. Austin of St Louis party of the second, and William H. Savage of St Louis party of the third part. Witnesseth that the said party of the first part in consideration of one Dollar to them paid by said Austin & of the debt & trust hereinafter mentioned do Grant sell alien enfeoff and convey unto said William J. Austin the following lots of ground, lying in the town of Ponia State of Illinois, known and described on the plat recorded by Benjamin Mills in the County of Ponia, as lots numbers fifteen twenty one, twenty four, twenty six, twenty eight, thirty one & thirty two, thirty four six, and thirty nine, in Range Nine being the same lots conveyed to said Flanagan & Harris by said Savage, by Deed of this date. To have and to hold the said lots of ground & all rights privileges and appurtenances thereto belonging unto him said Austin his heirs and assigns forever. In trust however for the following purposes. Whereas said Flanagan & Harris have made to said Savage their promissory notes of even date herewith, one for twelve hundred and fifty Dollars at six months, one for twelve hundred and fifty at one year and one at two years for twelve hundred and fifty Dollars. Now if the said notes shall be fully paid when due then this deed shall be void but if either of said notes shall in whole or in part remain in arrears and unpaid after due, then said Austin his heirs and assigns may proceed to sell so many of said lots at Public Vendue for cash as may be sufficient to pay whatever money may be then due on said notes or either of them, first having given two months

previous notice of the time place and terms of sale and of the
property to be sold, in some newspaper printed in the City of
St Louis and upon such sale I shall give a Deed in fee to the
purchaser & receive the purchase money, out of which shall be paid
first the Expences of ~~such~~^{said} sale and this true: and then whatever
may be due on said Notes or either of them, and the ballance
shall be paid to said Glanagaw & Harris their Executors admin-
istrators and assigns and the same course may be pursued
whenever necessary till all of said Notes are fully paid. In
testimony whereof the said parties have herunto set their
hands and seals the day and year first above written
Signed sealed and delivered in } John C. Glanagaw ^{Test}
presence of Jno. Snowden, Hopkins } } D. Harris ^{Test}
Wm Jas Austin ^{Test}
Wm H. Savage ^{Test}
for Wm James Austin ^{Test}
his Atty.

State of Illinois ss.
Pena County

J. James S. Barkman clerk of the Circu-
Court and ex officio Recorder for the County of Pena in the
State of Illinois do hereby certify that the foregoing is a full
and correct copy from the records of a Deed of land as the
same stands recorded on Pages 13 & 14 in Book "H" in the Recorder
office of said County

Witness my hand and the seal of
the said Circu Court at my office
in Pena this twenty fifth Day of
April in the year of our Lord one
thousand eight hundred & fifty six

This Deed made this twenty eight Day of April eighteen hundred and thirty seven. Witnesseth that John C. Flanagan and Jonathan D. Harris of the County of Peoria State of Illinois in consideration of the sum of five thousand Dollars to them paid by William H. Savage of the City of St Louis State of Missouri the receipt of which is hereby acknowledged do by these presents grant bargain sell convey and confirm to the said William H. Savage his heirs Executors administrators and assigns all those certain described lots situate in Bogardus addition to Peoria as follows to wit. as lots Nos. fifteen (15) twenty one (21) twenty two (22) twenty four (24) twenty six (26) twenty eight (28) thirty one (31) thirty two (32) thirty four (34) thirty six (36) and thirty nine (39) in Range No nine being the same property which John L. Rutgers attorney in fact for William H. Savage conveyed to John C. Flanagan and Jonathan D. Harris by Deed bearing date the 26th Day of May A.D. 1836. recorded at Peoria in Deed ^{Book} (27) Page 372. To have and to hold the aforesaid premises with the appurtenances thereunto belonging to the said William H. Savage his heirs and assigns forever. The said Flanagan and Harris their heirs and assigns hereby covenanting that they will warrant and defend the title to the aforesaid premises to the said William H. Savage his heirs and assigns forever, against all persons whomsoever. In testimony whereof the said John C. Flanagan and Jonathan D. Harris have hereunto set their hands and seals the day and year above written

Done in presence of
Lewis Bigelow
seal

John C. Flanagan seal
J. D. Harris seal

State of Illinois 3^{ss}
 County of Peoria } I. Lewis Pegelow a Justice of the
 Peace of the County aforesaid do certify, that John C. Flanagan and Jonathan D. Harris whose names are subscribed to the foregoing Deed of Conveyance as having Executed the same appeared before me on this 29th Day of April A.D. 1857. and acknowledged the same to be their free act and Deed Given under my hand at Peoria this twenty ninth Day of April in the year of our Lord one thousand eight-hundred and thirty seven
 Lewis Pegelow J. Peace.

State of Illinois 3^{ss}
 Peoria County } I. James S. Parkman Clerk of the
 Circuit Court and ex officio Recorder for the County of Peoria in the State of Illinois. do hereby certify, that the foregoing is a full and correct copy from the Records of a Deed and of the Certificate of acknowledgement thereof as the same stand recorded on page 278. in Book "H" in the Recorders office in said County

In witness whereof I hereto set my hand and affix the seal of the said Court at my office in Peoria this twenty fifth Day of April A.D. 1856

At a Circuit-Court begun and held at Lima in and
for the County of Peru on the second Monday in May in the
year of our Lord one thousand eight hundred and thirty
four, it being the fourteenth Day of the month, the Honor-
able Dan Stone Judge of the Sixth Judicial Circuit presi-
ding, Lewis Begelow, Clerk Thomas Bryant, Edward
Southwick, State Attorney.

Friday May 18th. 1834

James P. Morris

vs.

Assessors-

William B. Savage
William J. Austin

This Day came the Plaintiff by
his Attorneys but the defendants though three times solemnly
called, came not but made defaults, and it appearing that
the action is brought upon promissory notes for the payment
of money only, the Clerk is directed to assess the Plaintiffs
damages and report the same to the Court which are accor-
dingly assessed, and reported to the Court at the sum
of four thousand three hundred and ninety seven Dollars
and forty seven Cents: It is therefore considered by the Court
that the plaintiff have and recover of the defendants the
said sum of four thousand three hundred and ninety
seven Dollars and forty seven Cents damages, together with
his Costs about his suit in this behalf expended, and that
he have Execution thereof.

And afterwards on the twelfth Day of
June in the year of our Lord one thousand eight hundred
and thirty eight, there was issued from the office of the Clerk

of said Court under the Seal thereof an Execution. Which is in the Words following To Wit:

The People of the State of Illinois
To the Sheriff of Peoria County Greeting
Whereas by the Consideration of our Circuit Court held at Peoria in and for the County of Peoria on the eighteenth Day of May, in the year of our Lord one thousand eight hundred and thirty eight. James P. Morris recovered Judgment against William H. Savage and William J. Austin for the sum of four thousand three hundred and ninety seven Dollars and forty seven Cents damages. Which the said James P. Morris had sustained by reason of the non performance of certain promises made to him by the said Savage & Austin, and also for the further sum of twelve Dollars and seventy five Cents. Costs of Suit as appears of record. We therefore command you, that of the goods and Chattels. Land or Tenements of the said Savage & Austin attached on the original Writ. you cause to be made the aforesaid Sums of money. together with interest. on said judgment. at the rate of six per Centum per annum from the time of recovering the same as aforesaid, until paid, and that you have the same ready as soon as may be, to render unto the said James P. Morris according to Law hereof fail not, and make return of this Writ with your doings. Ninety days after the date hereof. Witness Lewis Bigelow Clerk of our said Court. and the Seal thereof, at Peoria this twelfth Day of June in the year of our Lord one thousand eight hundred and thirty eight Lewis Bigelow Clerk

State of Illinois } S. James S. Barkman Clerk of
County of Peoria } the Circuit Court of said County do
hereby Certify, that the foregoing is a correct copy from the
Records of a judgement in a certain Cause therein, wherein
James S. Morris is plaintiff and William H. Savage & William
J. Austin are defendants also of the Writ of Execution issued
in said judgement as the same is on file in my office

Ld.

In Witness Whereof, I hereto set
my hand and affix the seal
of said Circuit Court, at my
office in Peoria, this twenty
fifth Day of April A.D. 1856
James S. Barkman Clerk

At a circuit court begun and held at Peoria in and
for the County of Peoria on the second Monday in May in
the year of our Lord one thousand eight hundred and thirty four
it being the fourteenth Day of the month the Honorable
Dan Stone Judge of the Sixth Judicial Circuit presiding.
Lewis Bigelow Clerk. Thomas Bryant Sheriff. Edward
Southwick States Attorney

Friday May 15th A.D. 1856

Edward Tracy
Alfred Tracy

v.s.

William H. Savage.
William J. Austin

Assumpsit Attachment.

This Day came the plaintiff by their
attorneys, but the Defendants, though three times solemnly

Called came not. and it appearing that Notice of the attachment has been given to the defendants by publication thereof in the Terre Register, a Newspaper printed in Terre in the State of Illinois for four successive week prior to the first Day of the present term of this Court. and it appearing that the suit is brought upon a promissory note for the payment of money only, the Clerk is directed to assess the plaintiffs damages. Which are accordingly assessed and reported to the Court at the sum of thirteen hundred and eight Dollars. It is therefore considered by the Court that the plaintiffs have and recover of the defendants the said sum of thirteen hundred and eight Dollars, damages, together with their costs, and charges about their suit in this behalf expended, and that they have Execution therefor against the goods and Chattels, Lands and tenements in which the said attachment has been served. And afterwards on the twelfth Day of June in the year of our Lord one thousand eight hundred and thirty eight. there was issued from the office of the Clerk of said Court under the Seal thereof an Execution which is in the words following to wit:

The People of the State of Illinois

To the Sheriff of Terre County Greeting.

Whereas by the Consideration of our Circuit Court held at Terre in and for the County of Terre, on the eighteenth day of May in the year of our Lord one thousand eight hundred and thirty eight Edward Tracy and Alfred Tracy, recovered judgment against William H. Savage and William J. Austin for the sum of thirteen hundred and eight Dollars damages, which the said Edward and

Alfred had sustained by reason of the non-performance of certain promises made to them by the said Savage & Austin and also for the further sum of twelve Dollars and eighteen cents, costs of suit as appears of Record.

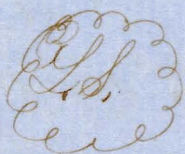
We therefore command you, that of the goods and Chattels Lands or tenements of the said Savage & Austin attached on the original writ you Cause to be made the aforesaid sums of money together with interest on said judgements at the rate of six per centum per annum from the time of recovering the same as aforesaid until paid, and that you have the same ready, as soon as may be, to render unto the said Edward and Alfred according to Law. Hereof fail not and make return of this writ with your doings within days after the date hereof.

L. S.
Cur

Witness Lewis Bigelow
Clerk of our said Court, and the
Seal thereof, at Peoria, this ~~twelfth~~
twelfth Day of June in the year
of our Lord one thousand eight-
hundred and thirty eight.

Lewis Bigelow Clerk

State of Illinois
County of Peoria ^{ss.} I James S. Bartman Clerk of the
Circuit Court of said County do hereby Certify that the fore-
going is a correct copy from the Records of a judgement in a
certain cause therein. Wherein Edward Tracy and Alfred
Tracy are plaintiffs and William R. Savage & William J.
Austin are defendants, also of the writ of Execution issued
on said judgement as the same is on file in my office



In Witness Whereof. I hereto set my
hand and affix the Seal of said
Circuit Court - this twenty fifth Day
of April A.D. 1856.

James S. Barkman. Clerk

State of Illinois J. Thomas Bryant - Sheriff of
Peoria County Peoria County do hereby certify that
by virtue of a writ of execution to me directed from the Clerk's
office of the Circuit Court of Peoria County. I did, on the
eleventh Day of August 1838. expose to public sale the
following town Lots situate in Bogardus's Addition to
the Town of Peoria (No Wit) Lot No Fifteen Twenty-one. Twenty-
two Twenty-four Twenty-six. Twenty-eight Thirty one Thirty-
two. Thirty-four Thirty-six and Thirty-nine in Range
No Nine. and that James S. Morris and Edward Tracy &
Alfred Tracy bid the sum of Four hundred Dollars for
Lot No Fifteen and the sum of One hundred Dollars for
Lot No Twenty-one. and the sum of Two hundred Dollars for
Lot No Twenty-two. and the sum of Two hundred Dollars for
Lot No Twenty-four. and the sum of Two hundred Dollars for
Lot No Twenty-six. and the sum of one hundred and Seventy-
five Dollars for Lot No Twenty-eight. and the sum of Fifty
Dollars for Lot No Thirty one. and the sum of one hundred
and Fifty Dollars for Lot No Thirty two. and the sum of one
hundred and fifty Dollars for Lot No Thirty four. and the
sum of one hundred and fifty Dollars for Lot No Thirty six
and the sum of one hundred and fifty Dollars for Lot No
Thirty nine. Which being the highest and best ^{bid} the said Lots
were struck off to them the said Morris. E. & A. Tracy
and that the said Morris and E. & A. Tracy. will be entitled
to a deed for said Lots so sold to them on the Eleventh Day of
November A.D. 1838. unless the same be redeemed, according to
Law. Given under my hand and seal this 14th Day of August
A.D. 1838. J. Thomas Bryant S.P.C. *Edw. Tracy*

State of Illinois J. I. Jacob Gale Clerk, of the
Peoria County Circuit Court in and for said County
do hereby Certify that the foregoing is a full and correct
Copy of a Certificate of Sale filed as endorsed August 24th
A.D. 1838. by William Mitchell. Clerk. as the same is now in
my office



In Witness Whereof I hereto set my hand and
the seal of said Court at Peoria this 19th Day
of December A.D. 1855 - Jacob Gale, Clerk

Whereas James P. Morris did at the May Term of the
Circuit Court A.D. 1836. for the County of Peoria in the State
of Illinois did Recover a judgment against William H.
Savage and William J. Austin for the sum of four
thousand, three hundred and Ninety Seven Dollars and forty
Seven cents damages and also Costs of Suit. And Whereas Edward
Troy and Alfred Troy. did at the term of the Circuit Court
aforesaid, recover a judgment against the said William H.
Savage and William J. Austin for the sum of thirteen
hundred and eight dollars damages and also Costs of suit
upon each of which judgments executions issued each dated
on the twelfth Day of June A.D. 1838. directed to Thomas
Bryant Sheriff of said Peoria County to Execute and by
virtue of said Executions. the said Sheriff levied upon the
lands hereinafter described, and the same were struck off
and sold to the said James P. Morris. and Edward
Troy and Alfred Troy, they being the highest and best-

bidders therefor, and the time and place of each of the
Sales upon said Executions having been duly advertised,
according to Law. Now therefore Know all by this Deed
that I Christopher Orr Sheriff of said County and Successors
in office to the said Thomas Bryant, in consideration of
the premises have granted, bargained, and sold and do
hereby convey to the said James P. Morris, Edward Tracy
and Alfred Tracy, their heirs and assigns, the following
described tracts of land to wit the ~~following~~ following
Town lots situate in Bogardus addition to the town of
Peoria in said County, Lot No fifteen No twenty one
No twenty two No twenty four No twenty six, No twenty
eight, No thirty one No thirty two No thirty four
No thirty six and No thirty nine in Range No nine
Do have and to hold the said described premises with all
the appurtenances thereunto belonging to the said James P.
Morris, Edward Tracy and Alfred Tracy, their heirs
and assigns forever In Witness Whereof I have hereto set
my hand and seal this eighteenth Day of June in the
year of our Lord one thousand eight hundred and forty
one

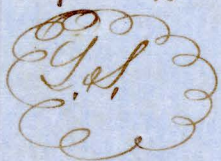
Christopher Orr ^{Seal}
Sheriff of Peoria Co

The words "May and
"A.D. 1848" in range

No Nine interlined before
executing Witness George T. Metcalf

State of Illinois) Before me William Mitchell Clerk
Peoria County, I of the Circuit Court of said Peoria County
this day personally appeared Christopher Orr Sheriff of
Peoria County aforesaid, who is personally known to me to be

the real person whose name is subscribed, to the foregoing
Deed, as having executed the same and acknowledged
that he executed the same for the purposes and in the
capacity therein set forth



Witness my hand & the Seal of said Circuit
Court at Peoria this eighteenth Day of
June in the year of our Lord one thousand
eight hundred and forty one

William Mitchell

Clerk

By Ralph Hamlin Deputy Clerk

11/2
State of Illinois }
Peoria County } I Jacob Gale Clerk of the Circuit
Court and ex officio Recorder of the County of Peoria in
the State of Illinois. do hereby certify that the fore-
going is a full and correct copy of a Deed, and of the
certificate of acknowledgement thereof as fully as the
same stand recorded on pages 60 & 61 in Book M, in
the Records office in said County



In Witness Whereof. I hereto set
my name and affix the seal of
the said Circuit Court at my
office in Peoria this 19th Day of
December in the year AD.

eighteen hundred and fifty^{two}
five Jacob Gale. Clerk & Recorder

Proceedings in chancery in the circuit court at a term thereof began and held at the court house in the city of Peoria, in and for the county of Peoria, in the state of Illinois on the second Monday in the month of May in the year of our Lord one thousand eight hundred and fifty six, it being the twelfth day of said month. The Honorable Jacob Gale, Judge of the sixteenth judicial circuit in the state of Illinois, presiding to-wit:
Thursday, May 13th A.D. 1856.

Richard A. Gregory

Anna Gregory

vs

Petition for Partition

Lydia L. Gover & als

This day came the complainants by Henry Grove their solicitor and enter a motion for leave to file amended bill in this cause.

On the thirteenth day of May A.D. 1856, there was filed in the clerks office of said court, an affidavit in words and figures following to-wit:

Gregory et als

vs.

Comstock et als.

}
}
}

For partition - In Peoria County Circuit Court.

Henry Grove & Alexander McCoy, being duly sworn on oath say that they are of counsel for petitioners in above cause. That at the

time said original petition was filed in this cause they were informed and believed that there would be no controversy among the parties as to the interest of petitioners. That since the filing of said original petition or bill for partition the title of the original defendants named Tracy has passed into John Comstock as affiants believe & that said Comstock now in his answer claims to own the two thirds of said premises sought to be apportioned. They further state that at the time said original and amended petition were filed in this cause they did not understand that the rules of this court required the petitioners to file exhibits of title copies of deeds &c. That owing to the extent of the claim set up by said Comstock affiants believe that a more full statement of petitioners title claim and interest should be set forth in their petition and also as to the manner in which their title & those of the defendant Comstock originated. They also believe that it will be safer to file exhibits of their title. They therefore pray the court for permission to file an amendment & supplement to their said original & amended petition & also exhibits of title copies of deeds. They further state that they fear that great wrong may be done to the petitioners unless said amendment is allowed that at a former term of this court they made application for

leave to amend but Judge Peters departed this
life without deciding or passing on said
application; That this application is
made for the sole and only purpose of
fairly presenting the rights of the petition-
ers and is not made for delay.

Sworn and subscribed to } A. McCoy.
before me this 13th day } H. Grove,
of May, A.D., 1856. }

James S. Barkman, clk

Proceedings in chancery in the circuit court
at a term thereof began and held as last
aforesaid to wit:-

Tuesday, May 20th A.D. 1856.

Richard A. Gregory,

Anna Gregory

vs.

Petition for Partition

Lydia L. Gover & als

This day came the complainants
by Grove & McCoy their solicitor and enter a
motion for a rule on the dependant Com-
stock to show cause if any, he have why
complainants should not be permitted to
read on the hearing of this cause all the
depositions now on file.

The said complainants by their said
solicitors also ask leave to read on the hear-

ing of this cause the depositions of Caroline C. Austin, Charles F. Tracy, Edward N. Tracy & others, now on file.

Proceedings in Chancery at a term of the Peoria county circuit court, begun and held as last aforesaid quoted, to wit:-

Wednesday, May 21, A.D. 1856.

Richard A. Gregory

Anna Gregory

vs.

Petition for Partition

Lydia L. Gover, Robert Gover

James Morris, Alfred Tracy &als

On motion of the complainants leave is given them to file an amended bill in this cause.

And afterwards to wit: on the twenty first day of May A.D. 1856, there was filed in the clerks office of said court, an amended bill in this cause, in words and figures following to-wit:

To the Hon Jacob Gale Judge of the Sixteenth Judicial
Circuit in the State of Illinois in Chancery Sitting Richard
A. Gregory et

~~John~~ Comstock et als.

Your petitioners Richard A. Gregory and
Anna Gregory his wife with leave of the Court here for that
purpose first had and obtained by way of amended and
supplement to their original amended and supplemental
petitions heretofore filed in this cause further represent that
said eleven lots in said original petition described are part
and parcel of fractional section ten in township eight north of
range eight east of the fourth principal meridian in the County of
Peoria, and State of Illinois and said fractional section ten afore-
said was patented by the government of the United States
to Benjamin Mills assignee of John L. Borgardus by patent dated
March 18 1837 a copy of which patent is hereto attached marked
exhibit A. & made part hereof.

They further show that said Mills laid off
part of said fractional section ten into lots and among others
said eleven lots of which partition is prayed.

Your petitioners annex hereto and make part
hereof Certified Copies of said deed from Mills to William H.
Savage dated April 30 1833. also of said power of Attorney
from said Savage to said John L. ^{Rutgers} Borgardus dated February 9
1836. also of said deed from Savage & wife by their Attorney
in fact to said John C. Flanagan and Johnathon S. Harris
also of said trust deed from said Flanagan and Harris to said
William A. J. Austin and William H. Savage dated May 24 1836

also of said deed from said Flanagan and Harris to said William H. Savage dated April 28/837 also of the record of the judgement and execution rendered and assigned in said Cause wherein said Morris was plaintiff and said Savage and said Austen were defendants and of said judgement and execution rendered and assigned in said case of said Edward & Alfred Tracy against said Savage and Austen and also of the Certificate of sale of said lots and of the deed of said Sheriff to said Morris & said Edward and Alfred Tracy and on the hearing of this cause they will read said original patent and said Certified Copies of the record of said deeds in evidence the original deeds never having been and are not now in the possession power or control of your petitioners.

Your petitioners further show that both of said judgement against said Savage and Austen were predicated upon proceedings in attachment and both rendered at one and the same time of the Circuit Court of Plover County and in both Causes the original attachment ~~unto~~ were made returnable at one and the same time and your petitioners show that of said sale of said lots had ~~been~~ ^{have} been for cash instead of being struck off to said Morris and said E & A Tracy to the express provisions of the Statutes said Morris would have been entitled to over two thirds of the purchased money and your petitioners charge that in the absence of any agreement or understanding to the contrary said Morris would in equity be entitled to two thirds at least of said lots, and although the legal title to said

lots ^{have been} may in said Morris and Edward & Alfred Tracy under said Sheriff's deed yet said Morris & Alfred Edward & Alfred Tracy would have taken and ~~and~~ ^{and hold} did take said legal title interest trust for the use and benefit of said Morris & said Edward and Alfred Tracy according to their equitable interest in said lots.

Your petitioners further show that said Edward & Alfred Tracy at the time of said sale and conveyance by said Sheriff and for a long time prior thereto were doing business and trading together as partners under the name and firm of E & A Tracy & said note upon which said judgement in their favor was rendered was given to them in their partnership name by said Savage & Austen.

Your petitioners further show that the certificate of sale executed by said Sheriff to said Morris & said E & A Tracy, was executed to said Tracys by the name & style of E & A Tracy.

And your petitioners charge that though the whole of said proceedings said Edward & Alfred Tracy were hereto as one person, or party in interest.

Your petitioners further show that said Edward Tracy alone managed and performed the principal part of the business of said firm of E & A Tracy in relation to said sale and in relation to said lots, ^{said} Alfred consenting thereto.

Your petitioners further represent that said eleven lots were sold and struck off ^{to} the said Morris & said E & A Tracy by the Sheriff of Nevada County at the sale thereof

Under an execution or order of sales, issued out of and under the seal of, ^{said} Peoria County Circuit Court under said proceedings or suits in attachment and said executions were satisfied in part by such sale of said lots said lots were bid off by & struck off to said Morris & said E. & A. Tracy & said Morris paid more than two thirds of the purchased money for said lots. and said E. & A. Tracy paid less than one third of the purchased money of said eleven lots of which said Comstock & had actual & constructive notice at & before the time he purchased the interests of said Tracys in said eleven lots.

Your petitioners further charge that at and before the time of said sale of said eleven lots by the Sheriff of Peoria County and before and at the time said deed was executed by the Sheriff of Peoria County to said James P. Morris Edward & Alfred Tracy and after said conveyance or Sheriffs deed was made for said eleven lots it was understood and agreed by and between said James P. Morris and said Edward and Alfred Tracy by said that the deed from said Sheriff should be executed to the three jointly in trust merely and that the legal title to said lots should be taken and held by the three in trust for the parties according to the equitable interests of the parties in and to said lots and ^{it} was agreed and understood in & of old that said James P. Morris should have and hold the equitable title and interest (and that he was in fact the equitable title owner) of the ~~undivided~~ ^{undivided} two thirds of said eleven lots and said Edward & Alfred Tracy should have and hold in equity one ^{third} undivided ~~that~~ part of said lots.

They further show that said Com-

stock had at & before the time of his purchase at said Administrator's sale actual and constructive notice of said trust and that said legal title to said eleven was taken & held in trust for the use and benefit of said parties according to their respective interests.

Your petitioners ~~for~~ further charge that said trust should be executed and the understanding and agreement so made in ^{apart} by and between said Morris & said C. A. Tracy should ^{be carried} out.

Your petitioners annex hereto & make part hereof a copy of said deed executed by said Carolina C. Austin to your petitioner Richard A. Gregory and on the hearing of this cause your petitioners also exhibit said ^{deed} original and offer the same in evidence.

Your petitioners ^{ers} ~~say~~ ^{pray} that said Comstock may answer this their amended & supplemental petition and renew their prayer for a partition of said premises as prayed in said Amended & Supplemental Bill.

by Grove & McCoy.
their Sols

And afterwards to wit: on the first day of September A.D. 1856, there was filed in the office of the clerk of said court, the answer of Comstock, in words and figures following to-wit:

State of Illinois

Peoria County } Peoria circuit court, Sept. Term, 1856.

Richard A. Gregory et al.,

Lydia L. ^{vs} Gover et al. }

The further answer of John Comstock
one of the defendants herein to the amended petition
filed herein at the May term 1856, to-wit; on the 21
day of May 1856.

This respondent for answer says
that the matters and things set forth & alleged in
said amended petition are wholly untrue excepting
so far as the same matters are admitted in the for-
mer answer by this respondent herein filed, and he
claims the full benefit of the statute of frauds
pleaded in the former answer of respondent herein and
adopts his said former answer in this respect. He
therefore calls for proof & prays as heretofore
he has prayed in his former answers.

Purple, Lindsey & Lauder,
for Comstock.

And afterwards to-wit; on the second day of Septem-
ber, A.D. 1856, there was filed in the clerks office of the
circuit court aforesaid, the Answer of Comstock
to the 1st amended petition herein, in words and fig-
ures following to-wit:-

State of Illinois

Peoria County

Peoria Circuit Court, September
Term 1856.

Richard A. Gregory, Ann Gregory }

vs.

Lydia L. Gover and others.

The separate answer of John Comstock one of the defendants herein to the amended petition filed herein on the 21st day of May 1856.

This respondent for answer to said amended petition says that the matters and things therein stated excepting so far as the same are admitted by the former answer of this respondent filed herein, are wholly untrue, he therefore calls for proof of each & every material allegation and statement therein. Respondent hereby insists and relies upon the said statute of frauds pleaded in his former answer herein & for that purpose hereby adopts his said former answer wherein said statute is fully pleaded & prays as heretofore he has prayed in his said former answer.

By Purple, Lindsay & Lauder.

And afterwards to-wit:—On the third day of September A.D. 1856, there was filed in the clerks office of the circuit court aforesaid the replication of the plaintiffs in this cause, in words and figures following, to-wit:—

The replication of Richard A. Gregory and Ann Gregory his wife to the several answers of John Comstock one of the defendants.

The repliants saving and reserving to themselves all and all manner of advantage of exception to the manifold insufficiencies of the said answers, for replication thereunto saith, that they

will aver and prove their said original and amended bills to be true, certain and sufficient in the law to be answered unto, and that the said answers of the said defendant are untrue, and insufficient to be replied unto by said replicants, without this that any other matter or thing whatsoever in the said answer contained, material or ^{effectual} ~~insufficient~~ in the law to be replied unto, confessed and avoided, traversed or denied is true, all which matters and things these replicants are and will be ready to aver and prove as this honorable court shall direct, and pray as in and by their said bills they have already prayed

By Grove & McCoy
their Attor'ys.

And afterwards to-wit; On the sixth day of September A.D. 1856, there was filed in the office of the clerk of the circuit court aforesaid, the decree of said court, in this cause, in words and figures following to-wit:-

State of Illinois }
Peoria County, ss } In Peoria County Circuit Court.
Richard A. Gregory
Anna Gregory
vs. In chancery for Partition
Lydia L. Gover and others

This day this cause came on to be heard upon the original amended & supplemental bills of the complainants the answers of John Courtsocks and the answer of Lydia L. Gover, James Morris, the replication, exhibits, depositions, proofs, oral testimony and allegations of the complainants; and it appearing to the court here that due notice of the filing of the bill in this cause and of the pendency of this suit was duly given by the complainants to the defendants Robert Gover, Alfred Tracy, ~~Charles~~ H. Tracy, Edward A. Tracy, John A. Tracy, Henry W. Tracy, Augustus E. Tracy, Alfred R. Tracy, William H. Tracy & Eliza R. Tracy; by publication of notice for four successive weeks in the Peoria Weekly Republican a newspaper published weekly, in the city and county of Peoria & state of Illinois, being the nearest newspaper; - the first publication of said notice having been published in said newspaper on the 6th day of September A.D. 1853 & the last on the 27th day of September 1853, and the court having seen and inspected said notice & the certificate of J. J. Pickett publisher of said newspaper thereto attached find the same in all respects correct & order the same to be filed in this cause & the defendants in said notice notified being, three times solemnly called came not but made default & as to said notified defendants it is by the court ordered and adjudged that said

original and amended petitions as to said notified defendants be taken, considered and held as true and confessed. The complainants then offered in evidence the exhibits attached to and made part of their amended bills. The complainants then offered in evidence a deed from Caroline C. Austin, to Richard A. Gregory, dated October 31, 1834 conveying all her interest in said lots numbered 15, 21, 22, 24, 26, 28, 31, 32, 34, 36, & 39 in controversy to said Richard A. Gregory, duly executed & acknowledged. Complainants then called Charles W. McClellan as a witness, who being sworn testified to the court that he was acquainted with the parties to the suit, that he was agent of complainants & employed Grove McCoy to bring this suit, that he was present at the sale made by Sanger as administrator, that Mr. Grove as agent for complainants gave notice at that sale before the sale that the bill in this cause was filed & then pending in the circuit court of Peoria County, and that Morris heirs claimed two thirds ($\frac{2}{3}$) Comstock, the defendant was present, the notice was so loud that both Sanger & Comstock heard it - it was talked over - he believed that Comstock purchased at less price on account of said notice. The complainants then read the depositions of Caroline C. Austin, Charles F. Tracy, and Edward A. Tracy. The complainants then

called Henry Grove, who being sworn testified to the court that Comstock told him some time in 1854 after he had got his deed that he purchased of Charles F. Tracy after his purchase at the administrators sale. Witness further stated that he went to the administrators sale by Sanger, Comstock, Sanger and others were present and witness gave notice in a clear full and distinct tone of voice to Sanger and all present just before but about the time the sale commenced that the Tracy estate whose interest was about being sold held only one sixth of the lots that Sanger was about to sell, and that the heirs of James P. Morris owned the two thirds interest of said lots and that Richard A. Gregory & wife who was one of the heirs of said Morris had filed their bill for partition in the circuit court for Peoria County and the case was then pending - that his recollection is that he told them that Gregory & wife in their bill claimed that the heirs of Morris held two thirds - these statements Comstock heard. The notice he repeated more than twice and gave the notice as the agent and attorney of complainants & Morris heirs.

The complainants then offered the original writs of attachment and papers and records in both the original suits in

evidence in Morris v. Savage & Austen & E. V. A. Tracy v. Savage & Austen together with certified copies of certificate of sale & Sheriff's deed. Complainants then offered three tax receipts for the payment of taxes on said lots. Complainants then called Thomas Bryant who being sworn testified to the Court that he was the sheriff who made the sale, was sheriff at the time, no money passed on the sale to either party or when certificate was given. Complainants then called George T. Metcalf who being duly sworn testified as follows: I, with Mr. Irish was agent and attorney of Morris & the Tracys in the attachment suits. I do not recollect any instructions to the sheriff. I suppose I was the one who bid the lots in. I was present at sale and the intention was that the property should be held for the benefit of these creditors pro rata according to the amount of their judgments - the plaintiffs were not present & I know of no agreements between them. There may have been but I do not recollect it.

It was admitted that the judgment in attachment in Morris v. Savage & Austen was $4397\frac{27}{100}$ and judgment in E. V. A. Tracy v. same was 1308 $\frac{1}{2}$.

On consideration whereof the court finds the equity of the case to be with the

complainants and that partition of the premises should be made as prayed for in the amended and supplemental bills.

It is therefore ordered, adjudged, declared and decreed by the court that Richard A. Gregory, Anna Gregory, Lydia L. Gover and James Morris are the equitable owners of said two third parts of lots numbered fifteen, twenty-one, twenty-two, twenty-four, twenty-six, twenty-eight, thirty-one, thirty-two, thirty-four, thirty-six and thirty-nine (15, 21, 22, 24, 26, 28, 31, 32, 34, 36 & 39) in Mills addition to Peoria in Range nine of said addition, and that said John Comstock is the equitable owner of one undivided third part of said eleven lots.

It is further ordered adjudged and decreed by the court that John Hamlin, Amos P. Bartlett and George C. Bestor, he and they are hereby appointed commissioners to make partition of said eleven lots among the parties according to their respective interests as settled in this order,

It is further ordered, adjudged, decreed and decreed by the court that said commissioners after being first duly sworn according to law, go upon the premises and set off and apart to the said Richard A. Gregory, Anna Gregory, Lydia L. Gover, and James Morris in common two thirds part of said lots

by metes & bounds and to said John Comstock one third part of said lots and that they make report of their proceedings under this order at the next term of this court.

It is further ordered that this cause stand continued for further directions on the coming in of said report.

Jacob Gale.

And on the same day of the filing of the foregoing decree, to wit: On the sixth day of September, A.D. 1856, there was filed in the office of the clerk aforesaid, the following proof of Publication, in words and figures, to-wit:-

State of Illinois, Peoria County, ss.- In the circuit court, November Term, A.D. 1853. - Richard A. Gregory and Anna Gregory his wife, complainants, vs. Lydia L. Gover, Robert Gover, James Morris, Alfred Tracy, Charles F. Tracy, Edward N. Tracy, John N. Tracy, Henry W. Tracy, Augustus C. Tracy, Alfred R. Tracy, William F. Tracy, Eliza R. Tracy, defendants - In chancery for partition of real estate. Notice is hereby given to the said Lydia L. Gover, Robert Gover, James Morris, Alfred Tracy, Charles F. Tracy, Edward N. Tracy, John N. Tracy, Henry W. Tracy, Augustus C. Tracy, Alfred R. Tracy, William F. Tracy, and Eliza R. Tracy, that a suit against them is now pending in the circuit court in and

for the County of Peoria, in the state of Illinois
on the Chancery side thereof, wherein Richard
A. Gregory and Anna Gregory his wife are com-
plainants; that summons therein was duly is-
sued, returnable to the term of said court to be
held on the third Monday of November, A.D. 1853,
at Peoria, in and for said County of Peoria. Now
unless you the said defendants, shall appear before
the said court on the first day of the term thereof
to be held as aforesaid, on the third Monday of
November next, and plead, answer or demur to
the said complainants bill or petition for Partition
of real estate, the matters and things therein con-
tained will be taken for confessed against you,
and a decree entered by said court according to the
prayer thereof. Dated at Peoria, this third day
of September, A.D. 1853- Jacob Gale, clerk.

I, Thomas J. Pickett, printer and publisher of
the Peoria Weekly Republican, do hereby cer-
tify that the annexed notice was published for
four weeks successively in said paper, and that
the first publication of said notice was made
on the 6th day of September A.D. 1853, and the
last publication was made on the 27th day
of September A.D. 1853. T. J. Pickett,
Peoria, Sept. 6, 1856. Printer & Publisher

And on the same day, to-wit: the sixth day
of September A.D. 1856, there was filed in the

office of the circuit court clerk aforesaid, a bill
of exceptions, in the words and figures following
to-wit:-

State of Illinois ss. Seona Circuit Court Sept.
Seona County 3 Special Term 1856

Richard A. Gregory

Anna Gregory

vs.

Lydia L. Gover & others

In Chancery for Petitioners

Be it Remembered that this
cause came on for hearing at the present term of said
Court on the Bill, amended and Supplemental Bills,
answers, Exhibits, replication and Depositions on file
and testimony on trial. The Complainants to sustain
the issues on their part read the Depositions taken in
their behalf in this cause. The Exhibits attached to
and made part of their amended bills, a Deed from
Caroline C. Austin to Richard A. Gregory, Dated
October 31st A.D. 1854. in the words & figures following
to-wit.

This Indenture, made this thirty first Day of
October, in the year of our Lord one thousand eight
hundred and fifty four. Between Caroline C. Austin of
the City of Saint Louis in the State of Missouri of the
first part, and Richard A. Gregory of said City and
State, of the second part, Witnesseth, that the said party
of the first part, for and in consideration of the sum of
one Dollar, lawful money of the United States of America

to her in hand paid by the said party of the second
part, as or before the sealing and delivery of these presents,
the receipt whereof is hereby acknowledged, have remised,
released, sold and forever quit claimed, and by these
presents do remise, release, sell and forever quit claim
unto the said party of the second part, and to his heirs
and assigns forever, all those certain Lots of land
situate in Range Nine (?) in Mills addition to the city
of St. Louis, in the County of St. Louis and State of Missouri, to wit
Lots Number. 15, 21, 22, 24, 26, 28, 31, 32, 34, 36, & 38 To have and
to hold the above described premises, with the privileges and
appurtenances therunto belonging, to him the party of the
second part, his heirs and assigns forever. In Witness Whereof,
the said party of the first has hereunto set his hand and
Seal the Day and year first above written.

Signed, sealed and delivered

Caroline C. Austin

in presence of

State of Missouri

City & County of St. Louis

I, Josiah H. O'bear Notary Public
in & for said City for said County, do certify, that on this
Day, personally appeared before me a Caroline C. Austin 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
acknowledgment is proposed to be made and acknowledged
the execution thereof as her voluntary act and Deed for
the uses and purposes therein expressed, given under my hand
and Seal of office on thirty first Day of October A.D. 1854

Josiah H. O'bear

Notary Public, St. Louis Co.

The Complainants also offered in evidence the original writs of attachment and papers in file and records of the Circuit Court of Leona County in both the Suits in said Court against Savage & Austin in favor of Morris and of E & A. Tracy together with Certified Copies of certificates of Sale and Sheriffs Deed which are in the Woods and figures following to wit:

Filed Sept 29th 1837

State of Illinois } Before the Clerk of the Circuit
Leona County } Court for Leona County.

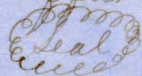
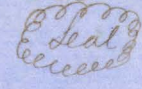
I, James S. Morris, of St Clair County in the State of Illinois, do Solemnly Swear that William H. Savage and William A. Austin lately trading in the City of St Louis in the State of Missouri under the name style and firm of Savage and Austin, are indebted to this Defendant in the Sum of Twenty Two Hundred and Sixty three Dollars and eighty four Cents, the amount remaining due in five promissory Notes, made and executed by the said Savage and Austin to this Deponent, and also in the Sum of one hundred and forty Dollars and twelve Cents, bearing the interest due in the said Notes up to this time. I also state that the said Savage & Austin are residents in the State of Missouri. I further state that the said Savage and Austin have real Estate situated in this County and also personal property in this State. I therefore pray that a writ of attachment may issue against the separate and joint estate of the said Savage and Austin sworn to before me

James S. Morris

this 29th Day of September
A.D. 1837. S. Bigelow Clerk

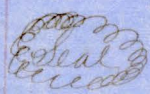
Filed Sept 28th 1877

Know all men by these presents that we James P. Morris and William Trisby of the State of Illinois, are held and firmly bound unto William H. Savage and William A. Austin both of the City of St Louis in the State of Missouri, in the penal sum of Five Thousand Dollars, to the payment of which to the said Savage and Austin, we bind ourselves, our heirs, executors and administrators firmly by these presents, Witness our hands and seals this this twenty ninth Day of September A.D. eighteen hundred and thirty seven, The condition of this obligation is such that whereas the above bounden James P. Morris hath on the Day of the Date hereof, prayed an attachment at the Suit of the said Morris against the estate of the above named Savage and Austin for the sum of two thousand four hundred and three Dollars and ninety six cents, and the same being about to be sued out returnable on the first Monday of December next to the Special term of the Court there to be holden, Now if the said James P. Morris shall prosecute his Suit with effect, or in case of failure therein shall well and truly pay and satisfy the said Savage and Austin all such costs in said Suit and such damages as shall be awarded against the said Morris his heirs Executors or administrators in any Suit or Suits which may hereafter be brought for wrongfully suing out the said attachment, then the above obligation to be void otherwise to remain in full force and effect

James P. Morris 
William Trisby 

The People of the State of Illinois to the Sheriff
of Peoria County Greeting=

Whereas James P. Morris hath
complained on oath to Lewis Bigelow, Clerk of the
Circuit Court of Peoria County, that William H. Savage
and William S. Austin are justly indebted to the said
Morris, to the amount of two thousand four hundred
and three Dollars and ninety six Cents, and oath having
also been made that the said Savage and Austin reside
out of this State, and the said Morris having given bond
and security according to the directions of the act in such
case made and provided; We therefore Command you,
that you attach so much of the estate joint or separate
real or personal of the said Savage and Austin to
be found in your County as shall be of value sufficient
to satisfy the said debt and costs according to the
complaint, and such estate, so attached in your hands
to secure, or so to provide that the same may be liable
to further proceedings thereupon according to Law,
as a Court to be holden at Peoria for the County of
Peoria upon the first Monday of December next, so as
to compel the said Savage and Austin to appear
and answer the complaint of the said Morris, when
and where you shall make known to the said Court
how you have executed this writ, and have you there
and there this writ.

Seal
Circuit

Witness Lewis Bigelow Clerk of the said Court
and the Seal thereof this twenty ninth Day of
September in the year of our Lord one thousand eight
hundred and thirty seven.

Lewis Bigelow, Clerk

By virtue of the within writ of attachment I did on the 30th
Day of September A.D. 1837, attach the following property
(to wit) Lots No fifteen, twenty one, twenty two, twenty four
Twenty six, twenty eight, thirty one thirty two thirty four
thirty six and thirty nine in Range Nine in the.

Regarding addition to the Town of Leoria Reference being
had to the plat of said Town attached as the property of
William H. Savage Thomas Bryant & S. C.

Notice is hereby given to William H. Savage and William
J. Austin, that a writ of attachment against their joint and
separate estates for the sum of two thousand four hundred
and three Dollars and ninety six cents. has issued out of the
Circuit Court of Leoria County, returnable before the said
Court, at the spe term thereof to be held at Leoria on the
first Monday in December next and that unless the said
Savage and Austin shall appear, give bail and plead to the
said action, at the term of the said Court to be held as afore
said, judgment will be entered against them by default, and
the estate attached will be sold to satisfy the said judgment.
Given under my hand at Leoria this 2nd Day of October
1837

Lewis Bigelow, Clerk of said Court.
S. Samuel H. Davis, Printer and Publisher of the Leoria Register
and North Western Gazetteer, a paper printed and published
in Leoria, in the County of Leoria, and State of Illinois. Hereby
certify that the advertisement annexed has been published four
weeks successively in the paper aforesaid, the date of the first
publication of said advertisement being October 7th 1837, and of
the last being October 28th 1837. Given under my hand this ninth
Day of May 1838
See for publication \$2.25

Sam H. Davis

Filed November 17 State of Illinois In the Circuit Court for Leonia County
1837. Leonia County 3 December Term A.D. 1837.

William H. Savage and William S. Austin
were attached to answer unto James P. Morris of a plea of
trespass on the case or promises, and therefore the said
plaintiff by William Trisby, his attorney complains, for
that whereas the said Defendants, on this twenty sixth Day
of July, in the year of our Lord one thousand eight
hundred and thirty at St Louis that is to say, at Leonia in
the County aforesaid, made their promissory Note, Writing of
that date, and thereby then and there promised by the
name of their firm of Savage and Austin to pay to the said
plaintiff on demand, the Sum of Eleven hundred Dol
lars for Value Received, and whereas also the said Defend
ants afterwards to wit, on the thirtieth Day of July, in the
year last aforesaid at St Louis, that is to say, at Leonia aforesaid,
made their certain other promissory Note in Writing and
thereby then and there promised by the name of their said
firm of Savage and Austin, to pay to the said plaintiff
the further Sum of eight hundred Dollars on Demand,
And whereas also the said Defendants afterwards to wit, on
the twenty seventh Day of September, in the year last aforesaid,
at St Louis that is to say, at Leonia aforesaid, made their cer
tain other promissory Note in Writing and thereby then and
there promised by the name and style of their said firm
of Savage and Austin, the said plaintiff, to pay him the
further Sum of six hundred and five Dollars on Demand
and whereas also the said Defendants afterwards to wit, on the
first Day of November in the year last aforesaid at St Louis

that is to say at Leona aforesaid made their certain other promissory Note in Writing and thereby promised by the name of their said firm of Savage and Austin the said plaintiff to pay him the further sum of nine hundred Dollars on Demand. And Whereas also the said Defendants afterwards to wit on the twenty ninth Day of December in the year last aforesaid at St Louis that is to say at Leona aforesaid made their certain other promissory Note in Writing and thereby then and there promised by the name and style of their said firm of Savage and Austin the said plaintiff to pay him the further sum of three hundred Dollars on Demand. And Whereas also the said Defendants afterwards to wit on the twenty seventh Day of February in the year of our Lord one thousand eight hundred and thirty seven made their certain other promissory Note in Writing and thereby then and there promised by the name and style of their said firm of Savage and Austin the said plaintiff to pay him the further sum of three hundred Dollars on Demand for value received. and Whereas also the said Defendants afterwards to wit on the Day and year last aforesaid at Leona aforesaid were indebted to the said plaintiff in the further sum of three thousand Dollars for so much money by the said plaintiff before that time lent and advanced to the said Defendants by the said plaintiff at their special instance and request and being so indebted the said Defendants then and there promised to pay the said plaintiff the said sum of money in this court mentioned where

they should be thereunto afterwards requested by the
 said plaintiff, and whereas also the said Defendants
 afterwards to wit on the Day and year last aforesaid
 at Stona aforesaid accounted with the said plaintiff
 of and concerning divers other sums of money from the said
 Defendants to the said plaintiff, before that time due
 and owing, and then in arrear and unpaid, and upon
 such accounting the said Defendants were then and there
 found in arrear and indebted to the said plaintiff in the
 further sum of three thousand Dollars and being so in-
 debted the said Defendants promised the said plaintiff
 to pay him the said last mentioned sum of money
 when they should be by the said plaintiff thereunto
 afterwards requested, yet the said Defendants though
 often requested have never paid any of the said sums
 of money in the above Courts mentioned to the said
 plaintiff nor any part thereof to the plaintiff
 damage of Eight thousand Dollars and therefore he
 brings his Suits &c

William Frisby
 Atty for plff

Filed November 17th 1836

17th 1836

Aug 12. Dr	Cash	500.00	July 26	By Cash recd on Deposits	1100.00
" 21. "	Dr	300.00	" 30	" Do " " Do	800.00
Sept 20	" amt of amtd bill	1.82	Sept 27	" Dr " J. W. Gibson	605.00
" "	" Cash on 5 th Inv	300.00	Nov 1.	" Do " on Deposits	100.00
Oct 18	" amt of amtd bill	2.31	Dec 28	" Do " " Do	300.00
" 26	" " " Do	2.25	July 21.	" Do paid postage	25
	3 Bags Coffee 490 ¹⁴ 686.		27	" " recd on Deposits	300.00
	2 Bbls 50 ¹¹ Sugar 435.11 1/2 4864			" Balance of Interest	100.17
	3 Bxs 25 Soap 14 1/2 1251			up to 28 June int on 300 @ 6% June 6.00	4105.42

	1 Bl Whiskey	36 ² 55 ² 00 ²	
	1 Bl Mackerel	750	
	1 Box Tobacco	134. 32. 42 ⁸⁸	
	1 qd Cash for Mine	20 ² 50. 13 ²⁵	
	1 " " Brandy	36. 11. 36. 00.	
	1 hlf qd. M M Mine	16 ² 75. 1235. 259. 84	
Nov 14.	To Cash	310 00	
24	To 1 Bl Mackerel	150	
	1 " Herring	400	
	1 Bag Coffee	122. 74. 884	20 34
Dec 3	To amt of am ^d bill	6. 13	
14	To " " Do	15 72	
1837 Feb 21.	To Cash p ^d order for D. Whittier	25 00	
May 12.	To Cash p ^d for stock in St Louis Insurance Co	100 00	
	To Balance	1841. 41	
		<u>2270 01</u>	
		<u>4111. 42</u>	

By Balance 2270, 01

E. V. C. C.

St. Louis 30th June 1837.

Savage & Austin
By William, J^r Austin
one of said firm

Thomas L. Mayne Knows W. J. Austin's hand writing

No 1.

Filed November 7th 1837. Borrowed & received of James P. Morris the hundred
dollars payable on demand Value received
St. Louis 27th Feby 1837. Savage & Austin

No 2.

\$300.00 St. Louis 29th Decr 1836
Borrowed and received of Jas P. Morris Three hundred
Dollars payable on Demand Savage & Austin
By J. R. Sprigg

No 3.

Borrowed and received of James P. Morris Eight hundred
Dollars payable on demand without defealcation
\$800.— St. Louis 30th July 1836. Savage & Austin

No 4.

Borrowed & Received of James P. Morris Eleven hundred
Dollars payable on demand Value received
St. Louis 26th July 1836. Savage & Austin

No 5.

Borrowed and received of James P. Morris Nine hundred
Dollars payable on demand Savage & Austin
St. Louis 1st Novr 1836.

No 6.

Recd St. Louis 27th Sept 1836 of James P. Morris for the
hands of W^m Gibson Six hundred and five Dollars
Which sum is payable on demand
Savage & Austin

The People of the State of Illinois
To the Sheriff of Peoria County. Greeting. Whereas by
the Consideration of our Circuit Court, held at Peoria,
in and for the County of Peoria, on the Eighteenth Day
of May in the year of our Lord one thousand eight
hundred and thirty eight, James P. Morris, recovered
Judgment against William R. Savage and William J. Austin
for the sum of four thousand three hundred and ninety
seven dollars and forty seven Cents damage, which the
said James P. Morris had sustained by reason of the
non-performance of certain promises made to him by the
said Savage & Austin and also for the further sum
of twelve dollars and seventy five Cents, Costs of Suit as
appears of record. We therefore Command you, that of the
goods and Chattels, Lands or tenements of the said
Savage & Austin attached on the original writ you
cause to be made the aforesaid sums of money, together
with interest on said judgment at the rate of six per
centum per annum from the time of recovering the same
as aforesaid until paid, and that you have the same
ready, as soon as may be, to render the unto the said
James P. Morris, according to Law. Hereof fail not,
and make return of this writ with your doings, ninety
day after ^{the} date hereof.

Witness, Lewis Bigelow, Clerk of our said
Court and the Seal thereof, at Peoria, this
Twelfth Day of June, in the year of our
Lord one thousand eight hundred and thirty
Eight Lewis Bigelow, Clerk.

Seal
Court

At a Circuit Court begun and held at Leona in
and for the County of Leona. on the second Monday in
May in the year of our Lord one thousand eight
hundred and thirty four, it being the fourteenth day of
the month, the Honorable Dan Stone Judge of the Sixth
Judicial Circuit, presiding, Lewis Bigelow, Clerk,
Thomas Bryant, Sheriff Edward Southwick, States
Attorney

Friday May 18th 1838.

James P. Morris

vs.

Assumpsit

William H. Savage
William J. Austin

This Day came the plaintiff
by his attorneys, but the Defendants though three times
Solemnly Called came not but made default, and it
appearing that the action is brought upon promissory
Notes for the payment of money only, the Clerk is
directed to assess the plaintiffs damages and report the
same to the Court which are accordingly assessed and
reported to the Court, at the sum of four thousand
three hundred and ninety seven Dollars and forty
seven Cents: It is therefore considered by the Court that
the plaintiff have and recover of the defendants the
said sum of four thousand three hundred and
ninety seven Dollars and forty seven Cents damages.
together with his Costs about his suit in this behalf
expended and that he have execution thereof

And afterwards on the twelfth day of June in the
year of our Lord one thousand eight hundred and
thirty eight, there was issued from the office of the
clerk of said Court under the seal thereof an execution
which is in the words following to wit:

The People of the State of Illinois

To the Sheriff of Peoria County, Greeting

Whereas by the Consideration of our Circuit Court
held at Peoria in and for the County of Peoria on
the eighteenth day of May in the year of our Lord
one thousand eight hundred and thirty eight
James P. Morris recovered judgment against William
H. Savage and William J. Austin for the sum of
four thousand three hundred and ninety seven Dollars
and forty seven Cents damages which the said James
P. Morris had sustained by reason of the non performance
of certain promises made to him by the said Savage
& Austin, and also for the further sum of twelve Dollars
and seventy five Cents, Costs of suit, as appears of
record. We therefore Command you, that of the
goods and Chattels, Lands or Tenements of the said
Savage & Austin, attached on the original writ, you
cause to be made the aforesaid sum of money, together
with interest on said judgment, at the rate of six per
centum per annum from the time of recovering the
same as aforesaid until paid, and that you have the
same ready as soon as may be, to render unto the said
James P. Morris according to Law. Hereof fail not and
make return of this writ, with your doing, ninety days

after the date hereof. Witness Lewis Bigelow, Clerk
of our said Court, and the seal thereof at Peoria this
twelfth Day of June in the year of our Lord one thousand
eight hundred and thirty eight

Lewis Bigelow, Clerk."

State of Illinois
County of Peoria. I, James S. Barkman, Clerk of
the Circuit Court of said County, do Certify, that the
foregoing is a correct copy from the Records of a
judgment in a certain Cause therein, wherein James P.
Morris is plaintiff and William H. Savage & William J.
Austin are defendants, also of the writ of execution
issued on said judgment as the same is on file in
my office.

In Witness Whereof, I hereto set my hand
and affix the Seal of said Circuit Court,
at my office in Peoria this twenty fifth
Day of April A.D. 1856,



James S. Barkman, Clerk

~~The complainants then called Charles N. McClallen as
a witness who testified that he was acquainted with the
parties complainants in this suit, that he was agent for
the complainants to bring this suit, had talked with
Mr. Gregory before the commencement of this suit about
purchasing premises - was present at the sale made by
Sanger as administrator, that Mr. Grove as agent for
complainants gave notice at that sale before the sale,
that the bill in this cause was filed and then pending~~

Filed October 21st 1837. State of Illinois Circuit Court Peoria Co
Peoria County $\$3$ December Term 1837.

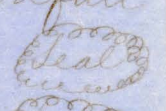
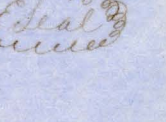
I, Alfred Tracy of St Louis in the State of Missouri do solemnly swear that William H. Savage and William J. Austin lately trading in the City of St Louis in the State aforesaid under the name and style of Savage & Austin are indebted to Edward Tracy, and Alfred Tracy by the name of their firm of E & A. Tracy in the Sum of twelve hundred and sixty five Dollars and Seventy Seven Cents, the amount and interest due on a promissory note given by said Savage & Austin to said E. & A. Tracy. I also state that said Savage (is a resident of the State of New York) and Austin a resident of the State of Missouri and that they have real estate situate in this County - I therefore pray that a writ of attachment may issue out of the Clerk's office of the Circuit Court of this County against the separate and joint estates of the said Savage & Austin
Sworn to before me
this day Oct 21st 1837.

Alfred Tracy

Lewis Bigelow Clk.

Filed October 21st 1837. Know all Men by these presents that We Alfred Tracy of St Louis State of Missouri and Francis Francis Vons of Peoria State of Illinois are held and firmly bound unto William H. Savage and William J. Austin, late of the City of

St. Louis in the State of Missouri in the penal
Sum of two thousand five hundred and thirty one
Dollars and fifty four Cents. to the payment of which
to the said Savage & Austin we bind ourselves our
heirs Executors and administrators firmly by these
presents— Witness our hands and seals this
twenty first Day of October A.D. Eighteen hundred
and thirty seven— The condition of this obligation
is such that Whereas the above bounden Alfred
Tracy hath on the Day of the Date hereof, prayed
an attachment at the Suit of Edward Tracy and
Alfred Tracy against the joint and separate estates
of the said Savage and Austin for the Sum
of twelve hundred and sixty five Dollars and
Seventy Seven Cents and the same being about to
be sued out returnable on the first Monday of
December next to the term of the Court then
to be holden. Now if the said E and A. Tracy
shall prosecute their Suit with effect or in case
of failure therein shall Well and truly pay and
satisfy the said Savage and Austin all such
Costs in said Suit and such damages as shall be
awarded against the said E and A. Tracy, their heirs,
executors or administrators, in any Suit or Suits
which may hereafter be brought for wrongfully
suing out the said attachment, then the above
obligation to be void, otherwise to remain in full
force and effect.

Alfred Tracy 
Francis Voris 

The People of the State of Illinois
To the Sheriff of Peoria County, Greeting—
Whereas, Alfred Tracy of St Louis in the State of
Missouri, hath complained on oath to the Clerk of
the Circuit Court of Peoria County that William W.
Savage and William J. Austin are jointly indebted to
Edward Tracy and Alfred Tracy to the amount of twelve
hundred and sixty five Dollars and seventy seven Cents,
and oath having also been made that the said Savage
and Austin reside out of this State, and the said
Alfred Tracy having given bond and security according
to the directions of the act in such case made and
provided. ^{He} therefore command you that you attach
so much of the estate joint or separate real or personal
of the said Savage and Austin to be found in your
County as shall be of value sufficient to satisfy the
said debt and costs according to the Complaint, and
such estate so attached in your hands to secure or so
to provide that the same may be liable to further
proceedings there upon according to Law as a Court to be
holden at Peoria for the County of Peoria upon the first
Monday of December next so as to compel the said
Savage and Austin to appear and answer the Complaint
of the said Tracy, when and where you shall make
known to the said Court how you have executed this
process. ^{have you then this writ}
Witness Lewis Bigelow Clerk of the said
Court and the Seal thereof this twenty
first Day of October in the Year of our
Lord one thousand eight hundred and
thirty seven Lewis Bigelow, Clk.

Seal
Court

within.

By virtue of the ~~Writ~~ Writ of attachment I did on the 24th Day of October A.D. 1837, attach the following property, as the property of William H. Savage - to his Lots Numbers fifteen, twenty one, twenty-two, twenty-four, twenty-six, twenty-eight, thirty-one, thirty-two, thirty-four, thirty-six, and thirty-nine, in Range nine in the Bogardus addition to the town of Peoria, reference being had to the plat of said Town -

Thomas Bryant, S.P.C.

Notice is hereby given to William H. Savage and William J. Austin, non-residents, that a Writ of attachment against their joint and separate Estates, at the suit of Edward Tracy and Alfred Tracy, for the sum of twelve hundred and sixty-five Dollars and seventy seven cents, has issued out of the Circuit Court of Peoria County, returnable before the said Court at the next term thereof to be held at Peoria, on the first Monday in December next, and that unless the said Savage and Austin shall appear, give Bail and plead to the said action, at the term of the said Court to be held as aforesaid, judgment will be entered against them by default, and the Estate attached will be sold to satisfy the said judgment. Given under my hand at Peoria, this 23^d Day of October 1837.

Lewis Bigelow, Clerk of said Court

I, Samuel H. Davis, Printer and Publisher of the Peoria Register and North-Western gazetteer, a paper printed and published in Peoria, in the County of Peoria, and State of Illinois, hereby certify that the advertisements annexed has been published four weeks successively in the paper aforesaid the date of the first publication of said advertisement being October 28th 1837 and of the last being November 18th 1837. Given under my hand this Ninth Day of May 1838.

Sam. H. Davis.

Filed 30th Oct 1857 State of Illinois Circuit Court Peoria County
1857 Peoria County Sp. Special Term December 1857.

William H. Savage of the State of New York and William J. Austin of St Louis in the State of Missouri were attached to answer Edward Tracy and Alfred Tracy both of said St Louis of a plea of trespass in the case upon promises, and thereupon the said Edward Tracy and Alfred Tracy plaintiffs complain, for that the said defendants, on the twenty first day of June in the year of our Lord one thousand eight hundred and thirty seven, at St Louis aforesaid, to wit at said Peoria, made their promissory note in writing of the date aforesaid whereby they by the name of their firm of Savage & Austin promised the plaintiffs by the name of their firm of E. & A. Tracy, to pay to them or to their order one day after the date of said promissory note, twelve hundred and forty Dollars and ninety six cents for value received, yet though requested the said defendants have not paid said note nor any part thereof but refused so to do wherefore the plaintiffs say that they are injured and have retained damage to the amount of fifteen hundred Dollars, and therefore they bring their suit &c —

(Copy of note declared on)
Dolls 1240.96.
William Tushy, atty for plffs.
Saint Louis 21st June 1837.

One Day after date We promise to pay E & A Tracy or order twelve hundred and forty and 96/100 Dollars without defalcation for value Recd.

Savage & Austin

The People of the State of Illinois.

To the Sheriff of Peoria County, Greeting,
Whereas by the consideration of our Circuit Court held
at Peoria, in and for the County of Peoria, on the
eighteenth Day of May in the year of our Lord one
thousand eight hundred and thirty eight Edward
Tracy and Alfred Tracy recovered judgment against
William H. Savage and William J. Austin for the
sum of thirteen hundred and eight Dollars damages
which the said Edward and Alfred had sustained by
reason of the non-performance of certain promises
made to them by the said Savage & Austin and
also for the further sum of twelve Dollars and
eighteen cents, Costs of suit, as appears of Record.
We therefore Command you, that of the goods and
chattels, Lands or tenements, of the said Savage & Austin
attached in the original writ you cause to be made the
aforesaid sums of money, together with interest on said
judgment at the rate of Six per Centum per annum from
the time of recovering the same as aforesaid until paid
and that you have the same ready, as soon as may be
to render unto the said Edward and Alfred according
to Law. Hereof fail not, and make return of this
writ with your doings, ninety days after the date hereof.
Witness, Lewis Bigelow, Clerk of our said Court and
the Seal thereof, at Peoria, this twelfth Day of
June in the year of our Lord one thousand
eight hundred and thirty eight

Lewis Bigelow, Clerk.

At a Circuit Court begun and held at Peoria
in and for the County of Peoria, on the Second
Monday in May in the year of our Lord, one thousand
eight hundred and thirty four, it being the fourteenth
Day of the month, the Honorable Dan Stone Judge
of the Sixth Judicial Circuit presiding, Lewis Bigelow
Clerk, Thomas Bryant Sheriff, Edward Southwick
States Attorney.

Friday May 18th A.D. 1834.

Edward Tracy

vs.

Assumpsit - Attachment

William H. Savage

William J. Austin

This day came the Plaintiffs by
their attorneys, but the Defendants though three times
Solemnly Called came not, and it appearing that
notice of the attachment has been given to the
defendants by publication thereof in the Peoria Reg-
ister, a newspaper printed in Peoria, in the State
of Illinois for four successive weeks prior to the first
day of the present term of this Court, and it appearing
that the suit is brought upon a promissory note for
the payment of money only, the Clerk is directed to
assess the plaintiffs damages, which are accordingly
assessed and reported to the Court at the sum of
thirteen hundred and eight Dollars. It is therefore
considered by the Court that the plaintiffs have
and recover of the defendants the Said sum of
thirteen hundred and eight Dollars damages, together

with their costs and charges about their suit in
this behalf expended and that they have execution
therefor against the goods and chattels, lands and
tenements in which the said attachment has been
served. And afterward on the twelfth day of June in
the year of our Lord one thousand eight hundred
and thirty eight, there was issued from the office of
the clerk of said court under the seal thereof an
execution which is in the words following, to wit:

The People of the State of Illinois.

To the Sheriff of Peoria County, Greeting.
Whereas by the consideration of our circuit court, held
at Peoria, in and for the County of Peoria, on the
eighteenth Day of May, in the year of our Lord one
thousand eight hundred and thirty eight, Edward
Troy and Alfred Troy recovered judgment against
William H. Savage and William J. Austin for the sum
of thirteen hundred and eight Dollars damages, which
the said Edward and Alfred Troy had sustained by
reason of the non-performance of certain promises made to
them by the said Savage & Austin with also for their
further sum of twelve Dollars and eighteen cents, costs
of suit as appears of record. We therefore command you
that of the goods and chattels, lands or tenements of the
said Savage & Austin attached in the original writ
you cause to be made the aforesaid sums of money to-
gether with interest on said judgment at the rate of
six per centum per annum from the time of recovering

the same as aforesaid until paid, and that you have
the same ready as soon as may be, to render unto the
said Edward and Alfred according to Law, Whereof
fail not and make return of this writ with your doing
ninety days after the date hereof. Witness Lewis Bigelow,
Clerk of our said Court, and the Seal
thereof at Peoria, this twelfth day of June
in the year of our Lord one thousand
eight hundred and thirty eight.
Lewis Bigelow, Clerk."

State of Illinois
County of Peoria J. J. James S. Barkman, Clerk of
the Circuit Court of said County, do hereby certify that
the foregoing is a correct copy from the Records of a
Judgment in a certain cause therein, wherein Edward
Tracey and Alfred Tracey are plaintiffs and William
H. Savage & William J. Austin are defendants, also of
the writ of execution issued on said Judgment as the same
is on file in my office. In Witness Whereof, I hereunto set
my hand and affix the Seal of said Court
Circuit Court this twenty fifth Day of
April A.D. 1856. James S. Barkman, Clerk.

The complainants then called Charles W. McClallen
as a witness who testified that he was acquainted with
the parties complainants in this suit, that he was agent
for the complainants to bring this suit, had talked
with Mr. Gregory before the commencement of the suit
about purchasing premises was present at the sale

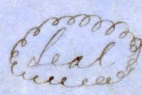
made by Sanger as administrator, that Mr Grove, as
as agent for complainants gave notice of that sale
before the sale, that the Bill in this cause was filed
and then pending in the Circuit Court of this County
and that the Morris heirs claimed $\frac{2}{3}$ of the property,
that Comstock the defendant was present, that
the notice was given so loud that both Comstock and
Sanger heard it, it was talked over by those present,
that he believed that Comstock purchased at less
price on account of said notice— Then complainants
then called Henry Grove as a witness, who testified that
Comstock told him sometime in the year 1854
after he had got his Deed that he purchased of
Charles F. Tracy after his purchase as the administrators
sale, that witness went to the administrators sale
by Sanger, that Comstock Sanger and others were
present, that witness gave notice in a clear, full and
distinct tone of voice to Sanger and all present just before
but about the time the sale commenced, that the
Tracy estate whose interest was about being sold
held only one sixth interest in the lots, that Sanger
was about to sell, and that the heirs of James B. Morris
owned the two thirds interest of said lots, and that
Richard A. Gregory and wife, who was one of the heirs
of said Morris had filed their Bill for partition in
the Circuit Court of Peoria County and the cause
was then pending, that his recollections was that he
told them that Gregory and wife in their Bill
claimed that the heirs of Morris held two thirds

interest, that these statements Comstock heard,
that he repeated this notice more than twice and
gave notice as the agent and attorney of complainant
and Morris heirs. The complainants then offered
three tax receipts for payments of taxes on said
lots, which were in the words and figures following
to Mr.

The Complainants then called Thomas Bryan as a witness, who testified that he was the Sheriff who made the Sale upon the executions issued in said Suits in attachment against Savage and Austin, was Sheriff of Peoria County at that time, that no money passed in the Sale to either party or when certificate was given. Complainants then called George J. McCalfe as witness, who testified, that he with one Trusty was agent and attorney of Morris and of the Truys in the said attachment Suits - that he did not recollect about giving any instructions to the Sheriff, that he recollected being present at the Sale, and supposed he was the one bid off the lots and the intention was that the property should be held for the benefit of the Creditors pro rata according to the amount of their judgments, that the plaintiffs were not present and he knew of no agreement between them, there might have been, but he did not recollect it. To all of which evidence on the part of the Complainants, the defendants objected as irrelevant and excepted on that ground to the admission and consideration of the same by the Court - The defendants Cornstock to prove the issues on his part read in evidence without any objection the record of a Deed from the Records of the Recorder's office of Peoria County from Alfred Tracy to Charles F. Tracy - of a Deed from Charles F. Tracy to John Cornstock, and of a Deed from Ezra G. Sanger, administrator &c. to John Cornstock which are in the words and figures following, to wit:

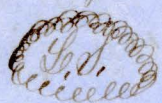
May 27th. 1854. This Deed made and entered into on this eight day
of February one thousand eight hundred and fifty four
by and between Alfred Tracy of the City of St Louis
Missouri, party of the first part, and Charles S. Tracy
of the same City and State party of the second part
Witnesseth, that the said party of the first part,
for and in consideration of the sum of one hundred
Dollars to him in hand paid, by the said party of the
second part, the receipt of which is hereby acknowledged
has granted, bargained and sold, and by these
present does grant, bargain and sell, alien, enfeoff,
convey, and confirm, unto the said party of the
second part, all his undivided interest and title, of,
in and to the ~~above~~ following described property, to wit:
Lots, number Fifteen (15), Twenty one (21), Twenty two (22)
Twenty four (24), Twenty six (26), Twenty eight (28), Thirty
one (31), Thirty two (32), Thirty four (34), Thirty six (36),
and Thirty nine (39), in Mills Addition to the City of
Peoria in Range Nine in said Addition, in the
County of Peoria & State of Illinois. To have and to hold
the same together with all the rights, immunities
and appurtenances to the same belonging or in any wise
appertaining. The said party of the first part hereby
covenanting, that he and his heirs, executors and admin-
istrators, shall and will warrant and defend the title
to the premises herein conveyed to the said party of the
second part, against the lawful claims or claims of
all parties whomsoever. In Witness whereof, the said party
of the first part, has hereto set his hand and seal, the

Day & year first herein written

Alfred Tracy 

State of Missouri }
City & County of St Louis } ss.

Be it Remembered that on this eleventh Day of February A.D. 1854, before the undersigned, a Notary Public, within and for the County and State aforesaid, came Alfred Tracy, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument of writing as a party thereto, and acknowledged the same to be his act and Deed for the purposes therein mentioned. In Witness Whereof, I have hereto set my hand and Seal as Such Notary Public, the Day and year last above written, at office in St Louis



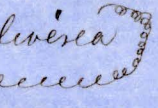
City and County, Missouri

Edw^d. Shands, Notary Public

Act. Taken under "an act to amend the 24th chapter of the revised Laws of Ills. entitled Conveyances approved Feb 22nd 1847.

May 27th 1854.

This Indenture made this twenty sixth Day of May in the year of our Lord, one thousand eight hundred and fifty four. Between Charles F. Tracy of St Louis and State of Missouri of the first part, and John Comstock of Bond, Illinois, of the second part. Witnesseth, that the said parties of the first part, for and in consideration of the sum of Four hundred and

fifty Dollars. to him in hand paid. by the said
party of the second part. the receipt of which is hereby
acknowledged, do by these presents bargain, sell, ~~and~~
transfer and give claim, unto the said party of the
second part. his heirs and assigns, all the right,
title, interest, and claim of said party of the first
part. both legal and equitable, if, in and to ~~those~~
certain tracts or parcels of land. Situated in Mills
addition. To the City of Peoria in the County of Peoria
and State of Illinois. Known and described as lots
number Fifteen (15) Twenty one (21) Twenty two (22), Twenty
four (24), Twenty six (26) Twenty eight (28), thirty one (31)
thirty two (32), thirty four (34), thirty six (36), and thirty
nine (39), in Rang nine (9) in said addition. Together
with all and singular the hereditaments and appurte-
nances thereunto belonging or in any wise appertaining.
To have and to hold, the said premises as above
described, with the appurtenances, unto the said party
of the second part. his heirs and assigns forever, and
the said party of the first part. doth hereby Covenant
and agree to and with the said party of the second
part. and his assigns, that he will forever warrant
and defend the title to the premises above conveyed, to
be free from the claim of himself and his heirs, and
from the claim of all persons, claiming by through or
under him or his heirs, but against the claim of none
others. In Testimony Whereof, the said party of the
first part, has hereunto set his hand and seal the
day and year first above written. Chas. F. Tracy 
Signed Sealed and delivered
in presence of 

State of Illinois, I, Jno A McCoy Justice of the
Peoria County & Peace in & for said County, do
Certify, that on this day, before me personally
appeared Charles F. Tracy, whose name appears sub-
scribed 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 acknowledgment is proposed to be made and
acknowledged the Execution thereof, as his Voluntary
act and Deed for the uses and purposes therein Ex-
pressed. Given under my hand and Seal of office
at Peoria, this 26th Day of May A.D. 1854.

Jno A McCoy J.P.

April 30, 1854. This Indenture made this first Day of April in
the year of our Lord one thousand eight hundred and
fifty four, between Ezra G. Sanger administrator of
the Estate of Edward Tracy, deceased of the first
part, and John Comstock of the second part
Witnesseth, that whereas at a term of the County
Court of Peoria County holden in said County
of Peoria, on the seventh Day of February A.D. 1854,
the said Court in a certain proceeding therein pending
in relation to the matter of the petition of Ezra G.
Sanger, administrator of the Estate of Edward Tracy,
deceased, for the sale of real estate made the follow-
ing decree, to wit: In the Matter of the Petition of
Ezra G. Sanger administrator of Edward Tracy, deceased

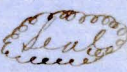
In the Peoria County Court, To February Term A.D.
1854, Petition to Sell real Estate, This Day came
the said Ezra G. Sanger administrator of Edward Tracy
deceased, and having filed his petition herein, and
it fully appearing to the Court now here that due
notice of the presentation of said petition had been
given in the Peoria Democratic Press in the manner
and for the space of time required by law, and it fur-
ther appearing to the Court, that Alfred R. Tracy,
William T. Tracy and Eliza R. Tracy, three of the
heirs at law of the said Edward Tracy are minors
under the age of twenty one years, and have no
Guardian, whereupon the Court appointed John T.
Lindsay, Guardian ad litem for said minors,
and the said Guardian having answered the peti-
tion of the said Ezra G. Sanger, administrator as
aforesaid and denied the material allegations of
said petition, and it further appearing to the Court
from the evidence ^{produced} in the case that Edward Tracy
died, intestate as stated in said petition, and
that said petitioner was duly appointed adminis-
trator of said Estate as stated in his petition and
it also appearing to the satisfaction of the Court
that the said Edward Tracy, died seized of one
undivided third part of the following described
Real Estate situated in the City and County of
Peoria, State of Illinois to wit, Lots Number, fifteen,
twenty one, twenty two, twenty four, twenty six, twenty
eight, thirty one, thirty two, thirty four, thirty six &

thirty nine, in Range Nine in Mills addition to the town now city of Peoria, and is also appearing to the Court that the personal Estate of said intestate is sufficient to pay the first debts of said deceased. That said debts now amount to the sum of two hundred and sixty five Dollars besides costs of administration, amounting, including the costs of this Sale to about the sum of one hundred Dollars, and that there is no personal Estate to pay the same, it is therefore ordered, adjudged and decreed by the Court, that said administrator proceed to sell the real Estate aforesaid, for the purpose of paying the debts aforesaid, or so much thereof as may be necessary to satisfy said debts and costs of administration and the expenses of this Sale. That said Sale be made at the door of the Court House in Peoria after due notice given as the law requires, and to be made in the manner prescribed by the Statute in such cases made and provided, and that said administrator report his proceedings herein to this Court, at the next term thereof after the making of said Sale, and that he make execute and deliver a deed or deeds to the purchaser or purchasers at said Sale, and whereas in pursuance of said decree I did on the fifteenth Day of February A.D. 1854, advertise the premises described in said decree for Sale according to law, on the first day of April A.D. 1854 at two O'clock P.M. of said day at the door of the Court House in Peoria, and on the said first day of April

AD. 1854. at two O'clock P.M. of said day I offered
said Lots of land for sale Separately at Public
Auction at the door of the Court house in Leonia
to the highest and best bidder in cash. Whereupon
John Comstock bid for the interest of said
Edward Tracy in and to lot number fifteen
in Range nine in said addition to Leonia the
sum of forty nine dollars, and for lot twenty four
in Range nine in said addition, said Comstock
bid the sum of twenty eight dollars & fifty cents,
and for lot twenty six in said Range and addition
said Comstock bid the sum of thirty dollars, and
for lot twenty eight in same addition and Range
he bid the sum of thirty dollars, and for lot
thirty four in said Range and addition said
Comstock bid the sum of thirty Dollars, and for
lot thirty six in said Range and addition said
Comstock bid the sum of twenty six dollars and
~~fifty cents~~ for lot thirty nine in said Range and
addition said Comstock bid the sum of twenty six
dollars and fifty cents, and for fractional lot
twenty one in said Range and addition. said
Comstock bid the sum of six dollars, and for lot
twenty two in said Range addition. said Comstock
bid the sum of twenty one dollars, and for lot
thirty one in said Range and addition. the said
Comstock bid the sum of five dollars and seventy
five cents, and for lot thirty two in said Range
and addition. the said ~~sum of~~ Comstock bid the

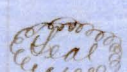
II
sum of twenty one Dollars, which being the highest
and best bid offered for each of said lots at
said sale, the same were then and there each of
them separately struck off and sold to the said
John Cornstock for the prices aforesaid. Now there-
fore know all men by these presents, that I, Ezra
G. Sanger administrator as aforesaid, by virtue of
the power and authority vested in me by said
decree, do ~~make~~^{certify} as aforesaid, and of the sale and
proceedings aforesaid, and not otherwise, and in
consideration of the sum of two hundred and seventy
three dollars and seventy five cents to me in hand
paid by the said John Cornstock, the receipt
which is hereby acknowledged, do by these pre-
sents, grant, bargain, sell and convey unto the said
John Cornstock, his heirs and assigns forever, all
the right, title ^{and} interest of which Edward Tracy did
seize or possessed in and to the following de-
scribed lots or tracts of land to wit: Lots numbered
fifteen (15), twenty four (24), twenty six (26), twenty
eight (28), thirty four (34), thirty six (36), thirty nine
(39), and fractional lots twenty one (21), twenty two
(22), thirty one (31), and thirty two ⁽³²⁾, all in Range
No nine (9), in Mills addition to the town (now
City of Peoria, reference being had to the plat of said
addition on file in the Recorder's office of Peoria
County. To have and to hold, the aforegranted prem-
ises, with all the privileges and appurtenances thereto
belonging or in any wise appertaining to the said

John Comstock his heirs and assigns forever.
In Witness Whereof I have hereunto set my hand
and seal, this first day of April A.D. 1854.

Ezra G. Sanger 
Administrator of the Estate
of Edward Tracy deceased,

State of Illinois 

Peoria County  I, Norman W. Purple, Notary Public
within and for the City of Peoria, do certify, that on this
Day personally appeared before me Ezra G. Sanger
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 this acknowledgment
is proposed to be made, and acknowledged the
execution thereof to be his Voluntary act and Deed
for the uses and purposes therein Expressed.

Given under my hand and official seal this third
 Day of April A.D. 1854.

N. W. Purple

The foregoing was all the evidence in this cause—
the Court after hearing the evidence and considering
the cause made the order and decree following
State of Illinois  In Peoria County Circuit Court
Peoria County 

Richard A. Gregory 
Anna Gregory  ~~In Chancery~~ for Partition
Lydia J. Gover 
and others 

This Day this Cause came on to be heard upon the original amended & Supplemental Bills, of the Complainants the answers of John Comstocks and the answer of Lydia L. Gover James Morris, (and it appearing to the Court here, that due Notice of the filing of this Bill in this Cause and of the pendency of this Suit, was duly given by the Complainants to the defendants, Robert Gover Alfred Tracy, Charles F. Tracy, Edward N. Tracy, John N. Tracy, Henry W. Tracy, Augustus E. Tracy, Alfred B. Tracy, William F. Tracy, & Eliza R. Tracy, by publication of Notice for four successive Weeks in the Peoria Weekly Republican, a Newspaper published weekly in the City & County of Peoria & State of Illinois, being the nearest newspaper, the first publication of said Notice having been published in said Newspaper on the 6th Day of September A.D. 1853, & the last on the 27th Day of September 1853 and the Court having seen and inspected said Notice & the Certificate of T. J. Pickett, publisher of said Newspaper thereto attached, find the same in all respects correct & order the same to be filed in this Cause & the defendants in said Notice notified being three times solemnly called came not but make default & as^{to} said notified defendants it is by the Court, ordered and adjudged, that said original and amended petition as to said notified defendants be taken considered & held as true & confessed) the replication Exhibits depositions proofs and testi-

mony and obligations of the Complainants. The Complainants then offered in evidence the exhibits attached to and made part of their amended bills. The Complainants then offered in evidence a Deed from Caroline C Austin, to Richard A. Gregory, dated October 31 1854. Conveying all her interest in Said lots numbered 15, 21, 22, 24, 26, 28, 31, 32, 34, 36, & 39, in controversy to Said Richard A. Gregory, duly executed & acknowledged. Complainants then called Charles W. McClellan as a Witness. Who being sworn testified to the Court that he was acquainted with the parties to this Suit, that he was agent of Complainants & employed Grove & McCoy to bring this Suit. That he was present at the Sale made by Sanger as administrator that Mr Grove as agent for Complainants gave notice at that Sale before the Sale that the bill in this cause was filed & then pending in the Circuit Court of Boone County, and that Morris heirs claimed two thirds ($\frac{2}{3}$ ds) Comstock the defendant and was present. The notice was so loud that both Sanger & Comstock heard it, it was talked over, he believed that Comstock purchased at less price on account of said notice. The Complainants then read the depositions of Caroline C Austin, Charles F. Tracy, and Edward A. Tracy. The Complainants then called Henry Grove who being sworn testified to the Court, that Comstock told him some time in 1854. after he had got his Deed

that he purchased of Charles T. Tracy after his purchase at the administrators sale. Witness further stated that he went to the administrators Sale by Sanger Comstock Sanger and others were present and Witness gave Notice in a clear full and distinct tone of voice to Sanger and all present just before and about the time the Sale commenced that the Tracy Estate whose interest was about being sold, held only one sixth of the lots, that Sanger was about to sell, and that the heirs of James B. Morris owned the two thirds interest of said lots, and that Richard A. Gregory & Wife who was one of the heirs of said Morris had filed their Bill for partition in the Circuit Court of Peoria County and the case was then pending that his recollection was that he told them that Gregory & Wife in their Bill claimed that the heirs of Morris held two thirds, these statements Comstock heard, the Notice ^{he} repeated more than twice, and gave the Notice as the agent and attorney of Complainants & Morris heirs. The Complainants then offered the original writs of attachment and papers and records in both the original suits in evidence viz Morris vs Savage & Austin & C & A Tracy vs Savage & Austin together with certified copies of Certificate of Sale & Sheriffs deed. Complainants then offered three tax receipts for the payment of taxes on said lots. Complainants then called Thomas Bryant.

Who being sworn testified to the Court that he was the Sheriff who made the sale was Sheriff at the time. no money passed in the sale to either party, or when Certificate was given.

Complainants then called George T. Metcalf who being duly sworn testified as follows. I with Mr Frisby was agent and attorney of Morris & the Tracys in the attachment suits. I do not recollect any instructions to the Sheriff. I suppose I was the one who did the lots in. I was present at Sale and the intention was that the property should be held for the benefit of these debtors pro rata. according to the amount of their judgments the plaintiffs were not present & I know of no agreements between them there may have been but I do not recollect it. It was admitted that the judgments in attachment in Morris vs Savage & Austin was 4397.97 \$ and judgment in E & A. Tracy vs Same was 1308 \$.

On Consideration Whereof. the Court finds Equity of the case to do with the complainants and that partition of the premises should be made as prayed for in the amended & Supplemental Bills It is therefore ordered adjudged declared and decreed by the Court that Richard A. Gregory, Anna Gregory, Lydia L. Gover and James Morris all the equitable owners of two thirds parts of Said Lots numbered fifteen, twenty one, twenty two, twenty four, twenty six, twenty eight, thirty one, thirty two, thirty four, thirty six, and thirty nine (15, 21, 22, 24, 26, 28, 31, 32, 34, 36, & 39.) in Null

addition to Leonia, in Range nine of said addition and that John Cornstock is the equitable owner of one undivided third part of said Eleven Lots. It is further ordered adjudged and decreed by the Court that John Hamblin, Amos P. Bartlett and George C. Bestor be and they are hereby appointed commissioners to make partition of said Eleven Lots among the parties according to their respective interests as settled in this order. It is further ordered adjudged directed and decreed by the Court, that said Commissioners after being first duly sworn according to law go upon the premises and set off and apart to the said Richard A. Gregory, Anna Gregory, Lydia L. Gover and James Morris in common two third parts of said Lots by Metes & Bounds and to said John Cornstock one third part of said Lots, and that they make report of their proceedings under this order at the next term of this Court. It is further ordered that this cause stand continued for further directions on the coming in of said report.

Jacob Gale

To the opinion and decision of the Court in making said order and decree the said Cornstock and counsel then and there excepted and objected and prayed the Court to sign and seal this Bill of Exceptions, which is accordingly done —

Jacob Gale (Seal)

Proceedings in Chancery in the Circuit Court
at a term thereof begun & held at the Court
house in the City of Peoria. Within and for the
County of Peoria and State of Illinois, on the third
Monday of the Month of November, in the year
of our Lord one thousand Eight hundred and
fifty six, in being on the seventeenth day of
said Month The Honorable Elisha N. Powell,
Judge of the Sixteenth Judicial Circuit in the State
of Illinois presiding - to wit:

Monday November 17th 1856.

Richard A. Gregory
vs. Anna Gregory

vs.

Lydia L. Gover
and others

Petition for Partition

This Day this cause again
came on to be heard, and Amos S. Bartlett,
George C. Bestor and John Hamlin Commis-
sioners appointed by the Court at a former term
to make partition and division of the lands and
lots among the parties according to their respective
rights and interests, came and made report of
their proceedings in that behalf, and the Court
here having seen and inspected said report
and the Certificate of John A. McCoy, Justice of
the Peace, thereto attached, find said report &
Certificate in all respects correct, and the said
report & said Certificate are by the Court hereby

approved and confirmed, and it is by the
 Court here adjudged, directed, ordered and decreed
 that said John Comstock shall have and
 hold said Lots, twenty one, twenty two, twenty
 eight, and thirty four, in fee simple and
 that said Richard T. Gregory, Anna Gregory,
 Lydia L. Gover, and James Morris, within sixty
 Days from the signing of this decree shall execute
 to said Comstock a good and sufficient release
 of all their interest in said Lots, twenty one, twenty
 two, twenty eight, and thirty four, and in case
 said parties should fail to execute such release
 within the time limited, then and in that case
 George S. Blakeley who is hereby appointed a
 Commissioner for that purpose shall execute
 such release in the name of said parties to said
 Comstock for said Lots, twenty one, twenty two,
 twenty eight, and thirty four, & said Deed of
 release when so executed by said Commissioner
 shall have the same force and effect as if execut-
 ed by said Richard T. Gregory, Anna Gregory,
 Lydia L. Gover and James Morris, and it is fur-
 ther ordered, directed adjudged and decreed by the
 Court here that said Richard T. Gregory, Anna
 Gregory, Lydia L. Gover, and James Morris, shall
 have and hold said Lots fifteen, twenty six, thirty
 nine, twenty four, thirty one, thirty two and thirty
 six, in fee simple in common, and it is further
 ordered, adjudged and decreed by the Court here

that the said John Comstock within sixty days from the signing of this decree execute a good and sufficient release of all his interest in said fifteen twenty six, thirty nine, twenty four, thirty one, thirty two, and thirty six, to said Richard A. Gregory, Anna Gregory, Lydia L. Gover, and James Morris, and in default thereof George S. Blakely who is hereby appointed a commissioner for that purpose shall execute such release in the name of said Comstock & such release when so executed by said Commissioner shall have the same force and effect as if executed by the said John Comstock and it is further ordered and adjudged by the Court here, that one third of the costs of this proceeding shall be taxed to said Richard A. Gregory, Anna Gregory, Lydia L. Gover, and James Morris.

And afterwards to-wit. On the seventeenth day of November A.D. 1856, there was filed in the office of the Circuit Court clerk aforesaid the order to the Commissioners, in words & figures following, to-wit:-

State of Illinois } In the Circuit Court of Senia
Senia County } County

Richard A. Gregory
& Anna Gregory

vs.
Lydia L. Gover
and Others

For Partition

We John Hamlin George C.
Bestor and Amos S. Bartlett Commissioners
appointed by the Hon. Circuit Court of Senia County
in the State of Illinois to make partition of the
premises described in the order and decree of said
Court made at its Special Chancery Term being the
Term of September A.D. 1856, in the above entitled Cause
and each of us being first duly sworn on our respective
oaths say that we will fairly and ^{impartially} ~~equally~~ make
partition of the Lands (described in the order and
decree of said Court hereto annexed) in accordance with
the Judgment of the Court as to the rights and interests
of the Parties if the same can be done consistently
with the interest of the Estate. So help us God.

Sworn to and Subscribed

before me Oct — 1856

J. A. McCoy, Jr.

John Hamlin

A. S. Bartlett

Geo. C. Bestor

State of Illinois } In the Circuit Court of Peoria County
 Peoria County }

Richard A. Gregory
 & Anna Gregory

vs.
 Lydia L. Gover
 and Others

In Chancery for Partition

The undersigned Commissioners appointed by the Hon the Circuit Court of Peoria County to make partition of Lots numbered fifteen, twenty one, twenty four, twenty six, twenty eight, thirty one, thirty two, thirty four, thirty six and thirty nine in Mills addition to Peoria in Range nine of said addition among the parties to the above entitled Cause according to their respective Rights and interests as found and declared by the Court in the order and decree made in said Cause at its Special Chancery Term held September first A.D. 1856 a Copy of which Decree is for greater certainty attached hereto and made part hereof, beg leave respectively to report to the Court here that in obedience to the order of the Court made in said Cause the undersigned being first duly sworn according to Law by before John A. McCoy Esq one of the Justices of the Peace in and for said County of Peoria fairly and impartially to make partition of the Lands described in the order and decree of the Court in said Cause in accordance with the judgment of the Court as to the rights and interests of the Parties (a Certificate

of which Justice is hereto attached and made part hereof
and having gone upon the premises and upon actual
^{view} ~~view~~ of said several lots we do make partition and
division thereof as follows, We sett off apart and assign
to said John Comstock, Lots twenty one twenty two
twenty eight and thirty four (Lots 21, 22, 28, 34) in
severalty & we sett off apart and assign to Richard A.
Gregory, Anna Gregory, Lydia L. Gover and James Morris
Lots Fifteen, Twenty six, Thirty nine Twenty four, thirty one
thirty two and thirty six, (Lots 15, 26, 39, 24, 31, 32, 36)
in common, all in Range Nine in Twp addition to
Twp in the City and County of Peoria and State of Illinois
all of which is respectfully submitted

Peoria November 15, 1856
Commissioners fees \$15.00
Paid Justice

Ans Hamlin 
Geo C Bestor 
A. P. Bartlett 

Richard A. Gregory
& Anna Gregory
vs.
Lydia L. Gover
and others

In the Circuit Court of Peoria
County

In Chancery for Partition

This Day this Cause again came
on to be held heard And Amos C. Bartlett George
C Bestor and John Hamlin Commissioners appointed
by the Court at a former Term to make partition
and division of the lands and Lots among the
parties according to their respective Rights and interests

Come and make report of their proceedings in ^{that} behalf
 and the Court here having seen and inspected said
 Report and the Certificate of John A. McCoy Justice
 of the Peace thereto attached find said Report &
 Certificate in all respects correct and the said
 Report & said Certificate are by the Court hereby ap-
 proved and confirmed And it is by the Court here
 adjudged directed ordered and decreed that said
 John Comstock shall have and hold said Lots twenty
 one, twenty two, twenty eight, and thirty four in fee
 simple, and that said Richard A. Gregory, Anna
 Gregory, Lydia L. Gover and James Morris within sixty
 Days from the signing of this decree shall Execute to
 said Comstock, a good and sufficient Release of all
 their interest in said Lots twenty one, twenty two,
 twenty eight and thirty four and in case said parties
 should fail to Execute such release within the time
 limited then and in that case George S. Blakeley
 who is hereby appointed a Commissioner for that purpose
 shall Execute such release in the name of said parties
 to said Comstock for said Lots twenty one, twenty two,
 twenty eight & thirty four & said Deed of release when
 so Executed by said Commissioners shall have the same
 force and Effect as if Executed by said Richard A.
 Gregory, Anna Gregory, Lydia L. Gover and James Morris
 And it is further ordered directed adjudged and
 decreed by the Court here that said Richard A.
 Gregory, Anna Gregory, Lydia L. Gover and James
 Morris, shall have and hold said Lots, Fifteen

Twenty Six, Thirty Nine, twenty four, thirty one, thirty two, and thirty six, in fee simple in Common, And it is further ordered adjudged and decreed by the Court here that said John Comstock within sixty Days from the signing of the Decree execute a good & sufficient release of all his interest in said Lots Fifteen, Twenty Six, Thirty Nine, Twenty four, Thirty one, Thirty two and Thirty six, to said Richard A. Gregory, Anna Gregory, Lydia G. Gover, & James Morris and in default thereof George S. Blakely who is hereby appointed a Commissioner for that purpose shall execute such release in the name of said Comstock & such release when so executed by said Commissioner shall have the same force and Effect as if executed by said John Comstock. And it is further ordered & adjudged by the Court here that one third of the Costs of the proceedings shall be taxed to the said John Comstock and the remaining costs shall be taxed to the said Richard A. Gregory, Anna Gregory, Lydia G. Gover and James Morris

C. A. Powell

Proceedings in Chancery in the Circuit Court at a Special term thereof begun and held at the Court House in the City of Leona in and for the County of Leona in the State of Illinois on the first Monday of September in the year of our Lord one thousand eight hundred and fifty six, it being the first day of said month. The Honorable Jacob Gale Judge of the Sixteenth Judicial Circuit in the State of Illinois presiding to Wit:

Saturday September 6th A.D. 1856

Richard A. Gregory
& Anna Gregory

vs.

Lydia L. Gover, and others.

This day this cause came on to be heard, upon the Original Amended & Supplemental Bills of the Complainants the answer of John Comstock and the answer of Lydia L. Gover. James Morris the replication Exhibits depositions proofs oral testimony and allegations of the Complainants. And it appearing to the Court here that due Notice of the filing of the Bill in this Cause, and of the pendency of this Suit, was duly given by the Complainants to the Defendants, Richard Gover, Alfred Tracy, Charles T. Tracy, Edward A. Tracy, John A. Tracy, Henry W. Tracy, Augustus C. Tracy, Alfred R. Tracy, William T. Tracy & Eliza R. Tracy, by publication of Notice for four successive weeks in the Leona Weekly Republican a Newspaper published weekly in the City & County of Leona & State of Illinois, being the nearest Newspaper, the first publication of said Notice having been published in said Newspaper on the 10th Day of September A.D. 1853, & the last on the 27th Day of September 1853. And the Court having seen and inspected said Notice & the Certificate of T. J. Pickett published of said Newspaper thereto attached find the same in all respects correct & order the same to be filed in this Cause & the Defendants in said Notice notified being three times solemnly called came not but make default & as to said Notified Defendants

It is by the Court here ordered and adjudged that said original and amended petitions as to said Notified Defendants be taken considered & held as true & confessed the Complainants then offered in evidence the exhibits attached to and made part of their amended Bills.

The Complainants then offered in evidence a deed from Caroline C. Austin to Richard A. Gregory dated October 31st 1854. Conveying all her interest in said Lots numbered 15, 21, 22, 24, 26, 28, 30, 32, 34, 36, & 38 in Controversy to said Richard A. Gregory, duly executed & acknowledged. Complainants then called Charles W. McCallan as a Witness who being sworn testified to the Court that he was acquainted with the parties to this Suit that he was agent of Complainants & employed Grove & McCoy to bring this Suit. That he was present at the sale made by Sanger as administrator that Mr Grove as agent for Complainants gave notice at that sale before the sale, that the Bill in this case was filed & then pending in the Circuit Court of Peoria County, and that Morris here claimed two thirds (2/3d) Cornstock the Defendant was present, the Notice was read aloud that both Sanger and Cornstock heard it, it was talked over he believed that Cornstock purchased at his price on account of said Notice. The Complainant then read the Depositions of Caroline C. Austin Charles F. Tracy and Edward N. Tracy. The Complainants then called Henry Grove who being sworn testified to the Court that Cornstock told him some time in 1854, after he had got his deed, that he purchased of Charles F. Tracy after his purchase as the administrator.

Witness further Stated, that he went to the administrators Sale by ~~Savage~~ Sanger, Comstock Sanger and others were present, and Witness gave notice in a clear full and Distinct tone of voice to Sanger and all present, just before but about the time the Sale Commenced, that the Tracy estate whose interest was about being sold held only one sixth of the lot, that Sanger was about to sell, and that the heirs of James J. Morris owned the two thirds interest of said lot and that Richard A. Gregory & wife who was one of the heirs of said Morris had filed their Bill for partition in the Circuit Court of Deoria County and the case was then pending, that his recollection was that he told them that Gregory & wife in their bill claimed that the heirs of Morris held two thirds, these statements Comstock heard the notice he repeated more than twice and gave the notice as the agent and attorney of Complainants & Morris heirs. The Complainants then offered the original writs of attachment and papers and Records in both the original suits in evidence vs. Morris vs. Savage & Austin & C. & A. Tracy vs. Savage & Austin together with certified copies of Certificate of Sale & Sheriffs Deed. Complainants then offered their Tax receipts for the payment of taxes on said Lot. Complainants then called Thomas Bryant who being sworn testified to the Court that he was the Sheriff at the time, no money passed on the Sale to either party or when Certificate was given. Complainants then called George S. Metcalf, who being duly sworn testified as follows

I with Mr Trisby was agent and attorney of Morris & the Traecs in the attachment suits. I do not recollect any instructions to the Sheriff. I suppose I was the one who bid the lots in. I was present at sale and the intention was that the property should be held for the benefit of their creditors pro rata according to the amount of their Judgments. the plaintiffs were not present & I know of no agreement between them. there may have been. but I do not recollect it. It was admitted that the Judgments in attachment in Morris vs. Austin & Savage was \$4397. 2/100. & and Judgt in Ex A. Tracy vs. same was 1308 \$. On consideration whereof the Courts find the equity of the case to be with the complainants and that partition of the premises should be made as prayed for in the amended & Supplemental Bills. it is therefore ordered adjudged declared and decreed by the Court that Richard A. Gregory, Anna Gregory, Lydia L. Gover and James Morris are the Equitable owners of two thirds parts of said Lot Numbered ~~Fiftieth~~ ^{Twenty-six, twenty-eight, thirty-one, thirty-two, thirty-four, thirty-five, thirty-six, thirty-seven, thirty-eight, thirty-nine, forty, forty-one, forty-two, forty-three, forty-four, forty-five, forty-six, forty-seven, forty-eight, forty-nine, fifty, fifty-one, fifty-two, fifty-three, fifty-four, fifty-five, fifty-six, fifty-seven, fifty-eight, fifty-nine, sixty, sixty-one, sixty-two, sixty-three, sixty-four, sixty-five, sixty-six, sixty-seven, sixty-eight, sixty-nine, seventy, seventy-one, seventy-two, seventy-three, seventy-four, seventy-five, seventy-six, seventy-seven, seventy-eight, seventy-nine, eighty, eighty-one, eighty-two, eighty-three, eighty-four, eighty-five, eighty-six, eighty-seven, eighty-eight, eighty-nine, ninety, ninety-one, ninety-two, ninety-three, ninety-four, ninety-five, ninety-six, ninety-seven, ninety-eight, ninety-nine, one hundred} Twenty-one, Twenty-two, Twenty-four, Thirty-Six and Thirty-nine (15, 21, 22, 24, 26, 28, 31, 32, 34, 36 & 39) in Mills addition to Leonia in Range Nine of said addition and that said John Comstock is the equitable owner of one undivided third part of said eleven lots. It is further ordered adjudged and decreed by the Court that John Hamlin Amos P. Bartlett and George C. Bestor be and they are hereby appointed Commissioners to make partition of said eleven lots among the Parties according to their respective interests as settled in this order. It is further ordered

adjudged directed and decreed by the Court that said Commissioners after being first duly sworn according to Law go upon the premises and set off and apart to the said Richard A. Gregory Anna Gregory Lydia L. Gover and James Morris in common, two thirds parts of said lots by metes & bounds and to said John Comstock one third part of said lots and that they make report of their proceedings under this order at the Next term of this Court. It is further ordered that this Cause stand continued for further Directions on the coming in of said report.

State of Illinois

County of Peoria } I, James S. Parkman clerk of the
Circuit Court in & for the County of Peoria in the State of
Illinois, do hereby certify that the foregoing is a true
full and correct copy from the Records of an order
made in said Court at the Special September Term
thereof in a certain Cause therein pending wherein Richard
A. Gregory & Anna Gregory are Complainants and Lydia
L. Gover & others are Defendants as the same now re-
mains of Record & on file in my office.

J. S. P.
Clerk

In Witness Whereof I have hereto
set my hand and affixed the Seal
of said Court at office this 18th
Day of October A.D. 1856.

James S. Parkman, Clerk.

And afterwards to-wit- on the sixteenth day
of December A.D. 1856, there was filed in the
office of the circuit court clerk aforesaid,
a bill of exceptions in words and figures fol-
lowing to-wit

State of Illinois } Peoria Circuit Court
Peoria County } November Term 1856.

Richard A. Gregory

Anna Gregory

^{vs.}
Lydia L. Gover et al

Partition

Be it Remembered that at
this term of Court the petitioners came and
presented to the Court, the report of John
Hamlin, A. P. Bartlett & George C. Bestor
commissioners appointed to make partition
herein together with the oath of commiss-
ioners thereto attached in the words and
figures following.

State of Illinois } In the Circuit Court of
Peoria County } Peoria County

Richard A. Gregory

& Anna Gregory

^{vs.}
Lydia L. Gover
and others

For Partition

We John Hamlin, George C.

Bestor and Amos P. Bartlett, Commissioners
appointed by the Hon Circuit Court of Peoria
County in the State of Illinois, to make par-
tition of the premises described in the order and
decree of said Court made at its Special Chan-
cery Term being of the term of September A.D.
1856 in the above entitled cause, and each
of us being first duly sworn on our respective
oaths say that we will fairly and impartially
make partition of the Lands (described in the
order and decree of said Court hereto annexed)
in accordance with the judgments of the Court
as to the Rights and interests of the parties if the
same can be done consistently with the interests
of the Estate. So help us god
Sworn to and

Subscribed before me
Oct 1856.

J. A. McCoy J.P.

Amos P. Bartlett
Geo. C. Bestor

State of Illinois } In the Circuit Court of
Peoria County } Peoria County

Richard A. Gregory

vs. Anna Gregory

vs.

Lydia S. Gower
and Others

In Chancery of
Partition

The undersigned Com-

missioners appointed by the Hon the Circuit Court of Peoria County to make partition of Lots numbered fifteen, twenty one, twenty two, twenty four, twenty six, twenty eight, thirty one, thirty two, thirty four, thirty six, and thirty nine in Mills addition to Peoria in Range Nine of said addition among the parties in the above entitled cause, according to their respective Rights and interests as found and declared by the Court in its order and decree made in said Cause at its Special Chancery Term, held September first A.D. 1856, a copy of which decree is for greater certainty attached hereto and made part hereof do hereby respectively report to the Court here, that in obedience to the order of the Court made in said Cause, the undersigned being first duly sworn according to Law by & before John A McCoy Esq. one of the Justices of the Peace in and for said County of Peoria fairly and impartially to make partition of the lands described in the order and decree of the Court in said Cause, in accordance with the judgment of the Court as to the rights and interests of the parties (a certificate of which justice is hereto attached and made part hereof.) and having gone upon the premises, and upon actual view of said several lots we do make partition and division thereof as follows, we set off apart and assign to said John Corusstock, Lots twenty-

one, twenty two, twenty eight, and thirty four. (Lots 21, 22, 28, 34,) in Severalty & We set off apart and assign to Richard A. Gregory, Anna Gregory, Lydia L. Gover, and James Morris. Lots fifteen, twenty six, thirty nine, twenty four, thirty one, thirty two, and thirty six. (Lots 15, 26, 39, 24, 31, 32, & 36,) in Common, all in Range nine in Mills addition to Peoria in the City and County of Peoria and State of Illinois, all of which is respectfully Submitted

Peoria November 15, 1857.

Commissioners fees \$15.00

Paid Justice

75.

And Hamlin Seal

Geob. Bestor Seal

A. P. Bartlett Seal

Common =
tion or

and thereupon moved the Court to accept and approve the same, to which report oath &c said John Comstock by his Counsel then and there objected and excepted and resisted Petitioners motion. asking the Court to approve the same. the Court overruled the Exceptions & objections of said Comstock & then & there approved said Commissioners Report and allowed the same to be filed, to all which ruling of the Court the said Comstock by his Counsel then and there Excepted. the said Court then made the final order and decree following in said Court to wit:

Richard A. Gregory

& Anna Gregory

vs.

In the Circuit Court of Peoria
County

Lydia L. Gover } In Chancery for Partition
and Others }

This Day this Cause again came on to be heard. And Amos P. Bartlett, George C. Bestor, and John Hamlin, Commissioners appointed by the Court at a former term to make partition and division of the lands and lots among the parties according to their respective Rights and interests, came and make report of their proceedings in that behalf, and the Court here having seen and inspected said Report and the Certificate of John A. McCoy Justice of the Peace thereto attached, find said Report & Certificate in all respects correct and the said Report & said Certificate are by the Court here approved and confirmed, and it is by the Court here adjudged directed ordered and decreed that said John Cornstock, shall have and hold said Lots twenty one, twenty two, twenty eight, and thirty four in fee simple, and that said Richard A. Gregory, Anna Gregory, Lydia L. Gover and James Morris, within sixty day from the signing of this decree shall execute to said Cornstock a good and sufficient release of all their interest in said Lots, twenty one, twenty two, twenty eight, and thirty four, and in case said parties should fail to execute such release, within the time limited then and in that case George S. Blakely, who is hereby appointed a Commissioner for that pur-

pose shall Execute Such release in the name
of Said parties to Said Constock for Said Lots
twenty one, twenty ~~four~~ two, twenty eight,
& thirty four, & Said Deed of release when
so Executed by Said Commissioner shall
have the same force and effect as if executed by
Said Richard A. Gregory, Anna Gregory, Lydia
S. Gover, and James Morris, and it is further
ordered directed adjudged and decreed by the
Court here that Said Richard A. Gregory, Anna
Gregory, Lydia S. Gover and James Morris shall
have and hold Said Lots fifteen, twenty six,
thirty nine, twenty four, thirty one, thirty two,
and thirty six, in fee simple in common,
and it is further ordered adjudged and decreed
by the Court here that Said John Constock
within sixty days from the signing of this de-
cree, execute a good & sufficient release of all
his interests in Said Lots, fifteen, twenty six,
thirty nine, twenty four, thirty one, thirty two,
and thirty six, to Said Richard A. Gregory,
Anna Gregory, Lydia S. Gover & James Morris
and in default thereof, George S. Blakely, who
is hereby appointed a Commissioner for that
purpose, shall Execute Such release in the
name of Said Constock & Such release when so
executed by Said Commissioner shall have the
same force and effect as if executed by the Said
John Constock, and it is further ordered &

adjudged by the Court here that one third of
the costs of this proceedings shall be taken to the
Said John Comstock, and the remaining
costs shall be taken to the Said, Richard A.
Gregory, Anna Gregory, Lydia L. Glover and
James Morris. E. N. Powell,

To the making of which final
order and decree by the Court the Said
Comstock by his Counsel then and there objected
which objections were overruled by the Court and
Said final order made to all which ruling
of the Court in making Said final decree &
overruling the Said Comstock's objections to the
same, the Said Comstock by his Counsel then
& there excepted and prayed the Court to sign
and seal the Bill of Exceptions which is accord-
ingly done E. N. Powell, Clerk

And afterwards to-wit: On the eighteenth
day of December A.D. 1856, there was filed
in the office of the Circuit Court clerk
aforesaid, an appeal bond, in words and
figures following to-wit:-

Know all men by these presents, that John
Comstock as principal and Jacob Dars as
Security are held and firmly bound unto
Richard A. Gregory and Anna Gregory in the
penal sum of two hundred Dollars lawful

money for the payment of which well and truly to be made we hereby bind ourselves our heirs Executors and administrators firmly by these presents. Witness our hands and seals this 16th Day of December A.D. 1856. The Condition of the above obligation is such. Whereas at the Sept Special Term 1856. of the Circuit Court of Peoria Co. Illinois, in the case of Richard Gregory and Anna Gregory against Lydia Gover and others, said Comstock being one of said Defendants, Petition for partition said Complainants recovered a Decree of partition against said Comstock, recovering two thirds of the property in controversy, and whereas partition was made and a report of the same made at the November Term 1856. of said Court and whereas said Court made a final order approving of said Court from which final order and proceedings in said Cause, said John Comstock has prayed an appeal to the Supreme Court of the State of Illinois, to be held for the hearing of appeals of Causes, in the grand Division of which Peoria County is a part. Now provided that said Comstock shall duly prosecute his said appeal and shall pay or cause to be paid whatever judgment together with costs and damage in case said decree shall be affirmed by the said Supreme Court, which may be rendered in said Cause, then this Bond to be void, otherwise to remain in full force

John Comstock *Test*
Jacob Daret *Test*

State of Illinois
 Peoria County }
 I, J. Crook Sloan, clerk of the
 circuit court in and for the said county and state
 do certify that the foregoing is a complete and true
 copy of the records in the cause wherein Richard
 A. Gregory &als are plaintiffs and Lydia L. Gover &als are
 defendants, as the same remains of record and on file
 in my office. In testimony whereof I hereto set my
 hand and affix the seal of said court
 at Peoria this 3^d day of April A. D.
 1857. J. Crook Sloan, clk

Dolan & Co. stock }
 vs } The Supreme Court
 Richard A. Gregory }
 &als } Error to Peoria County

(And now comes the said
 Plaintiff in Error and says that in the Record and
 proceedings and in the Rendition of the ^{Peoria} ~~County~~ of said
 Court is manifest Error in this to wit.

1st Said Court Erred in deciding that the Plaintiff
 in the Court below was entitled to Two thirds in-
 stead of the whole I sought to be partitioned.

2nd Said Court Erred in deciding that the Defendant
 below was entitled only to one undivided third of
 said whole when in law and Equity he was the
 owner of the undivided half of said whole Estate

Over

3. Said Court End in affirming the
Report of Commissioners to make Partition
and Entering the final decree in the case
wherein he prays that the said decree may
be entered.

Aff'd
J. H. Apple

And the Defendants in error come
and shew that in the record proceedings
in the resolution of the decree in this cause
there is no error. The over for
the state in error

John Comstock

Richard H. Gregory

Filed April 1st 1854

John Comstock

my
Richard A. Gregory
Ann, S. Gregory

The Supreme Court

State of Illinois

Lasalle County 322

W. H. P. being seven days

That he is informed and believes that
the Defendants in this suit are now
residents of this state & further saith not

Subscribed & sworn to

before me this 29th April 1857

The Secy & Clerk of Sup. Court

By J. B. Rice Deputy

177 54
John Comstock
Richard A. Sugong
J. H. H. H.

Affidavits of
Non Residence
of debts —

I know all men by these presents that
we John Cornstock and Thomas Bryant
of Poria in the County of Poria State of Illinois
do hereby and jointly bound unto Richard
A. Gregory and Anna Gregory his wife
in the Pinch Sum of Three thousand
dollars lawful Money of the United States
to which payments will and truly to be made
and done We bind ourselves our heirs
Executors and administrators and each of
them jointly and severally by these presents.
Witness our hands and seals this
27th day of April A.D. 1857.

The Condition of this Obligation is This
When in a certain cause pending
in the Supreme Court of the ~~United States~~
of Illinois in which the said John Corn-
stock ~~is~~ plaintiff with Lydia L. Gooch and
Others is Plaintiff in Error & Richard
A. Gregory & Anna Gregory his wife are
defendants in Error in a proceeding in
Petition on application for a Supersedeas
to the Circuit Court of Poria County has
been made to said Supreme Court, which
has been allowed by the Court, Now
if the said John Cornstock shall pro-
secute his said Mt of Error in said
Court issued with Effect & shall pay
whatever Costs shall accrue in this Court
and shall pay and perform whatever
Judgment or decree may be made in

The premises, provided the said decree of
the Circuit Court shall be affirmed
Then this bond shall be void otherwise
in force

John Comstock
Thomas Bryant

774 64
Comstock
vs
Gregory

Bond

Filed April 21. 1885
L. Leland
Clerk

State of Illinois
Peoria County

I, Enock T. Sloan, Clerk
of the circuit court in and for said
county and state do certify that the
following transcripts, marked "A" and
"B" are transcripts of two papers, (one of
which is marked "A" and the other one is
marked "B"), attached to the depositions of
Alfred Tracy, Caroline C. Austin, Charles
F. Tracy and Edward N. Tracy, which de-
positions are filed in my office, in the
cause, wherein Richard A. Gregory and
Anna Gregory are petitioners and Lydia
L. Gover, Robert Gover, James Morris
and others are defendants, which said
cause was appealed to the Supreme
court of this state on the 16th Decem-
ber 1856. The paper above referred to mark-
ed "A" is in words and figures follow-
ing to wit:-

"St. Louis, Oct. 5, /53

"To the Commissioners appointed by the Court,
for division of property in Peoria, belonging
to the heirs of Morris and Edward Tracy and
to Alfred Tracy,

Sirs, By an agreement
between ourselves, and the Morris heirs,

we respectfully represent, that we claim
but one third of the property in Peoria
sold under an execution against Sav-
age & Austen and bought in by Morris
& E. A. Tracy.

"Chas. F. Tracy,

"for the heirs of Edw. Tracy.

"Alfred Tracy"

Which said paper is endorsed as follows:

"Exhibit 'A'"

"Garret S. Van Wagner

Commissioner"

And the paper in this certificate ^{referred to} marked
"B" is in words and figures following to
wit:-

$$\begin{array}{r} 138.18 \\ 2 \\ \hline 3 \overline{) 27636} \\ \underline{9212} \end{array}$$

"Recd St. Louis Aug 8, 1853 of R. A. Gregory
Ninety Two & 12/100 Dollars, Amount in full
of Morris heirs proportion of taxes, on
property in Peoria, being 2/3 amount paid
by me to Geo. C. Bestor for taxes and re-
demption up to 1853.

Chas. F. Tracy.

Which said paper is endorsed as follows:-

"Exhibit 'B'"

"Garret S. Van Wagner,

"Commissioner"

And I do further certify that the foregoing transcripts are true and complete copies of the original, as they appear attached to said depositions, and filed with said papers in my office, and that said papers marked as aforesaid and copied in this certificate are parts of, and ~~do~~ belong to, the record of said cause.

Given under my hand and the seal of said court at Peoria, this 22^d day of April AD 1858.

Enoch T. Sloan, Clerk.

1st The Sheriff's Deed to Morris, & Edward
& Alfred Tracy on its face makes each
the owner of one undivided 3^d part.

Can't contradict it by parol 1 Green.
20. p. 351. §. 275. 3 Scam 566. 572.

15 Ill 57. 133. 687. 12 ib 288. 3 Gilman.

254. Petition does not show that
Keece is vice or fraudulent nor want
of Consideration to make the exception
to the general rule.

2 The agreements and parol under-
standings between parties all void
under the Statute of frauds and
all such agreements & understanding
if any were made, ~~were made~~ after
the sale by Sheriff ~~was made~~ & after
the title had vested.

The title can't be changed after
it once has vested, by parol.

no part performance nor fraud to
take it out of the Statute 3 Scam 565.
14 Ill 43.

3

Morris judgment was \$4377.47

Tracy judgment \$1308.00

Amount applied on sale sale \$1925.00

Which paid 962.50 on each judgment

Leaving unsatisfied balance of \$3434.97 on

Morris judgment and \$345.50 on

the Tracy judgment

No evidence in the case showing or
tending to show that Morris ever paid
more than one half the purchase money
but the evidence shows that there is yet
an unsatisfied balance on each judg-
ment

How does the Court know that
Morris ever paid more than one half
or that he paid $\frac{2}{3}$ purchase money

Metcalf says that it was the under-
standing that the judgments were to be
paid pro rata which is all the evidence
on that point the Record shows no
such ~~thing~~ agreement (See the Record
Certificate purchase)

4th Petitioner is barred by lapse of time
it being over 19 years since the sale by
Sheriff was made, & more than 15
years before the Bill was filed

11 Ills 603 + 241.

2 Ills 650.

2 Story Eq Sec 1520. & 1521

5th Charles F Tracy had no authority
to sign any agreement in the name
for the heirs of Edward Tracy

7 Put it on the ground of a resulting
Trust.

Resulting Trusts only ^{arise} from the payment
of Money independent ~~from~~ of Contract
13 Ills 170 14 Ill 201

It results if at all at the time of
the Execution of the will no subse-
quent arrangement could make
Tracy trustee for Morris & Paige 398
13 Ills 227. Ill 225.

The question then is who paid the most money? the evidence does not show

8 Admitting that the evidence supports the allegations that Morris paid more than two thirds & Tracy less than one third the purchase money then Petitioner below could not recover - because there is nothing to show how much more or how much less than one party paid more than the other and a payment of a sum generally will not raise a resulting trust the amount paid by Morris should have been some aliquot part of all that was paid.

13 Ills 227.

2 Paige 240 & 241

2 Akr 721.

The trust if any in this case is a parol trust and obnoxious to the statute of Frauds 11 Ills 663.

Amstoc 12

us

64

Gregory

Prin & points

Filed April 21, 1888

L. Leland

clerk

John Comstock

as
Richard A. Gregory
and others

} Suggestions by
Plff.

In this case the Plaintiff claims under the two Tracy's, the defendant under Morris.

The Sale, and the certificate of purchase, ~~and~~ deed were made to Morris. Edwards Tracy & Alfred Tracy the title papers make them tenants in common of the land.

There are no Equities between them - There is no presumption of law, that where a deed is made to two persons as tenants in common, that each should only in proportion to Judgment liens in favor of each, upon the lands.

Suppose the Judgment debtor had himself made the deed, instead of the Sheriff who sold his title - Would not each grantee have an equal undivided interest in the lands?

Each would be bound to pay an equal proportion of the purchase money -

And if he did not do so, the party who advanced the larger sum, could only have a claim for the money.

A resulting trust arises only in case, One Man buys land in his own name, with the money of another.

It can not arise where One buys land with his own money, or credit in his own name— or in the name of another— or in his own name and the name of another, with the money or credit of both.

Crane v. Baldwin 14. Ill. 468.

Upon the face of the paper this case stands precisely in the same condition as though the land had been purchased by another attaching creditor or by a stranger—

The money must be considered as having been paid into Court, by the purchaser or purchasers. If there is one purchaser only, he must pay all; If two or three purchase jointly, then, as between themselves, Each must furnish his equal proportion of the money— But it does not follow if one furnished more than

his share, that he owned more of the land purchased in the joint names of all. He has a claim only upon his partners in the purchase for the money advanced.

Now it is true that if the money arising from this sale had been brought into Court, and a distribution ordered under the Statute, Morris would have got the larger share thereof. But this could not affect the title, nor the rights of the purchasers under the sale. Because he gets more of the money; it does not follow, that, being a joint purchaser with others he gets more of the land.

Suppose an application had been made by some creditor or other person that the money be paid into Court for distribution — Morris could have compelled the Tracy's to furnish each an Equal share with himself under the sale and purchase.

Upon such a sale the Court can apportion the money only, Not the land

Suppose it had been personal property so purchased jointly, Would any one contend that the interests of the parties would be in proportion to their several judgments

Again if the land had been sold to the Parties - Morris, Tracy, and a Stranger, having no lien; ^{with the other} jointly - If the doctrine of the Defendant here is the law, the Stranger, having no lien, would take nothing by his purchase

It is not the Judgments nor the liens of the parties, but the money bid, and paid into Court, which buys the land

The Statute then determines how the money shall be applied.

In any Event - It does not I think appear from this Record, that Court took the Plaintiff here had any notice of the Existence of any of the alleged Equities of the Original purchaser

M. P. Ryals

Constance¹⁴
M⁽⁶⁴⁾
Gregory & others

Suggestions

Purple

I have shown
this to Grace

Purple