State of Illinois }
Warren County } ss.

Be it Remembered that heretofore to wit on the 6th day of October A.D. 1863 a Bill in Chancery was filed in the office of the Clerk of the Circuit Court of Warren County Illinois which said Bill is in the words and figures following to wit:

State of Illinois County of Warren

Robert Holloway }
vs. } In Chancery
Archibald Y Graham et al }

Circuit Court October Term 1863.

Your Orator Robert Holloway of the County of Mercer and State of Illinois, unto your Honor the Honorable Charles B Lawrence Judge of the Tenth Judicial Circuit in and for the State of Illinois, humbly Complaining, Sheweth that on the 9th day of April A.D. 1857 One Perry Alexander of the County of Adams and State of Illinois was seized in fee of the North East Quarter of Section Five and Ninety Six Acres off the West side of the North West Quarter of Section Five, in Township Ten North of Range Two West of the 4th Principal Meridian, And on that day Sold the Same to Your Orator and one Henry M Boggess, of the County of Warren aforesaid, who were then partners in business under the name of Holloway & Boggess for the Sum of Six Thousand Dollars, of which Two Thousand Dollars was then paid and the balance was to be paid in two equal Sums with Six per cent interest in one and two years upon the payment of which the said Perry Alexander

was to convey the premises to them by warranty deed; Your Orator further Sheweth that, he with said Henry M Boggess paid on said Contract on the 21st day of April 1858 the sum of Two thousand, Nineteen dollars and Forty Cents on the first deferred payment leaving One Hundred Four Dollars and Sixty cents due thereon, and on the 20th day of July A.D. 1859 the said Perry Alexander extended the payment of the last deferred installment until the 1st day of September A.D. 1860 upon the Consideration that two per cent interest should be paid thereon from the 9th day of April A.D. 1859.

Your Orator further Sheweth that on the 21st day of April A.D. 1857, Your Orator and said Boggess sold said tracts of land to Archibald Y Graham and David Graham for the sum of Ten Thousand Dollars, of which Four Thousand Dollars was to be paid on the 28th day of May A.D. 1857, Four Thousand Dollars on the 6th day of April 1858, and Two Thousand on the 6th day of April 1859, with Six per cent interest, upon the payment of which the same was to be conveyed by your Orator and said Boggess by warranty deed to the said Archibald Y Graham and David Graham and said agreement was reduced to writing and executed by the parties, And your Orator avers that the times for the payments by the said Grahams were fixed expressly to enable your Orator and said Boggess to use the said Money paid by said Grahams so far as necessary to pay the sums due

Said Alexander, And that said Grahams had full knowledge of the condition of the title and that your Orator and said Boggess had no other right to said land that such as was derived by the Contract with said Alexander and that there was the sum of Four Thousand Dollars with interest to be paid thereon according to said Contract before the said Boggess & your Orator would become entitled to the legal title from said Alexander.

Your Orator Sheweth that the said Archibald Y Graham and David Graham took actual possession of said premises and they have remained in possession ever since.

Your Orator Sheweth that the said Archibald Y Graham and David Graham paid to Your Orator and said Boggess the two first payments in Money, and from the second payment they, Your Orator & said Boggess, paid the first deferred payment to said Alexander, but when the last payment from said Grahams became due, instead of paying the same in Money so as to enable Your Orator and said Boggess to pay the balance due Alexander, the said Grahams purchased the promissory notes of your Orator & Boggess from third parties in the Market at a discount & claimed payment of them as an offsett to the sum due on said Contract and your Orator & Boggess was compelled to accede to said demand and receive said notes, by means whereof they were deprived of the Expected funds to pay the balance due to Alexander and having become embarrassed were unable to obtain it from

any other Source, and therefore were unable to pay the Sum due said Alexander, or to procure the title from him or convey it to said Grahams.

Your Orator Sheweth that the said Henry M Boggess sold and conveyed on the 20th day of October A.D. 1860 all his interest in said tracts of land & the money due thereon to your Orator and he assumed all liability on said matters so that the said Henry M Boggess as between himself and your Orator had no further interest therein.

Your Orator Sheweth the said Archibald Y. Graham and David Graham has by the law in the existing circumstances to resort to a Court of Equity for Specific performance and obtain the title to said land from said Perry Alexander upon paying the balance due, for which they could have had a decree against your Orator & said Boggess, or to abandon the Contract and the land & bring their action at law to recover back the Money paid, and in pursuance of said right the said Grahams commenced an action of Covenant in the Circuit Court of Warren County aforesaid for the March Term AD 1861 against your Orator & said Henry M Boggess on the Contract to recover damages for the Non performance of their agreement in failing to convey said land, and thereafter such proceedings were had that the said Grahams on the 22d day of November AD 1861 recovered judgment for the Sum of Twelve Thousand Six Hundred & Seventy Dollars and fifty Nine Cents, damages,

5.

being the full amount paid on said Contract with interest, with Costs, And Since that time the said Grahams have Collected a part of said judgment, to-wit, the Sum of Three Hundred thirty Seven Dollars and Eighty five Cents, on the 21st day of February A.D. 1862, Eight Hundred and Two Dollars and Eighty Eight Cents on the first day of January A.D 1863. and Twelve Dollars and Eighty Seven Cents on the 17th day of August A.D 1863. And the remainder remains unsatisfied, except as hereinafter Stated.

Your Orator refers to the said Suit and the Record therein and prays that the same be taken as a part of this his Bill of Complaint.

Your Orator Sheweth that the said Perry Alexander filed his Bill of Complaint in this Court on the 6th day of March A.D. 1861 against your Orator, Henry W. Poggees, Archibald Y Graham, David Graham, and certain persons judgment Creditors of your Orator, for the Specific performance of the Contract made between the said Alexander, and your Orator and said Poggees and prayed a decree for the payment of the balance due and that his Vendors lien be enforced against the land to collect the same in default of payment. The Bill was answered by your Orator, said Poggees & Grahams. The said Grahams filed a cross Bill praying that your Orator & Poggees be decreed to pay Alexander & Alexander to convey the land to them, which was answered by Alexander, your Orator & Poggees.

On the 5th April, 1862, the cause was heard on the Original Bill, the answers thereto, the cross bill and answers thereto, the several replications to the answers, and the report of the Master in Chancery, no other proof being offered, and a decree was rendered.

The Decree recites that the Court found from the pleadings and Masters report, that Perry Alexander did contract with said Holloway & Boggess, to sell them the premises, upon which there remained due and unpaid the sum of $3.100.49, and then proceeds as follows:

"It is therefore ordered and decreed by the Court that said Holloway & Boggess shall within Ninety (90) days from the date of this decree pay to said Complainant, the said sum of Money so found due him upon said Contract, with interest at the rate of Six per cent. per annum from date, together with the costs of this Suit, and that in default thereof, the Master in Chancery be required to sell said land at public Vendue to the highest and best bidder for cash, after advertising the time and place of Sale, at least twenty days before such time of such Sale, in the Monmouth Review, and thereupon said Master in Chancery shall make a good and Sufficient deed to the purchaser or purchasers thereof, Conveying all the title which said Complainant has in said land, and all the Equity of redemption which said Defendants, or either of them, may have in said land and all Claim which they may have therein, and with the proceeds of such Sale, the said Master shall first pay the

7

said Complainant the said Sum of Money so found due him as aforesaid, together with the interest and the costs of this suit. And it is further ordered, that if said Grahams become the purchasers at such sale, that the Master shall bring the deed into Court to be delivered to them upon Complying with the further order of this Court in the premises, and if any other person or persons should become the purchasers, then the residue of the money is to be brought into this Court to be appropriated under the order of this Court. And Provided further, that the bid of said Grahams at the sale be made and given, and received by the Master over and above said Complainants debt and costs of this suit, as cash; And Provided further that if said Holloway & Boggess shall pay said Complainant said debt and interest before the expiration of said ninety days, and the sale of said premises by the Master, and the costs, said Complainant shall convey to said Grahams within 60 days thereafter, according to the terms of said Contract; And Provided further that said Grahams shall first satisfy said judgment against Holloway & Boggess. Or it is further provided, that said Grahams may pay said Complainant his debt, interest and costs, and thereupon said Complainant shall make a deed as aforesaid to them and deliver the same, provided the said Grahams first enter satisfaction of all such judgment save the amount he may have paid Alexander as aforesaid for his debt, interest, and costs he may have paid in the premises. And it is further ordered and decreed by the Court, that in case the said Grahams should refuse to accept the

residue of the money to be obtained from the Sale of said land as aforesaid, with the conditions and provisions in this decree mentioned, then the Master in Chancery is ordered after paying said Complainant as aforesaid and the Costs herein, to bring the residue of the money into Court to be apportionated according to Equity and justice at the next term of this Court."

On the 14th Nov., 1862, the Master in Chancery filed his report that he had advertised and sold the premises to William Lafferty of Warren County on the 1st August, for $3271.70, And had executed and delivered a deed to him, that he had from the proceeds paid the Costs, $109.20, And to Complainant his debt and interest, $3162.50.

At the same term Your Orator moved to set aside the Sale, the decree for Sale, And the Masters report, but the Court overruled the motions, And the Court ordered a decree confirming the Sale and deed, and also ordering Alexander with his wife to convey the premises to William Lafferty in accordance with the Contract between Alexander and Holloway and Boggess.

On the 9th day of December, 1862, Alexanders and wife executed and delivered a warranty deed conveying the premises to Lafferty.

On the 27th March, 1863, a decree was entered Confirming the deed last named.

And your Orator refers to the files and Records of this Court and prays that so far as they relate to the said Suit of Perry Alexander against your Orator and others, they may be taken and considered as a part of this his bill of Complaint.

Your Orator further Sheweth that the said William Lafferty bid off the said tracts of land for and at the request of the said Archibald Y Graham and David Graham and in pursuance of an arrangement made before said Sale between them that said William Lafferty was to bid off the property and take a deed therefor in his own name, that he was to advance the money as a loan to the said Grahams & whenever the Same was repaid him with ten per cent interest by said Grahams, the said Lafferty was to Convey the property to them or to Such other persons as they Should order.

Your Orator further Sheweth Since the making of the said deeds to the said William Lafferty and before the filing of this Bill the said Grahams have paid to the said Lafferty the Sum of money advanced by him with interest and the said Lafferty at the request of said Grahams Conveyed the Same to Robert Moir of the County of Henderson in said State, who now holds the Same for the use and benefit of said Grahams who are the real owners thereof and who are in the actual possession thereof.

Your Orator avers that the said Archibald

Y Grahams and David Grahams, notwithstanding their Election to resort to an action at law to recover damages, yet after the recovery of said judgment, they also determined to abandon said judgment and claim the land as they did by their said Cross Bill, and have since obtained the said with a perfect title free and clear of all incumbrances upon the payment of the Sum due to the said Perry Alexander as aforesaid,

Your Orator further Sheweth that since the said Grahams have so claimed and obtained said land, contrary to equity and good Conscience they have been collecting and attempting to collect their said judgment at law, and have succeeded in Collecting by process of law thereon, a large Sum to wit, The Sum of Eleven Hundred and fifty three Dollars and Sixty cents.

And your Orator avers that the said Grahams have collected on said judgment at law the following Sums, to wit: On the 21st day of February AD 1862 the Sum of Three Hundred and thirty Seven dollars and Eighty five Cents. On the first day of June AD 1863 the Sum of Eight Hundred and two Dollars and Eighty Eight Cents. And on the 17th day of August AD 1863 the Sum of Twelve Dollars and Eighty Seven Cents.

Your Orator is willing and hereby offers on behalf

of himself and said Henry M Boggess to execute a warranty deed or Covenants of title as required by their said agreement with said Grahams to them or such person as the Court may direct, and your Orator is willing and hereby offers to pay the balance after applying the sums collected on the judgment at law that may be necessary to pay the said Grahams in full for the sum paid by William Lafferty for said land with interest or the sum paid by said Grahams with interest to said Lafferty as the Court may decree.

Your Orator avers that he can only have relief in a Court of Equity where matters of this sort are properly Cognizable.

To the end therefore that the said Archibald Y. Graham, David Graham, Henry M Boggess & Robert Moir may be made parties defendants hereto and may severally answer the matters and things hereinbefore stated as fully as if the same were herein again repeated and they and each of them specially interrogated thereunto, Your Orator prays that a writ of Summons may be issued against them as required by the Statute in such Cases made and provided, and further prays that upon a hearing of this Cause the amount paid by the said Archibald Y Graham & David Graham to secure the title to the land first herein described be ascertained, as well as the sum Collected by them on the judgment herein mentioned, & that a decree be entered that upon the payment of any balance yet due to the

said Archibald Y Graham & David Graham to discharge the sum so paid by them to the said Perry Alexander or William Lafferty, the same be in full satisfaction of said judgment & a decree be entered requiring the said Archibald Y Graham and David Graham to satisfy the judgment rendered in their favor against your Orator and said Henry M. Boggess, upon said payment and that they be forever thereafter restrained from collecting or attempting to collect the said judgment or any part thereof, and that your Orator have such other & further relief as may be necessary & equitable & as in duty bound &c.

W. C. Goudy
Compts Solicitor,

State of Illinois } In Circuit Court of the
Warren County } 2d. October Term AD 1863.

Robert Holloway
vs.
Archibald Y Graham
David Graham
Henry M Boggess
& Robert Moir

The Clerk will please issue Summons in Chancery herein returnable to the above term of said Court directed to the Sheriffs of Warren & Henderson Counties

Oct 6th 1863

Chas. Jameson
P. A.

13

Filed Oct 6th 1863.
W Laferty Clk.

And upon the filing of the said Bill in Chancery a Summons was issued out of the office of the Clerk of the said Circuit Court which is in the words and figures following towit:—

State of Illinois, Warren County, Sct.

The People of the State of Illinois, to the Sheriff of Warren County, Greeting;

We Command you to Summon Archibald Y Graham David Graham, Henry M Boggess & Robert Moir if to be found in your County, personally to be and appear before the Circuit Court of Warren County, on the first day of the next term thereof, to be holden at the Court House in Monmouth on the fourth Monday in the month of October instant to answer a bill of Complaint, filed in our said Circuit Court, on the Chancery Side thereof, against them by Robert Holloway, And have you then and there this writ, and make return thereon in what manner you execute the same.

(U.S. Stamps 50 c)

Witness Wm Laferty Clerk of our said Circuit Court and the Seal thereof, at Monmouth, this 6th day of October in the year of our Lord One Thousand Eight Hundred and Sixty three

(Seal)

Wm Laferty Clerk

On the back of which Summons is the following endorsement by the Sheriff of Warren County Illinois towit:

I did on the 9th day of October A.D. 1863 Leave the within Summons by reading the same and delivering a copy to the within named Archibald Y Graham & Henry M Boggess.

David L Riggs Sheriff Warren County Ill.
By Jno. E. Alexander Depy

And the following filing by the Clerk of the said Circuit Court towit:—

Filed Oct 22d 1863
Wm Laferty Clerk.

And on the same day there was issued out of the office of the Clerk of the Circuit Court of said County a Summons which is in the words and figures following towit:—

State of Illinois, Warren County, Sct.
The People of the State of Illinois, to the Sheriff of Henderson County, Greeting:

We Command you to Summon Archibald Y Graham, David Graham, Henry M Boggess and Robert Moir if to be found in your County, personally to be and appear before the Circuit Court of Warren County, on the first day of the next term thereof to be holden at the Court House in Monmouth, on the fourth Monday in the Month of October Instant to answer a bill of Complaint, filed in our said Circuit Court, on the Chancery Side thereof, against them by Robert Holloway.

And have you then and there this writ, and make return thereon in what manner you Execute the same

Court Clerks Fees $1.00

15

Witness Wm Lafferty Clerk of our said Circuit Court, And the Seal thereof, at Monmouth, this 6th day of October in the year of our Lord One thousand (Seal) Eight Hundred and Sixty three.

Wm Lafferty Clerk

On the back of which Summons is the following endorsement by the Sheriff of Henderson County to-wit:

I did on the 14th day of October A.D. 1863 Serve the within Summons by reading the Same and delivering a Copy to the within named David Graham & Robert Moir

George W Connelly Sheriff Henderson County Ills

I Cannot in my County find the within named Archibald Y Graham and Henry M Boggess

George W Connelly Sheriff Henderson County Ill.

And the following endorsement by the Clerk of the Said Circuit Court of Warren County Illinois to-wit:—

Filed Oct 24th 1863

Wm Lafferty Clerk.

And afterwards to-wit on the 28th day of October A.D. 1863 a Demurrer was filed in the office of the Clerk of the said Circuit Court which is in the words and figures following to-wit:—

Robert Holloway
vs
Archibald Y Graham
David Graham
Robert Moir &
Henry M Boggess

Warren Cir Court
Oct. Term 1863.
Chancery

The Defendants Archibald

16

Y Graham David Graham & Robert Moir, by protestation not confessing or acknowledging all or any of the Matters and things in the said Complainants Bill to be true in such manner & form as the same are therein set forth and alledged do demur thereto and for cause of demurrer Shew,

1st That the matters and things, therein set forth and alledged in said Bill of Complaint according to the allegation therein contained have already been adjudicated

2d That if, the Matters and things set forth and alledged in said Bill of Complaint were true as the same are charged they do not entitle the Complainant to the relief prayed for nor for any relief whatever,

Wherefore and for divers other errors and imperfections these defendants demand the judgment of this Honorable Court whether they shall be compelled to make any other or further answer to the said Bill or any of the matters and things therein contained, and pray to be dismissed with their reasonable costs most mutually sustained.

Harris & Glenn
Sols. for Defs.

Filed Oct 28th 1863
W Lafferty Clk.

Afterwards towit on the 11th day of January A.D. 1864 an answer was filed in the office of the Clerk of the Circuit Court of said County which is in the words and figures following towit:

17

State of Illinois } Warren County Circuit Court.
Knox County } ss

In Chancery

Robert Holloway
vs.
Archibald Y Graham
David Graham
Robert Moir
Henry M Boggess

The joint & several answers of Archibald Y. Graham, David Graham & Robert Moir.

These Defendants now and at all times hereafter saving and reserving to themselves and each of them all benefit and advantage of exception which can or may be had or taken to the many errors uncertainties and other imperfections in the said Complainants said Bill of Complaint Contained for answer thereunto or unto so much and such parts thereof, as these defendants are advised is or are material or necessary for them to make answer unto — these Defendants answering say.

That they admit the execution of the Contract from said Perry Alexander unto Holloway & Boggess and also the Contract from said Holloway & Boggess to said Archibald Y Graham & David Graham set forth in said Bill. They Admit that said Holloway & Boggess failed to make the payments on said Contract with Alexander and the title in Consequence thereof failed & was lost to said Grahams notwithstanding said Grahams as they admit insist and aver that they duly paid up in full the amount of said Contract between said Grahams & said Holloway & Boggess

and went into possession under said Contract
said defendant know nothing as to the Sale & transfer
by said Boggess to said Holloway and said defendants
deny that the said Grahams bought up or purchased
the promissory notes of the said Holloway & Boggess
from third parties in the market at a discount and
Compelled the said Holloway & Boggess to take them
on the last deferred payment of the said Grahams
to the said Holloway & Boggess and thereby disappointed
and embarrassed the said Holloway & Boggess
and they aver the truth to be that the said Grahams
paid the amounts of said notes & indebtedness against
said Holloway & Boggess in full dollar for dollar
to the assignors thereof, and that they did not
purchase the same at a discount, and when
application was made to said Grahams to purchase
said notes, before the purchase thereof they waited
on said Holloway & Boggess to have them accept
the same on said Contract and they expressed
an entire willingness to take them on said indebted-
ness against said Grahams and said they
were the same to them as cash, and they were
perfectly willing to have them applied on said
Claim against said Grahams and stated
to the said Grahams they would make Execute
and deliver to them a good & sufficient deed
of Conveyance of said premises mentioned
in said Contract in few days.
They admit that in consequence of the failure of
title aforesaid & the inability on the part of said

Holloway & Boggess to convey any title to said Grahams that they commenced the suit & recovered the judgment against said Holloway & Boggess in said Bill set forth on the 22d November AD 1861 for the sum of Twelve Thousand Six hundred & Seventy dollars & fifty nine cents ($12670 59)

They admit the several payments charged in said Bill to have been paid on said judgment & charged therein to be in the aggregate the sum of Eleven Hundred & fifty three dollars & sixty cents ($1153 60)

They admit the filing of the Bill by said Perry Alexander against said Holloway & Boggess & said Grahams to secure the payment of the balance due said Alexander & to foreclose the rights title & interest of said Holloway & Boggess & said Grahams in said land also the filing of a Cross Bill by said Grahams who were also defendants in said suit and a final decree rendered therein but they deny that said crossbill filed by said Grahams was a bill for a Specific performance of their Contract with said Holloway & Boggess but on the Contrary aver that it was a bill filed to enforce the Collection of their said judgment at law against said Holloway & Boggess by procuring an order & decree of the Court directing an application of the Surplus moneys raised on the sale of said land under said Decree in favor of said Perry Alexander upon the judgment at law in favor of said Grahams aforesaid against said Holloway & Boggess and upon which premises having issued executions on said

judgment they had a lien by virtue thereof—

But said Defendants refer to said Original Bill & Crossbill & decree & papers & files in said Chancery Suit & pray that the same may be taken as a part of their said answer to the end that the legal effect of said Bills, papers & decree may be seen & determined by the Court & the true construction thereof thus ascertained rather than by the inferences & conclusions sought to be drawn therefrom by said Complainant in his said Bill in this Cause.

And said defendants further say that they never occupied but one and the same position in reference to their said judgment at law after they recovered the same and that was to enforce the collection thereof by the most convenient means in their power both at law and by a bill in Equity. That the decree which was rendered in said Chancery Suit was not a decree in accordance with the prayer of their said Crossbill in as much as the reliefs granted in said decree to said Grahams was clogged with such conditions & provisos in favor of said Holloway & Boggess as to greatly impair if not destroy the main benefit and object which said Grahams sought to secure by their said Cross bill.

And said defendants say that they never acted under said decree nor took the benefit thereof and on the contrary abandoned all effort to come in under said decree or avail themselves of its provisions which by the terms of said decree it was optional with said Grahams whether they would accept & act upon or not.

21

Said Defendants say that said land was bid off and sold under said decree to William Laferty in said bill mentioned in his own name individually and that he paid the money on said sale although they admit that they induced said Laferty to purchase said land but deny that the money paid on said sale was advanced by said Laferty as a loan they admit that after said sale they purchased said land of said Laferty & paid him therefor in full and that at their request said land was conveyed by said Laferty to Robert Moir although the legal title to said land has never been conveyed to or vested in said Grahams.

And said Defendants further say that on the 14th of November AD 1862 the Master in Chancery filed his report of sale of said premises to William Laferty aforesaid & of having executed & delivered to him a deed as stated in said Complainants bill herein that at the same term said Holloway & Boggess moved the Court to set aside said sale & said decree for sale & said masters report amongst other things upon the ground that said sale was in reality indirectly a sale to said Grahams & the purchase of said premises was made on said sale by said Grahams through said Laferty as their agent that said cause came on to be heard upon said report of said Master & said motion to set aside the same & evidence was taken on behalf of said Holloway & Boggess to sustain said Motion & to show that said Grahams were the purchasers in fact of said premises through said Laferty as their agent & thereupon & after hearing

said evidence said motion was overruled by the Court & a decree made confirming said sale & said deed & directing said Alexander & his wife to convey said premises to said Laferty which deed from Alexander & wife was on the 9th of December A.D 1862 duly executed to said Laferty & on the 27th of March 1863. a decree was made in said Cause confirming said deed whereby said defendants insist & aver that said Holloway and Boggess became & are estopped from questioning the title of said Laferty to said Land & from insisting that the sale was only made to him as agent of said Grahams & said defendants insist that said decree is final & conclusive between the parties hereto & cannot be properly controverted nor the questions therein decided again brought in question in this Suit.

And said Defendants further say that at the time said Grahams having paid in full the Amount of their said contract with Holloway & Boggess were entitled to a Deed of said premises from said Holloway & Boggess conveying a good & sufficient title thereto said premises were of great value & much greater than at the time of the filing of the Bill in this Suit. And that the value of said premises has very greatly depreciated since said Grahams were entitled to said deed as aforesaid & in consequence of the failure to convey a title to said Grahams they have lost the opportunity of selling said property at an advanced price from what they could now obtain & suffered great damage by the depreciation of said premises & been put to great trouble & expense in purchasing

said property & in saving valuable improvements which they have made thereon & which improvements exceed in value the sum of One thousand Dollars & have suffered damage and expense & loss of time to their general business in the interruption thereof while occupied in attempting to save the property aforesaid & the improvements thereon and that it would be grossly inequitable & unjust to compel said defendants said Grahams after such loss, expense damage & depreciation of said property to take said premises upon the conditions asked for in said Bill and to compel them to discharge their said judgment upon receiving from said Complainant a small portion thereof & utterly unjust for the Court to grant the relief prayed for in said bill, especially after having been kept out of the use of their said Money advanced upon the said Contract for a long Space of time and having as yet been unable to collect back but a small portion thereof.

And these defendants deny all and all manner of unlawful Combination & Confederacy wherewith they are by the said Bill charged without this - that there is any other matter Cause or thing in the said Complainants said Bill of Complaint Contained material or necessary for these defendants to make answer unto and not herein & hereby well and sufficiently answered Confessed traversed & avoided or denied is true to the Knowledge or belief of these defendants, all which matters & things these defendants are ready and willing to aver Maintain & prove as this honorable Court shall direct

And humbly pray to be hence dismissed with their reasonable costs and charges in this behalf most wrongfully sustained

J.J. Glenn &
W.J. Frost Sols
for Counsel for Defts

A.Y. Graham

State of Illinois }
Warren County } ss

Archibald Y Graham being first duly sworn deposes & says that the matters & things set forth in the foregoing answer are true except as to those facts stated upon information & belief which said facts they believe to be true.

A.Y. Graham

Subscribed & sworn to before
Me this 11 day of January
A.D. 1864

Wm Laferty Clerk.

On the back of which answer is the following filing by the Clerk of the said Circuit Court towit:—

Filed Jany 11th 1864
W Laferty Clerk.

And on the 21st day of March A.D. 1864 exceptions to the said answer was filed in the office of the Clerk of the said Circuit Court which said Exceptions are in the words and figures following towit:—

25

Robert Holloway
v
Archibald Y Graham Etal

Warren Circuit Court
March T 1864

The said Complainant Comes and excepts to the answer of Archibald Y Graham for the following reasons towit

1 Said Graham fails to answer whether said Laferty purchased said land for said Grahams.

2 Said answer shows that said Grahams induced said Laferty to purchase said land, but fails to show why such inducement was made & for what purposes the same was made.

3 Said answer fails to show how much said Grahams paid said Laferty when he Conveyed said land to Moir at the request of Grahams.

4 Said Answer fails to show whether said Robert Moir holds said land for the use & benefit of said Grahams or not & what was the Consideration of the Conveyance to Moir.

5 Said answer fails to show whether said Grahams are in possession of said land & whether prior to said Sale they had Made Valuable improvements thereon.

6 Said Answer fails to show whether said Grahams

have collected the amounts charged to have been Collected on said judgment at law or not, & whether they are not now proceeding to collect the same.

7 The said answer fails to state the facts as to what took place between Laferty & Grahams as to said Sale & purchase, the conveyance to Moir and moneys paid to Laferty by Grahams & Moneys paid Grahams by Moir at the time of the transactions but states legal Conclusions only

8 Other reasons.

Jamison & Kirkpatrick
for Compts.

On the back of which exceptions is the following filing by the Clerk of the said Circuit Court towit:

Filed Mch 21st 1864
W Laferty Clk.

And afterwards towit on the 30th day of March A.D 1864 Amendment to the said answer was filed in the office of the Clerk of the said Circuit Court which said Amendment is in the words and figures following towit:—

State of Illinois } Warren Circuit Court
Warren County } March Term A.D 1864

Robert Holloway

vs

Archibald Y Graham et al.

The said Archibald Y. Graham, & David Graham, come and for amendment of their said answer filed herein, by leave of Court first had & obtained State unto your Honor,

That it is true that said William Lafferty bid in the said lands at the said Sale at the request of the said respondents with an understanding with the said respondents that he should hold the title to said lands till the Amount of said bid of said Lafferty with interest at twelve per cent together with proper Compensation for his services in buying in said land and receiving and recording the proper deeds which said Compensation was left unsettled, should be paid by said respondents to him.

That said Robert Moir at the request of said respondents did advance and pay to said Lafferty on the day of March AD 1863 the Sum of Thirty Six Hundred & Thirty Six 57/100 Dollars in payment of the Amount of money paid by said Lafferty at said Sale or said bid together with said proper Compensation and interest, and took from said Lafferty a deed for said lands with the understanding with your respondents that said Moir should hold said title to said lands till the said Sum so advanced by him should be paid to him by respondents when he should convey said lands to respondents,

Your respondents deny that said Lafferty bought or said Moir holds said lands

for your respondents, except as from the above Stated Arrangement & understanding shall result! And deny that they made any arrangement or understanding with said Lafferty or said Moir in regard to said matters except as hereinbefore Stated,

Your respondents admit that they desire, and are now proceeding to collect said judgment described in said Bill,

Your respondents admit that they are and when said Bill was filed were in possession of said lands, and have been in possession thereof, ever since that time,

Your respondents deny that any other Sums have ever been received or collected by them upon their said judgment than the Sum of Eleven Hundred and fifty three & 60/100 Dollars already Stated to have been paid in said answer, but which was in point of fact collected as Stated in said Complainants Bill.

Frost Glenn & Harding
for Respondents.

A Y Graham

State of Illinois }
Warren County } ss

Warren Circuit Court
March Term A D 1864

Archibald Y Graham being first duly sworn says that the matters contained in the above amendment to said answer of said respondents are true in Substance & in fact,

24

Subscribed & sworn to before me this 30th March 1864 — A Y Graham.

W^m Laferty Clerk.

(Govt Stamps &c)

On the back of which Amendment is the following filing by the Clerk of the said Circuit Court towit:—

Filed Mch 30th 1864

W^m Laferty Clerk.

And on the 5th day of April A.D. 1864 a replication was filed in the office of the Clerk of the said Circuit Court, which said replication is in the words & figures following towit:—

State of Illinois } In Circuit Court of the
Warren County } 3d. March Term A.D. 1864

Robert Holloway
vs.
Archibald Y Graham
David Graham
Robert Moir &
Henry M Boggess

In Chancery

The Replication of Robert Holloway Complainant to the answer and amended answer of Archibald Y Graham Defendant.

This repliant saving and reserving to himself all and all manner of advantage of exception to the manifold insufficiencies of the said answer and Amended answer for replication thereto says that he

30

will aver and prove his said Bill to be true certain & sufficient in the law to be answered unto and that said answer and Amended answer of said Defendant is uncertain untrue and insufficient to be replied unto by this repliant. Without this that any other matter or thing whatsoever in the said answer or Amended answer contained material or effectual in the law to be replied unto confessed or avoided traversed or denied is true all which matters and things this Repliant is and will be ready to aver and prove as this Honorable Court shall direct, and humbly prays as in and by his said Bill he hath already prayed

Robert Holloway
by Kirkpatrick and
Jameson his Solrs.

On the back of which Replication is the following filing by the Clerk of the said Circuit Court to wit:—

Filed April 2d 1864
Wm Lafferty Clerk.

And on the 5th day of April AD 1864 a decree was filed in the office of the Clerk of the said Circuit Court which is in the words and figures following to wit:—

State of Illinois } In Circuit Court of the
Warren County } ss March Term AD 1864

Robert Holloway }
vs. } Chancery

31

Archibald Y Graham
David Graham
Robert Moir &
Henry M Boggess

And now at this time this Cause Coming to be heard and it appearing to the Court that all of said Defendants have been duly Served with process. And it further appearing that the said Henry M Boggess has not answered and he being three times Solemnly called Comes not nor any one for him but makes default herein, It is therefore ordered and Decreed by the Court that the said Bill of Complaint be taken for confessed as to said Boggess. And it being Stipulated by the parties that the answer and Amended answer of Archibald Y Graham Shall Stand as the answers of said David Graham and Robert Moir and that the Replication filed herein Shall be Considered as Replications to such answers. And now this cause being brought to a hearing on the Bill, Answer, Amended Answer, Replications and proofs it is found by the Court that there is equitably due from said Holloway Complainant to said Archibald Y Graham & David Graham the Sum of Two Thousand Eight Hundred and three 40/100 Dollars on the Contract and judgment described in said Bill of Complaint in manner following viz that there has been collected on said judgment deducting expenses including the Sum of $110.00 Attorneys fees, the sum of $1221.56 and that there has been paid into Court $2803.40, which with said Sum is collected makes the

Sum of $4025.01 being the Same amount with interest and expenses which said Grahams have been obliged to pay in order to secure the title to the premises described in the bill in this Cause and which Sum this Court decrees to be all the portion of said judgment which under the former decree said Complainants are equitably entitled to collect & as to the residue of said judgment said Defendants are enjoined from collecting the Same, And it further appearing to the Court that said Holloway has paid the said Sum of Money to the Clerk of this Court. It is therefore ordered adjudged and Decreed by the Court that said Archibald & Graham and David Graham be and they are hereby perpetually enjoined from all proceedings on their said judgment, and that they are further ordered to enter Satisfaction of their said judgment on the Records of this Court. That the said Complainant pay the Costs of this Case made prior to the present term of this Court and that said Defendants pay the Costs of this term.

W. B. Lawrence

On the back of which decree is the following filing by the Clerk of the said Circuit Court towit:—

Filed April 5th 1864

W Laferty Clerk

33

And on the 26th day of October AD 1863 an order was entered upon the Records of the said Circuit Court of Warren County Illinois which is in the words and figures following towit:—

State of Illinois }
Warren County } ss.

Pleas before the Honorable Charles B Lawrence Judge of the Tenth Judicial Circuit of the State of Illinois in Chancery Sitting in and for the County of Warren and State of Illinois. At a Circuit Court began and held at the Court House in Monmouth on Monday the 26th day of October in the year of Our Lord One Thousand Eight Hundred and Sixty three.

Present Hon Charles B Lawrence Judge
James H Stewart States attorney
David L Riggs Sheriff
Wm Lafferty Clerk.

Afterwards towit on the 6th day of November AD 1863 Among other things the following order was entered upon the Records of the said Circuit Court towit:—

Robert Holloway
vs. } Chancery
Archibald Y Graham et al

This day this Cause coming on to be heard on the defendants demurrer to Complainants bill, And after hearing the same the Court overrules the demurrer and leave is given the said defendants to answer herein

And afterwards towit on the 14th day of November A.D 1863 among other things an order was entered upon the Records of the said Circuit Court which is in the words and figures following towit:-

Robert Halloway
vs.
Archibald Y Graham Et al } Chancery

This day again came the defendants by attorney and on his motion leave is given them to answer herein in sixty days from this date as of this term of this Court, and the replications thereto to be as of this this term of Court.

And afterwards towit on the 21st day of March A.D 1864 an order was entered upon the Records of the said Circuit Court of Warren County which is in the words and figures following towit:-

State of Illinois }
Warren County } ss

Pleas before the Honorable Charles B Lawrence Judge of the Tenth Judicial Circuit of the State of Illinois in Chancery Sitting in and for the County of Warren and State of Illinois, At a Circuit Court began and held at the Court House in Monmouth on Monday the 21st day of March in the year of Our Lord One thousand eight Hundred and Sixty four

Present Hon Charles B Lawrence Judge
James H Stewart States atty
David C Riggs Sheriff
Wm Laferty Clerk

Afterwards to-wit on the 4th day of April A.D 1864 among other things an order was entered upon the Records of the said Circuit Court of Warren County which is in the words and figures following to-wit:—

Robert Holloway
vs.
Archibald Y Graham et al } Chancery

This day came the Complainant by attorney and it appearing to the Court that Henry M Boggess one of the defendants herein had been duly served with process and being three times solemnly called came not nor any person for him to defend this suit but makes default, And now this Cause Coming on to a hearing on the Complainants exceptions to defendants answer filed herein, thereupon came the defendants and confesses the exceptions and leave is given them to amend their answer, And it is Stipulated and agreed that the answer of Archibald Y Graham shall stand as the answer of David Graham and Robert Moir and that replications be considered as filed thereto. Thereupon this Cause is submitted to the Court on the Bill, Answers thereto and the replications and proofs herein.

And afterwards to-wit on the 8th day of April A.D 1864 the following decree & order was entered among other things upon the Records of the said Circuit Court to-wit:—

State of Illinois } In Circuit Court of the
Warren County } S.S. March Term A.D 1864

36

Robert Holloway
vs
Archibald Y Graham
David Graham
Robert Moir
Henry M Boggess

Chancery

And now at this time this cause coming to be heard and it appearing to the Court that all of said Defendants have been duly served with process. And it further appearing that the said Henry M Boggess has not answered and he being three times solemnly called comes not nor any one for him but makes default herein. It is therefore ordered and Decreed by the Court that the said Bill of Complaint be taken for confessed as to said Boggess. And it being stipulated by the parties that the answer and amended answer of Archibald Y Graham shall stand as the answers of said David Graham and Robert Moir and that the replications filed herein shall be considered as Replications to such answers. And now this Cause being brought to a hearing on the Bill, answer, Amended answer Replications and Proofs it is found by the Court that there is equitably due from said Holloway Complainant to said Archibald Y Graham & David Graham the sum of Two thousand Eight Hundred and three 40/100 Dollars on the Contract and judgment described in said Bill of Complaint in manner following Viz: that there has been collected on said judgment deducting expenses

97

including the sum of $110.00 attorney's fees the sum $122.56 and that there has been paid into Court $ 3803.45 which with said sum so collected makes the sum of $4025.01 being the said amount with interest and expenses which said Grahams have been obliged to pay in order to secure the title to the premises described in the bill in this cause and which sum this Court decrees to be all the portion of said judgment which under the former decree said Complainants are equitably entitled to collect & as to the residue of said judgment said Defendants are enjoined from collecting the same. And it further appearing to the Court that said Holloway has paid the said sum of money to the Clerk of this Court. It is therefore ordered and decreed by the Court that said Archibald Y Graham and David Graham be and they are hereby perpetually enjoined from all proceedings on their said judgment, and that they are further ordered to enter Satisfaction of their said judgment on the Records of this Court that the said Complainant pay the Costs of this cause made prior to the present term of this Court and that said Defendants pay the costs of this term.

Filed April 5th 1864 — E B Lawrence

W Lafferty Clerk

Thereupon came the Defendants and pray an appeal to the Supreme Court which is allowed by the Court upon the said Defendants filing bond conditioned according to law in the penal sum of Three Hundred Dollars with security which by agreement of the parties is to be approved by the Clerk of this Court and leave is given to file

certificates of evidence herein in fifty days.

And afterwards towit on the 6th day of March AD 1865 a certificate of Evidence was filed in the office of the Clerk of the said Circuit Court of Warren County Illinois which said Certificate is in the words and figures following towit;

State of Illinois }
Warren County } Cir. Warren Cir. Court
March Tr. 1864

Robert Holloway
vs
Archibald Y Graham
Et al. } In Chancery

Be it Remembered that on the day of AD 1864. This Cause Came on for trial, and the following was the evidence and the whole thereof given on said trial,

William Laferty being called by Complainants & duly Sworn testified that Archibald Y Graham came to me a day or two before the Masters Sale of this land & wanted I should buy this land. I told him I had not the money to do it, He said I could borrow it of the Bank. I went there & found I could get it on four months time, Graham said he would take up the note when it came due. Then I was to deed it to him or some one else for him. I don't recollect which. He was to take up the note & I was to convey the land

I got the money from the Bank. I took up the note some time before it came due, about the 1st of November. It became due the 1st day of December. Sometime afterwards Graham asked me what I would take to deed it to Robert Moir. I made out a Statement & gave it to him. I think the figures I gave him were $3636 57/100 I got the money from Moir & deed to him. Graham delivered me the package of Money. Moir wrote me about it & I sent the deed to him. This package came from him Moir & a letter was from him in the inside with the money.

On Cross examination witness further testified. The Deed was dated March 10th A D 1863. The sum of money paid was the sum named in the Deed. I took up the note myself. I know the land is fenced. It was fenced when I bought it. Never noticed the fence particularly.

Here Plaintiff introduced all the papers & record in the case of Perry Alexander vs Robert Holloway Henry M Boggess, Archibald Y Graham et al Commenced on or about the 6th day of March A D 1861.

(Of which said case of Perry Alexander vs. Robert Holloway et al the bill and praecipi are in the words & figures following to wit:)

State of Illinois } In the Circuit Court of said County
Warren County } 3d of the March Term A D 1861

To the Honorable the Judge of the Tenth

40

Judicial Circuit in the State of Illinois Sitting
Chancery

Humbly complaining represents unto your Honor, Your Orator Perry Alexander of the County of Adams and State of Illinois.
That heretofore and on or about the ninth day of April in the year of our Lord One Thousand Eight Hundred and fifty Seven, he was the owner and possessed of the following described real estate and premises, to-wit:

The whole of the North East quarter of Section Six (6) and also Ninety Seven and Sixty five one hundredths acres of land off of the west side of the North West Quarter of Section Five (5) more or less, the same being all of said last named quarter Section of land set off and allotted to your Orator, by Commissioners appointed by the Circuit Court within and for said County of Adams in said State in a certain suit then pending therein for division and partition of certain real Estate belonging to the Estate of Samuel Alexander Deceased, as appears by their report now on file in the office of the Clerk of said last named Court said report having been confirmed by said Court by a decree thereof, rendered at the March Term A.D 1857 which said decree and report and of the records of said Court and as the same hereinafter mentioned both of the aforesaid tracts of land being in Township Ten North of the base line of Range

41 Two West of the Fourth Principal Meridian Situate in the County of Warren and State of Illinois.

Your Orator further represents, that he is as aforesaid being the owner of the Real estate aforesaid and possessed thereof and on or about the Ninth day of April A.D. 1857, towit: at said Adams County at the Special instance and request of Robert Holloway and Henry M Boggess both of said County of Warren, and partners in business together under the firm name of Holloway & Boggess, by a certain instrument in writing bearing date April Ninth A.D. 1857, mutually made and entered into by your Orator, and the said Holloway & Boggess which said instrument was then duly Signed by your Orator by his own proper Signature of Perry Alexander, and by the said Robert Holloway and Henry M Boggess, by their said firm name of Holloway & Boggess. to which said instrument your Orator then attached his Seal, and to which said Signature of Holloway & Boggess a Seal was then duly attached either by the said Holloway or Boggess; but by which your Orator cannot now state, he (your Orator) bargained and sold the aforesaid real estate and premises so as aforesaid owned by him, and Situate in said County of Warren to the said Holloway & Boggess, for the Sum and agreed price of Six Thousand Dollars ($6000.00) said Sum and price to be paid by the said Holloway & Boggess to your Orator in the manner following, that is to Say:

Two thou-

and Dollars Cash in hand, and the further Sum of

Two Thousand Dollars to be paid in one year from the said date of said instrument - And the further and remaining sum of Two Thousand Dollars to be paid in two years from the date aforesaid said two defered payments of Two Thousand Dollars Each, to bear interest thereon, from the date of said instrument until paid at the rate of Six per cent per annum, in and by which said instrument in writing, the said Holloway & Boggess purchased of your Orator the aforesaid real Estate and premises and agreed to pay him therefor the sum of Six Thousand, Dollars, in manner aforesaid, together with interest on said two defered payments as aforesaid - in and by which said instrument in writing your Orator further agreed and bound himself to and with the said Holloway & Boggess that upon the complete and full payment of said sum of Six thousand Dollars as in said instrument Specified, together with such interest as should accrue thereon, to convey by a good and sufficient Warranty Deed, the Real Estate and premises aforesaid to the said Holloway & Boggess their heirs or assigns - all of which will more fully and at large appear, reference being had to said instrument - A Copy of which is herewith filed marked "Exhibit A" and made a part of this Bill of Complaint.

Your Orator further represents, and so expressly States and charges the fact to be, that the full and Complete payment of the whole of said sum of Six thousand Dollars, together with such interest as should accrue

upon said two deferred payments was and is a condition precedent to the Conveyance aforesaid - as will appear reference being had to said instrument -

Your Orator further represents, that in and by the aforesaid instrument reference is had and made to a division of the Estate of Samuel Alexander deceased, made by Commissioners duly appointed by the Circuit Court of said Adams County, and a report of said Commissioners Confirmed by said last named Court by a decree thereof rendered at the March Term A.D. 1857 held at the City of Quincy - being the same report and decree herein before refered to - And your Orator avers and so States and Charges the fact to be, that said division, report and decree Confirming the same, so as aforesaid refered to in said instrument, was the same made by Such Commissioners - and by a decree of said Court Confirmed in a certain suit then pending in said Adams County Circuit Court Wherein Alonzo M Swartwout was Complainant and your Orator and others were defendants - a Copy of which said report and decree of said Court confirming the same duly certified to by the Clerk of said Court under the Seal thereof are herewith filed marked respectively "Exhibit B" and "Exhibit C" and made a part of this Bill of Complaint And your Orator further States and so charges the fact to be that the Real Estate and premises herein before mentioned and particularly described, is the same in said Commissioners report mentioned, and thereby Set off and awarded to your orator - Situate in the aforesaid County of Warren.

The number of acres of land So Set off and awarded to your Orator in Said North West Quarter of Said Section Five (5) being Ninety Seven and Sixty five one Hundredth acres of land or thereabouts instead of ninety Six acres as in Said instrument is Supposed—

Your Orator further represents that under and in pursuance of the agreement Contained in Said instrument the Said Holloway & Boggess afterwards and at the time of the execution thereof or Soon thereafter paid to your Orator Said Sum of Two Thousand dollars, So to be paid in hand as aforesaid— And that afterwards and on or about the Twenty first day of April A.D 1808 they the Said Holloway & Boggess paid to your Orator the further Sum of Two Thousand and nineteen 40/100 Dollars to apply upon and which was applied upon Said payment of Two Thousand dollars, So as aforesaid to be paid within one year from the date of Said instrument, the Same being the first of Said defered payments becoming due as aforesaid— Said two Several payments, being all of Said Sum of Six Thousand Dollars — the purchase money aforesaid— which has ever been paid to your Orator for the Real Estate aforesaid, and that there remained and Still remains due and unpaid to your Orator from Said Holloway & Boggess of the principal of Said defered payment first becoming due as aforesaid the Sum of One Hundred and twenty five Dollars— which with interest accrued thereon from the day of Said last mentioned payment amounts to the Sum of One

45 Hundred and forty five Dollars.

Your Orator further represents, that said Holloway & Boggess have wholly failed, neglected and refused to pay to your Orator the said Sum of Two Thousand Dollars lastly to be paid and coming due as aforesaid in two years from the date of said instrument or any part thereof, or the interest accrued thereon or any part of such interest, the same being the third and last payment agreed upon as aforesaid.

Your Orator further represents, that on or about the twentieth day of July A.D. 1859, towit: at the County of Adams aforesaid, said last payment of Two Thousand Dollars, then being due and remaining unpaid, and the said Holloway & Boggess being desirous of having the time for payment thereof extended until the first day of September A.D. 1860. he (your Orator) and the said Holloway & Boggess, your Orator by his own proper Signature of Perry Alexander and the said Robert Holloway & Henry M Boggess by their said firm name of Holloway & Boggess made and entered into a certain other agreement in writing of that date whereby your Orator agreed to and with the said Holloway & Boggess that he would extend the time of said last mentioned payments until the first day of September A.D. 1860. in Consideration whereof, they the said Holloway & Boggess agreed to and with your Orator, that they would pay him interest upon the amount of said last Mentioned

payment of Two Thousand Dollars from the time the same became due, to-wit: from the ninth day of April A.D. 1859 until paid at the rate of ten per cent per annum all of which will more fully and at large appear reference being had to said last mentioned agreement, a copy of which is herewith filed marked "Exhibit D" and made a part of this Bill of Complaint.

Your Orator further represents and states that said time for payment of said Two Thousand Dollars last to be paid as aforesaid, according to the terms of said agreement first hereinbefore mentioned was duly extended until said first day of September A.D. 1860. in pursuance of said last mentioned agreement - and that said period of extension has long since elapsed - Yet the said Holloway & Boggess have wholly failed to pay the interest which has accrued upon said last mentioned two Thousand Dollars or to pay any part of such interest - but on the contrary said last mentioned two thousand Dollars together with all the interest which has accrued thereon, either prior to the Ninth day of April A.D. 1859 or since that time up to the filing of this Bill, now remains due and wholly unpaid to your Orator.

Your Orator further States - that of the price agreed upon for the aforesaid Real Estate to be paid by said Holloway & Boggess to your Orator there is

now due to your Orator from them the Sum of Two Thousand Seven Hundred and fifty Dollars, in principal and interest which has now accrued thereon, the Same being the whole of said Sum of Two Thousand Dollars last to be paid as aforesaid, together with the interest accrued thereon and the aforesaid balance of said first above mentioned & defered payment the Same being a part of the purchase money with interest accrued thereon as aforesaid and a balance of the purchase Money for the real Estate aforesaid now due and owing from said Holloway & Boggess to your Orator.

Your Orator further represents, that he has never by deed Conveyed the aforesaid Real Estate or any part thereof, to the said Holloway and Boggess or any other person or persons, under and in pursuance of said agreement first hereinbefore mentioned or otherwise — nor has he ever contracted the Same to any other person or persons, nor has said last mentioned agreement, ever been altered or changed in any respect whatever Except as in the manner hereinbefore particularly Stated, in said agreement bearing date July 20th A.D. 1859. and that said agreement first hereinbefore mentioned Still remains in full force and effect.

Your Orator further represents, that he is Still the owner of the legal title, to said premises and real Estate, together with all & equitable interest therein, Except the interest therein So as aforesaid bargained and Sold to said Holloway & Boggess by the

instrument or agreement first hereinbefore mentioned
And your Orator States and so expressly charges the
fact to be, that he has a lien upon the Real Estate
aforesaid and every part thereof — and particularly
upon the interest therein so as aforesaid bargained
and sold to said Holloway & Boggess for the
balance now due and unpaid of the purchase
money therefor as aforesaid, together with such
interest as has and may hereafter accrue upon
the principal due and owing as aforesaid under
and in pursuance of said several agreements,
And also for such of your Orators Costs as may
accrue in this suit which said lien of your
Orators is prior to any right or interest in and
to the said of said Holloway & Boggess or either
of them and your orator further States that on
said ninth day of April AD 1857 the Real Estate
so bargained and sold as aforesaid was then
reasonably worth the agreed price therefor or there
abouts, but that since that time the same has
greatly depreciated in Value so that the same is
not now worth much if any thing exceeding the
indebtedness aforesaid remaining unpaid.

Your Orator further represents that The People of
the State of Illinois & Elisha Eldred, Amos Eldred
& Uri Balcom of Knox County Illinois and Seth Smith
of said Warren County and William M Dodge of Peoria
County in said State and James F Owens of Pikes Peak
Joseph Holton of & Jonathan Black of the

State of Iowa, Thomas Ridgely of Warren County aforesaid & Elijah Babcock & John Babcock & Archibald Y Graham of said Warren County and Theodore Pechler and David Graham of Henderson County Illinois, claim to have some right and interest in said Real Estate - the precise nature and extent of which is not at present known to your Orator but your Orator States and so expressly charges the fact to be that, whatever right or interest the said The People of the State of Illinois Elisha Eldred, and one Eldred Ira Balcom, William M Dodge, James F Owens Joseph Holton Jonathan Black, Thomas Ridgely, Elijah Babcock & John Babcock, Theodore Pechler Archibald Y Graham & David Graham and Seth Smith or either of them have of in and to said Real Estate or any part thereof, the same is subject to the aforesaid lien thereon of your Orator - they nor either of them having no other rights or interest in and to said premises or any part thereof - except such as they may have derived from said Holloway & Boggess or one of them, through the said agreement first herein before mentioned.

Your Orator further represents that on, to wit: the Twenty fourth day of January A.D. 1861, he together with his wife Margaret E Alexander duly Executed and acknowledged a good and sufficient deed of Conveyance of said real Estate so sold as aforesaid to the said Holloway & Boggess, said deed of Conveyance containing Covenants of general Warranty, and tendered the same to the said Holloway & Boggess and offered,

to deliver the same to them as and for a deed of conveyance of said premises upon their paying to your Orator the balance in principal and interest due thereon of the purchase money aforesaid, now due and unpaid and requested such payment but the said Holloway & Boggess neglected and refused to make such payment, a copy of which said deed and the certificate of acknowledgement thereof so tendered as aforesaid is herewith filed, marked "Exhibit E" and made a part of this Bill of Complaint and your Orator states, that he is now ready and willing and hereby offers upon such full payment as aforesaid being made to him of the principal of said purchase money due and unpaid as aforesaid together with such interest as has and hereafter may accrue thereon, and costs of this suit to deliver to said Holloway & Boggess said deed or to execute and deliver to them such other deed as the Court may deem proper in the premises.

Your Orator therefore prays that the said Robert Holloway, Henry M Boggess, The State of Illinois- Elisha Eldred, Aaron Eldred, Uri Balcom, Seth Smith William M Dodge, James P Owen Joseph Holton, Jonathan Black, Thomas Ridgely, Elijah C Babcock, John Babcock Theodore Pechler Archibald Y Graham and David Graham may be made parties defendant to this your Orator's Bill of Complaint- and that a proper Summons may be duly issued out of this Honorable Court under the Seal thereof against them- And that they and each

of them may be required, full true and perfect answers to make to this Bill and to each and every allegation thereof as fully and Specifically as if Specially interrogated thereto, hereby expressly waiving such answers of said Archibald Y Graham and David Graham being under oath and requiring that their and each of their answers be without oath, And that the amount which may be due and unpaid to Your Orator of the purchase money aforesaid together with the interest accrued thereon may be properly ascertained, and that the same may be decreed to be a lien upon the real Estate aforesaid and that all of the right title and interest of said defendants or either of them of in and to said Real Estate and premises or any part thereof may be decreed to be subject to such lien of your Orator- And your Orator also prays that said Robert Holloway & Henry M Boggess may be decreed to pay the amount thus to be found due and owing to your Orator within a short day to be named in such decree, together with legal interest thereon from the date of such until paid, and also to pay the Costs of this suit And that in case default be made in such payment or any part thereof, Your Orator further prays that either all the right title and interest of said defendants or either of them of in and to said Real Estate or any part thereof, may by a proper order and decree of this Honorable Court be divested from said defendants and vested in Your Orator, and said defendants and each of them forever barred from having or claiming any right or interest in and to said real Estate or any part thereof, or that

Said Real Estate, and all the right title and interest of Said Defendants and each of them in and to the Same and every part thereof may be Sold, to Satisfy Said debt and interest thereon – together with the Costs of this Suit – as to your Honor Shall Seem most Equitable –

And that your Orator may have Such other and further relief in the premises as Shall Seem Equitable and proper, and as in duty bound your Orator will ever pray &c

By Warren & Wheat
his Solicitors

Perry Alexander

State of Illinois } In the Circuit Court of Said County
Warren County } Sd. of the March Term A.D. 1861

Perry Alexander Complainant
vs In Chy. Vendors Lien.
Robert Holloway Henry M Boggess
The State of Illinois, Elisha Eldred
Anson Eldred, Uri Balcom
Seth Smith, William M Dodge
James F Owen, Joseph Holton
Jonathan Black Thomas Ridgely
Elijah C Babcock John Babcock
Theodore Pochler Archibald Y
Graham & David Graham

The Clerk of Said Warren Court will please issue a proper Summons out of Chancery in the above entitled Cause directed to the Sheriffs of

53

Cook, Peoria, Henderson, Sangamon & said Warren Counties to execute returnable according to law and oblige

Yours &c
Warren & Wheat
Sols for Compl't.

Filed March 6th 1861
Wm Lafferty Clk.

"Exhibit A"

Memorandum of agreement made and entered into by & between Perry Alexander of the County of Adams & State of Illinois, of the one part and Messrs Holloway & Boggess of the County of Warren in said State of the other part, witnesseth: That in the division of the estate of Samuel Alexander, deceased done by Commissioners, duly appointed by the Circuit Court of said County of Adams and the report of said Commissioners duly confirmed by said Court at the march Term of said Court held at the City of Quincy in the Month of March 1857 there was set off and awarded to said Perry Alexander the following described Real Estate in said County of Warren Viz: The whole of the North East Quarter of Section Six, Containing One hundred and fifty four Acres, more or less, and Ninety six acres more or less off of the West side of the North West Quarter of Section five, all in Township ten North of Range Two West in said County of Warren, reference being to the Record of said Division as made by said Commissioners in said Adams County, for a full description of said land. Now the said Perry Alexander hereby bargains & sells

"Ex Exhibit A"

"Exhibit A"

to said Holloway & Boggess, the above described land, for and in consideration of the sum of Six Thousand Dollars to be paid as follows, Two thousand Dollars in hand, the receipt whereof is hereby acknowledged, Two Thousand Dollars in One year from this date with interest & Two thousand Dollars in two years from this date with the interest. And said Perry Alexander agrees & binds himself his heirs & legal representatives on the Completion of the payment above Specified, and the interest to convey by a good & sufficient Warranty deed the said described land to said Holloway & Boggess their heirs or assigns.

In testimony whereof the said parties have hereunto set their hands & Seals this 9th day of April 1859

Perry Alexander (Seal)
Holloway & Boggess (Seal)

"Exhibit D"

" This agreement made and entered into this 20th day of July 1859 by and between Perry Alexander of the one part and Robert Holloway and Henry M Boggess under the name and Style of Holloway & Boggess of the other part witnesseth, that whereas the said Robert Holloway and Henry M Boggess are indebted to said Perry Alexander for the last payment due on the following described lands purchased of said Alexander on the 9th day of April 1859 towit: The North East Quarter of Section

55

Six containing One Hundred and Fifty four acres more or less, And Ninety Six acres more or less off of the West Side of the North West Quarter of Section Five all in Township tew North of Range Tew West of the fourth Principal Meridian in Warren County Illinois, the said Perry Alexander agrees to extend said payment until the first day of September 1860, the said Holloway & Boggess agreeing to pay said Alexander interest from the time said payment became due and until paid at the rate of Ten per cent per annum.

Witness our hands the day and year first above written"

Perry Alexander

Holloway & Boggess"

State of Illinois }
Adams County } ss Pleas before the Honorable Joseph Sibley, At a Circuit Court sitting as a Court of Chancery, holden at the Court House in Quincy in and for said County and State on the Eleventh day of April A.D. 1859

Present his Honor Joseph Sibley Judge
Wm H. Bennett Master in Chy
Thos W Macfall Clerk
John P Cadogan Sheriff

(Exhibit B")

Alonzo W Swartwout Complainant
vs } In Partition
Alexander Swartwout, Perry Alexander, Frederick G Johnston and Sally Ann Johnston his wife Esther Summers, Margaret Summers Georgiana Summers, James H Ralston and

56

Elizabeth Jane Ralston — 3 3 Defendants

Be it Remembered that on said Eleventh day of April 1857, the Commissioners heretofore herein appointed filed their report in the words and figures following, to-wit:

"To the Honorable Circuit Court of the County of Adams and State of Illinois.

The undersigned John Sharp, Augustus E Powles and Eli Seehorn Commissioners appointed by a decree of said Court rendered at the October Term thereof A.D. 1856 in a certain suit then pending in said Court for partition wherein Almyra M Swartwout was Petitioner And Perry Alexander Frederick G Johnston and Sally Ann Johnston his wife Esther Summers, Margaret Summers, Georgiana Summers, James H Ralston, Elizabeth Jane Ralston And Alexander D Swartwout were defendants, would respectfully report that under and in pursuance of said decree and by virtue thereof after having been duly Sworn according to the Statute in such case made and provided they the undersigned on the 20th day of December A.D. 1856, proceeded to the duties assigned them by said decree, and after having gone upon the premises in said decree mentioned Sett off and allotted in Severalty a portion of the Same by metes and bounds in the following Manner that is to Say — They Set off and allotted to the said Elizabeth Jane Ralston One hundred and Twenty two and One half acres off of the East Side of the North West Quarter of Section Four of Township

57

Ten North of the base line of Range Two West of the Fourth Principal Meridian Situate in the County of Warren and State of Illinois, to be enjoyed by her in Severalty in fee Simple, Subject however to be enjoyed as hereinafter mentioned and set forth by the said James H Ralston.

And to the said James H Ralston they Set off and allotted in Severalty from the East Side of said One Hundred and twenty two and one half acres five fifths thereof to be enjoyed by the said James for and during his natural life.

And to the said Alexander & Swartwout they Set off and allotted the residue of said Quarter Section And a Sufficient quantity off of the East Side of the North East Quarter of Section Five of the same Township to make in all One Hundred and Seventeen and one half acres of land, in fee Simple Subject however to be enjoyed as hereinafter mentioned and Set forth by the said Alonzo M Swartwout,

And to the said Alonzo M Swartwout they Set off and allotted the aforesaid land Set off and allotted as aforesaid to the said Alexander & Swartwout to be enjoyed by the said Alonzo for and during his natural life.

And to the said Esther Summers they Set off and allotted the residue of said North East Quarter of Section Five aforesaid, and a Sufficient quantity off of the East Side of the North West Quarter of said Section Five to make in all One Hundred and ten acres of

land in fee Simple;

And to the said Perry Alexander they Set off and allotted the residue of said North West Quarter of said Section Five and also the whole of the North East Quarter of Section Six in the Same Township and Range in fee Simple.

And to the said Perry Alexander, Elizabeth Jane Ralston, Alexander C Swartwout, Esther Summers and Sally Ann Johnston they Set off and allotted in fee Simple to Each one fifth part of the said lot Situate in the City of Quincy known and described as the South Half of all of Block Six in Plat One according to a Survey and plat made for and under the direction of Commissioners appointed by the Circuit Court of the County of Morgan in the State of Illinois at the October Term thereof A D 1838 to make partition of a portion of the real Estate of Samuel Alexander then late of said County of Adams deceased, among the heirs at law of said Deceased (except a Strip of land thirty three feet in width off of the East Side of the Same, the said lot being divided into fifths by lines parallel to ninth Street in said City and the said Perry's fifth thereof being bounded on the East by the West line of said Ninth Street and the said Elizabeth's being bounded on the East by the said fifth of the said Perry, and the said Alexander C's fifth being bounded on the East by the said fifth of the said Elizabeth, and the said Esther's fifth being bounded on the East by the fifth of the said Alexander C, And the said Sally Ann's fifth being bounded on

the East by the said fifth of the said Esther, and on the West by the West line of said lot- the said fifth of the said Alexander C being subject to be enjoyed however by the said Alonzo as mentioned and set forth below.

And to the said Alonzo they set off and allotted the said fifth of the said Alexander C to be enjoyed by the said Alonzo for and during his natural life,

And the said Commissioners further report that the residue of the lands in said decree mentioned, to wit: The South East Quarter of Section Twenty three, the South West Quarter of Section Twenty Four, the North West Quarter of Section Twenty five And the East half of the North East Quarter of Section Twenty Six all in Township Two South of the base line of Range Nine West of the fourth principal Meridian and Situate in said Adams County, are so circumstanced that a division thereof cannot be made without manifest prejudice and injury to the proprietors of the Same- All which is respectfully submitted.

Eli Seehorn (Seal)

Augustin E Powles (Seal)

John Sharp (Seal)

Comrs fee $10.00 Each

And afterwards, to wit: on the said 11th day of April AD 1857 an order was entered of Record in said Court in the above entitled Cause in the words and figures following, to wit:

"Exhibit C" "And this Cause now coming on for hearing on the Report of the Commissioners herein,

And the Same appearing in all respects regular and no person appearing to object to the Same the Court doth order and decree that said report be approved and Confirmed which is hereby accordingly done and it appearing from said Report that a partition of the lands in said Petition mentioned to wit:- The South East Quarter of Section Twenty Three: The South West Quarter of Section Twenty four: The North West quarter of Section Twenty five, And the East half of the North East Quarter of Section Twenty Six in Township Two South of the Base line of Range Nine west of the fourth Principal Meridian are so circumstanced that a division there of Cannot be made without Manifest prejudice and injury to the proprietors of the Same. The Court doth order and decree that a Sale of said premises be made and the proceeds there of after the payment of the Costs of Such Sale be divided among the parties hereto in proportion to their respective interests in said lands, and the Court hereby appoints Isaac M Grover a Special Commissioner of this Court to make Such Sale and doth direct that Such Sale be made with all convenient Speed for cash in hand in the manner directed by law for the Sale of Real Estate by Sheriffs on Executions issued on judgments at law after having been advertised for the length of time And in Such manner as by law required for Such Sales and that out of the proceeds of Such Sale the Said Commissioner pay the costs thereof- And the ballance of said proceeds he pay over to the

61

"Exhibit E"

parties hereto respectively or to their legal representatives according to their respective interest in said Real Estate as hereto fixed by said Court in this Cause by a decree herein at the October Term thereof A.D. 1856. And the Court doth further order and decree that the residue of the costs herein be equally paid by the Parties hereto and that said Commissioner report his doings herein at the next term of this Court. - to which time this cause stands continued

J Sibley

State of Illinois }
Adams County } Ss.

I Wm S. M. Anderson Clerk of the Circuit Court in and for said County do hereby certify that the foregoing is a true, perfect and complete copy of the report of the Commissioners therein named and the Decree of the said Circuit Court confirming the same, as the same now appears of Record in said Court.

Witness my hand and the Seal of said Circuit Court at Quincy this 21st day of January A.D. 1861

(Seal)

Wm S. M. Anderson Clerk
Per Thos W Macfall Deputy

Fees $2.00

Filed March 6th 1861
Wm Lafferty Clk.

"Exhibit E"

This Indenture, Made this Twenty fourth day of January in the year of Our Lord One Thousand Eight Hundred and Fifty One, between Perry Alexander and Margaret E Alexander his wife of the County of Adams

and State of Illinois parties of the first part and Robert Holloway and Henry M Boggess both of the County of Warren and State of Illinois of the Second part. Witnesseth, that the said parties of the first part, in Consideration of the Sum of Six Thousand Dollars, paid by the said parties of the Second part, the receipt whereof is hereby acknowledged, have granted, bargained and sold and by these presents do grant, bargain, Sell, Convey and Confirm unto the said parties of the Second part their heirs and assigns forever, two certain tracts of Land, Situated in the County of Warren and State of Illinois and described as follows, Viz:

The Whole of the North East Quarter of Section Six And also Ninety Seven and Sixty five One hundredths acres of Land more or less, off of the West Side of the North West Quarter of Section Five - (being all of the right title and interest of said parties of the first part of in and to said last named Quarter) both of said tracts of land being in Township Ten North of the base line of Range Two West of the Fourth Principal Meridian. To Have and to Hold the said Premises with all the appurtenances thereto belonging, or in any wise appertaining, to the only proper use, benefit and behoof, of the said parties of the Second part their heirs and assigns forever. And the said parties of the first part Covenant with the said parties of the Second part, their heirs and assigns, that they are lawfully Seized in fee of the said premises, and have good right to convey the Same; that they and

free from all incumbrance; and that, for the Consideration above named, the title thereof to the said parties of the second part their heirs and assigns, against all lawful claims whatsoever, will Forever Warrant and Defend.

In Witness Whereof, the said parties of the first part have hereunto set their hands and seals the day and year first above written.

Signed, Sealed and Delivered in presence of } Perry Alexander (Seal)
} Margaret E Alexander (Seal)

State of Illinois }
Adams County } Ss.

Be it Remembered, that on this Thirtieth day of January in the year of our Lord One Thousand Eight Hundred and Fifty One before me Came personally Perry Alexander and Margaret E Alexander his wife who are personally known to the undersigned, Clerk of the Circuit Court of said County, to be the identical persons who Executed, and whose names are Subscribed to the foregoing Deed of Conveyance, as having executed the Same, and acknowledged the Same to be their Voluntary act and deed for the purposes therein expressed. And the said Margaret E Alexander wife as aforesaid being by me made acquainted with the said Deed of Conveyance and examined Separate and apart from her said husband, acknowledged that She executed the Same and relinquished her dower in the premises therein mentioned, Voluntarily, freely, and without the Compulsion of her said husband, and that She does not wish to retract

the Same.

In Testimony Whereof, I have hereunto set my hand and affixed the Seal of said Court at my office, at Quincy the day and year first above written

Circuit Court Seal

W. S. M. Anderson Clerk.

Filed March 6th 1861

W Lafferty Clk.

Affidavit of Non Residence

State of Illinois } Circuit Court
Warren County } March Term A.D. 1861

Perry Alexander, Complainant.

vs

Robert Holloway, Henry M Boggess
The People of the State of Illinois
Elisha Eldred, Anson Eldred
Uri Balcom, Seth Smith
William M Dodge, James F Owen
Joseph Holton, Jonathan Black
Thomas Ridgely, Elijah C Babcock
John Babcock, Theodore Oechler
Archibald Y Graham and David Graham

Petition for Vendors Lien
Defendants,

Personally appeared E. B. Paine who being first duly sworn says that said James F Owen and Jonathan Black are not residents of the State of Illinois in which said Suit is pending, but said defendant Owen is now at or near Pikes Peak, and that said Defendant Black is a resident of the

65

State of Iowa and therefore asks for Service by Publication, upon said Defendants.

E. A. Paine

Subscribed and Sworn to
this 1st day of Febz 1861
Wm Lafferty Clerk.

Filed Mch 6th 1861
Wm Lafferty Clk.

The Summons directed to the Sheriff of Henderson County is in the words and figures following to wit:—

State of Illinois, Warren County, sct.
The People of the State of Illinois, to the Sheriff of Henderson County, Greeting:

We Command you to Summon Robert Holloway, Henry M Boyyers, The State of Illinois, Elisha Eldred, Aaron Eldred, Uri Balcom, Peter Smith, William M Dodge, James F Owen, Joseph Holton, Jonathan Black, Thomas Ridgely, Elijah B Babcock, John Babcock, Theodore Pochee, Archibald Y Graham & David Graham if to be found in your County, personally to be and appear before the Circuit Court of Warren County on the first day of the Next term thereof, to be holden at the Court House in Monmouth, on the Fourth Monday in the Month of October Next to answer a Bill of Complaint, filed in our said Circuit Court, on the Chancery Side thereof, against them by Perry Alexander.

And have you then and there this writ, and make return thereon in what manner you Execute the same

Witness, Wm Laferty Clerk of our said Circuit Court and the Seal thereof, at Monmouth, this 29th day of August in the year of Our Lord One Thousand Eight (Seal) hundred and Sixty One.

Wm Laferty Clerk.

I did on the 2nd day of September AD 1861 Serve the within Summons by delivering a Copey to the within named David Graham.

Dated this 2nd day of September AD 1861

John M Wilson Sheriff Henderson County, Ills.

I cannot in my County find the within named Robert Holloway, Henry M Boggess, The State of Illinois, Elisha Eldred, Anson Eldred, Uri Balcom, Seth Smith William M Dodge, James F Owen, Joseph Holton, Jonathan Black Thomas Ridgely, Elijah C Babcock, John Babcock Theodore Pochler & Archibald Graham

John M Wilson Sheriff Henderson County, Ills

Filed September 4th 1861

Wm Laferty Clerk.

The Summons directed to the Sheriff of Warren County is in the words and figures following towit:—

State of Illinois, Warren County, Sct.

The People of the State of Illinois, to the Sheriff of Warren County, Greeting;

We command you to Summon Robert Holloway, Henry M Boggess, The State of Illinois, Elisha Eldred, Anson Eldred, Uri Balcom, Seth Smith William M Dodge, James F Owen, Joseph Holton Jonathan Black, Thomas Ridgely Elijah C Babcock John Babcock Theodore Pochler, Archibald G Graham & David Graham

67

if to be found in your County, personally to be and appear before the Circuit Court of said County, on the first day of the next term thereof, to be holden at the Court House in Monmouth, on the Third Monday in the Month of March Instant to answer a bill of Complaint filed in our said Circuit Court, on the Chancery Side thereof, against them by Perry Alexander.

And have you then and there this writ, and make return thereon in what manner you execute the same,

Witness, Wm Laferty Clerk of our said Circuit Court, And the Seal thereof at Monmouth, this 6th day of March in the year of our Lord one thousand Eight Hundred and Sixty one.

(Seal)

Wm Laferty Clerk

I have Served the within Summons by delivering a copy to the within named Henry M. Boggess, Seth Smith, Elijah & Babcock, John Babcock & Robert Holloway & Archibald Y Graham, John Babcock being Served by copy left at his usual residence with his wife she being a white person over the age of ten years and informed her of the Contents thereof.

March 8th 1861 David Turnbull Sheriff Warren County Ill.

By D.B. Eisenberger Dept.

I cannot in my County find the within named Elisha Eldred, Anson Eldred James & Owen Jonathan Black Thomas Ridgely Theodore Parker David Graham & William M Dodge and Uri Balcom

March 8th 1861 David Turnbull Sheriff

I have Served the within Summons by delivering a copy to the within named Joseph Holton

March 8th 1861 David Turnbull Sheriff Warren County Ill.

Filed Mch 14th 1861
Wm Laferty clerk.

The following is the Summons directed to the Sheriff of Cook County, to wit:—

State of Illinois. Warren County, Sct.

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

We Command you to Summon Robert Holloway, Henry M Boggess, The State of Illinois, Elisha Eldred, Anson Eldred, Eli Balcom, Seth Smith, William M Dodge, James F Owen, Joseph Holton Jonathan Black, Thomas Ridgley, Elijah C Babcock, John Babcock Theodore Pockler, Archibald Y Graham & David Graham if to be found in your County, personally to be and appear before the Circuit Court of Warren County, on the first day of the next term thereof, to be holden at the Court House in Monmouth, on the Third Monday in the Month of March Instant to answer a bill of Complaint filed in our said Circuit Court on the Chancery side thereof, against them by Perry Alexander.

And have you then and there this writ and make return thereon in what manner you Execute the Same.

Witness Wm Laferty Clerk of our said Circuit Court And the Seal thereof, at Monmouth, this 6th day of March in the year of our Lord One Thousand Eight Hundred and Sixty One

(Seal)

Wm Laferty clerk.

Filed Sept 3d 1861
Wm Laferty clerk.

69

And on the 18th day of March AD 1862 the answer of A. Y. Graham was filed in the office of the Clerk of the Circuit Court of Warren County which is in the words and figures following towit:—

State of Illinois } March Term AD 1862 of the
Warren County } ss. Warren Circuit Court
Chancery Side thereof.

Perry Alexander
vs.
Robert Holloway & al

And now comes the said Archibald Y Graham Defendant herein who after being first duly Sworn deposes and says that at the last term of this Court towit the October Term A.D. 1861, this affiant and one David Graham recovered a judgment against Robert Holloway and Henry M Boggess, partners by the name of Holloway & Boggess, for a failure of them the said Holloway & Boggess to Convey to this affiant and said David Graham certain tracts of land; the same as this affiant states against which the Complainant in this suit is endeavoring to enforce a Vendors lien.

This affiant further says that an appeal from the judgment of the Court in said cause was prayed by said Holloway & Boggess and allowed by the Court, that in Consequence thereof this affiant and the said David Graham allowed themselves to be defaulted in this cause and failed to answer to the Complainants bill herein at the last term of this Court.

This affiant further States

that since the last term of this Court the Said Holloway & Boggess have failed to prosecute the appeal so prayed by them as aforesaid and that the said judgment in favor of the said David Graham & this affiant is now in full force and unsatisfied. This affiant further States that in order to enable this affiant and said David Graham to obtain Satisfaction of the said judgment it is necessary to have a Specific lien upon the land in said Complainants Bill described for the payment of said judgment, subject to said Complainants lien and subordinate thereto, And this affiant further Says that Since the last term of this Court this affiant has learned of the failure of Said Holloway & Boggess to prosecute the appeal aforesaid and his rights and Equities in Suit, wherefore he prays that the default against himself and said David Graham may be Set aside and that they may be permitted to answer to Said Complainants Bill & file their Cross Bill herein. And this affiant further Says that he desires said default may be Set aside that himself and said David Graham may be permitted to file a Cross Bill in said Cause Setting forth their rights and Equities herein and asking a decree of this Court granting the lien aforesaid.

Archibald Y Graham.

Subscribed & sworn to
before me this 18th day of March 1862
W Lafferty Clk.

71

Filed Mch 18th 1862
W Lafferty clk.

The Answer of Holloway & Boggess is in the words and figures following towit:-

State of Illinois } In Circuit Court of the
Warren County } March Term AD 1862.

Perry Alexander
vs. } Petition for Venders Lien.
Robert Holloway et ab }

The answer of Robert Holloway one of the abovd Defendants to the Bill of Complaint of said Complainant.

This Defendant saving and reserving to himself now and at all times hereafter all and all manner of benefit or advantage of exception or otherwise that can or may be had or taken to the many errors uncertainties and imperfections in the said Bill contained for answer thereto, or to so much thereof as this Defendant is advised it is material or necessary for him to make answer to Answering Saith:

That he believes that the said Complainant was on the 9th day of April AD 1859 the owner and possessed of the lands described in said Bill towit: The whole of the North East Quarter of Section Six (6) and Ninety Seven & Sixty five One hundredths acres off of the West side of the North West Quarter of Section Five (5) more or less all in Township ten North of Range Two West of the fourth Principal

Meridian in the County of Warren and State of Illinois.

That he admits that on or about the 9th day of April AD 1857 this defendant together with Henry M Boggess by the name & style of Holloway & Boggess entered into an agreement with the said Complainant under their Seals, to purchase the said land above described for the agreed price of Six thousand Dollars as stated in said Bill of Complaint.

That by the terms of said agreement this defendant together with the said Boggess were to pay the said Complainant the Sum of Two Thousand Dollars Cash in hand Two Thousand Dollars in one year from the date of said Instrument And the Sum of Two Thousand Dollars in Two years from the date of said Instrument the said two deferred payments of Two Thousand Dollars Each to bear interest from the date of said instrument until paid at the rate of Six per cent per annum.

That by the terms of said agreement the said Complainant agreed and bound himself, that upon the Complete and full payment of said Sum of Six Thousand Dollars together with such interest as should have accrued thereon to convey by a good and sufficient Warranty deed the Real Estate aforesaid to the said Holloway & Boggess as stated in said Bill

That he admits that the full and

Complete payment of the whole of said Sum of Six Thousand Dollars together with the interest thereon was a Condition precedent to the Conveyance as aforesaid as Stated in said Bill.

That he admits that in and by said agreement reference was had & made to a division of the Estate of Samuel Alexander Deceased made by Commissioners &c as Stated in said Bill and that the Real Estate and premises hereinbefore described are the same as in said Commissioners report mentioned and thereby Set off, and awarded to the said Complainant as Stated in said Bill.

That he admits that after the making of said agreement and in pursuance of the same he together with the said Boggess paid to said Complainant the Two Thousand Dollars which was to be paid in hand as aforesaid, and that afterwards and on or about the 21st day of April A.D. 1858 they paid to said Complainant the further Sum of Two Thousand and Nineteen Dollars & forty cents which was to be applied on said Second payment as aforesaid there remaining then due on said Second payment interest to the Amount of One Hundred and four 60/100 Dollars and not the Sum of One Hundred and twenty five Dollars as Stated in said Bill.

This defendant admits that the above two payments are all that has ever been paid by this defendant or said Boggess to said Complainant on the said agreement of said Complainant as Stated in said Bill, and that the last payment on

Said Contract of Two Thousand Dollars together with the interest which has accrued thereon Still remains due and unpaid as Stated in Said Bill.

This defendant further Says that it is true that he together with the Said Boggess did on or about the 20th day of July A D 1859 at the County of Adams entered into a Certain other agreement with the Said Complainant by which the time of the last payment of Two Thousand Dollars as aforesaid was extended until the first day of September A D 1860 they agreeing to pay Said Complainant ten per cent interest on Said last payment in Consideration of Such extension as Stated in Said Bill.

That the Said last payment as aforesaid together with all the interest which has accrued thereon has not been paid to Said Complainant as Stated in Said Bill.

This Defendant denies that at the time of the filing of Said Bill there was due for principal and interest from this defendant and the Said Boggess to Said Complainant the Sum of two Thousand Seven Hundred and Fifty Dollars as Stated in Said Bill, but he admits that about the Sum of Two Thousand Seven Hundred and Ten Dollars in principal and interest was due and unpaid, the Same being the balance of the purchase money and the interest thereon for the Real Estate

described in said Bill.

That he believes it to be true that said Complainant has never Conveyed the said Real Estate to any person or persons under and in pursuance of said agreement first mentioned. That he believes it to be true that said agreement has never been Changed or altered except as Stated in said Bill. That said first agreement Still remains in full force and effect.

That he admits that the said Complainant is Still the owner of the legal title to said Real Estate described in said Bill together with all the Equitable interest therein except the interest therein So as aforesaid bargained and Sold to this defendant and the said Boggess by said agreement first mentioned as is in said alleged.

This Defendant States that he believes it to be true that said Real Estate was on the 9th day of April A.D 1857 reasonably worth the agreed price therefor to wit: Six Thousand Dollars, but this defendant denies that the said Real Estate has greatly depreciated in value since that time, but Claims that the same is now worth but little, if any, less than it was at the time of the Sale thereof as aforesaid.

This Defendant denies that said defendants Henry M Boggess, The People of the State of Illinois, Elisha Eldred, Anson Eldred, Uri Balcom, Seth Smith, William M Dodge, James F Owens, Joseph Holton,

Jonathan Black, Thomas Ridgley, Elijah Babcock John Babcock and Archibald Y Graham & David Graham, Theodore Pochler have now any right title or interest whatever in or to said premises.

This defendant States that on or about the 25th day of October AD 1865 the said defendant Henry M Boggess sold to this Defendant all his right title and interest in and to said premises.

That at the time of the filing of the said Bill the said Defendants Archibald Y Graham and David Graham had an interest in said premises derived through this defendant and said Boggess, but that since that time said interest has terminated by the result of a suit brought by said Grahams against said Holloway & Boggess to recover the purchase money and the interest thereon paid by said Grahams to said Holloway & Boggess for said Land.

This Defendant admits that on or about the 24th day of January AD 1865 the said Complainant together with his wife Margaret E Alexander made Executed and acknowledged a good & Sufficient deed to said Real Estate Conveying the Same to this Defendant and the Boggess and offered to deliver the Same to them upon the payment of the principal and interest then remaining due and unpaid for said premises as stated in said Bill.

77

And this defendant denies all and all manner of unlawful combinations &c without this that there is any other matter cause or thing in said Complainants Bill of Complaint Contained material or necessary for this defendant to make answer unto and not herein and hereby well and sufficiently answered, confessed traversed and avoided or denied, is true to the knowledge or belief of this defendant; all of which matters and things this defendant is ready and willing to aver, maintain and prove, as this Honorable Court shall direct and prays to be hence dismissed with his reasonable costs & charges &c,

Robert Holloway

State of Illinois }
Warren County } ss.

I Robert Holloway being duly Sworn deposes and say that all the Several Matters and things which are set forth in the foregoing answer are true in substance and in fact

Robert Holloway

Subscribed & Sworn to before me this 28th day of March 1864

Wm Laferty Clerk.

State of Illinois }
Warren County } ss

I Henry M Boggess being duly Sworn deposes and say that I have read the above answer of Robert Holloway, That all the Several matters and things therein set forth are true in substance and in fact and that I wish to adopt the above answer as my own in said Cause.

N. M. Boggess

Subscribed & sworn to before me this 27th day of March AD 1862

Wm Laferty Clk.

Filed Mch 27/62
W Laferty Clk.

The Cross Bill of Archibald Y Graham and David Graham is in the words and figures following to wit:

State of Illinois } March Term AD 1862 of the
County of Warren } Circuit Court of said County

To the Honorable Charles B Lawrence judge of said Court in Chancery Sitting.

Your Orators Archibald Y Graham of said County and David Graham of that of Henderson in said State Respectfully represents that 6th day of March AD 1861 Perry Alexander of the County of Adams in the State aforesaid Commenced in this Court a suit in Chancery which he termed a Vendors lien against Robert Holloway Henry M. Boggess partners in trade in the firm name of Holloway & Boggess, Elisha Eldred, Anson Eldred, Uri Balcom, Seth Smith, William M. Dodge, James F. Owen, Joseph Holton, Jonathan Black Thomas Ridgley, Elijah Babcock, John Babcock Theodore Boechler. The State of Illinois and then in the Clerks office of said Court filed his Bill therefor

That all the proceedings that have been had

in this Court in Said Cause were as follows towit: That 6th day of March AD 1861 Summons was duly issued in Said cause against Said defendants, That on the 8th day of Said month Said Summons was duly returned Served on Said John Babcock, Henry M Boggess, Seth Smith, Elijah & Babcock John Babcock Robert Holloway and Archibald Y Graham and Joseph Holton and that Said Elisha Eldred Amos Eldred James F Owen Jonathan Black Thomas Ridgley Theodore Parker, David Grahams, and William M Dodge could not be found in Said County of Warren. That 29th day of August AD 1861 an alias Summons was duly issued in Said Cause directed to the Sheriff of Said Henderson County and on the 2nd day of September thereafter returned by the Sheriff last aforesaid Served upon Said David Graham, and that the other of Said defendants naming them could not be found in Said Henderson County

At the March Term hereof and on 20th day of Such month leave was given Said Holloway & Boggess by the morning of Monday thereafter to answer Said Bill On 6th day of April thereafter and at term last aforesaid leave was asked and given to the Sheriff to amend his return Demurrer was filed by Said Holloway & Boggess to Said Bill. An order of publication as to non residents was made, Alias Summons was issued to the Counties of Cook, Peoria Henderson and Sangamon and the cause was then Continued to the next term of this Court which was the ensuing October term thereof;

At Said October Term and on 28th day of

November thereafter a default was taken against said Josiah Holton, John Babcock, Elijah & Babcock Seth Smith and your Orators and the case was then taken under advisement to be decided at of that term

At this the March Term hereof and on the 17th day of such Month a motion was made and on 19th thereof allowed to set aside the default entered against your Orators at the last term hereof and for leave to answer said Bill and file a Cross and herein by tuesday Morning thereafter. That March 6th day A.D 1862 E.A. Paine made before the Clerk of the Circuit Court of said County an affidavit that said Jonathan Black and James F Owens were non residents of said State which was then filed by the Clerk of said Court in the Clerks office thereof. That notice of the pendency of said suit to said Owens and Black was duly published in the Monmouth Atlas a weekly Newspaper then and ever since then published in said Monmouth and said County of Warren four weeks successively the first of such publications bearing date August 28, 1862 and the last thereof on 25th September thereafter a Copy of which notice and certificate of the publisher thereof of such publications is herewith filed marked Exhibit (E) and made part of this Cross Bill. All which fully appears from the records of this Court of the proceedings had in said Cause.

That said suit was brought to obtain a decree against said Holloway & Boggess for the sum of Twenty Seven Hundred and fifty Dollars principal

cipal and interest a ballance which said Alexander by his said bill claimed to be due to him from said Holloway & Boggess on a Contract of Sale and extension thereof in writing made and entered into between them in the name of said Perry Alexander and the firm name of said Holloway & Boggess the part thereof on the 9th day of April AD 1859, and the latter on the 20 day of July AD 1859, for the Sale by said Alexander to said Holloway & Boggess of the North East Quarter of Section Six containing One Hundred and fifty four acres more or less and Ninety Six acres more or less of the West Side of the North West Quarter of Section five in Township Ten North of Range Two West and the County aforesaid on the terms and Conditions in said Contract and the extension thereof Stated Copies of which are herewith filed marked respectively Exhibits (A) and (B) and made part of this Bill. And to obtain a first and exclusive lien on said Real Estate for the payment of the amount aforesaid with the interest that might accrue thereon and for such of said Alexanders Costs as might accrue in his said suit.

That said Bill prays as follows to wit "That the said Robert Holloway Henry M. Boggess, State of Illinois, Elisha Eldred, Aseneth Eldred Uri Balcom Seth Smith, William M Dodge, James F Owen Joseph Holton, Jonathan Black, Thomas Ridgley Elijah Babcock, John Babcock, Theodore Pechler Archibald G Graham and David Graham may be made parties defendants to this your Orators Bill and that a proper Summons may be duly issued

out of this Honorable Court under the Seal thereof against them and that they and each of them may be required full true and perfect answers to make to this Bill and to each and every allegation thereof as fully and Specially as if Specially interrogated thereto hereby expressly waiving Such answers of said Archibald Y Graham and David Graham being under oath and requiring that their and each of their answers be without oath and that the amount which may be due and unpaid to your Orator of the purchase money aforesaid together with the interest accrued thereon may be properly ascertained and that the Same may be decreed to be a lien upon the Real Estate aforesaid and that all of the right title and interest of said defendants or either of them of in and to Said Real Estate and premises or any part thereof may be decreed to be Subject to Such lien of your Orator and your Orator also prays that said Robert Holloway and Henry M Boggess may be decreed to pay the amount thus found to be due and owing to your Orator within a Short day to be named in Such decree together with legal interest thereon from the date of Such decree until paid and also to pay the Costs of this Suit and that in case default be made in Such payment or any part thereof. Your Orator prays that either all the right title and interest of Said defendants and each of them of in and to the Same and every part thereof may be Sold to

53

Satisfy said debt and interest thereon together with the costs of this suit as to your Honor shall seem most equitable. And that your Orator may have such other and further relief in the premises as shall seem equitable and proper and as in duty bound Your Orator will ever pray &c"

Your Orators represent that on the 21st day of April AD 1859 they purchased of said Holloway & Boggess the Real Estate aforesaid and agreed to give them therefor the sum of Ten Thousand Dollars on the terms and conditions of the article of agreement of such purchase then in writing made between them by said Holloway and Boggess in their said firm name of Holloway & Boggess and by your Orator Archibald Y Graham in the name of A.Y. Graham and by your Orator David Graham by and through Archibald Y Graham his agent who executed it by signing the name of said David Graham thereto as principal thereto and his own thereto as such agent of said David Graham signing his name thereto as such agent of said David Graham in the name of A.Y. Graham. That a Copy of such article of agreement is herewith filed marked Exhibit (C) and made part of this Cross Bill.

That your Orators have paid said Holloway and Boggess the purchase money of the purchase last aforesaid and in full and discharge on their part of such agreement in writing as follows to wit:

"On 28th day of May AD 1858 Four Thousand Dollars,
On 19th day of April AD 1858 Four Thousand
Three Hundred and Sixty Dollars,
And on 7th day of April AD 1859 Two Thousand
One Hundred and Seven Dollars and Fifty Cents
which was in full discharge of such agreement in
writing on the part of Your Orators as said Holloway
& Boggess then in their receipt therefor in writing
acknowledged which said receipt together with
the receipts for the two previous payments afore-
said made by your orators was made on the back
of such agreement in writing a copy of all three
of which is a part of said Exhibit (E) and made
part of this Cross Bill.

That Your Orators have paid
taxes that were due the State of Illinois and
said County of Warren as follows on said
Real Estate to wit:—

On 8th day of March AD 1858
Twenty Eight Dollars and Ten and One Half Cents
On 28th day of July AD 1859 Twenty Four Dollars
and Sixty nine Cents, On Twenty Third day of
June AD 1860 Twenty three Dollars and Thirty
Six cents And on 22nd day of June AD 1861
Twenty One Dollars and Seventy Six cents,

That said Holloway & Boggess nor either of
them ever had any interest in said Real Estate
or any part thereof only what they derived from
the purchase thereof from said Alexander

which was made on the terms and Conditions stated in the article of agreement in writing thereof first aforesaid for Six Thousand Dollars on or about 9th day of April AD 1857 and as your Orators are informed and believe yet owe said Alexander thereon over Two Thousand Dollars.

That said Holloway and Boggess having failed to convey said Real Estate or any part thereof to your Orators in accordance with their agreement in writing aforesaid made with your Orators or in any way, Your Orators to the March Term AD 1861 of said Court in the written agreement last aforesaid Commenced an action of Covenant against said Holloway and Boggess for the non performance upon their part of the Covenants therein to have been by them performed and that such proceedings were thereupon had that at the October Term AD 1861 of said Circuit Court your Orators by the Consideration of such Court on the 22nd day of November AD 1861 recovered a judgment against said Holloway and Boggess for the Sum of Twelve Thousand Six Hundred & Seventy & 87/100 Dollars and costs of Suit for the nonperformance of the Covenants aforesaid to have been performed by said Holloway and Boggess all which fully appears from the proceedings and Records thereof, Still remaining in full force and unpaid Save as to the Sum of Three Hundred and thirty Seven Dollars and Eighty five cents which your Orators as judgment Creditors of said Holloway & Boggess made

thereupon by process of redeeming Real Estate of said Holloway and Boggess which had been before then Sold by the Sheriff of the County first aforesaid by virtue of an Execution against them That no appeal bond has been filed nor appeal taken in said Cause, that said judgment never has been reversed and that Exhibit (D) is a Copy thereof and is herewith filed and made a part of this Cross Bill.

That said Holloway and Boggess as your Orators are informed and believe are and have been ever since before the Commencement of this said Suit insolvent and that the balance of said judgment nor no part thereof can be made from them or either of them.

That your Orators have made on said Real Estate the following named improvements at the times and at the costs herein after mentioned to wit the breaking of Two Hundred and fifty acres of prairie at a cost of two dollars per acre. The erection of a house at a cost of One Hundred and Twenty five Dollars and a Stable at a cost of Twenty Dollars in the year One Thousand Eight Hundred and Sixty. The Making of Six Hundred and twenty rods of fence at a cost of Four Hundred and ninety Six dollars and the erection of a corn crib at a cost of Thirty Dollars in A.D. 1861 Making the Sum of Eleven Hundred and Seventy One Dollars paid by your Orators for improvements

87

made by them on said Real Estate. That said Real Estate is worth Thousands of Dollars more than the amount of the alledged claim aforesaid of said Alexander against said Holloway and Boggess.

That your Orators under and by Virtue of the Contract first aforesaid on or about 1st day of March A D 18 65 took actual possession of said Real Estate by Commencing the erection thereon of the House aforesaid and that said House was finished during that month.

That your Orators are entitled to the fee Simple title to said Real Estate subject only to whatever Claim said Alexander may have thereon for the remainder of the purchase money thereof aforesaid and no other.

Your Orators deny that said State of Illinois, Elisha Eldred, Amos Eldred, Uri Palcom, Seth Smith, William M Dodge, James F Owen, Joseph Hollon, Jonathan Black, Thomas Ridgley, Elijah B Babcock John Babcock and Theodore Preble or either or any of them or said State of Illinois have any Claim or lien whatever on said Real Estate or any part thereof.

That your Orators pray that this their Cross action may be adjudicated with said Complainants said Suit and that a decree be rendered on both as if they were one and that a decree be rendered on both thereof, in favor of

said Alexander and against said Holloway and Boggess for the amount which may be due and unpaid to him of the purchase money of their purchase aforesaid of him together with such costs in the premises as your Honor may deem equitable and in favor of your Orators for the amount which may be due and unpaid to your Orators of the judgment aforesaid of your Orators against them and such costs if any as your Honor may deem equitable defering the operation lien and effect of so much of said decree as is in favor of your Orators until that portion thereof in favor of said Alexander is paid and satisfied and that said decree be so made a lien on said Real Estate for the payment thereof in the manner aforesaid.

That your Honor if consistent with his views of the Equities in the premises give to Say Holloway and Boggess a long day if not such an one as is in which to pay and satisfy said decree and to Your Orators in which to pay and satisfy so much thereof as may be in favor of said Alexander And that in case of such payment within such time so to be fixed of the amount that may be so due said Alexander and such costs in the premises as the Court shall direct by any person or persons. that said Alexander by the decree of this Honorable Court be required within a time thereafter, to be fixed by

the Court to convey to your Orators or their assigns said Real Estate with such Covenants as your Honor may direct conveying to them the right title and interest of said Alexander and the other defendants to said Bill than your Orators thereto and that in case of the failure of said Alexander so to convey within such time therefor that the County Judge of said County of Warren be by such decree required to so convey said Real estate to your Orators within a further time, to be in such decree named therefor. That in case only that no such payment is made on such decree as that last aforesaid within the time so limited therefor as aforesaid that such Real Estate or so much thereof as may be necessary to satisfy said decree be sold under the direction of this Honorable for the satisfaction of such decree, And that the proceeds of such Sale be applied as follows to-wit 1st To the payment of such Costs as may be directed by said decree to be paid.

2nd To the payment of so much of such decree as may be made in favor of said Alexander together with so much interest as may have thereon accrued thereon and so much Costs in the premises as may be directed by such decree.

3rd To the payment of so much of said decree as may be made in favor of your Orators together with so much interest as may have thereon accrued thereon and so much costs in the premises as may be directed in such decree if any.

4th And the remainder thereof after the making of such payments if any be disposed of by such decree.

That Your Orators have such other and further relief in the premises as to your Honor may seem Equitable and proper.

That said Alexander Robert Holloway, Henry M Boggess Elisha Eldred, Anson Eldred, Uri Balcom, William M Dodge, James F Owen Jonathan Black, Thomas Ridgley, Theodore Pechler and State of Illinois be made defendants to this Cross Bill, And that they be required Separately to answer this Cross Bill as fully and particularly in every respect as if Specially interrogated as to every part thereof.

Your Orators waive the oath of said defendants to their respective answers.

And as in duty bound will ever pray &c.

Archibald Y Graham
David Graham
By their Solicitors Harris & Gleem.

State of Illinois }
County of Warren } ss

I Archibald Y Graham after first being duly Sworn upon oath State on behalf of David Graham and myself, that we are the Complainants to the foregoing bill and that the Same is true So far as Stated upon the Knowledge of Such Complainants and that he believes the remainder

41

thereof to the Co.

A. Y. Graham

Subscribed & sworn to before me this 27th day of March AD 1862

Wm Laferty Clerk

Filed Mch 28 1862

W Laferty Clk.

"Exhibit A"

Copy Memorandum of Agreement made and entered into by and between Perry Alexander of the County of Adams and State of Illinois of the one part and Messrs Holloway and Boggess of the County of Warren in said State of the other part, Witnesseth That in the division of the estate of Samuel Alexander Deceased done by Commissioners duly appointed by the Circuit Court of said County of Adams and the report of said Commissioners duly Commissioned by said Court at the March Term of said Court held at the City of Quincy in the Month of March 1859 there was set off and awarded to said Perry Alexander the following described Real Estate in said County of Warren Viz: The whole of the North East Quarter of Section Six Containing One Hundred and fifty four Acres more or less and ninety Six Acres more or less off of the west side of the North West Quarter of Section five All in Township Ten North of Range Two west in said County of Warren, reference being to the Record of said Division as made by said Commissioners in said Adams County for a full description of said lands. Now the said Perry Alexander hereby

bargains & Sells to Said Holloway and Boggess the above described land, for and in Consideration of the Sum of Six Thousand Dollars to be paid as follows, Two Thousand Dollars in hand the receipt whereof is hereby acknowledged, Two Thousand Dollars in one year from this date with interest and Two Thousand Dollars in Two years from this date with the interest. And Said Perry Alexander agrees to bind himself his heirs and legal representatives on the Completion of the payments above Specified and the interest to convey by a good & Sufficient Warranty deed the Said described land to Said Holloway & Boggess their heirs or assigns.

In testimony whereof the Said parties have hereunto Set their hands and Seals this 9th day of April 1859.

Perry Alexander (Seal)
Holloway & Boggess (Seal)

Copy "Exhibit (B)"

This Agreement made and entered into this 20th day of July 1859 by and between Perry Alexander of the one part and Robert Holloway and Henry M. Boggess under the name and Style of Holloway & Boggess of the other part witnesseth that whereas the Said Robert Holloway and Henry M Boggess are indebted to Said Perry Alexander for the last payment due on the following described lands purchased of Said Alexander on the 9th day of April 1859 to wit: The North East Quarter of Section Six

93

Containing One Hundred and fifty four Acres More or less and ninety six acres more or less off of the west side of the North West Quarter of Section five All in Township Ten North of Range Two west of the Fourth Principal Meridian in Warren County Illinois the said Perry Alexander agrees to extend said payment until the first day of September 1860 the said Holloway & Boggess agreeing to pay said Alexander interest from the time said payment became due and until paid at the rate of ten per cent per annum.

Witness our hands the day and year first above written

Perry Alexander

Holloway & Boggess.

Filed March 28th 1862

W Lafferty Clk.

Exhibit (K)

Article of Agreement

Made and concluded the 21st day of April in the year of our Lord One Thousand Eight Hundred and fifty seven, between Holloway and Boggess of the first part and A.V. Graham and David Graham of the second part, witnesseth, that the party of the first part, at the request of the party of the second part and in consideration of the money to be paid and the Covenants as herein expressed to be performed by the party of the second part (the prompt performance of which payments and Covenants being a condition precedent, and time being the essence of said Condition) hereby agrees to sell to the said party of the second part, The North East Quarter,

of Section Six (6) Township Ten (10) North Range Two (2) West of the fourth Principal Meridian Containing 154 acres be the same more or less and Ninety Six acres (the same land Contracted to us by Perry Alexander April 9th 57) the West part of the North East Quarter of Section five (5) Township Ten (10) North Range Two (2) West of the fourth principal Meridian, with the privileges and appurtenances thereto belonging.

And the said party of the second part in consideration of the premises hereby agrees to pay the said party of the first part his or their Executors Administrators or assigns at Monmouth as follows Viz: Four Thousand Dollars on the twenty Eighth day of may AD 1857. Four Thousand Dollars on the Sixth day of April AD 1858 and Two Thousand dollars on the Sixth day of April AD 1859 the last two payments as per notes given bearing date hereof with interest at the rate of Six per cent per annum from date hereof to be paid annually on the Sixth of April in each year on the whole sum from time to time remaining unpaid. And also, that he will well and faithfully in due season pay or cause to be paid all taxes and assessments ordinary and extraordinary for any purpose whatever levied or assessed upon the said premises or appurtenances or any part thereof Subsequent to the Year 1856. But in case said party of the second part fail to pay

any or all such taxes or assessments upon the said premises or appurtenances or any part thereof whenever and as soon as the same shall become due or payable and the party of the first part shall pay from time to time or at any time any or all such taxes or assessments or cause the same to be paid the amount of any and all such payments so made by the party of the first part shall immediately thereupon become an additional consideration and payment to be made by the party of the second part hereto for the premises herein agreed to be conveyed.

And the said party of the first part further Covenants and agrees with the said party of the second part that upon the faithful performance by the said party of the second part of their undertaking in this behalf and of the payment of principal and interest of the sum above mentioned in the manner specified the said party of the first part shall and will without delay well and faithfully execute, acknowledge and deliver in person or by attorney duly authorized to the party of the second part their heirs or assigns a deed of conveyance of all the right title and interest of the party of the first part of in and to the above described premises with their appurtenances with Covenants of Warranty against any act or thing done or suffered by the party of the first part.

Provided Always and these presents are upon the express condition that in case of the failure of

the said party of the of the second part their heirs, executors, administrators and assigns in the performance of all or either of the Covenants and provisions on their part to be performed, the said party of the first part or their legal representatives shall have the right to declare this Contract void and thereupon to recover by distress upon the premises or otherwise, all the interest which shall have accrued upon this Contract as rent for the use and occupation of said premises, and to take immediate possession thereof, to regard the person or persons in possession on such termination of the Contract as tenant or tenants holding over without permission (if that should be necessary to regain the prompt possession of the premises) and to recover all damages sustained by such holding over without permission, by means of any waste Committed or suffered on the premises by destruction of timber or otherwise.

In Witness where of the party of the first part for themselves and the party of the second part in their own proper persons have hereunto respectively Set their hands and Seals on the day and year first above written

Holloway & Boggess (L.S.)
A. G. Graham (L.S.)
David Graham (L.S.)
By A G Graham agt.

Signed and delivered
in presence of .

Received on the within Bond May 28th A 1858 the Sum of $4000.

Holloway & Boggess

47

$4360 00. Received Monmouth Ills. April 19th 1858
on the within Bond Forty Three Hundred and Sixty dollars

Holloway & Boggess

$2107 50/100 Received Monmouth Illinois April 7th 1859
on the within Bond Twenty One Hundred and Seven dollars
and fifty cents in full payment of these within Contracts

Holloway & Boggess

Filed March 28th 1862
Wm Lafferty Clerk.

Exhibit (D)

Friday November 8th 1861

Archibald Y Graham
& David Graham
vs.
Robert Holloway & Henry
M Boggess late partners by
Name & Style of Holloway & Boggess

Covenant.

This day came the parties by their attorneys and issue being joined for trial put themselves upon the Country. Thereupon came a jury to wit: Peter Odell, Wm H Frantz, James H Williams, P. D. Hedges, J. W. Crandall, R. M. Holt, L. C. Smith, Orin Lamphere, Henry Kinnan, James Farbell, William Taylor & A. P. Markham. who being duly empannelled, and sworn to well and truly try the issue joined. And having heard the evidence upon their Oaths do say: We the Jury find for Plaintiffs and assess their Damages at the Sum of ($12670.59/) Twelve Thousand Six Hundred and Seventy dollars and fifty Nine Cents. Thereupon came defendants and entered their motion for a new trial

48

And afterwards, towit: on the 22nd day of November A.D. 1861. the following order was made towit:—

Archibald G Graham
& David Graham
vs.
Robert Holloway & Henry M. Boggess by name & Style of Holloway & Boggess

Covenant.

116

This day this cause coming on to a hearing on the defendants motion for a new trial herein, which motion is overruled by the Court, And the Verdict of the Jury is the judgment of the Court, Therefor it is considered by the Court that said plaintiffs have and recover of and from the said defendants the Sum of Twelve Thousand Six Hundred and Seventy Dollars and fifty Nine cents ($12 679.59) the Amount so found by the Jury aforesaid, together with their costs by them in this suit expended; And may have execution therefor

Thereupon came the Defendants and pray an appeal to the Supreme Court which is allowed by the Court upon the said defendants entering into bond in the Sum of Twenty Five Thousand Dollars with Security to be approved by the Clerk of this Court, by the agreement of the parties herein. Bond and Bill of Exceptions to be filed in Ten days.

State of Illinois }ss.
Warren County }

I Wm Lafferty Clerk of the Circuit Court in and for said County do Certify that the

99

above and foregoing is a true Copy of the Record of the judgment in the foregoing case as the same appears from the Records of My office In Witness where of I have hereunto Set My (Seal) hand and affixed the Seal of our said Circuit Court at my office in Monmouth this 26th day of March A.D. 1862

Fee 75 cts. Wm Lafferty Clerk

Filed March 28th 1862

Wm Lafferty Clk.

Exhibit (E)

State of Illinois, Warren County, ss.

Warren Circuit Court, October Term, A.D. 1861.

Perry Alexander

vs.

Robert Holloway
Henry M Boggess
The State of Illinois
Elisha Eldred
Anson Eldred
Uri Balcom
Seth Smith
William M Dodge
James F Owens
Joseph Holton
Jonathan Black
Thomas Ridgley
Elijah Babcock
John Babcock
Theodore Pechler
Archibald J Graham
And David Graham

} Petition for Vendors Lien

Affidavit having been filed in the office of the Clerk of the Circuit Court of Warren County, Illinois that Jonathan Black and James F. Owens two of the above named defendants are non-residents of the State of Illinois.

Notice is therefore hereby given to you the said Jonathan Black and James F. Owens, that a bill in Chancery has been filed in said Court and that a Summons has been issued thereon against You returnable on the first day of the Next term thereof to be Commenced and holden at the Court House in Monmouth on the Fourth Monday in the Month of October Next, A.D. 1861: Now, unless you, the said Jonathan Black and James F. Owens, shall then and there appear and plead, answer or demur to the said petition, the same will be taken as Confessed against you and a decree entered according to the prayer of said petition.

Wm. Lafferty, Clerk.

Warren & Wheat, Sol's for Comp's.

August 16th, 1861.

I John P. Clark, Publisher of "The Monmouth Atlas" a public Newspaper printed and published in the City of Monmouth, County of Warren and State of Illinois, do Hereby Certify, that, a notice, of which the annexed printed extract is a true Copy, was published in said Newspaper four Weeks Successively, once in each week; the first publication bearing date the 23d day of August, 1861. And the last publication the 13th day of

101

September 1861.

Jno. S. Clarke

Printers Fee $8.75.
Received above fee from.

Filed March 28th 1862
W. Lafferty Clk.

The Answer of A Y & D Graham is in the words and figures following towitin

State of Illinois }
County of Warren } ss.

Warren County Circuit Court
Mr. Term 1862

Perry Alexander
vs
Henry M Boggess
Robt H Alloway
Archibald Y Graham &
David Graham Et al

Vendors Lien

The joint and several answers of Archibald Y Graham and David Graham to the Bill of Complaint of Perry Alexander Complainant.

These Defendants now and at all times hereafter saving and reserving to themselves and each of them all benefit and advantage of Exception Can or may be had or taken to the Many errors, uncertainties and other imperfections in the said Complainants said Bill of Complaint Contained, for answer thereunto or unto so much and such parts thereof as these defendants are advised is or are material or necessary for them to make answer unto. These defendants answering say

they have been informed and believe it to be true that as the said Complainant hath alledged in his Bill of Complaint he was the owner on or about the 9th day of April 1857 and possessed of the following described Real Estate to wit: the North East Quarter of Section Six and also ninety seven and fifty five One Hundredths acres of land off of the West side of the North West Quarter of Sect. five All said lands being in Township Ten North of the base line of Range Two West of the Fourth Principal Meridian Situate in the County of Warren and State of Illinois the same having been set off and allotted to said Complainant by order and decree of the Adams County Circuit Court in the Division and partition of certain Real Estate belonging to the Estate of Samuel Alexander, deceased, as the said Complainant hath alledged in his bill of Complaint.

And the said defendants further answering say that they have been informed and believe it to be true as the said Complainant hath alledged in his said bill of Complaint, that he bargained and sold in manner and form as he has set forth to the Real Estate aforesaid to Holloway & Boggess by a certain instrument of writing bearing date April Ninth 1857, which said instrument in writing was signed by said Complainant and sealed with his seal and the said Robert Holloway and Henry M Boggess by the firm name of Holloway & Boggess and their seal was thereunto attached

And that the said Holloway and Boggess agreed to pay said Complainant for the land aforesaid the sum of $6000.- And in the Manner following $2000- Cash in hand $2000 one year from the date of said instrument and $2000. two years from the date of said instrument and that the two deferred payments of $2000 each to bear interest at the rate of Six per cent. from the date of said instrument, and that the said Complainant bound himself by said instrument of writing that after the full and complete payment of the said several sums of Money and the interest thereon to convey unto the said Holloway and Boggess their heirs and assigns the land aforesaid by a good and sufficient deed of warranty and that the full and Complete payment of the said sum of Six Thousand Dollars together with the interest on the deferred payments is and was a Condition precedent to the Conveyance aforesaid.

And the said defendants are informed and believe it to be true as the said Complainant hath alledged in his bill of Complaint that the division of the Estate of Samuel Alexander, deceased was made by Commissioners appointed by the Circuit Court of Adams County State of Illinois and that the said Report of said Commissioners was Confirmed by said Court by decree at the March Term thereof 1869 and that it is the same report and decree Confirming the same as refered to in the said instrument of Writing and the same

as made by said Commissioners and Confirmed by said Court in a certain Suit then and there pending wherein Alonzo W Swartwout was Complainant and the said Complainant was defendant and that said Complainants "Exhibits" Marked "B" and "C" are true copies of said proceedings and that the Real Estate mentioned and described in said Complainants Bill of Complaint is the same in said Commissioners report Mentioned and that the same as set off and awarded to said Complainant And that the number of acres set off and awarded to said Complainant in said North West Qr. of said Sect. 6 being Ninety Seven & Sixty five One Hundredth acres instead of Ninety Six Acres as in said instrument of writing Supposed. And that at the time of the Execution of said instrument of writing the said Holloway and Boggess paid said Complainant the Sum of Two Thousand Dollars So to be paid in hand and that on or about the twenty first day of April 1858 paid said Complainant the Sum of $2019 41/100 to apply upon and which was applied upon said payment of $2000 to be within one year from the date of said instrument the same being the first of said defered payments becoming due as aforesaid, Said two payments being all of said Sums of $6000. which said Complainant has ever received of said purchase Money from the said Holloway and Boggess and that there remained and still remains

165

due and unpaid to said Complainant from said Holloway and Boggess of the Principal of said first defered payment the sum of $129= with the interest accrued thereon from the day of said last mentioned payment Amounts to the sum of $145. And that the said Holloway and Boggess have failed, neglected and refused to pay said Complainant the said sum of $2000- due as aforesaid in two years from the date of said instrument or any part thereof or the interest that has accrued on the same or any part of said interest the same being the last payment agreed upon as aforesaid.

And said defendants further answering say that they are informed and believe it to be true as the said Complainant hath alledged that there was a Contract made and entered into by and between the said Complainant and the said Holloway and Boggess on or about the twentieth day of July A.D. 1859 at the County of Adams that the said Complainant would extend the time of the last defered payment of said purchase Money until the first day of September 1860 and that the Consideration of said Contract was that the said Holloway and Boggess would pay said Complainant herein interest on the said last defered payment of $2000. from the time the same became due until paid at the rate of ten per cent per annum. And that the time for the payment of said last defered payment according to the terms of said last mentioned

Contract and the time of Extension has long since elapsed and that the said Holloway and Boggess have wholly failed refused and neglected to pay any of the interest that has accrued on said last mentioned payment of $2000. and that said payment together with all the interest remains due and unpaid as said Complainant hath alledged in his said Bill, and that there remains due and unpaid of said purchase money the sum of $2700 of principal and interest as said Complainant hath alledged in said Bill.

And that the said Complainant hath not conveyed by deed said land or any part thereof to said Holloway and Boggess or any person or persons in pursuance said agreement first mentioned by said Complainant. Nor has he ever Contracted the same to any other person or persons, nor has said last mentioned agreement by said Complainant been altered or changed in any respect except as he has particularly stated in said Bill — by said agreement dated July 20th 1859.

And further that the owner of the legal title to said Real Estate together with all Equitable interest to the same except the interest the said Complainant hath alledged he hath bargained and sold to said Holloway and Boggess and that he hath a lien on said Real Estate and every part thereof and particularly

on the interest sold and bargained to the said Holloway and Boggess for the ballance now due and unpaid of said purchase money thereof as he has alledged together with the interest that has or may yet accrue upon the said principal due and owing in pursuance of said several agreements and also for so much of said Complainants costs as he hath in his bill alledged. But the said defendants deny that said land is not now worth as much as when said Complainant sold said land to said Holloway and Boggess, but on the Contrary say that said Real Estate is worth several thousand Dollars more now than when the same was sold to the said Holloway and Boggess

And the said defendants answering as to what interest they the said defendants have in said bay that on or about the 21st day of April 1857. bargained with and bought of said Holloway and Boggess the said Real Estate described and mentioned in said Complainants Bill of Complaint and agreed to pay said Holloway and Boggess Four Thousand Dollars on the Twenty Eighth day of May A.D. 1857 - Four Thousand Dollars on the 5th day of April A.D. 1858 and Two thousand Dollars on the 5th day of April A.D 1859. said payments to draw 6 per cent per annum. And the said defendants say that in fact they have paid said sums of money together with the interest that has accrued on the same and are and have been ever the

possession of said land and they say that the said Holloway and Boggess on the day and year aforesaid Covenanted to and with the said defendants on the day and year aforesaid to give them the said defendants a good and sufficient deed of warranty to the said described Real Estate, on the payment of said purchased Money, mentioned in said Complainants Bill but the said Defendants say that the said Holloway & Boggess have wholly refused and neglected to make unto said Defendants said deed of, warranty to said Real Estate or any part thereof

And the said defendants further answering say that they are informed and believe it is true as said Complainant hath alledged in his said Bill that he the said Complainant, together with his wife Margaret E Alexander on the Twenty fourth day of January A D 1861 duly executed and acknowledged a good and sufficient deed of Conveyance of said Real Estate to said as said Complainant hath set forth in his said Bill of Complaint and offered to deliver the same to said Holloway and Boggess upon the payment of the balance of said purchased Money and the interest that has accrued on the same, but that the said, wholly neglected and refused to pay the same as the said Complainant hath alledged.

Respondents represent that on 21st April A D 1857 they purchased

104 of said Holloway and Boggess the Real Estate aforesaid and agreed to give them therefor Ten Thousand Dollars on the Terms and Conditions of the article of agreement of such purchase then in writing made between them by said Holloway and Boggess in their said firm name of Holloway & Boggess and by your Orator Archibald Y Graham in the name of A Y. Graham and by your Orator David Graham by and through Archibald Y Graham his agent who executed it by signing the name of said David Graham thereto as principal and his own as such agent of said David Graham, signing his name as such agent of said David Graham in the name of A Y Graham That a copy of such agreement is herewith filed marked Exhibit (A) and made part of this Bill; That said Holloway and Boggess having failed to convey said Real Estate or any part thereof to your Orators in accordance with their agreement in writing aforesaid made with your Orators or in any way. Your Orators to the March Term A D 1861 of said Circuit Court of Warren County on the written agreement last aforesaid Commenced an action of Covenant against said Holloway and Boggess for the non performance upon their part of the Covenants therein to have been by them performed and that such proceedings were thereupon had that at the October Term A D 1861 of such Court Your Orators by the Consideration of such Court on the 22nd day of November A D 1861 recovered a judgment against said Holloway and Boggess for

Twelve Thousand Six Hundred and Seventy Dollars and fifty nine cents and Costs of Suit for the non performance of the Covenants aforesaid to have been performed by said Holloway and Boggess all which fully appears from the proceedings and records thereof still remaining in full force and unpaid Save as to Three Hundred and thirty Seven Dollars and Eighty five cents which your Orators as judgment Creditors of said Holloway and Boggess made thereupon by process of redeeming Real Estate of said Holloway and Boggess which had been before then sold by the Sheriff of said Warren County by virtue of an execution against them— That no appeal bond has been filed nor appeal taken in such cause and that the ballance of said judgment still remains in full force unsatisfied and. and unreversed and that Exhibit (B) is a copy thereof and herewith filed and made part of this answer. And Respondents having fully answered and obtained leave of this Honorable Court to file a cross Bill herein and intending so to do pray to be heard thereupon as well as upon the Case aforesaid of which it is such a Bill.

Archibald Y Graham
David Graham
By their Solicitors Harris & Glenn

Filed Mch 28th 1862
W Lafferty CK

111

The Exhibits "A" & "B" refered to in the foregoing answer are the same marked exhibits "C" & "D" and found on Sheets numbered 24 and 25 of this Record.

The answer of Robert Holloway and Henry M. Boggess to the said Cross Bill is in the words and figures following towit:

State of Illinois } In Circuit Court of the
Warren County } March Term AD 1862

Perry Alexander
vs
Robert Holloway Etal } Vendors Lein

The Answer of Robert Holloway to the Cross Bill of Archibald Y Graham and David Graham filed in the above Cause.

This defendant saving & reserving now and at all times thereafter, to himself all and all manner of benefit and advantage of Exception or otherwise which can or may be had or taken to the many errors, uncertainties and imperfections in the said Cross Bill Contained for answer thereunto Says.

That it is true that the said Perry Alexander did on the 6th day of March AD 1862 Commence a suit in Chancery termed a "Vendors Lien" against this defendant and others and filed his bill thereof in the Clerks office of the said Court as stated in the said

Cross Bill.

That he believes that the proceedings that have been had in said Cause are correctly set out in said Cross Bill.

That said Suit was brought to obtain a decree against this defendant & Henry M Boggess for the Sum of Twenty Seven Hundred & fifty Dollars principal and interest which the said Alexander by his said Bill claimed to be due him from this Defendant and the said Boggess on a Contract of Sale and extension thereof in writing as stated in said Cross Bill. And to obtain a first and exclusive lien on the Real Estate set out in said Bill for the payment of the Amount due on said Contract, together with the interest which might accrue thereon as stated in said Cross Bill.

That he believes that the said Alexander in his said Bill prayed as stated in said Cross Bill.

This Defendant denies that on the 21st day of April AD 1857 the said Archibald Y Graham & David Graham purchased of this Defendant and the said Boggess the said Real Estate set out in said Cross Bill or agreed to give therefor the Sum of Ten Thousand Dollars or any other Sum on the terms and Conditions of the said alledged article of agreement of Sale purchase in writing between the said Holloway & Boggess And the said Archibald Y Graham and David

113 Graham as set out in said Cross Bill.

This Defendant denies that the said Archibald Y Graham and David Graham have paid this defendant & the said Boggess the said purchase money or any part thereof of the alleged purchase in full discharge of their alleged agreement as charged in said Cross Bill.

He denies that the said Archibald Y Graham & David Graham did on the 28th day of May AD 1858 or at any other time pay the sum of Four Thousand Dollars or any other sum or on the 19th day of April AD 1858, or at any other time the sum of Four Thousand Three Hundred and Sixty dollars or any other sum, or on the 7th day of April AD 1859 or at any other time the sum of Two Thousand One Hundred and Seven Dollars and fifty Cents or any other sum in full discharge of such alleged agreement in writing on the part of said Archibald Y & David Graham or that the said Holloway & Boggess acknowledged the receipt thereof or of any sum in writing on the back of such alleged agreement as charged in said Cross Bill.

He denies that the said Archibald Y & David Graham have paid taxes due the State of Illinois and the County of Warren on said Real Estate to wit on the 8th day of March AD 1858 Twenty Eight Dollars & Ten & One half Cents – On 25th day of July AD 1859 Twenty four Dollars and Sixty nine Cents. On 23d day of June AD 1860 Twenty three Dollars and thirty six cents – On 22d day of June AD 1861 Twenty One Dollars & Seventy six Cents or any part thereof

as charged in said Cross Bill.

He admits that this defendant & the said Boggess nor either of them never had any interest in said Real Estate or any part thereof only what they derived from the purchase thereof from the said Alexander which was made on the terms & Conditions Stated in their said Articles of agreement with the said Alexander aforesaid on or about the 9th day of April AD1857 and that there is yet due on said agreement over two Thousand Dollars as Stated in said Cross Bill.

He admits that the said Holloway & Boggess having failed to convey said Real Estate to said Archibald Y & David Graham, that the said Grahams did at the March AD1861 Term of this Court Commence an action of Covenant against the said Holloway & Boggess for the non-performance of their part of said alleged agreement and that such proceedings were had at the October Term AD1861 of said Court that on the 22d day of November AD1861 the said Archibald Y & David Graham recovered a judgment against the said Holloway & Boggess for the Sum of Twelve Thousand Six Hundred & Seventy & 59/100 Dollars & Costs of Suit therein as Stated in said Cross Bill. And that said judgment remains in full force and unpaid except a certain Sum which the said Archibald Y & David Graham made thereupon as judgment Creditors of the said Holloway & Boggess by redeeming Real Estate of said Holloway & Boggess

which had before then been sold by the Sheriff of Warren County on an Execution against them— but the exact amount which has been made on said judgment this Defendant Cannot State and demands full proof of said amount.

He admits that no appeal Bond has been filed or appeal taken in said Cause & that said judgment has never been reversed.

He denies that this defendant and the said Boggess are or have been since before the Commencement of said Suit insolvent or that the balance of said judgment Cannot be made from them as charged in said Bill.

He denies that the said Archibald Y Graham & David Graham have at any time made the following improvements or any of them or any part thereof on said Real Estate towit: the breaking of Two Hundred & fifty acres of prairie at the Cost of Two Dollars per acre. The erection of a house at the cost of one Hundred & twenty five Dollars— A Stable at a cost of Twenty Dollars— The making of six hundred and twenty rods of fence at a cost of four Hundred & ninety six Dollars— the erection of a Corn Crib at a cost of Thirty Dollars as charged in said Cross Bill or that the said Archibald Y Graham & David Graham have paid the Sum of Eleven Hundred & Seventy One Dollars or any other Sum for improvements on said Real Estate.

He admits that the said Real Estate is worth Thousands of Dollars more than the alledged Claims of the said Alexander

Against this Defendant & the said Boggess.

He denies that the said Archibald Y Graham & David Graham under & by virtue of their said alleged Contract took actual possession of said Real Estate on or about the 1st day of March A D 1860 or at any other time by the erection of a house thereon or in any other manner. As charged in said Cross Bill.

He denies that the said Archibald Y Graham & David Graham are entitled to the title to said Real Estate subject only to whatever claim the said Alexander may have thereto for the remainder of the purchase money thereof but claims that the said Archibald Y Graham & David Graham have released & waived whatever claim they might have had under & by Virtue of their alleged agreement by bringing the said Suit in Covenant on said agreement as aforesaid and that they have now no claim whatever to said Real Estate.

This Defendant further States that on or about the 25th day of October A D 1860 the said Defendant Henry M Boggess sold to this Defendant all his right & interest in & to said Real Estate and that he is now the sole owner thereof and claims that his rights may be protected therein.

This defendant denies that the said State of Illinois, Elisha Eldred, Aaron Eldred, Asa Balcom, Seth Smith, William M Dodge James F Owens Joseph Hollon Jonathan Black, Thomas

117

Ridgley, Elijah & Babcock, John Babcock, Theodore Pechler, Archibald Y Graham, David Graham & Henry M Boggess nor either or any of them have any claim or lien whatever to said Real Estate or any part thereof.

And this defendant denies all and all manner of unlawful Combinations &c without this that there is any other matter cause or thing in said Cross Bill contained material or necessary for this Defendant for this defendant to make answer unto and not herein and hereby well and sufficiently answered, Confessed, traversed and avoided or denied is true, to the Knowledge or belief of this Defendant; All of which matters and things this Defendant is ready and willing to aver and maintain and prove - as this Honorable Court shall direct, and prays to be dismissed with his reasonable Costs and Charges &c.

Robert Holloway
By Chas Jamison his Sol.

And the said Defendant Henry M Boggess comes & pray that he be allowed to adopt the above answer of Robert Holloway to said Cross Bill as his own

Henry M Boggess
by Chas Jamison his Sol.

Filed April 4th 1862
W Lafferty C.K.

The Answer of Perry Alexander to the said Cross Bill is in the words and figures following to-wit:-

Cross Bill

Archibald Graham &c
& David Graham
vs
Perry Alexander et al

Warren Circuit Court
March T 1862
In Chancery

The answer of Perry Alexander to said Cross Bill of Archibald Graham

This Defendant reserves to himself all manner of exception to said Cross Bill and says that it is true that he Commenced said action in Chancery in this Court for a Vendors lien upon said land therein described against said Holloway & Boggess and the other parties mentioned & set forth in said Cross Bill & filed his Bill therefor at the time mentioned in said Cross Bill & that Summons was issued thereon & publication made as alledged in said Cross Bill and he admits that the proceedings thereafterwards as well as before took place in said Cause as alledged in said Cross Bill.

That said Suit was brought for the purposes mentioned & set forth in said Cross Bill and for the Amount therein mentioned with interest thereon towit $2700 Cts All of which this defendant Claims & is ready to prove is still due & owing together with the interest thereon.

This Defendant admits that said Holloway & Boggess sold said land to said Archibald & Graham & David Graham at the time & in the manner set forth in said Cross Bill & he is informed & believes it to be true that

they paid said Holloway & Boggess in full for the same in Manner & form as stated in said Bill,

That said Grahams have paid the taxes on said land, but have also had the use & occupation of the same & rents & profits thereof for the last 4 years or nearly four years, which were of the value of Seventeen Hundred Dollars which greatly exceeds the amount of said taxes and all the value of improvements made by said Grahams on said land. He admits that said Holloway & Boggess had no interest in said land except what they derived from this defendant under said Contract & the terms therein Stated.

He admits that said action of Covenant was Commenced by said Grahams against said Holloway & Boggess in manner as Stated in said Cross Bill and that said judgment was recovered as therein Stated and that no appeal bond was filed by said Holloway & Boggess.

This Defendant Admits the present insolvency of said Holloway & Boggess but whether they were at the time of the Commencement of said suit in Covenant insolvent this defendant has no information Knowledge or belief but he is informed that in fact the said Grahams have made a small amount of said judgment out of the property of said Holloway & Boggess but how much this Defendant is not now informed which was made out of property which had been before that time sold on execution & redeemed by said Grahams

This Defendant has no knowledge as to said

improvements, but is informed that said Grahams have done some breaking on the said land but how much he is not informed and as to said House & Stable & corn crib he has no Knowledge information & belief. And as to said fence he has no actual Knowledge, but he is informed & believes the same to be true that said Grahams have made some fence on said land but as the amount or worth of the same this defendant has not knowledge information or belief.

This Defendant denies however that said land is now worth more than his said alledged claim against the same.

This defendant admits that said Grahams took possession of said land but whether in the manner stated in said Cross Bill he has no Knowledge information & belief, herein he denies however that they took possession of the same at the time alledged in said cross bill but alledges that it was long before that time to wit in the Spring of 1857.

This Defendant says that as to said Eldredge having any claim upon said land that they have no other claim upon the same except as judgment Creditors of said Holloway & Boggess.

That as to said Grahams having any other claim on said land except as judgment creditors of said Holloway & Boggess this defendant has no opinion, that being a legal question which this Defendant is not prepared to answer

121

But if they are only entitled as judgment creditors then this defendant says that the People of the State of Illinois have a prior Equity & Lien by virtue of a judgment obtained in their favor in the Supreme Court of Illinois at January Term 1860 for about $20000. dollars against said Holloway & Boggess & others which proceedings were commenced in said Court December 1. 1859. & which judgment remains unpaid & unsatisfied.

He admits that said Holloway & Boggess failed to convey said land to said Grahams.

And having fully answered in the premises this defendant prays to be dismissed from said cross Bill with his costs.

Perry Alexander
by A. G. Kirkpatrick
his aty.

Filed April 4th 1862
Wm Lafferty Clerk.

The Replication to the Answer of Perry Alexander is in the words and figures following towit:—

State of Illinois } ss.
County of Warren }

The replication of Archibald & Graham & David Graham Complainants in said Cross Bill to the answer of Perry Alexander defendant in Cross Bill.

These Repliants saving and reserving unto himself all and all manner of advantage of exception to the manifold insufficiencies of the said answer for replication thereunto saith that they

will aver and prove his said bill to be true certain and sufficient in the law to be answered unto and that the said answer of the said defendants is uncertain and insufficient to be replied unto by these repliants. without this that any other matter or thing whatsoever in the said answer contained material or effectual in the law to be replied unto confessed and avoided traversed or denied is true. All which matters and things these repliants are and will be ready to aver and prove as this Honorable Court shall direct and humbly pray as and in and by their said Cross Bill they have already prayed

A. Y. Graham
David Graham

Per Harris & Glenn
Their Sols.

Filed April 4th 1862
W Lafferty Clk.

The replication to the Answer of Robert Holloway is in the words and figures following to wit:-

State of Illinois }
County of Warren } ss.

The Replication Archibald Y Graham and and David Graham to Robert Holloway's answer to the Cross Bill of the said Grahams.

The repliants saving and reserving unto themselves all and all manner of advantage of exception to the manifold insufficiencies of the said answer. For Replication thereunto saith that he will aver and prove his said bill to be true

certain and sufficient in the law to be answered unto and that the said answer of the said defendant is uncertain untrue and insufficient to be replied unto by these repliants, without this that any other matter or thing whatsoever in the said answer contained material or effectual in the law to be replied unto, confessed and avoided traversed or denied is true All which matters and things these repliants are and will be ready to aver and prove as this honorable Court shall direct and humbly pray as in and by their said Bill they have already prayed.

A. Y. Graham
David Graham

Per Harris & Glenn
their Sols.

Filed April 4th 1862
Wm Lafferty Clk.

The Replication to the answer of Henry M Boggess is in the words and figures following to wit:

State of Illinois }
County of Warren } ss.

The Replication of Archibald Y Graham and David Graham Complainants in Cross Bill to the Answer of Henry M Boggess Defendants

These repliants saving and reserving unto themselves all and all manner of advantage of Exception to the manifold insufficiencies of the said Answer for replication thereunto say that they will aver and prove their said bill to be true certain sufficient in the law to be answered unto and

that the said answer of the said Defendant is uncertain untrue and insufficient to be replied unto by these repliants. Without this that any other matter or thing whatsoever in the said answer Contained materiab or effectuab in the law to be replied unto Confessed and avoided traversed traversed or denied is true. All which matters and things these repliants are and will be ready to aver and prove as this Honorable Court shall direct and humbly pray as in and by their said cross Bill they have already prayed.

A. Y. Graham
David Graham

Per Harris & Glenn
Their Sols.

Filed April 4th 1862
W Lafferty CC.

The decree pro Confesso is in the words and figures following towit:

Perry Alexander
vs
Robert Holloway et al

Warren Circuit Court
March T. 1862.
In Chancery

And now at this time Comes the said Complainant & it appearing to the Satisfaction of the Court that the defendants were duly notified of the pendency of this suit by Service of process on the resident defendants & by advertisement duly published as to the nonresident defendants.

125

& the Defendants John Babcock, Elijah W Babcock, Seth Smith, Joseph Holton, Jonathan Black & James F Owens being three times solemnly called came not but make default. It is therefore ordered & decreed that said Bill of Complaint & the matters & things therein contained be taken & considered as confessed against said defendants, And it further ordered by the Court that this Cause be referred to the Master in Chancery of this Court & that he examine the same & take the proof & report the same to this Court &—

W. P. Lawrence.

Filed April 4th 1862

W Lafferty Clk.

The Report of the Master in Chancery is in the words and figures following towit;—

State of Ill } In Warren Circuit Court
Warren County } March Term AD 1862.

Perry Alexander
vs. } Vendors Lien
Robt. Holloway et al }

I James P Irvine Master in Chancery to whom this Cause was refered by the decree of this Court rendered herein at this present term to ascertain, Compute and report the amount due on said Contracts mentioned in said Bill of Complaint, would report that I have Computed the same and found due thereon from said Defendant Robt. Holloway & Henry M Boggess to said Complainant Perry Alexander for principal and interest to the Three Thousand One hundred and 49/100 Dollars ($3101.49).

This 4th day of April AD 1862.

James O Irvine M C
for Pl.

Fees $3.00

Filed April 4th 1862
W Lafferty Clk.

The final Decree is in the words and figures following towit—

State of Illinois Warren
Circuit Court March T 1862.

Perry Alexander
vs
Robert Holloway, Henry M Boggess, John Babcock, Seth Smith, Elijah C Babcock, Archibald Y Graham, David Graham, Joseph Holton, Jonathan Black, James F Owens. — In Chancery.

And now at this time this Cause coming on to be heard upon the coming in of the report of the Master in Chancery, And the Court having examined the bill of said Complainant, And the answers of said Archibald Y Graham & David Graham and said Holloway & Boggess a part of said Defendants thereto and the replications of said plaintiffs to each thereof And on the Cross Bill of said Archibald Graham & David Graham filed herein against said Alexander, Holloway, Boggess, Elisha Eldred, Anson Eldred, Uri Balcom, Dodge, Owen, Black, Ridgley, Pechler & the State of Illinois as defendants thereto and on the answers of said Holloway & Boggess & Alexander thereto and on Replications of said David Graham & A Y Graham to the answers last aforesaid as well as the proofs taken before the Master in Chancery, and

it appearing to the Satisfaction of the Court that Said Perry Alexander did Contract with Said Robert Holloway & Henry M Boggess to Sell them the North East Quarter of Section Six, Containing One Hundred and fifty four acres more or less and Ninety Six acres more or less off of the West Side of the North West Quarter of Section five all in Township Ten North of Range Two West in Said County of Warren & State of Illinois upon which Said Contract there remains due & unpaid the Sum of Thirty One Hundred Dollars & forty Nine cents being the principal & interest Still owing Said Complainant upon the Contract of the Sale of Said land as aforesaid from them.

It is therefore ordered & decreed by the Court that Said Holloway & Boggess Shall within (90) Ninety days from the date of this decree pay to the Said Complainant the Said Sum of money So found due him upon Said Contract with interest at the rate of Six per Cent per annum from date together with the cost of this Suit and that in default thereof the Master in Chancery be required to Sell Said land at public Vendue to the highest & best bidder for Cash after advertising the time & place of Such Sale at least 20 days before Such time of Such Sale in the Monmouth Review, and thereupon Said Master in Chancery Shall make a good & Sufficient deed to the purchaser or purchasers there of Conveying all the title which Said Complainant has in Said land and all the Equity of Redemption which Said defendants or either of them may have in Said land and all claim which they may have therein.

And with the proceeds of said Sale the said Master shall first pay to said Complainant the said Sum of money so found due him as aforesaid together with the interest and the costs of this suit and it is further ordered that if said Grahams become the purchasers at such Sale that the Master shall bring the deed into Court to be delivered to them upon Complying with the further order of this Court in the premises, and if any other person or persons should become the purchasers then the residue of the money is to be brought into this Court to be appropriated under the order of this Court. & provided further that the bid of said Grahams at the Sale be made & given & received by the Master over & above said Complainants debt & Costs of this suit as Cash. And provided further that if said Holloway & Boggers shall pay said Complainant said debt & interest before the expiration of said 90 days & the Sale of said premises by the Master & the Costs said Complainant shall convey to said Grahams within 60 days thereafter according to the Terms of said Contract & provided further that said Grahams shall first satisfy said judgment against Holloway & Boggers. Or. it is further provided that said Grahams may pay said Complainant his said debt interest & costs and thereupon said Complainant shall make a deed as aforesaid to them and deliver the same provided the said Grahams first enter Satisfaction of all such judgment save the amount he may have paid Alexander as aforesaid

124 for his debt and interest & costs he may have paid in the premises.

And it is further ordered & decreed by the Court that in case the said Grahams should refuse to except the residue of the Money to be obtained from the Sale of said land as aforesaid with the said Conditions & provisions in this decree mentioned then the Master in Chancery is ordered after paying said Complainant as aforesaid & the Costs herein to bring the residue of the money into Court to be apportionated according to Equity & justice at the next Term of this Court to which time this Cause Stands Continued

April 5th 1862

W. B. Lawrence.

Filed April 5th 1862

W Laferty Clk.

The Report of the Master in Chancery of the Sale and Deed is in the words and figures following towit:—

State of Illinois } Warren Circuit Court
Warren County } ss. Oct. Term AD 1862.

Perry Alexander
vs.
Robt. Holloway et al. } Chancery.

To the Hon Chas. B Lawrence Judge of said Court:

I James P. Irwin Master in Chancery in and for said County, respectfully report to your Hon. that under and by virtue of and in pursuance of the decree of said Court in said

Cause I did on the 11th day of July AD 1862 gave notice as I was required to do in said decree by posting the same in four of the most public places in said Warren County and publishing the same in the Monmouth Review a weekly News paper published in said County for Four Successive weeks before said day of Sale as will more fully appear by the printers Certificate of publication hereto attached. That I did on the 1st day of August AD 1862 between the hours of 9 O'clock A.M. and 5 O'clock P.M. of said day at the front door of the Court House in said County, by virtue of said decree and in pursuance of said notice Sell at public Vendue the following described land to wit: The North East Quarter of Section Six (6) Containing One Hundred and fifty four (154) Acres, More or less and Ninety Six (96) Acres more or less off the West Side of the North West Quarter of Section Five (5) all in Township Ten North of Range Two (2) West in said County of Warren and State of Illinois to William Laferty for the Sum of Eighteen Hundred Dollars ($1800) for the first of said tracts of Land and also the further Sum of Fourteen Hundred Seventy One Dollars & 70 Cents ($1471.70) for the Second of said tracts of land in all the Sum of Thirty Two Hundred Seventy One Dollars & Seventy Cents ($3271.70) which being the highest and best bids made for said tracts of land. For which in accordance with and by virtue of said decree I Executed and delivered

to the said William Laferty a deed, conveying to the said Laferty his heirs and assigns all of the right, title and interest and all the equity of redemption which the said Robt. Holloway, Henry M Boggess et al had to the said tracts of Land.

That from the proceeds of said Sale, I first paid the Costs of this Suit and the expenses of said Sale amounting to One Hundred & nine Dollars & 20 cents Second I paid to the said Complainant Perry Alexander the amount of his debt & interest being the sum of Thirty One Hundred Sixty Two Dollars and fifty Cents ($3162,50) for which I took his receipt, which is herewith attached and marked Exhibit "A" and that there is no surplus money to bring into Court.

James P. Irvine Mle
for Warren County.

State of Illinois }
Warren County } ss.

Warren Circuit Court
Oct. Term A.D. 1862

Perry Alexander
vs
Robt. Holloway et al } Bill to foreclose

And now comes J.P. Irvine Master in Chancery in and for said County of Warren and files in said Court his report of Sale and deed in said Cause made and the Court being sufficiently advised of and concerning the same it is ordered, adjudged and decreed by the Court that said report be in all things confirmed and approved.

$6.00

Masters Sale.

State of Illinois, Warren County, SS.
Warren Circuit Court, March Term A.D. 1862.

Perry Alexander

vs.

Robert Holloway, Henry M Boggess, John Babcock, Seth Smith, Elijah L Babcock, Archibald Y Graham, David Graham, Joseph Holton, Jonathan Black and James F Owen.

Notice is hereby given, that by virtue of the decree made in the above entitled cause, at said term of said Court, in favor of said Complainant and against said Defendants, I shall on Friday the 1st. Day of August, A.D. 1862, at the front door of the Court House in the City of Monmouth, in said Warren County between the hours of 9 O'clock in the forenoon and 5 in the afternoon of said day of sale, sell at public Vendue to the highest bidder for cash in hand the following described land, to-wit:-

The North East Quarter of Section Six (6) Containing One Hundred and Fifty four (154) Acres, more or less, and Ninety Six (96) acres more or less off the West side of the North West Quarter of Section Five (5) all in Township Ten (10) North of Range Two (2) West, in said County of Warren and State of Illinois.

And upon such Sale being made I shall execute to the purchaser or purchasers

123

thereof a deed for said premises according to law.

Given under my hand at said City of Monmouth, this 11th day of July A.D. 1862

J. O. Irvine
Master in Chancery

July 11 1862 — 4 & 25.

I. A. N. Swain, Publisher of the "Monmouth Review", a weekly paper published in the City of Monmouth Warren County, Illinois, do hereby certify that the annexed advertisement was published Four Successive weeks in said paper, the first publication bearing date July 11th 1862

Printers Fee $6.00

A. N. Swain

Rec'd payment By A. Ward Smith
"A"

$3162 50/100.

Monmouth Ill.
Aug 1st 1862

Rec'd of James O Irvine Master in Chancery in and for the County of Warren the sum of Thirty One Hundred Sixty two Dollars and 50 ct being the Amount due the undersigned for debt & Cost on decree in his favor vs Holloway et al in the Warren Circuit Court State of Ill. rendered at March Term A.D. 1862

Perry Alexander.

Filed Nov. 14th 1862

Wm Laferty Clerk

The Decree confirming the Masters Report of Sale &c. is in the words and figures following to-wit

State of Illinois }
Warren County }

Perry Alexander
v
Robert Holloway, Henry M. Boggess
John Babcock Seth Smith
Elijah C Babcock Archibald Y Graham
David Graham Joseph Holton,
Jonathan Black & James F. Ames

In the Warren Circuit
Court October Term
AD 1862
In Chancery

And now upon the coming in of the report of the Master in Chancery in regard to the Sale of the said land mentioned & described in the decree made at last Term of this Court, and his proceedings in regard to the same, and it appearing to the Court that said Master did follow the decree of this Court in regard to said Sale, the appropriation of the proceeds of such Sale, and the deed made under said Sale to the purchaser at such Sale William Laferty and said Deed made & executed by said Master dated August 5th AD 1862 by which said premises are conveyed to said William Laferty under said Decree & Sale and by said Master sealed & acknowledged on the same day before Philo. E. Reed a Notary Public having been exhibited to the Court & the Court being fully advised in the premises, it is therefore ordered & decreed by the Court that the proceedings of said Master in the premises be in all things confirmed, that said Deed of Conveyance as aforesaid be approved & confirmed & the same delivered to said William Laferty.

And it is further ordered

It is decreed by the Court that said Perry Alexander together with his wife shall make execute & deliver a deed Conveying the same premises to said William Laferty in accordance with the terms of said Contract between him and said Holloway & Boggess, provided, said wife of said Perry Alexander shall execute said deed & relinquish her dower in said premises Voluntarily & freely & without any Compulsion of her said Husband.

And that this Cause be Continued until Next Term of this Court.

November 6 1862

E B Lawrence Seal

Filed Nov 14th 1862

W Laferty Clerk.

The Decree Confirming the deed from Perry Alexander and wife to William Laferty is in the words and figures following to wit:—

Perry Alexander vs. Robert Holloway et al — Warren Circuit Court, March T. A.D. 1863, In Chancery

And now at this time this Cause coming on to be heard upon the presentation & exhibition of the deed made since last Term by Perry Alexander the Complainant together with his wife Margaret E Alexander to William Laferty the purchaser of the land mentioned in said Bill at the Masters Sale which said deed is dated December 9th A.D. 1862 and duly acknowledged

according to law before W. F. M Anderson Clerk of the Circuit Court of the County of Adams in the State of Illinois upon the 10th day of December A.D. 1862 & which conveys said lands to said William Laferty. it is considered and decreed by the Court that said deed be approved & confirmed and the same delivered to said William Laferty

C. P. Lawrence Clerk

Filed Mch 27th 1863

W Laferty Clk.

On the 18th day of March A.D 1861 an order was entered upon the Records of the Circuit Court of Warren County Illinois which is in the words and figures following towit:-

State of Illinois }
Warren County }

Pleas before the Honorable Aaron Tyler Judge of the tenth Judicial of the State of Illinois in Chancery sitting in and for the County of Warren and State of Illinois. At a Circuit Court began and held at the Court House in Monmouth on the third Monday in the Month of March A.D. 1861, it being the the 18th day of said Month.

Present Hon Aaron Tyler Judge
James H Stewart States attorney
David Turnbull Sheriff
Wm Laferty Clerk

And afterwards towit on the 20th day of March A.D 1861 among other things the following order was entered upon the Records of the said Circuit Court towit:-

137

Perry Alexander
" 144 vs } Vendors Lein
Robert Holloway et al

This day came Defendants and on their motion leave is given to answer herein by Monday Morning next.

And afterwards towit on the 6th day of April AD 1861 among other things the following order was entered upon the Records of the said Circuit Court towit:

Perry Alexander
144 vs } Vendors Lein.
Robt. Holloway et al

This day again came the Complainant and on his motion leave is given the Sheriff to amend his return to the Summons issued herein. And on Complainants motion it is ordered by the Court that Publication notice be given herein to the Non-resident defendants and that Alias Summons issue herein to Knox, Peoria, Henderson & Sangamon Counties returnable to the next term of this Court and this Cause is Continued.

And afterwards towit on the 28th day of October AD 1861 the following order was entered upon the Records of the said Circuit Court towit:—

State of Illinois }
Warren County } Pleas before the Honorable Charles B Lawrence judge of the tenth judicial Circuit of the State of Illinois in Chancery sitting in and for the

County of Warren and State of Illinois. At a Circuit Court began and held at the Court House in Monmouth on Monday the 28th day of October in the year of our Lord One Thousand Eight Hundred and fifty one.

Present Hon Charles B Lawrence Judge
James H Stewart States attorney
David Turnbull Sheriff
Wm Lafferty Clerk.

And afterwards towit on the 18th day of November AD 1861 Among other things the following order was entered upon the Records of the said Circuit Court towit in

Perry Alexander
vs
Robert H. Holloway et al } Vendors Lien

132.

This day came the Complainant by attorney and it appearing to the Court that David Graham Joseph Holton, John Babcock, Elijah C Babcock, Seth Smith & Archibald Y Graham had each of them been duly served with process and being three times Solemnly Called Came not nor any person for them to defend this Suit but made default and this Cause is taken under advisement by the Court to be decided in vacation as of this term of Court.

And afterwards towit on the 17th day of March AD 1862 Among other things the following orders were entered upon the Records of the said Circuit Court towit in

State of Illinois }
Warren County } ss.

Pleas before the Honorable Charles B Lawrence Judge of the Tenth Judicial Circuit of the State of Illinois in Chancery Sitting in and for the County of Warren and State of Illinois. At a Circuit Court began and held at the Court House in the City of Monmouth on Monday the 17th day of March in the Year of our Lord One Thousand Eight Hundred and Sixty two.

Present Hon Charles B Lawrence Judge
James H Stewart States Attorney
David Turnbull Sheriff
Wm Laferty Clerk.

Perry Alexander
vs
Robert Holloway et al } Vendors Lein

83

This day Came A Y & David Graham by attorney and enters his motion to set aside the default taken herein at the last term of this Court.

And afterwards to wit on the 19th day of March AD 1862 among other things the following order was entered upon the Records of the said Circuit Court to wit:—

Perry Alexander
vs
Robert Holloway et al } Vendors Lein.

This day again this cause Coming on to be heard on the Defendants motion to set

aside the default herein. And after hearing the same, it is ordered by the Court that the default taken herein against Archibald Y Graham & David Graham be set aside and leave is given them to answer and file cross Bill herein by Tuesday Next.

And afterwards towit on the 27th day of March AD 1862 Among other things the following order was entered upon the Records of the said Circuit Court towit:-

Perry Alexander
vs. } Vendors Lein.
Robert Holloway et al

83.

This day again came the Complainant and on his motion leave is given the Sheriff to amend his return to the Summons issued herein.

And afterwards towit on the 3d day of April AD 1862 among other things the following order was entered upon the Records of the said Circuit Court, towit:-

Perry Alexander
vs } Vendors Lein
Robert Holloway et al

83

This day again came the Complainant by attorney and dismisses the Bill herein as to Elisha Eldred, Aseen Eldred, Uri Balcom, William M Dodge, Thomas Ridgley, Theodore Pachler and the People of the State of Illinois.

141 And afterwards towit on the 27th day of October AD 1862 an order was entered upon the Records of the said Circuit Court of Warren County Illinois which is in the words and figures following towit:-

State of Illinois }
Warren County } Ss.

Pleas before the Honorable Charles B Lawrence Judge of the Tenth Judicial Circuit of the State of Illinois in Chancery sitting in and for the County of Warren and State of Illinois, At a Circuit Court began and held at the Court House in Monmouth on Monday the 27th day of October in the year of Our Lord One Thousand Eight Hundred and Sixty Two

Present Hon Charles B Lawrence Judge
James H Stewart States Attorney
David Turnbull Sheriff
Wm Lafferty Clerk.

And afterwards towit on the tenth day of November AD 1862 among other things the following order was entered upon the Records of the said Circuit Court towit:-

Perry Alexander }
vs } Vendors Lien.
64 Robert Holloway et al }

This day came defendant Robert Holloway and enters his motion to set aside the Report of the Master in Chancery filed herein at last term, and also the decree of Sale, and the Sale.

And afterwards towit on the 14th day of November AD

142

1862 Among other things the following order was entered upon the records of the said Circuit Court of Warren County Illinois towit:-

Perry Alexander
vs
Robert Holloway et al } Vendors Lien

64

Now on this day again this Cause Coming on to be heard on the defendant Robert Holloway's motion to set aside the report of the Master in Chancery made herein at the last term of this Court and the decree rendered thereon and the report of the Sale and the Sale, And the Court after hearing the same overrules the motion, Thereupon the Master in Chancery presented his report of Sale and deed thereunder which was approved by the Court. Thereupon Came the defendant Robert Holloway and prays an appeal to the Supreme Court which is allowed by the Court upon the defendant Robert Holloway entering into bond Conditioned according to law in the penal sum of Four Thousand five Hundred Dollars with Security which by agreement of the parties is to be approved by the Clerk of this Court, and by Consent and agreement bond and bill of Exceptions to be filed in thirty days from this date.

Afterwards towit on the 26th day of October AD 1863 an order was entered upon the Records of the said Circuit Court which is in the words and figures following towit:-

State of Illinois }
Warren County } Ss.

Be it remembered before the Honorable Charles B.

143

Lawrence Judge of the Tenth Judicial Circuit of the State of Illinois in Chancery Sitting in and for the County of Warren and State of Illinois. At a Circuit Court began and held at the Court House in Monmouth on Monday the 26th day of October In the year of our Lord one thousand Eight Hundred and Sixty three.

Present Hon Charles B Lawrence Judge
James H Stewart States attorney
David L Riggs Sheriff
Wm Laferty Clerk.

And afterwards towit on the 31st day of October AD 1863 among other things the following order was entered upon the Records of the said Circuit Court towit:

Perry Alexander
vs
Robert Holloway et al } Chancery

147

This day came the Complainant by attorney and on his motion leave is given him to file replications herein nunc pro tunc which is excepted to by the defendants.

And afterwards towit on the 21st day of March AD 1864 an order was entered upon the Records of the said Circuit Court which is in the words and figures following towit:

State of Illinois }
Warren County }

Pleas before the Honorable Charles B Lawrence Judge of the Tenth Judicial Circuit of the State of Illinois in Chancery Sitting in and for the County of Warren and State of Illinois. At a Circuit Court began and held at the Court House in Monmouth on

144

Monday the 21st day of March in the year of our Lord One Thousand Eight Hundred and Sixty four

Present Hon Charles B Lawrence Judge
James H Stewart States atty
David L Riggs Sheriff
Wm Laferty Clerk.

Afterwards towit on the 4th day of April AD 1864 the following order was entered upon the Records of the said Circuit Court towit:

Perry Alexander
vs
Robert Holloway et al } Chancery

111

Ordered by the Court that this Cause be continued.

Afterwards towit on the 24th day of October AD 1864 the following order was entered upon the Records of the said Circuit Court towit:—

State of Illinois
Warren County } ss.

Pleas before the Honorable John S Thompson, Judge of the Tenth Judicial Circuit of the State of Illinois in Chancery sitting in and for the County of Warren and State of Illinois. At a Circuit Court began and held at the Court House in the City of Monmouth on Monday the 24th day of October in the year of our Lord One Thousand Eight Hundred and Sixty four.

Present Hon John S Thompson Judge
James H Stewart States Attorney

145

David le Riggs Sheriff
Wm Lafferty Clerk

Afterwards towit on the 23d day of October A.D 1866 among other things the following order was entered upon the Records of the said Circuit Court towit:-

Perry Alexander
vs
Robert Holloway et al } Chancery

57

Ordered by the Court that this Cause be stricken from the Docket.

John J Glenn being called by Complainant & duly sworn testified. Harris & my self were attorneys for the Grahams in Case of Perry Alexander vs Holloway et al. My impression is that the decree in the case of Perry Alexander vs Holloway et al was entered by consent, Holloway & Boggess or Jameson their Counsel it was not by Consent. I do not remember that I Consented to the decree (to which evidence Plaintiffs Counsel objected)

On his Cross Examination witness testified. They Holloway & Boggess took an appeal from this decree to the Supreme Court. There was writ of error. I think Kirkpatrick told me it was taken to the Supreme Court. I heard it talked of. I know of no other agreement about the decree only in drawing it, after the decision of the Court was made it was to be drawn so as to conform to the opinion of the Court as expounded. Harris had the main charge of this matter. I did not give it much attention. I cannot say to what extent Harris Consented & to what extent he did not

Mr. Kirkpatrick the counsel for Alexander drafted the decree. Jameson being duly sworn testified and said I have no personal knowledge as to the appeal only I made out a copy of the Record for Holloway & Boggess. It was made out with a view to the Supreme Court. I was Counsel for Holloway & Boggess.

Laferty recalled as a witness for defendants testified. I think there was a writ of error sent me.

D.C. Riggs being called by defendants, being duly sworn testified and said. I was Sheriff & Served the processor writ of error. I think the Case went to the Supreme Court.

Chancey Hardin being called by defendants, being duly Sworn testified & said. There are improvements on the premises.

The Defendants recalled said John J Glenn who further testified that when the Complainant Holloway made his motion in the said Cause of Perry Alexander V Robert Holloway et al to set aside the Sale of the land to William Laferty, that Laferty was called by him & Was sworn and testified as to why he purchased the land, the Complainants Holloway Claiming that it was purchased for the Grahams.

The Defendants also recalled William Laferty who further testified that when Holloway the Complainant

made his motion in the Circuit Court in the Case of Perry Alexander & Robert Holloway et al to set aside the Sale to witness that he then testified to the Court upon the hearing of such motion substantially as he had done upon the trial of this cause and upon Cross examination Stated that in addition to what he Stated today he testified upon the hearing of that motion that he Still held the land that he had paid the bank his notes, that Graham had not paid the notes or repaid him & that he had no other Security than the land

C. B. Lawrence.

It is hereby agreed by the parties to this Suit that the above is a Correct Certificate of the evidence introduced upon the trial of said Cause and that the Same may be filed any time before the Record is made up for the Supreme Court.

A. J. Kirkpatrick
for Holloway

Thos. J. Frost & John J Gleen
Attys for Defs.

Filed March 6. 1865
T. M. Luster Clerk.

The Appeal Bond is in the Words and figures following to wit:

Know all men by these Presents. That we Archibald Y Graham David Graham & Arthur P Carmichael are held and firmly bound unto Robert Holloway in the Penal Sum of Three Hundred Dolls

for the payment of which, well and truly to be Made we bind ourselves, our heirs, Executors and administrators jointly, Severally and firmly by these presents.

Witness our hands and Seals, this 24th day of May Anno Domini One Thousand Eight Hundred and Sixty four.

The Condition of the above obligation is Such; That whereas, the said Archibald Y Graham & David Graham did on the day of April, 1864 in the Circuit Court, within and for the County of Warren, and State of Illinois obtain a Decree against the above named Robert Holloway for the Sum of Twenty Eight Hundred and three & 50/100 Dollars and the said decree provided and required the said bounden Archibald Y Graham and David Graham, to pay the costs of the March Term 1864 of said Court from which Decree of said Circuit Court, the said Archibald Y Graham & David Graham had prayed for and obtained an appeal to the Supreme Court of said State,

Now if the said Archibald Y. Graham & David Graham shall duly prosecute their said appeal with effect and shall moreover pay the Amount of the judgment, Costs, interest and damages rendered and to be rendered against them in case the said Decree shall be affirmed in the said Supreme Court, then the above obligation to be null and Void, otherwise to remain in full force and Virtue,

Archibald Y Graham (Seal)
David Graham (Seal)
Arthur P. Carmichael (Seal)

149

Filed May 28th 1864
W Lafferty Clerk

State of Illinois }
Warren County } ss.

I, J. M. Luster Clerk of the Circuit Court in and for said County and State do hereby Certify that the above and foregoing is a true, perfect and Complete transcript of the Record in the above entitled Cause, And all of the same, as appears from the Records and papers Now in my office.

Given under my hand and the Seal of the said Circuit Court at Monmouth this 25th day of March A.D 1865.

J M Luster Clerk

Clerks fees $ 59 Cts Paid by Defendants

150

State of Illinois } In Supreme Court
Third Grand Division } April Term A. D. 1865
Archibald J. Graham et al }
vs } Assignment of Errors
Robert Holloway et al }

— 11 —

And now the said appellants and plaintiffs in error come and say that in the records and proceedings aforesaid, there is manifest error in this, to wit ——

I The Circuit Court erred in rendering a decree against said Archibald J. Graham & David Graham the appellants & plaintiffs in error

II The decree of the court was contrary to law

III The decree of the court was contrary to evidence

IV The Court erred in enjoining by the decree aforesaid, the collection of the judgment therein mentioned in favor of said Archibald J. Graham and David Graham against Robert Holloway and Henry M. Boggess aforesaid

V The Court erred in directing an entry of satisfaction of said judgment

Thomas E. Frantz, Geo T. Harding
John J. Glenn. Attys for Appellants
and Plaintiffs in Error

151

And the said appellee Robert Holloway comes and says that there is no such error & this he prays may be enquired of by the Court:

Landy Mchandler
Atty for Appellee

Jh

197

Filed April 5 1865
L. Leland
Clerk