

13689

No. _____

Supreme Court of Illinois

Green

vs.

Cook

STATE OF ILLINOIS,
SUPREME COURT,

Third Grand Division.

No. 186

Green

13689

13689

2081

13689

United States of America }
State of Illinois }

Plas before the Hon Isaac G.
Wilson Judge of the Thirteenth Judicial Circuit
in the State of Illinois at a Term of the De Kalb
County Circuit begun and held at the Court House
in Sycamore on Monday the Seventh day of
April in the Year of our Lord One Thousand
Eight hundred and Fifty Six and of the
Independence of the United States the Eightieth.

Present the Hon Isaac G. Wilson Judge
" William Phelps Sheriff
" O. W. Herrington State atty. Gen.

(Test James H. Beveridge Clerk

It is Remembered that on the 5th day of
April A.D. 1856 previous to the aforesaid Term
of said Court there was filed in the office
of the Clerk of said Court a certain Bill
of Complaint, which said Bill of Com-
plaint is in words and figures following
to wit:

In the De Kalb County Circuit Court.
In Chancery.

To the Honorable Isaac C. Wilson Judge
of the Thirteenth Judicial Circuit of the State of
Illinois, and as such Judge of the Circuit Court
for the County of De Kalb.

Complaining respectfully states Alvin
Cook of the Town of Franklin in the County of De Kalb
and State of Illinois that in the month of February in
the Year of our Lord one thousand eight hundred
and forty nine, and for a year or thereabouts pre-
vious, he was in possession of a tract of land
situate in the said town, county and State, known
as S. E. 1/4 S. W. 1/4 S. 33 T. 42 n. R. 3. E. 3 p m 40
a. (the south east quarter of the southwest quarter of
Section thirty three north of the base line in range
three east of the third principal meridian, containing
forty acres): that he held the claim right to the said
land according to the custom of the country in
that behalf, the title to the same being in the
United States, and had improvements thereon of
some value; that he resided in the immediate
vicinity of the said land; and that the same made
part of his homestead farm. And this Complainant
further states that in the said month of February
1849, and for some time before, one H. H. Jinker
was operating in the neighborhood where the said
tract of land lay, as agent of Thomas A. Greene

Wellington

a Capitalist, then of the City of Chicago but now deceased, in the business of selling land warrants on credit, and of loaning money to enter lands at the land offices of the United States, and had given notice of his said business by advertisements partly printed and partly written; one of which advertisements is herewith annexed, and designated by the letter A. for part of bill of Complaint. And this Complainant further states, that at the same time when he had possession of the of the said tract, and held the claim right thereto as aforesaid, one George Kilpatrick held the claim right to a tract of three quarter quarter sections adjoining thereto containing one hundred and twenty acres; and being desirous to enter the same at the land office of the United States, he entered into a negotiation with the said Tinker, as this Complainant has been informed and believes for the purchase of a land warrant for that purpose, upon credit; but it being impossible to enter the said three quarter quarter sections, amounting to one hundred and twenty acres, without at the same time entering one hundred and sixty acres, amounting to a whole quarter section, the said Tinker applied to this Complainant to purchase one quarter of a land warrant for one hundred and sixty acres of land also upon credit so as to enter the said three quarter quarter sections for the benefit of the said Kilpatrick, and the said tract of forty acres being the quarter

quarter section of which this Complainant was in possession as aforesaid, for the benefit of this Complainant. And this Complainant further states, that it was thereupon agreed by and between this Complainant and the said Tinker, that this Complainant should purchase one quarter of a land warrant for one hundred and sixty acres, so that the tracts aforesaid might be entered with the same warrant in the name of the said Thomas R Greene for the benefit of this Complainant as to the quarter quarter section which he held as aforesaid, and for the benefit of the said Kilpatrick as to the residue of the said tracts and it was further agreed, that the legal title to the same quarter quarter section should remain in the said Thomas R Greene as security for the payment of the monies which this Complainant was to pay for the quarter part of the said land warrant. And this Complainant further states that it was on that occasion further agreed by and between this Complainant and the said Tinker, that this Complainant should pay for the quarter part of the said land warrant, the sum of Sixty Six dollars and sixty six cents to the said Thomas R Greene, in one year, and to the said Tinker the further sum of twelve dollars, which he was to have to himself by way of commission for selling the

said land warrant And this Complainant further states, that on the twelfth day of February in the year of our Lord One thousand Eight hundred and forty nine, the said quarter quarter section of land held by this Complainant as aforesaid, was in pursuance of the said agreement entered at the land office at Dixon in the State of Illinois in the name of the said Thomas R. Greene. And this Complainant further states that on or about the twenty third day of the same month of February 1849, the arrangements under the said agreement were carried into effect; and that on that occasion this Complainant paid in cash to the said Tinker his said commission of twelve dollars and made his promissory note to the said Greene for the said sum of \$66.66, as follows, that is to say

"\$66.66 South Grove, Feby 23^d 1849.
"For value received I promise to pay to Thomas R.
"Greene or order at his residence in Chicago Sixty Six
"66/100 Dollars, on the Thirtieth day of Feby. A.D. Eighteen
"hundred & fifty (1850) said sum to apply on a
"bond from T.R. Greene to me & dated 17th Feby. 1849
(Signed) Alvin Cook

"John S Brown Witness" And this Complainant further states, that the bond in the said promissory note mentioned, was a bond or covenant made by the said Thomas R Greene to this complainant and

delivered to this Complainant at the time of the making of the said promissory note, by which the said Greene covenanted and bound himself to convey to this Complainant the legal title to the said quarter section of land upon the payment of the sum mentioned in the said promissory note; the precise terms of which bond or covenant this Complainant cannot state, not having the same or a copy thereof. And this Complainant further states that he was unable to pay the said note when it fell due; and that thereupon the said Thomas R Greene proposed that he should wait for the payment of the money mentioned in the said promissory note until the first day of October, in the year of our Lord one thousand eight hundred and fifty, if this Complainant would allow him interest upon the said money at the rate of forty per cent to the year, making, together with some other small charges the sum of eighty five Dollars. And this Complainant further states that he acceded to the said proposition; and that thereupon he gave his promissory note to the said Greene for the said sum of eighty five dollars payable on the said first day of October 1850. with a power of attorney accompanying the same authorizing a judgment to be entered upon the said note, in case of default in the payment thereof making what is commonly called a judgment note; that this Complainant received back his said original note for the said sum of

Sixty Six $\frac{66}{100}$ Dollars, and delivered back to the said Greene his said bond or covenant for the conveyance of the said quarter quarter section of land to this Complainant; and that at the same time, Articles of agreement under the hands and seals of the said Thomas R Greene and of this Complainant were executed, whereby this Complainant covenanted to pay to the said Greene his executors, administrators or assigns, at his residence in Chicago, the said sum of Eighty five dollars on the first day of October A.D. Eighteen hundred and fifty; and the said Greene on his part, covenanted, upon the payment by this complainant of the principal and interest of the said sum of Eighty five dollars to execute, acknowledge and deliver to this complainant, a deed of conveyance of all the right title and interest of the said Greene, of in and to the said quarter quarter section of land with covenants of warranty against any act or thing done or suffered by him, and the said Articles of agreement also contained a power authorizing the said Greene in case of default, to sell the interest of this Complainant, both legal and equitable in the said land at public vendue to the highest bidder therefor giving one days notice of the said sale, and to apply the proceeds of such sale, after paying costs and charges of sale to the payments of the said sum of Eighty five dollars and to pay the surplus, if any,

to this Complainant; with a power also contained
in the said articles making the said Greene the at-
torney in fact of this Complainant, and empowering him
in the name of this Complainant, to execute to the purchaser
or purchasers of the said land and the interest of this
Complainant therein, good and sufficient deed or
deeds of the same; And the said articles of agree-
ment, partly printed and partly written, and
under the hands and seals of the said Greene,
and of this Complainant are hereunto annexed
and designated by the letter B. to form part of
this bill. And this complainant further states
that on or about the said first day of October
1850, this Complainant sent a messenger to the
said Thomas R. Greene with instructions to inform
the said Greene that this Complainant was still
unable to make payment to him, and to request
the said Greene to give this Complainant more time
for the payment of the said monies; and that this
Complainant was informed by the said messenger on
his return and believes it to be true, and has no
doubt of the fact, that the said Greene made
answer to the said message, that he would
wait longer upon this Complainant for the said
payment, but should expect a large interest.
And this complainant further states that a short ^{time} ~~time~~ ^{after}
and on or about the first day of the same month of

October in the year One thousand eight hundred and fifty, the said Thomas R Greene departed this life at Chicago aforesaid, in the County of Cook leaving John S. Greene, Mary Anne Greene Ardelia E. Greene and Albert G. Greene, dependants to this bill his heirs or law, and Elizabeth Greene since deceased his widow, and that thereby the legal title to the said quarter quarter section of land descended to the said children and heirs subject to the equity of redemption of this complainant in the same as aforesaid, the said John S. Greene residing at Chicago aforesaid, the said Mary Anne Greene and Ardelia E. Greene residing, as this complainant has been informed and believes, in the city and County of Providence and State of Rhode Island; and the residence of the said Albert G. Greene being unknown to this complainant. And this complainant further states that he has been informed and believes, that at the November term of the County Court of the said County of Cook, in the same year One thousand eight hundred and fifty, the said John S. Greene was by the said Court appointed administrator of the estate of the said deceased, took letters of administration thereof, and ever since has been, and still is a administrator of the same. And this complainant further states, that on or about the seventeenth day of October, in the year of our Lord One

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Thousand eight hundred and fifty three, the said John S Greene in his own name, and as attorney in fact for the said Elizabeth Greene, Mary Anne Greene and Ardellia E. Greene executed to Whipple Harrington of the town of Franklin and County of De Kalb aforesaid, a paroling Speculator in land title, one of the dependants to this bill, a deed of the said quarter quarter section of land, and two other quarter quarter sections, with the usual covenants of seisin, right to convey, freedom from incumbrances, and general warranty for a consideration expressed in the said deed to be six hundred and forty dollars: which deed was acknowledged, and was filed for record in the records office of said County of De Kalb on 22 October 1853, and was recorded in Book 13 of Deeds pages 103, & 104.

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And this complainant further states, that on the twenty eighth day of January, in the year of our Lord, One thousand eight hundred and fifty four this complainant tendered to the said administrator the sum of Seventy five dollars in gold coins of the United States, being the amount and more than the amount of principal and interest of fifty dollars, which the said Thomas R Greene estimated at the time of the aforesaid purchase of the said quarter part of the said land warrant, as the true value thereof, and requested him to receive the same, to give

up the said judgment note, and to convey the said quarter quarter section of land to this Complainant, all of which he preemp- torily refused to do, and this Complainant has caused the said Seventy five dollars ever since to be kept in readiness for the said administrator and he brings the same into court at the time of filing this bill for the use of the party or parties who may be entitled to the same.

And this Complainant further states that ever since the said quarter quarter section of land claimed by him was entered as aforesaid he has been in the actual possession thereof, claiming to hold the same in his own right, subject only to the incumbrance of the said debt due to the said Thomas R Greene during his life time, and to his estate since his decease; that he has the same now wholly inclosed, that it has been assessed to him this Complainant, and he has paid all the taxes which have ever been assessed thereon.

And this Complainant further states that that the said Whipple Harrington has lived within two miles or thereabouts of the said tract of land ever since the year 1850 and during that time has been well aware of the right and claim of this Complainant to the said land, and that the right and claim of this Complainant thereto, was as this Complainant has been informed and believes, a

subject of frequent debate and discussion, between the said Harrington and other persons in that neighborhood previous to the execution of the said deed to him of the said land.

And this Complainant further states that in the vacation previous to the last October term of the District Circuit Court, in the year of our Lord One thousand eight hundred and fifty five, the said Whipple Harrington caused to be served upon this Complainant a copy of declaration in ejectment for the said quarter quarter section of land claiming the same in fee, in his name as plaintiff against this Complainant as defendant, together with a notice that the said declaration would be filed in the said Circuit Court on the first day of the then next term thereof, being the third Monday in October A. D. 1855; and that a rule would be entered requiring this Complainant to appear and to plead to the said declaration within twenty days thereafter.

And this Complainant further states that the said declaration was filed, and that the said rule was entered accordingly; and that the said Whipple Harrington threatens, and this Complainant has no doubt, intends to prosecute the said ejectment to judgment, and by means thereof to oust this Complainant from the possession of the said tract of land. And this Complainant insists upon the benefit of the

Statutes of this State against the taking of usury
as far as regards the payment of any usurious
interest growing out of the transactions aforesaid
and he insists that he ought not in any event
to be obliged to pay for the redemption of the said
tract of land more than the said sum of Sixty
Six dollars and sixty six cents specified in his
said promissory note hereinbefore set forth, dated
23 February 1849; but he submits, nevertheless,
that he is ready and willing, and he hereby offers
to pay for the redemption of the said land, any sum
of money which this Court may decree in that
behalf, in accordance with the rules of law and
equity. To the End therefore, that the said
John S. Greene, Mary Anne Greene Cordelia E.
Greene Albert G. Greene and Whipple Harrington
may answer this bill of Complaint without oath
according to the rules and practice of Courts of
Equity in that behalf. And to the End also,
that that the said Whipple Harrington may be
enjoined and restrained by the order of the Court
and injunction of this Court from further pros-
ecuting his said ejectment suit against this complain-
ant, and from suing out or executing any writ
of possession in the same and from commen-
cing or prosecuting any other suit or proceeding
for obtaining possession of the said tract of land

and from molesting or disturbing this complainant in the possession thereof; And also from in any wise conveying or incumbering the same; And that the right of this Complainant to redeem the said tract of land may be declared and established by the decree of this Court; And that the sum to be paid by this Complainant for the said redemption may be ascertained; And that upon the payment thereof, the legal title to the said tract of land may be conveyed to this Complainant in such manner as this Court may direct; And that this Complainant may have such other and further relief in the premises as he may be entitled to by the ~~order~~ rules of law and equity. May it please the said Judge of this Court, that a writ of injunction may be issued, enjoining and restraining the said Whipple Harrington in manner and form as is above in that behalf prayed; And that the said John S Greene Mary Anne Greene Ardelia E Greene Albert G Greene and Whipple Harrington may be summoned to answer this bill according to the form of the Statute in such case made and provided.

And for such other & further relief as may be agreeable to equity & good conscience, as in duty bound your petitioner will ever pray &c

E. F. Dutcher

Alvin Cook

Sol for Complt

66 ^{A.}
W. S. Land Entered.

Chicago 1848.

Dear Sir: I wish to dispose of a large amount of Government liabilities that have been made receivable at the United States General Land Office, in payment for land in lieu of money. Persons buying Land through me will save from Fifteen to Thirty Dollars and upwards, on each quarter Section of Land purchased. Those wishing to buy Land on which they hold Pre-emption must make application to me at least ten or fifteen days before the time that their Pre-Emptions will expire, and the sooner the application is made the better, as in such cases the Land must be examined by me in person, and must be purchased before the Pre-Emption has expired, as required by Law. Examinations of Land will be made at my own expense after an arrangement has been completed with the party for whom the purchase is to be made.

Credit on payments for land will to some extent be granted, however in nearly all cases a small advance payment will be required.

The Subscriber is also prepared to negotiate

loans of money to enter lands, and at as low rates as can be found in this city.

The subscriber keeps a corrected record of all the vacant lands in the Chicago Land District, and will furnish information to those desiring to purchase. He is also personally engaged in selecting and locating lands for the holders of Soldiers Land Warrants, and offers his services to those wishing to locate lands. believing that his knowledge of the location and quality of the lands now vacant will enable him to promote the interests of his employers in this business.

Letters, post paid, will receive prompt attention. Office at Room No 20 Merchants Exchange.

Very respectfully,

H. H. Tinker

I will be at the Post Office in Sycamore on Saturday next the 21st Oct at 9 o'clock A.M.

H. H. Tinker

B.

Articles of Agreement made and entered into
the ^{18th} ~~eight~~ day of _____ in the year One
thousand eight hundred and fifty between
Thos. R. Greene, of the City of Chicago and
State of Illinois, of the first part and Alvin

Book of the County of De Kalb in said State 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 hereinafter 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 of the essence of said condition) hereby agrees to sell to the said party of the second part,

The South East quarter of the South West quarter of Section Thirty three (33) in Township forty two (42) North Range three (3) East 3^d 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 to the said party of the first part, his or their executors administrators or assigns, at the residence of said Greene, in the city of Chicago, the sum of Eighty five Dollars, ^{as follows to-wit:} on the first day of October A.D. Eighteen Hundred & fifty (1850) with interest at the rate of _____ per cent. per annum from the _____ to be paid annually on the whole sum from time to time remaining unpaid. And also that he will well and faithfully, in due season

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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, either previous or subsequent to this date, or any part thereof. But in case the said party of the second part fail to pay any or all such taxes or assessments upon 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 agree with the said party of the second part, that upon the faithful performance by the said party of the second part of his undertaking in this behalf, and of the payment of principal and interest of the sum above mentioned, in the manner specified, by the said party of the first part, shall and will without delay will and faithfully execute, acknowledge and deliver, in person, to the party of the second part his heirs or assigns a deed or conveyance of all

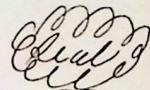
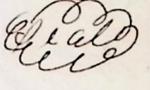
17

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 second part, his heirs, executors, administrators and assigns, in the performance of all or either of the covenants and promises on his part to be performed, the said party of the first part or his 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 prompt possession of the premises) and to recover all damages sustained by such holding over without permission or by means of any waste committed or suffered on the said premises by destruction of timber or otherwise.

In Witness whereof, the said parties

have hereunto set their hands and seals on the day
and year first above written.

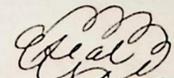
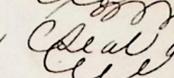
Sealed and Delivered }
in presence of } Tho. R. Greene 
James Pyles } Alvin Cook 

And it is further mutually agreed by and between
said parties, that in case of default in any of the
payments aforesaid, or any part thereof on the day on
which they may become due, that said party of the
first part may, at his option, sell the interest of
said party of the second part both legal and equi-
table in said land at public vendue to the highest
bidder therefor, giving One day notice thereof in
some newspaper of Chicago, or by posting up three
notices of the day of such sale in three public
places in the city of Chicago, and the proceeds
of said sale, after paying all costs and charges
of making the same may apply to the payment
of the sum due on this contract, and the surplus,
if any there be, shall pay over to the said party of
the second part. And the said party of the second
part doth hereby make said party of the first
part his Attorney in fact, and empowers him
in the name of him, said party of the second
part to execute acknowledge and deliver to the
purchaser or purchasers of said and the interest

of said party of the second part therein good and sufficient deed or deeds of the same, ~~with~~ with such covenants as he may choose and acknowledge the receipt of the consideration money therein.

Sealed and Delivered

in presence of
James Byers

J. R. Greene 
Alvin Cook 

Filed October 3^d 1854 at 1 o'clock PM and Recorded
in Liber 6 of Mortg pages 281 &c.

J. N. Beveridge
Recorder

State of Illinois

De Kalb County of Alvin Cook, the complainant
in the foregoing and annexed

bill of complaint named, being duly sworn upon his oath says, that he has heard the said bill read and knows the contents thereof; that the facts alleged positively in the said bill are true; and that such of the facts stated in the said bill as are therein alleged to be of the information and belief of this deponent, he verily believes to be true.

Subscribed and sworn to before

me this 5th day of April 1

Alvin Cook

Gas H Beveridge
Clerk

The Clerk of the Circuit Court of De Kalb Co
Illinois, will please issue an Injunction, in

pursuance of the prayer of the foregoing Bill,
on the Complainants giving security with Spencer
Meyers as surety in the sum of two hundred
dollars April 5th 1856

A. C. Allen, Master
in Chancery for DeKalb Co
Illinois.

Masters fees \$ 5.
of J. Paid Compt
Filed April 5. 1856.

J. H. Beveridge Clerk

Masters fees (A C Allen) \$ 5. 00

Sum of Service Court Co

State of Illinois
De Kalb County of the People of the State of
Illinois to the Sheriff of Cook
County Greeting: We command You, that you
summon John S. Greene, Mary Anne Greene, Ardella
E. Greene Albert G. Greene and Whipple Harrington
if they shall 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 Sycamore, in
said County, on the third Monday of October
next, to answer unto a certain Bill of Complaint
this day filed in said Court on the Chancery
side thereof, by Alvin Cook against them

And have you then and there this Writ, with an endorsement thereon, in what manner you executed the same.

E. S. G.

Witness James H. Beveridge Clerk
of our said Court and the Seal
thereof, at Sycamore this 5th day
of April AD 1856.

James H. Beveridge Clerk

The within named dependents not found in
my County the 17th day of Oct 1856

Fees 1 Return 10

James S. Beach, Coroner &
acting Sheriff of Cook County
By John H. Dart, Deputy,

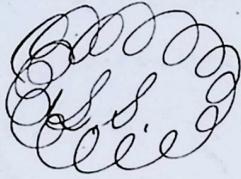
Filed March 17, 1857

James H. Beveridge clk.

At Court to De Kalb County

State of Illinois } The People of the State of
De Kalb County } Illinois, to the Sheriff of said
County Greeting: We command
you, as we have before commanded, that you
summon Albert G. Greene, Mary Ann Greene,
Arctelia E. Greene impleaded with John S. Greene
& Whipple Harrington, if they shall 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 Sycamore, in said County,
on the 1st Monday of April next, to answer
unto a certain Bill of Complaint filed in said
Court on the Chancery side thereof, by Alvin Cook
against them on the 5th day of April A.D.
1856. And have you then and there this Writ,
with an endorsement thereon in what manner
you executed the same.



Witness James H. Beveridge Clerk
of our said Court and the seal
thereof at Sycamore this 3^d
day of February A.D. 1857.

Ja. H. Beveridge Clerk

I return this Summons this 19th day of Feb-
ruary A.D. 1857 to the within named Albert G.
Greene Mary Anne Greene Ardene E. Green
not bound in my County

Does Return, 10

D. Tappan Sheriff

Filed Feb'y 21, 1857

Ja. H. Beveridge clk.

State of Illinois
De Kalb County } The People of the State of
Illinois to the Sheriff of
Cook County, Greeting: We command You as we
have before commanded You that you summon
John S. Greene Albert G. Greene Mary Anne
Greene Ardella E. Greene & Whipple Harrington

Alvin Cook vs. Greene

If they shall 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 Sycamore in said County on the 1st Monday of April next to answer unto a certain Bill of Complaint filed in said Court on the Chancery side thereof by Alvin Cook against them on the 5th day of April AD 1856, and have you shew and shew this writ, with an endorsement thereon, in what manner you executed the same.

(Circular stamp)
C. S. I.

Witness James H. Beveridge Clerk
of our said Court and the Secy
thereof at Sycamore, this 11th
day of March AD 1857
J. H. Beveridge, Clerk

Served by reading to the within named John
S. Greene and by delivering a copy to him the other
dependants not found in my County this 13th day
of March 1857

1 Service 50
1 copy 50
2 mills .10
1 Return 10 = \$1.20

John S. Wilson Sheriff
By George Anderson Deputy

Filed March 17, 1857

J. H. Beveridge
Clerk

State of Illinois
De Kalb County

The Separate Answer of John
S. Greene to the Bill of Complaint

of Alvin Cook Complainant against John S. Greene
Mary Anne Greene Adelia C. Greene Albert G. Greene
and Whipple Harrington defendants.

Ans of John S. Greene

This defendant now and at
all times hereafter saving and reserving to himself
all manner of benefit and advantage of exception
to the many errors and insufficiencies in the
Complainant's said Bill of Complaint, for answer
thereunto or unto so much or such parts thereof
as this defendant is advised is material for him
to make answer unto, he answers & says.

That he knows nothing about the residence
of the said Complainant in the month of February
1849 or at any other time, that he knows nothing
about said Complainant in said year 1849 or
at any time previous or since that their having
possession and occupancy of the piece of land
described in his said Bill of Complaint, but
has been informed and believes that said prem-
ises were unenclosed, unimproved & not in the
possession of any one until long after the same
were sold and conveyed by this defendant
& others, to the said Whipple Harrington, as herein-
after mentioned, that he knows nothing about
the said H. H. Tucker being or acting as the agent

of the said Thomas R. Greene, with the knowledge of the said Thomas R. but does believe a single word of it.

He further says that he knows nothing of there being any arrangement or agreement between the said Thomas R. Greene, or any one for him and the said Complainant, by which the said Greene was to enter said premises for the said Complainant or any person other than the said Thomas R. Greene. But he admits that the said Thomas R. Greene was purchasing lands of the United States Government with land warrants and with money, and selling them again on speculation. He also admits that the said Thomas R. Greene entered at the Land Office in Dixon the premises in question with other lands and contracted to sell the same to the said Complainant, just according to the contract "Articles of Agreement" or Indenture appended to the said Complainant's said Bill of Complaint marked "B" & not otherwise, and that in pursuance of said agreement or contract to sell said piece of land to said Complainant the "Articles of agreement" appended to said Complainant's bill of Complaint was drawn up and delivered by the said Thomas R. Greene to the said Complainant, which this respondent insists contains the true and only terms of the contract between the said Complainant and

Thomas R Greene, that by the terms of said contract it was expressly agreed understood and declared by the parties to the same, that time was to be treated and considered as of the essence of said contract, and that unless the said complainant performed the conditions of said contract within the time and in the manner limited in that behalf, the said contract was to be regarded as null and void to all intents and purposes; that performance in point of time was made a condition precedent to the right of the said complainant to demand of the said Thomas R Green a specific execution of said contract.

And this defendant further answering says, that he is informed and believes that the said Articles of Agreement or contract contain all of the terms of the true agreement between the said parties, and that there were no prior conversations or understandings during the treaty between said parties, for said sale, which are not fully embodied therein; that no change was made in the said contract in any respect after the execution and delivery of the same by the said Thomas R Greene to the said Complainant. This defendant further says, that if there ever was and contract made by said Thomas R Greene to sell & convey said piece of land to said complainant other than the one appended to said complainant's bill of complaint marked "B" (which this defendant denies,) it was verbal

and not in writing and cannot therefore be enforced, either in a Court of Law or Equity for the reason that such contract was not in writing nor was there any memorandum or note thereof, signed by the party to be charged therewith the same coming within the provisions of the Chapter of the Revised Statutes of this State of "Frauds and Perjuries" and said defendant hereby gives notice to the said Complainant that he relies upon said statute of Frauds as a defence in this suit to avoid liability on any verbal contract made by the said Thomas R Greene to convey said piece of land to said Complainant, and to defeat him in this suit in the same manner as if the said Statute were specially pleaded in bar of said Complainant's Bill.

And this defendant further answering says, that since the making of said Articles of agreement or at any other time has the said Complainant or anyone for him paid the said Thomas R Greene or anyone for him said sum of money in and by said articles of agreement agreed & contracted to be paid or any part thereof and this defendant denies that said Complainant was paid, or tendered or offered to pay to or tender to this defendant as administrator of the said Thomas R Greene the sum of money contracted in said Articles of agreement to be paid for said piece of land or any part thereof.

nor has he or any one for him in any manner performed or offered to perform his part of said contract in said Articles of agreement mentioned.

And this dependant further Answering says that he admits the death of the said Thomas R Greene, the pedigree of his heirs, and the appointment of an administrator, and the settlement of the estate of the said Thomas R Greene as charged in the Bill, but denies that said Complainant on the 28th day of January AD 1854, or at any other time tendered to the said Administrator the sum of Seventy five dollars in gold coin of the United States as is alleged in said Complainants Bill of Complaint.

And this dependant further answering admits that after the decease of the said Thomas R Greene this dependant for himself and as attorney in fact for the said Elizabeth Greene Mary Anne Greene and Cordelia E Greene sold and conveyed to one Whipple Harrington the said piece of land with other lands for a good and valuable consideration; that by said sale & conveyance, the said contract in said Articles of agreement contain, became and was rescinded, if it had not been already abandoned by the conduct of the said Complainant in not paying for the same as agreed and otherwise.

And this dependant further Answering says, that although the said Complainant did not pay

or offer to pay the sum of money contracted by him to be paid for said piece of land at the time the same became due & payable by the terms of said Contract, and although the said heirs at law of the said Thomas R Greene considered said contract as an end, by the neglect & refusal of the said Complainant to fulfil his part of the said contract, yet this defendant & the other said heirs at law of the said Thomas R. would have been willing to have conveyed said piece of land to said Complainant had he fulfilled within any thing like a reasonable time his part of said Contract by paying the sum of money therein stipulated by him to be paid, which he did not do, but on the contrary, let the matter rest some 3 or 4 years, was not in possession of the same, as this respondent has been informed & believes, except perhaps a very narrow strip on one side when the line fence was set over on to said piece of land by mistake; nor does this defendant believe that said Complainant ever expected to get a title to the same or intended to try to do so until the great rise in real estate in that vicinity and until he found that his said line fence was by mistake set a rod or so on the premises in controversy. After the said heirs of said Thomas R Greene had sold & conveyed said premises to the said Harrington, then ~~the~~^{said} Complainant as this defendant is

informed and believed entered upon the same & commenced improving it.

And this defendant further answering, says, that since the entry of said premises by the said Thomas R Greene, and since the making of the said Contract between said Green & the said Complainant the said land has greatly enhanced in value and that the value thereof now is, without improvements, some eight or ten dollars per acre, and that it would be grossly unjust in the opinion of this defendant, to let the said Complainant have the same at the price agreed on some seven or eight years ago, and this defendant insist that a specific execution of said Contract under such circumstances would be inequitable unless at least additional compensation is decreed in favor of the legal representatives of the said Thomas R Greene. Besides this defendant has been informed and believes that the said Harrington purchased said land of the legal heirs of the said Thomas R Greene without any knowledge that the said Complainant had a claim to the same.

And this defendant further answering says that he denies every thing in Complainant's said Bill of Complaint set forth, alleged and averred not herein before admitted or denied & prays to be hence dismissed with his reasonable costs

& charges in this behalf most wrongfully sustained.

Moays & James, of Counsel,

John S. Greene

By E. S. Mayo

Filed June 1st 1857

J. N. Beveridge, CLK

State of Illinois

De Kalb County

In Chancery

vs

The Separate Answer of Whipple

Harrington to the Bill of

Complaint of Alvin Cook

Complainant vs John S. Greene et al.

Ans of Whipple Harrington

This Defendant now and at all times hereafter saving & reserving to himself all manner of benefit and advantage of exception to the many errors and insufficiencies in the Complaints said Bill of Complaint, for answer hereunto, or unto so much or such parts thereof as this Defendant is advised is material for him to make answer unto; he answers & says —

1

That he admits that said Complainant in February 1849 resided in the vicinity of the said S. E. 1/4 of S. W. 1/4 Sec. 33. T. 42. N. R. 3 E 3 d P. M. in said Bill of Complaint mentioned, but he expressly denies that said Complainant held the claim right to said land, or that said land made a part of said Complainant's homestead

farm and denies that any improvements were made thereon as stated in said Bill of Complaint

2. And this dependant further answering says that whether or not said H. H. Pinker was operating in the neighborhood as agent of Thomas R. Greene in selling land warrants and loaning money to enter lands &c. And whether one Kilpatrick held the claim right to lands adjoining said 40 acres and whether said complainant purchased one fourth part of a land warrant with said Kilpatrick of the said Pinker, and whether said complainant agreed to pay to said Thomas R. Greene Sixty Six dollars & Sixty Six cents and 12¢ to said Pinker &c. and whether the said complainant executed his note for said sum &c. to said Greene, and whether the said Greene executed & delivered to said complainant a bond or any other contract for said parcel of land; And whether upon failure to make payment said Greene entered into a new contract with said complainant whereby said time of payment was extended & whether said complainant gave a judgment note for the said sum of Eighty five Dollars payable on the 1st day of Oct 1850 ~~with~~ with a power of Atty &c. and whether said Greene again agreed to extend the time of payment &c. in manner and form as charged and set forth in said ^{said Bill of Complaint} Complaints. - This Dependant avers that he has no knowledge except as obtained from the said

Bill of Complaint - And the papers thereunto annexed since said Bill of Complaint was filed in the office of the Clerk of this Court.

And this Defendant further answering says that sometime in the month of October A.D. 1853, being desirous to purchase 120 acres of land lying in the vicinity of the aforesaid quarter quarter section and being in poor health at that time he sent a friend to Chicago to negotiate for said land with John S. Greene who this Defendant admits was & is the administrator of the estate of Thomas R. Greene deceased, and the Atty in fact of the said Mary Anne Greene Ardelia E. Greene & Elizabeth Greene who were the owners of said land as this Defendant had been informed that the said John S. Greene refused to sell the 120 acres unless he could sell with it the said quarter quarter section described in said Bill of Complaint that he offered to sell the whole at four dollars per acre - And the agent of this Defendant thereupon closed a trade with the said John S. Greene and purchased the said 160 acres, and the said John S. Greene for himself and as Atty in fact for said Mary Anne Greene Ardelia E. Greene and Elizabeth Greene executed and delivered to this Deft a good and sufficient Deed of said lands with the usual covenants - And this Defendant paid said Greene therefor the sum of four dollars

per acre in cash - a copy of said Deed is hereto annexed & marked "A" and made a part of this Answer.

And this Dependans further answering says, that at the time he purchased said land of the said Greene as aforesaid he had no knowledge that said Complainant had any claim either legal or equitable to said quarter quarter section of land or that he ever had any such claim.

This Dependans further answering says that after he had purchased said land & before he received his Deed he heard some rumor in the neighborhood that said Complainant once had some kind of a contract for said quarter quarter section, but that it had long been forfeited by non payment - And this dependant says that immediately after he received his Deed he saw said Complainant and told him that he had purchased the land; that said Complainant asked what he paid an acre - that when he told him 4 $\frac{1}{2}$ per acre - said Complainant replied that he thought he could have purchased it ~~for a less~~ for a less price - This dependant then said to said Complainant that he did not want said forty, that he took it because he could not get the other 120 acres without taking this, and that if said Complainant would pay this Dependans the same as he had paid he might

have it, to wit \$4 per acre; that said Complainant made some general reply, and this Defendant supposed from what he said that he intended to take it, if he could raise the money. And this Defendant verily believes said Complainant would have done so, but for the advice of a Pettifogger in the neighborhood.

This Defendant further answering says that he admits that said Complainant has been in possession of said quarter quarter section ever since he (this defendant) purchased it, and that he has paid taxes &c enclosed the same as charged in said Bill of Complaint, but this Defendant denies that previous to that time he said Complainant was in possession of said premises claiming to own the same or in any other manner, but this Defendant says that previous to said purchase by him the said quarter quarter section was vacant prairie unenclosed and unoccupied & continued so up to the time of his purchase as aforesaid, and after the purchase of said premises by this Deft said Complainant wrongfully took & retained the possession of said premises to the great injury of this Deft.

This Defendant also admits that he has resided within two miles or thereabouts of said quarter quarter section since 1850. But this Defendant expressly denies that during all that time or at any time previous

to the purchase of said land by him that he had any knowledge or been aware of any right or claim of said Complainant to said quarter quarter section, - And this Defendant also denies that said Complainant's right there-~~to~~ was a subject of frequent debate & discussion between this Dept and others in that neighborhood previous to the execution of said Deed by said Greene to this Defendant.

And this Defendant further answering, says that he admits that previous to the October Term of the De Kalb County Circuit Court A.D. 1855, he commenced his suit in Ejectment to obtain the possession of said quarter quarter section of land with the intention of prosecuting the same to judgment, in manner and form as charged in said Bill of Complaint - and that he would have done so had he not been restrained by an order issuing from this Honorable Court agreeably to the prayer of said Complainant's bill of Complaint.

And this Defendant avers that said Complainant well knew that he had no just claim to said quarter quarter section, that if he ever had any, it had long been forfeited by non-payment; that he took possession of said premises wrongfully and has continued in possession thereof by the aid and advice of a growing intermeddler in other persons affairs - and

for the purpose of annoying this Defendant & subjecting him to trouble & expense.

And this Defendant further answering insists that for the reasons aforesaid the said Complainant is not entitled to the relief prayed for in said Bill of Complaint, without this that there is any other matter cause or thing in said Complainants said Bill of Complaint contained: material or necessary for this Defendant to make answer unto and not herein and thereby well and sufficiently answered, confessed, traversed and avoided or denied, is true to the knowledge or belief of this defendant; all which matters & things this Defendant is ready and willing to aver maintain and prove as this honorable Court shall direct and humbly prays to be hence dismissed with his reasonable costs & charges in this behalf most wrongfully sustained

Whipple Harrington

Moago & James
Depts Solrs

Copy of Deed "A"

" This Indenture made the seventeenth day of October
" in the Year One thousand eight hundred and fifty
" three Between John S. Greene of the City of Chicago
" County of Cook and State of Illinois and Elizabeth

" Greene Mary Anne Greene and Ardella E. Greene
" of the City and County of Providence and State of
" Rhode Island and Providence Plantations of the
" first part and Whipple Harrington of De Kalb
" County State of Illinois of the second part; Witnesseth
" that the said parties of the first part for and in con-
" sideration of the sum of six hundred and forty
" dollars lawful money of the United States of
" of America to them in hand paid by the said party
" of the second part, (the receipt whereof is hereby
" acknowledged and the said party of the second
" part forever released and discharged therefrom,
" at or before the sealing and delivery of these
" presents have aliened, remise, released, conveyed,
" and confirmed, and by these presents do alien
" remise release, convey and confirm unto the
" said party of the second part and to his heirs and
" assigns forever, All the following described prem-
" ises to wit: The West half of the South East
" quarter, and the North East quarter of the South
" East quarter, and the South East quarter of the South
" West quarter of Section thirty three (33) in Township
" forty two (42) North of Range three (3) east of the
" third Principal Meridian, together with all
" and singular the hereditaments and appurtenances
" thereunto belonging or in any wise appertaining,
" and the reversion and reversions, remainder
" and remainders, rents issues and profits thereof;

" And all the estate, right, title interest claim or
" demand whatsoever, of the said parties of the first
" part, either in law or equity, of, in and to the
" above bargained premises with the hereditaments
" and appurtenances; To have and to hold the said
" premises above bargained and described with the
" appurtenances unto the said party of the second part
" his heirs and assigns forever, And the said parties
" of the first part for their heirs executors and admin-
" istrators, do covenant, grant, bargain and agree
" to and with the said party of the second part, his
" heirs and assigns, that at the time of the enrolling
" and delivery of these presents, they are well seized
" of the premises above conveyed, as of a good sure
" perfect, absolute and indefeasible estate of inheritance
" in law in fee simple and have good right, full
" power and lawful authority to grant, bargain, sell
" and convey the same in manner and form afore-
" said, and that the same are free & clear from
" all former and other grants, bargains, sales, liens,
" taxes assessments and incumbrances of what kind
" or nature soever, and the above bargained prem-
" ises in the quiet and peaceable possession of the
" said party of the second part his heirs and assigns
" against all and every person or persons lawfully
" claiming or to claim the whole or any part
" thereof, the said parties of the first part shall

" and will warrant and forever depend.

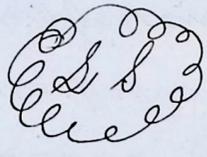
" In Witness whereof the said parties of the first
" ^{part} have hereunto set their hands and seals the day and
" year first above written. Signed, John S. Greene (S.S.)

" Elizabeth Greene (S.S.)
" Sealed and Delivered }
" in presence of } Mary Anne Greene (S.S.)
" Cordelia E. Greene (S.S.)

" By their attorney in fact
" John S. Greene S.S.

" State of Illinois }
" Cook County } J. V. Le Turner a. Notary Public

" in and for the said County in the
" State aforesaid do hereby certify that
" John S. Greene who is personally



" known to me as the real person whose name is sub-
" scribed to the annexed Deed appeared before me this
" day in person and as attorney in fact and acknow-
" ledged that he signed sealed and delivered the said
" Instrument of writing for himself and as attorney
" in fact for Elizabeth Greene Mary Anne Greene
" and Cordelia E. Greene as his and their free and
" voluntary act for the uses and purposes therein
" set forth. Given under my hand & notarial
" seal this 20 day of October A.D. 1853

" Signed U. C. Turner
" Notary Public"

" Filed Oct 22, 1853 at 1. o/c P.M. & recorded
" in Book 13 of Deeds Pages 103 & 104

" signed - J. K. Beveridge Recorder "

Filed Feb 14th 1857.

J. H. Beveridge Clerk
By A. K. Stiles, Deputy.

Alvin Cook

vs

Whipple Harrington
& John S. Green et al

The Replication of Alvin
Cook Complainant to the
separate Answers of Whipple
Harrington & John S. Green
Defendants and to each of them.

This repliant having
and reserving unto himself all and all manner of
advantages of exception to the manifest insufficien-
cies of each of the said answers for replication
thereunto and to each of them, 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 each of the said answers of the said
Defendants is uncertain and insufficient to be
replied unto by this repliant; Without this, that
any other matter or thing whatsoever in either
of the said Answers contained material or effec-
tual in the law to be replied unto, confessed and
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

Replication

his said Bill he hath already prayed.

A. L. Allen Solicitor
for Complainant

Filed Aug 17th 1857

J. H. Beveridge Clerk
By A. K. Stiles, Dep't.

State of Illinois } De Kalk County Circuit Court
De Kalk County } April Term 1857.

Alvin Cook
vs
John S. Greene
Albert G. Greene
Mary Anne Greene
Ardelia E. Greene &
Whipple Harrington

Bill for Injunction &c

Alvin Cook Complainant
in the above entitled ^{cause} first being duly sworn ac-
cording to law, on his oath doth depose & say
that he has been informed and verily believes
that the above named defendants Mary Anne
Green Ardelia E. Greene & Albert G. Greene are not
residence of the State of Illinois but are residents
of the State of Rhode Island & further ^{this deponent} saith nor-

Subscribed & sworn to before
me this 3^d day of Feb'y 1857

Alvin Cook

J. H. Beveridge Clerk

Alvin & Mary Residants

Filed Feb 3^d 1857

J. A. Beveridge Clerk

State of Illinois } De Kalb Circuit Court
De Kalb County } April Term 1857

Alvin Cook

vs

John S. Greene, Albert G.
Greene, Mary Ann Greene
Ardelia E. Greene &
Whipple Harrington

Bill for Injunction.

On Chancery

Notice of Publication

Affidavit of the non-residence
of Albert G. Greene, Mary Ann Greene & Ardelia E. Greene
of the defendants above named, having been filed in the
office of the clerk of the De Kalb County Circuit Court,
notice is hereby given to the said Albert G. Greene, Mary
Ann Greene and Ardelia E. Greene that Alvin Cook
the complainant, filed his bill of Complaint in said
Court, on the Chancery side thereof on the 5th day of
April AD 1856, and that an Alias Summons has this
day issued out of said Court, against said defend-
ants implicated with John S. Greene and Whipple
Harrington, as above returnable on the 1st Monday
of April next as is by law required. Now therefore
unless you the said Albert G. Greene Mary Ann
Greene and Ardelia E. Greene shall personally be

and appear before said De Kalb Circuit Court on the first day of the next term thereof to be holden at the Court House in Sycamore in said County, on the 1st Monday of April A. D. 1857, and plead answer or demurr to said Complainants bill of Complaint, the same and the matters and things therein contained will be taken as confessed, as to you, and a decree entered against you according to the prayer of said bill.

Jas. H. Beveridge,
Clerk,

Dated, Sycamore Feb. 3 1857
E. J. Dutcher Compl., & Solicitor.

This is to certify that the annexed notice was published five successive weeks, in the "Republican Sentinel" a weekly newspaper, published at Sycamore in De Kalb County, and State of Illinois, commencing on the fifth day of February and ending on the 5th day of March A. D. 1857.

Dated Sycamore Apr. 8. A. D. 1857.

Rowe & Hough Publishers
Publication fee \$ 5.00

Filed apt. 14 1857

Jas H Beveridge clk

Alvin Cook

v

John S. Greene, Mary
Anne Greene, Ardellia
E. Greene, Albert G. Greene &
Whipple Harrington

In the Circuit Court of
De Kalb County Illinois.

Bill for Injunction and
Deed.

To the defendants in this cause.

Please take notice that Alvin

Cook the complainant in this cause will on Tuesday
the twenty second day of June next at One o'clock in
the afternoon of that day attend at the office of
James A. Beveridge Esq. Clerk of the Circuit Court
of De Kalb County aforesaid at Sycamore, for the
purpose of suing out of said Court in said cause
a writ of Quodam Potestatum, or Commission
directed to S. W. Peckham Esq. of Providence, Rhode
Island as a Commissioner to take the Deposition of
H. H. Tucker, a witness to be produced, sworn
and examined on the part of the said Complain-
ant, upon Interrogatories filed, at which time and
place you can attend and file Cross Interrogatories
if you think proper.

Sycamore May 24th AD 1858

A. C. Allen Comps Solicitor.

State of Illinois

De Kalb County of Aaron C. Allen being duly sworn
on oath says that he posted
a copy of the within notice on the Door of the

Court House in Sycamore in said County, on the
24th day of May A.D. 1858

Subscribed & sworn to
before me this 22^d day
of June A.D. 1858

Jas. N. Beveridge CLK

A. C. Allen

Alvin Cook

John S. Greene Mary
Ann Greene, Ardelia E.
Greene Albert G. Greenet
Whipple Harrington

In the Circuit Court
of De Kalb County
Illinois.

Bill for Injunction
and Deed.

To the Defendants in this
Cause and to Messrs Mayo & James their Counsel
Please take notice that
Alvin Cook the Complainant in this cause will on
Tuesday the twenty second day of June next, at one
o'clock in the afternoon of that day, attend at the office
of James N. Beveridge Esqr, Clerk of the Circuit Court
of De Kalb County aforesaid at Sycamore, for the
purpose of being out of said Court in said cause,
a writ of Quidam Potestatem or commission di-
rected to S. W. Peckham Esqr, of Providence, Rhode
Island, as a Commissioner to take the Deposition of
H. H. Tucker, a witness to be produced, sworn
and examined on the part of the said Complainant

upon Interrogatories filed, a copy of which is herewith annexed, at which time and place you can attend and file cross-interrogatories, if you think proper.

Sycamore May 24th AD 1858.

A. C. Allen

Compt. Sol.

Interrogatories to be propounded to H. N. Jinker of Providence, Rhode Island

Interrogatory 1st What is your full name, age, Residence and occupation?

Interrogatory 2^d Do you know Alvin Cook, the Complainant in this cause, and how long have you known him?

Interrogatory 3^d Do you know, or are you, or have you been, acquainted with John S. Greene, Mary Anne Greene, Ardelia E. Greene, Albert G. Greene and Whipple Harrington, Defendants in this cause or either and which of them, and how long have you known them?

Interrogatory 4th Were you acquainted with Thomas R. Greene late of Chicago in the State of Illinois, now deceased, in his life time? If so, state, if you know, what connection he was, if any to said John S. Mary Anne, Ardelia E. and Albert G. Greene

Interrogatory 5th Were you the agent of said Thomas R Greene in any, and what business, and when, where, and how long were you such agent?

Interrogatory 6th Were you the agent of said Thomas R Greene in the business of selling land Warrants, or loaning money to enter lands on credit or otherwise, at any of the land offices of the United States and particularly at the one then located at Dixon in the State of Illinois, and when and how long was you such agent?

Interrogatory 7th Did you give any and what Public Notice of your dealing in said business? State fully.

Interrogatory 8th Did you at any time, and when, sell, or attempt to sell any land warrant or warrants in the neighborhood or vicinity of Sycamore, South Grove, Hicks Mills or Yorktown, in De Kalb County, Illinois, as agent of said Thomas R Greene.

Interrogatory 9th Did you or did you not negotiate with one George Kilpatrick and Alvin Cook, the complainant for the sale of a Land warrant to them? If yes; state the result of that negotiation, where and when it was, who was present, and all about it so far as you can recollect the same state fully.

Interrogatory 10th Do you know who was in possession

of the following described tract of land, situated in De Kalb County Illinois, Viz, The South East Quarter of the South West Quarter of Section thirty three (33) in Township forty two (42) North Range three (3) East of the third (3^d) Principal meridian, at the time of said negotiation, if any such there was?

Interrogatory 11th Did you or did you not enter the above described tract of land at any land office of the United States? If Yes, state when, where and in whose name, and for whom use, and in whose presence said tract of land was entered, and whether entered in pursuance of negotiation or arrangements made with any one, and if so, with whom - State fully.

Interrogatory 12th If in answer to the last Interrogatory you answer that said lands were entered at the Dixon Land Office in the name of said Thomas R Greene for the use of Alvin Cook the complainant, in pursuance of any negotiations or arrangements made with him, or with him and said George Kelpatrik - State fully, what those negotiations or arrangements were, when where and in whose presence they were made, for what purpose said Greene held the title to said lands, whether as security for any and what sum of money, and whether said money was otherwise secured to be paid to said Greene, and how, whether by note or otherwise, and if by note, who drew it, its date, terms and time of

maturity, as near as you can recollect the same, and by whom executed, and to whom payable? State fully.

Interrogatory 13th Was any written or printed ~~order~~ or partly written or partly printed contract made by said Greene or by you for said Greene, and as his agent, for the conveyance of the aforesaid tract of land to said Cook the complainant - If Yea, State when and on what terms said premises were to be conveyed to said Cook, when, where and by whom said contract was drawn up and by whom executed and to whom delivered, and who was present when the same was so made executed and delivered, (if any such there was) and what sum (if any) was paid you as Commissioner, agent or otherwise for the business done by you, - State fully.

Interrogatory 14th Have you any knowledge of the death of Elizabeth Greene the mother of the said Thomas R Greene? If yea State the same fully.

Interrogatory 15th Do you know of any other matter or thing that may tend to the benefit of the complainant in this cause? If yea, State the same fully.

A. L. Allen
Complainant's Solicitor

State of Illinois
In Hall County of Aaron L. Allen, being duly sworn
on oath says that he delivered
a copy of the foregoing Notice and Interrogatories
to Daniel B. James one of the Defendants Counsel
on the 11th day of June AD 1858, and another
copy thereof to Edward S. Mayo Esq. Another
of the Defendants Counsel on 12th day of the same
month Aaron L. Allen
Subscribed & sworn to before me
this 22^d day of June AD 1858
J. H. Reynolds Clerk.

State of Illinois
In Hall County of The People of the State of
Illinois to S. W. Peckham Esq.
of Providence, Rhode Island Greeting:
Whereas it hath been represented to us that H. H.
Tinker is a material witness in a certain cause
now depending in our Circuit Court in and for
the County of De Kalb aforesaid Between Alvin Cook
Plaintiff and John S. Greene Mary Ann Greene,
Ardelia E. Greene, Albert G. Greene and Whipple
Harrington are Defendants, and that the said witness
reside at aforesaid, without
the said State of Illinois, and that his personal at
tendance cannot be procured at the trial of said cause.

Now know ye that we, in confidence of your prudence and fidelity, have appointed you a Commissioner to examine the said witness and do therefore authorize and require you to cause the said witness to come before you at such time and place as you may therefor designate and appoint, and diligently to examine the said witness on the oath or affirmations of the said witness, by you first duly in that behalf administered, and faithfully to take the deposition of the said witness upon all interrogatories inclosed with or attached to these presents both on the part of the said Plaintiff and of the said defendants and none others; and the same when thus taken, together with this Commission and the said Interrogatories, to certify unto our said Circuit Court with the least possible delay.

Witness J^r H^r Beveridge Clerk of said Court and the Seal thereof, at Sycamore in said County this 22^d day of June A.D. 1858.

J^r H^r Beveridge
Clerk

State of Rhode Island & Providence Sep. On the city of Providence on this 9th day of October 1858 personally appeared before me, Samuel W Peckham and made oath that he would faithfully and impartially execute this Commission according to the best of his skill and understanding. Francis Colwell Jr
Justice of the Peace

Deposition of Harris Howard

The Deposition of Harris Howard (formerly named Harris Howard Tucker) of the City of Providence of the County of Providence and State of Rhode Island a witness of lawful age, previously sworn and examined upon his corporal oath, on the ninth day of October in the year of our Lord One thousand eight hundred and fifty eight, at the office of Samuel W. Peckham in the City of Providence in the County of Providence and State aforesaid, by me Samuel W. Peckham a Commissioner duly appointed by a Deedimus Potestatem or Commission issued out of the Clerks' office of the County Court of Cook County, in the State of Illinois, bearing Teste in the name of James H. Beveridge Esq. Clerk of the said County Court with the Seal of the said Court affixed thereto, and to me directed as such Commissioner for the examination of the said Harris Howard a witness in a certain suit and matter in controversy now pending and undetermined in the said County Court, wherein Alvin Cook is Plaintiff and John S. Greene et al are Defendants, in behalf of the said Alvin Cook, Plaintiff, on the Interrogatories of the Plaintiff which were attached to or enclosed with the said Commission, and upon none other, the said Harris Howard being first duly sworn by me as a witness in the said cause, previous

to the commencement of his examination, to testify the truth as well on the part of the Plaintiff as the Defendants in relation to the matters in controversy between the said Plaintiff and Defendants, so far as he should be interrogated, testified and deposed as follows;

Interrogatory first; What is your full name, age, residence and occupation?

Answer to first Interrogatory; My present name is Harris Howard, formerly Harris Howard Cinkler, thirty four years of age, residence City of Providence in the State of Rhode-Island, occupation Student.

Interrogatory second; Do you know Oliver Cook the Complainant in this cause, and how long have you known him?

Answer to the second Interrogatory, I have some, although not a certain recollection, that I met him in the years 1848, 1849, or 1850.

Interrogatory third; Do you know, or are you, or have you been, acquainted with John S. Greene, Mary Ann Greene, Ardelia E. Greene, Albert G. Greene and Whipple Harrington the dependants in this cause or either and which of them? and how long have you known them?

Answer to third Interrogatory; with only John S. Greene slightly, I met him in the winter of 1855 and 1856, had had seen him several years before, but had no acquaintance with him then. I have seen Albert G. Greene but am not acquainted with him.

Interrogatory fourth; Were you acquainted with
56 Thomas R. Greene, late of Chicago, in the
State of Illinois, now deceased, in his life time?
if so, state, if you know, what connection he
was, if any to said John S. Mary Ann, Ardelia
E. and Albert G. Greene?

Answer to fourth Interrogatory; I was, I know by report
that he was the brother of John S. and Albert G.
Greene. I don't know anything about his connection
with Mary Ann or Ardelia E. Greene.

Interrogatory fifth; Were you the agent of said Thomas
R. Greene in any, and what business, and
when, where, and how long were you such agent?

Answer to fifth Interrogatory; I was employed by Mr.
Thomas R. Greene, though not by him exclusively,
in selecting and purchasing United States lands,
principally with land warrants, and in ne-
gotiating sales of such lands, and of other lands
owned by Mr. Greene in the Chicago and Dixon
Land Districts, in the years, 1848, 1849 and 1850.

Interrogatory Sixth; Were you the agent of said Thomas
R. Greene in the business of selling Land Warrants
or loaning money to enter lands on credit or other-
wise, at any of the land offices of the United
States, and particularly, at the one then located
at Dixon in the State of Illinois, and when
and how long was you such agent?

Answer to sixth Interrogatory; I did not sell land warrants, nor loan money for Mr Greene in any case that I can recollect.

Interrogatory Seventh; Did you give any and what public notice of your dealing in said business? State fully?

Answer to seventh interrogatory; I do not remember that I gave other than verbal notice of my business which engaged directly in the service of Mr Greene, although prior to that time I had advertised mainly by circulars to purchase United States and Illinois State lands, and to sell them partly on credit, to transact business at the land offices for persons who wished to purchase lands.

Interrogatory eighth; Did you at any time and when, sell or attempt to sell any land warrant or warrants in the neighborhood or vicinity of Sycamore, South Grove, Hick's Mills or Corktown in De Kalb County, Illinois as agent of said Thomas R. Greene?

Answer to eighth Interrogatory; the only business that I can remember having transacted for Mr Greene in that vicinity was the selecting and assisting him to purchase United States lands, ~~in some cases~~ in some cases to be sold in future as opportunities might offer, and in other cases I made ~~a~~ verbal agreements, before the lands were bought, to deliver written offers or contracts from

Mr Green (after the titles to the lands should be obtained from the United States) to sell lands to various persons in that vicinity

Interrogatory ninth; Did you or did you not negotiate with one George Kilpatrick and Alvin Cook, the complainant for the sale of a land warrant to them? If yes; state the result of that negotiation, where and when it was, who was present, and all about it, so far as you can recollect the same. State fully?

Answer to ninth Interrogatory; The only record relating to this matter which I am able to find is a memorandum of a letter which I addressed to the agent of Mr Green at Dixon, which is as follows;

"South Grove 8th February 1849,

To S Wood Esqr Dixon Illinois

Sent affidavit (made before W. H. Beavers Co. Clerk D. K. Leo) to locate the W¹/₂ of S. E. ¹/₄ & the N. E. ¹/₄ of S. E. ¹/₄ & the S. E. ¹/₄ of S. W. ¹/₄ of 33-42-3" And as I cannot remember the details of my numerous transactions of this nature, extending through a period of several years, and scattered over several counties, and as my other memoranda of this transaction were lost or destroyed long ago, I can only give my impression that I had some dealings in respect to United States lands with persons bearing the name of Kilpatrick and

look in the vicinity of Hicks mills on the South side of the River, (South Branch of the Kishwaukee)
Interrogatory tenth; Do you know who was in possession of the following described tract of land, situated in De Kalb County Illinois, Viz, The South East Quarter of the South West quarter of Section thirty three (33) in Township forty two (42) North, Range Three (3) East of the third (3^d) Principal meridian at the time of said negotiation, if any such there was?

Answer to tenth Interrogatory; I do not remember.

Interrogatory eleventh; Did you, or did you not enter the above described tracts of land at any land office of the United States? If yes, state when, where and in whose name and for whose use, and in whose presence, said tract of land was entered, and whether entered in pursuance of negotiation or arrangements made with anyone, and if so, with whom, state fully?

Answer to eleventh Interrogatory; I requested the agent of Mr Greene at Dixon to enter the said land for him as I have before stated, is all I can now remember respecting it.

Interrogatory twelfth; If in answer to the last interrogatory, you answer that said lands were entered at Dixon land office in the name of said Thomas R. Greene for the use of Alvin Cook the Complainant

in pursuance of any negotiations or arrangements made with him, or with him and said George Kilpatrick, state fully what those negotiations or arrangements were, when, where and in whose presence they were made, for what purpose said Greene had the title to said land, whether as security for any and what sum of money, and whether said sum of money was otherwise secured to be paid to said Greene, and how, whether by note, or otherwise, and if by note who drew it, its date, terms and time of maturity, as near as you can recollect the same, and by whom executed and to whom payable? state fully?

Answer to twelfth Interrogatory ; I have no recollection of any thing about it.

Interrogatory Thirteenth ; Was any written or printed or partly written or partly printed contract made by said Greene or by you for said Greene and as his agent, for the conveyance of the aforesaid tract of land to said Leok the Complainant, if yea, state when or what terms said premises were to be conveyed to said Leok, when, where, and by whom said contract was drawn up, and by whom executed, and to whom delivered, and who was present when the same was so made & executed and delivered (if such there was) and what sum (if any) was paid you as Commissioner, agent or otherwise for the

business done by you - State fully -

Answer to thirteenth Interrogatory; I have no recollection of any of these circumstances

Interrogatory fourteenth; Have you any knowledge of the death of Elizabeth Greene the mother of the said Thomas R Greene? If yea, state the same fully -

Answer to the fourteenth Interrogatory; No.

Interrogatory fifteenth; Do you know of any other matter or thing that may tend to the benefit of the Complainant in this cause? if yea, state the same fully -

Answer to fifteenth interrogatory; I do not.

Harris Howard

I, Samuel W. Peckham of the City of Providence, of the County of Providence and State of Rhode Island, a Commissioner duly appointed to take the deposition of the said Harris Howard (formerly Harris Howard Tinked) a witness whose name is subscribed to the foregoing deposition, do hereby certify that previous to the commencement of the examination of the said Harris Howard as a witness in the said suit between the said Alvin Cook plaintiff and the said John S. Greene et al. Defendants, he was duly sworn by me to testify the truth in relation to the matters in controversy between the said Alvin Cook plaintiff and the said John S. Greene et al. Defendants, so far

as he should be interrogated concerning the same; that the said deposition was taken in my office in the city of Providence in the County of Providence and State of Rhode Island, on the ninth day of October AD 1858; and that after said deposition was taken by me as aforesaid, the interrogatories and answers thereto, as written down were read over to the said witness; and that thereupon the same was signed and sworn to by the said deponent before me, the oath being administered by me at the place and on the day and year last aforesaid.

Saml. W. Peckham
Commissioner

Witness Fees & Expenses \$ 5.00
Commissioners fees & Exp. \$ 10.00

Opened by order of
Court & filed this Oct 16th 1858

J. N. Beveridge. CLK.

Alvin Cook

vs

John S. Greene Mary

Anne Greene, Ardelia C.

Greene Albert G. Greene &

Whipple Harrington

In the Circuit Court of De Kalb
County Illinois - February
Term AD 1860

To the Defendants in this cause and
their attorneys.

Please take notice that the
undersigned complainant in this cause, will attend

before James H. Beveridge Esqr. Clerk of the
Circuit Court of said County at his office in Sycamore
in said County, on Monday the 19th day of December
next at 10 o'clock A.M. to take the deposition of the
following witnesses Viz James Byers, Asa Talmadge
and John S. Brown to be read in evidence on the
trial of this cause, that he will commence the ex-
amination of said witnesses at the time aforesaid or
as soon thereafter as convenient, and continue
the same from day to day, until their depositions
shall all be taken. Sycamore November 15th 1859.

Alvin Cook

By A. C. Allen his Sol^r

State of Illinois

De Kalb County ss.

A. C. Allen being first duly sworn,
on oath says that he posted an
exact copy of the within Notice on the door of the
Court House in Sycamore on the 16th day of November
A.D. 1859, and delivered another exact copy thereof to
Edward S. Mayo Esq, one of the Defendants Solicitors or
Attorneys, on the sixth day of December A.D. 1859.

Subscribed & sworn to
before me this 17th day
of December A.D. 1859
Chas. Kellum N. J.

A. C. Allen

Alvin Cook

John S. Greene, Mary
 Anne Greene Ardell
 E. Greene, Albert G. Greene
 & Whipple Harrington

De Kalb Circuit Court
 In Chancery.

Depositions of James Byers
 John S. Brown & Asa Talmadge, witnesses on the
 part of the Complainant, taken in the above entitled
 cause now pending and undetermined in the De Kalb
 County Circuit Court on the Chancery side thereof in
 pursuance of the Notice hereto attached.

Complainant present in person & by A. C.
 Allen his Solicitor. Defendants John S. Greene &
 Whipple Harrington Present by E. S. Mayo
 their Solicitor.

Interrogatories propounded to
 James Byers a Witness produced sworn and examined
 on the part of the Complainant with his answers
 to the same Viz:

First Interrogatory - What is your name age res-
 idence and occupation?

Answer James Byers, age Sixty two, a
 farmer. I reside at South Grove.

Second Int. Are you acquainted with the
 parties to this suit or either and which of
 them and how long have you known them?

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Ans I am acquainted with Alvin Cook, have been for seven or eight years - All my acquaintance with John S. Greene has been by letter, paying me monies for business I did for Thomas R. Greene through Asahel W. Byers, have been acquainted with Whipple Harrington for some six or eight years, am unacquainted with the remaining parties except I have understood by letter from John S. Greene that he was administrator of Thomas R. Greene and that they were heirs at law of Thomas R. Greene.

Third Int. Were you acquainted with Thomas R. Greene late of Chicago Illinois now deceased in his lifetime?

Ans. Merely by communications from him by letter.

Fourth Int. Was he, or was he not related to John S. Greene Mary Ann Greene Ardelia E. Greene and Albert G. Greene defendants in this suit, if yes, state how he was related to them?

Ans I believe that that Thomas R. Greene was a brother of John S. Greene and of the remaining Greenes.

Fifth Int. Were you an agent of said Thomas R. Greene in any and what business and when and how long were you such agent?

Ans I acted under direction of Thomas R. Greene in selling lands by his acquiescence

changing notes by his direction, having ~~new~~ new articles granted by him to former purchasers, taking new notes and delivering old ones. I acted in the above stated capacity from some time in February until some time in August or September in the year said Thomas R. Greene died.

Sixth Int.

Had you any thing to do with the renewal of any contract for the sale of lands by said Thomas R. Greene to Alvin Cook the complainant in this suit or with the renewal of any note or other obligation from said Cook to said Greene for any lands, if yes, state what you did and who was present at the time describe the lands ^{if you can} state fully and particularly?

Ans.

Yes. - Two articles of agreement were filled and signed by Thomas R. Greene and sent to me, between said Greene and said Cook, together with a judgment note as I believe, to be signed by Cook, the two articles of agreement were signed in my presence, I witnessed the same by signature, the note was also signed in my presence the note and one copy of the articles of agreement was remitted by mail to Thomas R. Greene at Chicago & the duplicate ^{of that agreement was delivered} to Alvin Cook

(Here the Witness refers to an old Deposition of his which has been suppressed to refresh his recollection to which the dependent objects: The witness also refers

to the copy of the agreement attached to the Bill, to which the dependants also object.)

The Land is the South East quarter of the South West quarter of Section Thirty three Township Forty two Range 3 east of the 3rd principal meridian.

Seventh Int. Do you know where said land lies and what direction and distance from where said Alvin Cook now resides?

Ans. Eighty rods East.

Eighth Int. At or about the time of the renewal of the Contract and obligations spoken of by you in answer to the sixth Interrogatory, was there any note surrendered or delivered to said Cook, if yea, describe the same?

Ans. I don't positively recollect about the delivery of the old note of Cook, but I have no doubt it was delivered to him, at any rate the last note comprised, the whole indebtedness of Cook for the land.

Ninth Int. State whether the contract or agreement attached to the Complainant's Bill of Complaint and designated by the Letter B is the contract as renewed by said Complainant and said Greene as stated by you in answer to the sixth Interrogatory? (To this Interrogatory the dependants object)

Ans It is.

Tenth Int Who was the subscribing witness to the contract?

Ans I was.

Eleventh Int State whether the contract mentioned B was executed in your presence by either of the parties thereto, if yes by which?

Ans It was by Alvin Cook.

Twelfth Int. State whether there was or was not a note executed at that time by said Alvin Cook the complainant to said Thomas R Greene corresponding in amount to said contract; if yes, state whether it was or was not a judgment note and whether the same is or is not correctly described in the complainants Bill of Complaint, to the best of your recollection? (defendants object). Witness here refers to the complainants Bill of Complaint to refresh his memory to which the defendants also object.

Ans I believe that there was a note granted by Alvin Cook of eighty five dollars in conformity to the Bond (here the witness read the amount from the Bond to which the defendants objected) I have no doubt whatever but what the amount stated above is correct, I believe it was a judgment note, I think it is

correctly described in the bill of Complaint.

Thirteenth Int.

State whether the note here presented and copied into the Complainants Bill of Complaint was taken up by said Complainant or not at or about the time said papers were renewed to the best of your recollection?

(Objected to by Depts)

Ans

I believe that was the paper taken up about the time that the papers were renewed.

Fourteenth Int.

Have you ever seen H. H. Tinker write? If you look on the advertisement attached to the Complainants Bill and designated on the leaf to which it is attached by the Letter A and say whether in your opinion the signatures thereto are or are not the genuine signatures of said Tinker?

Ans

I have seen him write. I should think that the signatures were his and genuine.

Fifteenth Int.

On whose hand writing is the note here presented and which has been copied into the Complainants Bill?

(Objected to by Depts.)

Ans

I should think that it was H. H. Tinkers.

Sixteenth Int.

Were you acquainted with said H. H. Tinker and do you know whether he was at any time acting as an agent for said Thomas R. Greene, if yes, state when and in

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what business he was so engaged?

Ans

I was partially acquainted with him, He was locating lands in about February A.D. 1849, He located for me at that time one hundred and sixty acres. He was acting as agent for Thomas R. Greene

Seventeenth Int

State whether said Jukes used advertisements like the one designated by the letter A on the leaf to which it is called attached as aforesaid to give notice of his business?

Ans

I do not recollect.

Eighteenth Int

Do you know who was in possession of or had the claim right to the lands described by you in answer to the sixth Interrogatory in the month of February A.D. 1849, and whether there were then any improvements thereon?

Ans

I don't know who had the claim right or who was in possession of said lands at that time or whether there was any improvements thereon.

Nineteenth Int

Do you know of any other matter or thing material to the complainant in this cause, if yea, state the same.

Ans

I know nothing further in relation to said cause.

James Byers

The further examination of Witnesses in this cause was postponed until to morrow at 10 o'clock A.M.

December 20th 1859. 10 o'clock A.M. Complainant present by A. C. Allen his Solicitor - Dependents John S. Greene & Whipple Harrington Present by E. S. Mayo their Solicitor.

Interrogatories propounded to John S. Brown a Witness produced sworn and examined on the part of the Complainant with his answers to the same.

First Interrogatory What is your name age, occupation and residence?

Answer John S. Brown, my age is fifty, am a farmer & reside at South Grove De Kalb County Illinois.

Second Int Are you acquainted with the parties to this suit, or either and which of them, & how long have you known them?

Ans. I am acquainted with Alvin Cook & John S. Greene - am unacquainted with the remainder - have known Cook some ten or twelve years - have known John S. Greene from seven to nine years.

Third Int Were you acquainted with Thomas R. Greene late of Chicago Illinois, ^{now deceased,} in his

72 — lifetime? if yea, state, if you know how he was related to dependant John S Greene?

Ans I knew Thomas R Greene in his life time, I supposed him to be a brother of John S. Greene.

Fourth Int. Were you an agent of said Thomas R Greene in any business, if yea, state when, how long, and in what business?

Ans I appraised some lands for him and sent in the appraisal at his request, he wished me to find purchasers for his lands and show persons his lands when he sent them — I also delivered bonds executed by Thomas R Greene to individuals who bought lands and received notes taken for lands. This was in AD 1849 and might have extended to 1850. I cannot tell certainly whether Thomas R Greene or H. H. Jinker sent me the bonds.

Fifth Int. Were you acquainted with H. H. Jinker and do you know whether he was at any time acting as an agent for said Thomas R Greene? if yea, state when and in what business?

Ans I knew H. H. Jinker — I knew that he was locating lands with Land warrants for individuals in the name of Thomas R Greene, I knew that for these lands he took notes running to Thomas R Greene. This was in AD 1848 & AD 1849

Sixth Int. Do you know the hand writing

of said Tinker, if yea, State your means of Knowledge?

Ans. I used to be acquainted with his hand writing. have seen him write often

Seventh Int From your Knowledge of his hand writing, state whether in your opinion the signatures to the advertisement attached to the Complainants Bill and designated on the leaf to which it is attached by the Letter A are the genuine signatures of said Tinker?

(Objected to by Defts)

Ans I think they are his signatures.

Eighth Int State whether said Tinker used advertisements like that designated as aforesaid by the Letter A to give notice of his business as such agent?

(Objected to by Defts)

Ans I believe he did.

(Objected to by Defts)

Ninth Int. Do you know who possessed and claimed the South East quarter of the South West quarter of Section Thirty three Township Forty two North Range three East of the 3^d principal meridian in the month of February AD 1849? if yea, State who.

Objected to

Ans Alvin Cook claimed it as his claim.

I suppose he had the same possession that any

man had that claimed land.

Tenth Int In what direction and how far from said land does Alvin Cook now reside?

Ans About eighty rods west.

Eleventh Int, State if you know who ~~owned~~ ^{owns} the party adjoining the above described premises on the west?

Ans Alvin Cook, I believe.

Twelfth Int State, if you know, whether George Kilpatrick had in February AD 1849, a claim right to any land adjoining the premises in controversy in this cause? And, if so, state in what direction or directions the lands claimed by said Kilpatrick lie from those in controversy.

(Objected to by Deft)

Ans He had - The lands joined and lie East and North East.

Thirteenth Int. How many acres were there in his claim?

Ans One hundred and twenty acres or three forties.

Fourteenth Int. Do you know of any negotiation between said Kilpatrick and said N. H. Jinker for the entry or purchase of the lands claimed by said Kilpatrick of the general government, if ye a, state fully your knowledge and the result of ~~your~~ ^{that} negotiation?

(Objected to as irrelevant by Depts)

Ans

I do. I was present when the negotiation was entered into between H. H. Tinker and George Kilpatrick - H. H. Tinker was to enter three forty's of land for George Kilpatrick with a land Warrant - George Kilpatrick was to give said Tinker, I think two notes payable in one and two years and running to Thomas R Greene for one hundred & fifty dollars, if I recollect right - at six per cent interest. He George Kilpatrick was also to give H. H. Tinker, I think twelve dollars and give him his note payable in thirty days, and Tinker was to furnish Kilpatrick a bond for a deed executed by Thomas R Greene. These papers were all left with me and delivered to the parties when executed.

Fifteenth Int.

State what you know, if any thing, of a negotiation between said Tinker and the Complainant in this cause for locating or entering the premises in controversy, State fully, in whose name and for whose benefit the same was to be entered or located and the result of that negotiation?

(Objected to by depts)

Ans

I know of a negotiation being entered into between H. H. Tinker & Alvin Cook, H. H. Tinker was to enter the forty of land in dispute, the South East quarter of the South west quarter of Section Thirty three Township Forty two North Range

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Three East of the third principal meridian, Tinker was to enter it with a Land Warrant for which Alvin Cook was to give his note for Sixty Six Dollars and Sixty six cents payable in one year I think - Also he was to pay some money between six and twelve dollars which he did pay. Tinker was to furnish him with a bond for a deed executed by Thomas R. Greene to Alvin Cook. It was to be entered in the name of Thomas R. Greene for the benefit of Alvin Cook which bond I delivered to Alvin Cook.

Sixteenth Interrogatory When and where did the negotiation take place spoken of by you in answer to the last interrogatory

Ans It took place or near Cooks house where he now lives - my impression is that it was on the 11th day of February A.D. 1849.

Seventeenth Int State whether the land in controversy was entered in pursuance of that negotiation.

Ans It was.

Eighteenth Int. Were you present when said premises were entered? If yes, State when, where, by whom, in whose name and for whose use or benefit, the same was entered. State fully all you know about it.

Ans I was present in the Land Office

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when the land was entered on the 12th day of February A.D. 1849 at Dixon Land office by one Wood in the name of Thomas R. Greene for the use and benefit of Alvin Cook. My impression is that the same warrant that entered a hundred and twenty acres for Kilpatrick was used to enter the forty in dispute.

Nineteenth Int State, if you know, for what purpose the premises in controversy in this suit were entered in the name of Thomas R. Greene.

Ans They were entered in the name of Thomas R. Greene for the purpose, as I suppose, of securing the Land Warrants or for securing himself for the payment of the note of Sixty Six dollars and sixty six cents which was given for the land in dispute.

Twentieth Int What was the government price for forty acres of land at that time?

Ans Fifty Dollars.

Twenty first Int For what was the excess of said note over and above the fifty dollars to be paid?

Ans For the per centage on the forty acre land Warrant.

Twenty second Int For what was the sum, of from six to twelve dollars spoken of by you paid to said H. H. Finck?

Ans He always required a small sum paid in money to pay expenses, I believe.

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Twenty third Int

State what you know, if any thing of the making executing and delivering of any contract or contracts, bond or bonds, note or notes for said premises in controversy, state fully.

Ans

I have never seen Thomas R. Greene execute any bond. The bonds when they came into my possession were executed, as I supposed, by Thomas R. Greene. As I suppose, the bond for these premises in dispute was executed by Thomas R. Greene and delivered to Cook by me. The note that was given was signed by Mr Cook and witnessed by me to the best of my recollection.

Twenty fourth Int

State your reasons for supposing that the bond for the premises in dispute was signed by Thomas R. Greene?

Ans

I was acquainted with the hand writing of Thomas R. Greene and believed that the signature to the bond was his.

Twenty fifth Int.

When and where was the bond you have spoken of delivered to the said Cook and the note executed by said Cook?

Ans

I cannot state positively when the bond was delivered to Cook my impression is that it was about ten days or two weeks after the entry of the land in dispute. The bond was delivered to Mr Cook at my house. The notes

were made about the time the bond was delivered
as my impression is.

Twenty Sixth Inst

State whether in your opinion

"C"

\$ 66.66 $\frac{85.44}{1856}$ South Grove Feby 23^d 1849
For value received I promise to
pay to Thomas R Greene or order at his Residence
in Chicago Sixty Six $\frac{66}{100}$ Dolls on the thirteenth
day of Feby Eighteen hundred & fifty (1850) said
sum to apply on a Bond from J. R. Greene to me
& dated 17th Feby 1849
John S Brown Witness

(Signature torn off)

Ans

I believe in the hand writing
of Mr Sinkler.

By agreement of parties the further ex-
amination of this witness and Asa Tallmadge
is postponed untill January 3^d AD 1860. at
10 o'clock A.M. at the Circuit Clerks office
at the Court House in Sycamore before said
Clerk

{ Circuit Clerks office Sycamore Jan
3^d AD 1860, 10 o'clock A.M.

Complainant appeared by A C Allen
his Solicitor & Defendants John S Greene & Whipple
Narrington appeared by Chas Kellum their Solicitors
and by agreement of said parties the further examination

were made about the time the bond was delivered
as my impression is.

Sixth Int

State whether in your opinion
the instrument here presented and hereto attached
marked "Q" dated February 23^d AD 1849 is the
note executed by said Leach as related by you
in answer to the last interrogatory?

(Objected to by Depts)

I think it is the same note I witnessed
the note, the signature of the witness is mine
Seventh Int. In whose handwriting is the
body of the instrument spoken of in the last
Interrogatory and Answer.

Ans

I believe in the hand writing
of Mr Linker.

By agreement of parties the further ex-
amination of this witness and Asa Tallmadge
is postponed until January 3^d AD 1860. at
10 o'clock A.M. at the Circuit Clerks office
at the Court House in Sycamore before said
Clerk }

{ Circuit Clerks office Sycamore Jan
3^d AD 1860, 10 o'clock A.M.

Complainant appeared by A C Allen
his Solicitor & Defendants John S Greene & Whipple
Narrington appeared by Cha^s Kellum their Solicitors
and by agreement of said parties the further examination

of John S Brown and the examination of Alvin
Falmadge was further postponed until the 11th
day of January AD 1860 at the Circuit Clerk's
office at the Court House in Sycamore before
said Clerk }.

January 11th A.D. 1860, Complainant appeared
by A. C. Allen his Solicitor and Dependents
John S. Greene & Whipple Harrington appeared
by Cha. Kellum their Solicitor, when the further ex-
amination of John S. Brown was resumed }

Twenty eight Dnr

Do you know whether the Com-
plainant Alvin Cook about the time said note
became due sent any message to said Thomas
R. Greene concerning his ability to pay the money
secured thereby - If you state what that mes-
sage was - when and by whom sent, and
said Greene's reply - and whether that
reply was communicated to the complain-
ant? (objected to by Defts)

Ans

I do - Mr Cook requested me to go
to see Thomas R Greene, and see if he could have
the time put off - the time of payment extended.
Thomas R Greene stated to me that money was
worth at that time four per cent per month.
That he would extend the time on his paper -

or his Bond one year at 40 per cent - I also communicated the same to Mr Cook. I think it was about, or a little after the note of Sixty Six dollars and sixty six cents became due - it was at or near that time.

29th Int. State what arrangements, if any Alvin Cook the complainant made with you in case said Greene should refuse to grant further day of payment.

29th Interrogatory with answer without answer.

30th Int. Are you acquainted with the hand writing of Thomas R Greene - If yes, state your means of knowledge.

Ans to 30th Int. I was acquainted with it at that time - I knew it from the fact that I had seen him write often - and had rec^d letters from him, and Bonds signed by him for myself and others.

31st Int. Is the Letter here presented and hereto attached, dated June 15th 1850 and signed Thomas R Greene, judging from what you know in said Greene's hand writing - and is the same to be attributed to be his in your

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Chicago June 15 1850

Mr Alvin Cook

Dr Sir.

The S E 1/4 S W 1/4 33. 42. 3 Cont Feby 12. 1849 you will do well to pay the taxes on for 1849 before it is sold, which will be very soon if not already done

Truly Yours

Thomas R. Greene.

(Endorsed) "Mr Alvin Cook"

Ans - It is the hand writing of Thomas R. Greene, in my opinion, and his genuine signature thereto.

Q 2^d Int Were you at any other time beside the one you have already mentioned a bearer of any message from the complainant Alvin Cook to said Tho^s R Greene, of, or concerning the premises in controversy - If you, state what that message was, whether you delivered it to said Greene - when sent and delivered - how long before his death - his reply thereto & whether you communicated that reply to said Complainant. (Objected to by Defts)

Ans. I was - Cook requested me to see Thomas R Greene, & see if he could get the time of payment for his land extended - Greene said he would extend it at 40 per cent - as near as I can recollect, it was but a short time before his death - perhaps three or four weeks - I communicated that reply to the complainant.

Q 3^d Do you know who has paid the taxes on the premises in controversy hitherto - If you state who

Ans. I don't know that I have ever seen

Cook pay the taxes - My impression is that I have seen Cook's receipts

34th Int. State what arrangements if any, Complainant made with you to make payment to Tho^s R. Greene for the lands in controversy and when such arrangements were made

(Objected to by Defts)

Ans - Complainant made arrangements to borrow the money of me to pay on the land - This was done about the time or before Tho^s R. Greene died.

35th Int Why were ^{the} above arrangements carried into effect (objected to by Defts)

Ans Greene died & he Cook, could not ascertain to whom to pay it.

36th Int Are there any and what improvements on the lands in controversy, and do you know who made them - & when they were made, state fully (Objected to by Defts)

Ans There are - the land is fenced & broke - has been ploughed & crops raised on it - Mr Cook made them - They were made some of them before the premises were purchased by Harrington.

27th Int Do you know of any other matter
or thing material to the Complaint in this
cause of yea, state the same fully -

Ans I dont think I do - I dont recollect
of any

Subscribed & sworn to
before me this 11th day
of January AD 1860
James H Beveridge
Clerk.

John S. Brown

(By agreement of parties the examination of
of Asa Tallmadge was postponed untill to
morrow at the Circuit Clerks office before
said Clerk)

(Circuit Clerks office Sycamore
January 12th AD 1860.

Complainant present in person
and by A. C. Allen his Solicitor Dependents
John S. Greene & Whipple Harrington present
by E. S. Mayo their Solicitor)

Interrogatories propounded to
Asa Tallmadge a Witness produced & sworn
and examined on the part of the Complain-
ant with his answers to the same, Viz.

1st Interrogatory What is your name, age.

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residence and occupation?

Ans, My name is Asa Salmond, age 49 years - residence in the town of Franklin De Kalb County - occupation a farmer.

2^d Int Are you acquainted with the parties to this suit, or either and which of them - and how long have you known them

Ans I am acquainted with Mr Cook & Whipple Harrington - partially acquainted with John S Greene - have known Mr Cook 11, or 12 years last Spring - Whipple Harrington 7 or 8 years - John S Greene I was first acquainted with the 28th day of Jan'y 1854 - Don't know the other Defendants.

3^d Int Were you acquainted with H. H. Jinker & do you know whether he was at any time an agent for Thomas R Greene. If yes, state when, ^{where} & in what business.

(Objected to by depts)

Ans Well I was some acquainted with him - He was at my house & said he had Land Warrants to sell & money to loan in Feby 1849 (Ans objected to) - He wanted to sell me a Land Warrant or two - He asked too much for them and I did not trade - He said he was an agent for Thomas R Greene (Ans objected to) I asked him if he had sold

any Warrants in our settlement - He said he had said he had made arrangements with George Kilpatrick & Alvin Cook to locate a quarter section & had made arrangement with others

(Whole Ans. objected to by Depts)

4th Int

Are the signatures to the advertisement attached to the Complainants Bill & designated on the leaf to which it is attached by the letter "A" the genuine signatures of H. H. Finck - (Objected to by Depts)

Ans

I am not acquainted with the hand writing of Mr Finck - But that is a New Bill that I got at Sycamore, and showed it to him & asked him if that was one of his New Bills - he said it was.

(Ans objected to by Depts)

5th

Do you know who was in possession of the premises in controversy in the month of February A.D. 1849 - who claimed them & whether there were any improvements thereon at that time. If yea, state who, and who made those improvements - (Ans objected to by Depts)

Ans

Alvin Cook was in possession - Alvin Cook claimed them - He had some ploughing on it.

6th Int

Will you describe the premises in controversy

Ans It is the South East quarter of the South West quarter of Section thirty three (33) of town 42 Range Three East of 3^d Principal meridian.

8th Do you know whether George Kilpatrick claimed any Lauds adjoining said premises at that time - If yea, state how much, & in what direction or directions did they lie from said premises.

Ans, He did claim three 40's at that time that Alvin Cook claimed this - He claimed 2 east of N. one north of that - & one east of this last.

8th Do you know whether said H. H. Pinker entered any & what land for the Complainant in this cause - If yea state fully what you know about it.

Ans He told me that he had entered that quarter section - three 40's for Kilpatrick & one for Cook. (Ans objected to by Dept) & I understood it from Mr Cook & Mr. Kilpatrick he did.

9th Ont. Have you had any conversation with Defendant Harrington concerning the said premises, or his purchase thereof - or with any other person concerning the same in his presence & hearing - If yea state when, where & what that conversation was - State fully.

Ans

I want Mr Sidney Harrington's about a week or ten days after he said he had bought that land. Mr Sidney P. Harrington told me he had been at Chicago buying some land - says he, I suppose you think I can't hold it - I told him it depended on what land he ^{had} bought - He said he had bought 40 acres of Cooks - said he had bought it for Whipple Harrington - the 40 that is in controversy He said he had bought three 40's more. I told him he never would get it - If it was me it would cost him five dollars an inch before he got it - He said he expected I would say so - He said that Greene would never buy him the three Kilpatrick 40's without he would take Cook's - Whipple Harrington spoke up & said Cook might have it for \$10. an acre - He said he did not care any thing about Cook's title to it - he had a bond for a Deed for it & it had run out - Sidney P. said this. He said Cook wasn't able to pay for it - he was a poor man - I told him he was able to pay for it - He said he wasn't - there was a mortgage on the 40 he lived on He said he had no money to pay for that or any of it - I told him he had - he could get the money to pay for it - He said he couldn't - he was a poor man & was unable to law it. nor Cook had no friends to back him - I told

him he had friends worth as much as he was & that he would never get the land. This conversation was at Sidney P. Harrington's - Whipple Harrington was present all the time - He lived with Sidney P. (Ans. objected to by Defts)

10th Qst.

How far did the Deft. Whipple Harrington reside from the premises in controversy from February 1849 till he purchased the same.

Ans. He was not then in 1849 - at the time that he bought this, it was a trifle over two miles and a half.

11th Qst How long had Whipple Harrington resided there prior to his purchase, of the premises in controversy.

Ans I should think a couple of years.

12th Qst Do you know whether any money was tendered to John S Greene one of the Defendants by, or on behalf of the Complainant, for said premises - If yes, state when, it was tendered - who tendered it & what sum was so tendered - state fully.

Ans I know there was - the 28th day of Jan'y in 1854 - Mr Cook tendered it to him & I ~~tendered~~ tendered it to him - American Gold - \$75. I took it out of the Chicago Bank - got it changed into

Sold at the Bank Mr Cook tendered it to him & I tendered it to him & demanded a Note of him that he had against Mr Cook of eighty five or eighty six dollars & a deed for this Land - He said Mr Cook had no Bond - I told him he had & showed it to him - He took it & looked at it & started to go towards the stove to put it in as I supposed - He finally withdrew it & handed the Bond back to me & told me to "stick in in damned aff". I told him I should do no such thing - I told him that I wanted the note & a Deed of that land for Mr Cook. He said he had sold it to Mr Harrington & he could not sell it twice - He said the land was worth a good deal more than it was when Cook first bought it - He said he would have nothing to do about it - appeared to be very mad - When he started towards the stove as though to put the Bond in the stove, he said those old Bonds had ought to be all burned up.

13th Look at the Bond or contract attached to the Complainants Bill & designated by the letter "B" & say whether it is the one you presented to said Greene as stated by you in answer to the last interrogatory

Ans . It is the Bond.

14th Int. What note was it which you asked said Defendant Greene for, as stated by you in answer to the 12th Interrogatory.

Ans. It was a note of (\$85.) Eighty five Dollars from Alvin Cook to Thomas R Greene, I think it was

15th Int By whom were the improvements that were on the premises in controversy in February, 1849, made

Ans By Alvin Cook

16th Int. How far and in what direction from said premises, does Alvin Cook the Comptainant now live, & who has the possession of the premises in controversy, & what improvements are there thereon & who made those improvements.

Ans. He lives west not quite 80 rods - Alvin Cook has possession - there is fencing on three sides & 22 acres broke - Cook made the improvements.

17th State whether or not the premises in controversy join those on which the Complainant now resides & make a part of his Homestead.

Ans Yes Sir - that place in controversy & the one he lives on make his Home Farm - 80 acres.

18th Int.

Who has heretofore paid the taxes
on said premises.

Ans

Look (Ans objected to by Dept)

19th

Do you know any other matter or thing
material to the complainant in this cause, if ye
state the same.

Ans

I don't recollect any thing

1st Cross Interrogatory.

When & where did you first make
the acquaintance of Mary Ann Greene Ardulia
E Greene & Albert G Greene

Ans

I never see them - don't know
any thing about them.

2nd Cross Int.

What was the extent of break-
ing on the land in controversy & on what part of
said land was said breaking in February 1849

Ans, There was a strip broke on the west side of
the lot - how much I don't know - there was
one, two or three acres - I can't tell exactly - I
don't know when the line between the 40's is ex-
-actly, he broke the whole length of the 40.

3rd Cross Int.

Was it a strip broke on this

piece of land alone, or did he in breaking on the 40 on which he resided break over on to this piece of land in controversy.

Ans. He broke on both at one time. He broke East & west, & every furrow ran over on to the East 40 - the one in controversy

4th Cross Int. Who was present at the time you say the money was tendered to John S. Greene.

Ans. There was a young man there that Mr Greene called his son - John S Greene his son, Mr Cook & myself were all that were present

5th Cross Int. What has become of the money so tendered.

Ans. I have understood that John S. Brown has it

6th Cross Int. When was this piece of land fenced - the 22 acres broken as sworn to by you in your direct examination

Ans. I cannot state positively - I think it was in the summer of 1854 or 1855 the breaking was done - the fencing was done the next season after the breaking

7th Cross Int. How long have the premises in controversy been taxed & who means have you of knowing who paid the taxes

Ans. I could not exactly tell without

seeing the Receipts - I think it was the next year
after he bought it - the next year or two - I
have seen the receipts - Morlock told me he
had paid them to the collectors - I think the most
of them - them that I asked told me so too.
8th Cross Int.

Have you in your answer to the
last Cross Interrogatory stated all your means of
knowledge as to who paid said taxes

Ans It is all I can recollect of now - It might
be more I could not say whether I have or not.

Asa Tallmadge

Subscribed & sworn to before
me this 12th day of January
A.D. 1860

James H. Beveridge
Clerk

State of Illinois
In said County of J. James H. Beveridge Clerk
of the Circuit Court within
& for said County in the State aforesaid, do hereby
certify that the foregoing depositions of James
Byers John S. Brown and Asa Tallmadge were
taken before me at my office pursuant to the

Notice hereto attached and the agreement of parties herein noted, to wit on the 19th day of December AD 1859 and on the 11th & 12th days of January AD 1860, thereafter and that all of said Witnesses were duly sworn by me previous to their examination.

J. H. Beveridge

Witness my hand & the Seal of said Court at Sycamore in said County & State this 12th day of January AD 1860.
James H. Beveridge
Clerk

Filed Jan'y 12. 1860

J. H. Beveridge,
CLK.

In Chancery

De Kalb County Circuit Court
September Term AD 1860

Alvin Cook

v

John S. Greene et al

} Be it Remembered that on the trial of the above entitled cause the said defendant John S. Greene offered to prove that Harvey B. Hurd a witness then produced that the said Harvey B. Hurd and the said John S. Greene had made diligent search among the papers of Thomas R. Greene deceased for the note mentioned in the said articles of

Bill of exceptions filed March 6 1861

agreement mentioned in the said complaint
and bill of complaint and that the same
could not be found & that they had also ex-
amined the books of said Thomas R. Greene &
could find no entry or memorandum of
the said note. Thereupon the said plaintiff
objected to said testimony as incompetent &
irrelevant which objection was sustained
by the Court, to the sustaining of which objec-
tion the said defendant then & there accepted

Witness my hand & seal this
day of September A.D. 1860
Isaac G. Wilson Esq
Filed March 6th 1861.
C. M. Brown Clerk

Alvin Cook

John S. Greene, Mary
Anne Greene, Ardelia
E. Greene, Albert G.
Greene & Whipple Harrington

This day came the
complainant by
A. C. Allen his Soli-
citor, and the de-
pendants John S.
Greene & Whipple
Harrington by Mayo

& James their Solicitors, also come, and it appear-
ing to the Court by the affidavit of the Com-
plainant that Mary Anne Greene, Ardelia
E. Greene & Albert G. Greene three of the depen-
dants in this cause, were not residents of this

Final Decree.

State, and it also appearing that due notice of the pendency of this suit, the names of the parties thereto, the title of the Court, and the time and place of the return of the Alias Summons in this cause had been published in the "Republican Sentinel", a weekly newspaper published at Sycamore, in De Kalb County, Illinois, for five successive weeks, commencing February 5th A.D. 1857 and ending March 5th A.D. 1857, the first insertion or publication of said notice being made more than sixty days before the return day of the Alias Summons issued in this cause, and it also further appearing that the Summons in this cause issued to the Sheriff of De Kalb County Illinois had been duly served upon the said defendant Whipple Harrington by said Sheriff by reading the same to him, and delivering to him a true copy thereof, more than ten days before the return day of said Summons, and that said defendant had also appeared in Court and made Answer to the Complainant's Bill of Complaint in this cause, and that an Alias Summons, issued to the Sheriff of Cook County, Illinois had been duly served ^{by said Sheriff} upon said defendant John S. Greene by reading the same to him, and delivering to him a true copy thereof on the 13th day of March A.D. 1857, more than ten days before the return day of said Alias Summons and that said defendant had also appeared in this

Court and made answer to said Complainants Bill of Complaint in this cause, And this cause on this day being one of the days of the September Term of the Circuit Court of said Du Kalk County Illinois, coming on to be heard upon Bill Answer proofs and exhibits in this cause, and the Court, on such hearing, being fully advised and satisfied from such proofs and exhibits, that Alvin Cook, the Complainant in this cause, in the month of February A.D. 1849 was, and for some time previous had been, in possession of a tract of land, situated in the present Town of Franklin in said Du Kalk County Illinois, known and described as follows, Viz: The South East quarter of the South West quarter of Section thirty three (33) Town forty two (42) North Range three (3) East of the third (3^d) Principal Meridian, containing forty (40) acres, and that he held the claim right thereto, according to the custom of the Country in that behalf, the title to the same then being in the United States, and that he then had improvements thereon of value, and that he then resided on the forty acres adjoining the above described premises on the West, the two forty's together constituting his homestead farm. And that before and about that time one H. H. Finck was operating in the neighborhood where said tract of land lay, as an agent of one Thomas

R. Greene then of the City of Chicago Illinois now deceased in the business of locating lands with land warrants, on a credit for settlers, and others, at the land office of the United States, having given notice of his said business by advertisements, and the Court being also satisfied thereon or about the same time one George Kilpatrick held the claim right to three quarter quarter sections adjoining to said premises occupied by said Cook, containing One hundred and twenty acres, and being desirous of entering the same, at the land office of the United States, at Dixon Illinois, he negotiated with said Tinker to purchase the same with a land warrant for him and give said Kilpatrick time for the payment of the purchase money and that in order to make up a whole quarter section of one hundred and sixty acres of land, said Tinker applied to said Complainant, to permit him said Tinker to enter the premises herein before described for the benefit of said Complainant, and to give said Complainant credit for the purchase money for said premises, and that it was thereupon agreed by and between said Complainant and said Tinker, that said Tinker should enter the premises hereinbefore described for the benefit of ~~the~~ said Complainant in the name of said Thomas R. Greene and that the legal title thereto should

remain in said Greene as security for the re-pay-
ment of the purchase money therefor with inter-
est at a high rate, at the end of one year, amount-
ing to the sum of Sixty Six dollars and Sixty
six cents to said Greene, and that said Complai-
naint should pay to said Tinker the further
sum of twelve dollars by way of commission
which was paid by or for said Complainant
to said Tinker; and that on or about the
12th day of February AD 1849, said premises
heretofore described, were in pursuance of said
Agreement entered at the land office at Dixon
in the State of Illinois in the name of the said
Thomas R Greene, and that on or about the
23^d day of the same month & year said Com-
plainant made and executed his promissory
note to said Greene for said sum of \$66.66
dated same day & payable at the residence of
said Greene in Chicago on the 13th day of July
AD, 1850 "said sum to apply on a bond from T.
R Greene to me & dated 17th July 1849" & witnessed
by one John S. Brown, and that a bond or con-
tract, (referred to in said note) made and
executed by said Thomas R Greene to said
Complainant was then and there delivered
by said John S Brown, as the agent of said
Greene to said Complainant by which said Greene

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covenanted and bound himself to convey to said Complainant the legal title to said premises, upon the payment of the sum mentioned in the said promissory note, and that the said Complainant being unable to pay said note when it fell due an arrangement was made between said Greene and said Complainant whereby said note and bond were each to be, and were surrendered, and a judgment note executed by said Complainant and delivered to ^{one} James Byers an Agent of said Thomas R Greene for the sum of Eighty five dollars payable to said Greene on the first day of October A.D. 1850, and an Article of Agreement executed under the hand and seal of said Thomas R Greene was then and there delivered by said Agent James Byers to said Complainant, and by said Complainant the same was then & there executed and sealed, in duplicate one copy being left with said Byers for said Greene and the other delivered to said Complainant whereby said Complainant covenanted and agreed to pay said Greene his Executors administrators or assigns at his residence in Chicago the said sum of \$85. on the first day of October A.D. 1850, and whereby said Greene on his part covenanted and agreed upon the payment of said sum of eighty five dollars as aforesaid, to execute a certain Acknowledgment and deliver to said Complainant a deed of conveyance of all the right title and

interest of said Greene in and to said premises, with covenants of warranty against any act or thing done or suffered by him and that on or about said first day of October A.D. 1850 said Complainant sent a message by the aforesaid John S Brown to said Thomas R Greene, with instructions to inform said Greene that said Complainant was still unable to make payment to him and to request said Greene to give him further time for the payment thereof, and that said Brown informed said Complainant on his return, that said Greene informed said Brown that he would wait upon said Complainant for said payment, at 40 per cent interest, and that said Complainant then made arrangements with said Brown to advance the money and pay said Greene the amount of said note, but that about that time said Thomas R. Greene departed this life leaving John S. Greene Mary Anne Greene Ardelia E. Greene and Albert G. Greene ^{his brother and sisters} dependants in this suit his heirs at law and that thereby the legal title to said premises descended to said heirs subject to the equity of redemption of said Complainant, that at the November Term of the County Court of Cook County Illinois, in said year A.D. 1850, said dependant John S Greene was by said Court appointed administrator of the estate of said decedent took letters of

administration thereof and still is such adminis-
-trator, and that on or about the 17th day of October
A.D. 1853 the said defendant John S. Greene in his
own name and as attorney in fact for said
Mary Anne Greene Ardelia E. Greene, and one
Elizabeth Greene, executed to one Whipple Nar-
rington of said town of Franklin, one of the de-
fendants to this suit a deed of said premises and
three other quarter quarter sections with usual
covenants of seizin, right to convey, freedom
from incumbrance, and general Warranty, for a
consideration expressed in said deed to be six
hundred and forty dollars; which deed was
acknowledged and was filed for Record in the
Recorder's office of said DeKalb County on the
22^d day of October A.D. 1853, and was recorded
in Book 13 of Deeds Pages 103 and 104. That
on or about the 28th day of January A.D. 1854
said complainant tendered to said Administrator
the sum of Seventy five dollars in gold coins
of the United States, and requested him to receive
the same, & to give up said judgment note, and to
convey said premises to said complainant, all which
he peremptorily refused to do and that said complainant
has ever since caused said sum of \$75. to be kept
in readiness for said administrator, and brought
the same into court at the time of filing his Bill

in this cause for the use of the party or parties entitled to the same, that ever since said premises were entered as aforesaid, said Complainant has been in actual possession thereof, claiming to hold the same in his own right, subject only to the incumbrance of said debt due to said Thomas R. Greene in his lifetime, as aforesaid, and to his estate since his decease, that he has since wholly enclosed the said premises, and that said premises have been assessed to said Complainant and that he has paid the taxes thereon, and that said Whipple Harrington had for some years before his said purchase thereof lived within about two miles of said premises and was well aware of the right and claim of said Complainant therein, whose claim thereto had been and was a subject of frequent debate and discussion between said dependant Harrington and others previous to the execution of the aforesaid deed to him of said premises and that at the time of such purchase said Dependant well knew that the Complainant in this ^{cause} claimed to be the equitable owner and was in possession thereof, that at the October Term of the Circuit Court of said De Kalb County AD 1855, said dependant Whipple Harrington commenced an action of Ejectment against said Complainant for said premises and that

on the 5th day of April A.D. 1856 said Complainant obtained an Injunction restraining the said Defendant Whipple Harrington from further prosecuting his said ejectment suit against said Complainant and from suing out or executing any writ of possession in the same, and from commencing any other suit or proceeding for obtaining possession of said premises, or from molesting or disturbing said Complainant in the possession thereof, and also from in anywise conveying or encumbering the same until the further order of this Court; which injunction was served on said Defendant Harrington by William Phelps, then Sheriff of said De Kalb County on the 7th day of April A.D. 1856, by reading the same to him.

It is therefore Ordered, adjudged and Decreed by the said Court, that the said Complainant is the equitable owner of the premises hereinbefore described, and that the transactions hereinbefore stated and proved in the said cause, were a loan of money at usurious interest, and that said Complainant shall have the right to redeem said premises for the said sum of seventy five dollars which was tendered to said John S. Greene Administrator as aforesaid, by said Complainant as aforesaid, and brought by said Complainant into this Court as aforesaid, and deposited with the aforesaid John S. Brown as Receiver

of this Court. And it is further Ordered
adjudged & Decreed that the Injunction aforesaid
be made perpetual, restraining said defendants
as is therein stated, except as the same is or may
be modified directly or indirectly by this Decree
and that said sum of Seventy five Dollars shall
be a full payment, satisfaction and liquidation
of said Judgment note for Eighty five dollars
described in the Complainants Bill and that
said Whipple Harrington acquired the legal
title to said premises from the Grantors in said deed
hereinbefore named and mentioned subject to the
equitable rights and interests of said Complainants
therein.

And it is further Ordered adjudged and
Decreed by said Court, that if the said Defendants
John S. Greene Mary Anne Greene Cordelia E.
Greene Albert G. Greene & Whipple Harrington
shall not within one month from and after
the rendition of this Decree, convey the legal
title to the said premises to said Complainant
by a good and sufficient Deed of conveyance of
all the right title and interest of them and each
of them in and to said premises with covenants
of warranty against any act or thing done or
suffered by them or either of them, then that
Sorenzo N. Whitney Esquire, be and he is hereby

appointed a special Commissioner to make
execute, acknowledge and deliver a Deed for the
aforesaid premises, to the said Complainant for
and on behalf of all the dependents named in the
said Complainant's Bill of Complaint. And
that such Deed when so made, acknowledged
and delivered in compliance with this decree, is
hereby declared to vest in said Complainant his
heirs and assigns forever, the full absolute and
legal title to said lands and premises and to operate
as against the parties dependent to this suit, as
a perpetual Bar to the claim or claims of them
or either or any of them, or of any other person or
or persons whomsoever, claiming or to claim the
whole or any part of said premises, by through or
under them or either of them. And it is therefore
considered by the Court that said Complainant
have and recover of the said Dependents his costs
in this suit expended and have execution there-
for. And that the Clerk of the Circuit Court of
said De Kalb County be allowed first to retain
out of said sum of Seventy five dollars suffi-
cient to pay the costs of this suit if so much
there be; And then to pay over the balance thereof,
if any such there be to the Solicitors of the said
dependents John S. Green & Whipple Harrington or
either of said Solicitors taking their receipt or receipts
therefor, and filing the same among the papers in this cause.

Filed Oct 12, 1860

J. M. Beveridge clk

State of Illinois

De Kalb County, I, Caleb M. Brown
Clerk of the Circuit

Court of said County in the State aforesaid,
do hereby certify, that the above and fore-
going Transcript contains true copies of the
following Papers, in a certain cause lately
depending in the Circuit Court of said County
on the Chancery side thereof wherein Alvin
Cook is Complainant and John S. Greene
Mary Anne Greene, Ardenia E. Greene
Albert G. Greene and Whipple Harrington
are Dependents, in the following order, to wit:
First, of the Bill, Second, the Summons &
the services on the same, Third, Answers of
John S. Greene & W. Harrington, Fourth
the Replication, Fifth, the affidavit of
Non Residence, Sixth, Notice & Proof of
Publication, Seventh, Deposition of Harris
Howard taken by G. W. Peckham & filed Oct. 16th
AD 1850, Eighth, Deposition of Asa Tallmadge & al.
filed Jan'y 12th 1860, Ninth the Bill of Exceptions filed
March 6th 1861, and Tenth, The final Decree, as the same
appear on file and now remaining of record in my office

Witness my hand & the Seal of said
Court at Sycamore in said County & State
this 24th day of Jan'y A.D. 1862.
C. M. Brown Clerk

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Supreme Court of Illinois
April Term 1862

John S. Bruce &
Whipple Hastings
vs
impeached &

Alvin Cook

And now come
the said plaintiffs in Error by their
Attorneys Booth & Potter and say there is manifest
Error in the foregoing record & judgment
in the

1st The decree finds for more than is
proved

2nd The decree is contrary to the
evidence

3rd The decree is against equity

4th The Court erred in finding that
the transaction between Cook & Bruce was
a loan & mortgage

5th The Court erred in allowing the
application & payment of the money to the
clerk & attorneys mentioned in the decree

6th The Court erred in refusing
the testimony of the loss of the \$85. note

And Booth & Potter

Attorneys for Plffs in Error

In the Supreme Court
April Term 1862.

John S. Greene and
Whipple Harrington
apl.
Thos Cook.

In Error.

And the said Thos Cook, by A. C. Allen his solicitor, comes and says that in the record and proceedings aforesaid, and in the making of the decree aforesaid, there is no such error as the said Plaintiff have above alleged, or any other error. And this he is ready to and prays that the said decree be affirmed.

A. C. Allen,
for defendant in error.

Supreme Court.

John S. Greene and

another

vs,

Main Book.

founder in error.

Filed Apr. 26-1841

L. Leland

Clerk

Memo,

185

John S. Green

Alum Book

Record

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Filed April 22 1862

L. Leland
clerk