

No. 12357

Supreme Court of Illinois

Taylor

vs.
i
McGinnety

2
18

W. W. Gurney

Taylor

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857

12357

Proceedings in Chancery before the Circuit Court at a term thereof
begun & held at the Court house in the City of Peoria in and for the
County of Peoria in the State of Illinois on Monday the twenty first
day of November in the year of our Lord one thousand eight hundred
and fifty three. — The Honorable Onslow Peters, Judge of the sev-
enth Judicial Circuit in the State of Illinois presiding to wit

Friday November 25th A. D. 1853

James Taylor

vs.

Hugh W. M. Gimmily

} to set aside conveyance and release &c.

This day came the said complainant by
E. N. Powell his solicitor and files his bill in this cause and asks
the Court for an injunction to restrain the said defendant according
to the prayer of the said complainant in his said bill, and the
Court having heard the said bill read and being satisfied that
an injunction should issue, it is therefore ordered by the Court
that a writ of injunction issue in this case to restrain and
prohibit the said defendant from doing the acts as stated in
the prayer of said bill. And thereupon came the said defendant
by Julius Manning and enters his appearance in this cause.

Said Bill of Complaint and the Exhibits therein referred
to are in the words and figures following, to wit,

Bill

State of Illinois } Circuit Court Peoria County
Peoria County } March Term A. D. 1853

To the Hon. Onslow Peters, Judge of the seventh Judicial
Circuit in Chancery sitting.

Your orator James Taylor of the
County of Peoria and State of Illinois respectfully represents unto
your honor that by virtue of an order or decree of the Circuit
Court of Peoria County in the State of Illinois rendered at the

November term of said Court A.D. 1853 and on the twenty fifth day of said month appointed a conservator for one Ishabon White an idiot person who is wholly incapable of taking care of his property and estate as by said decree rendered on the petition of Harriet Shaw, the aunt of said Ishabon White hereto referred to and made a part hereof will more fully and at large appear which order and decree and all the papers therein your orator prays leave to exhibit on the hearing of this cause.

Your orator further represents to your honor that he has filed his bond payable to John A. Mc Coy Esqr. treasurer of said Peoria County which bond was approved by Onslow Peters judge of said Court and has entered upon his duties as such conservator. Your orator further represents that he has made a true and perfect inventory of the real and personal estate of said Ishabon White so far as the same has come to his knowledge and has returned the same into the office of the Clerk of the said Circuit Court. — Your orator further represents to your honor that one Benjamin White formerly of Peoria but recently of California departed this life in the city of New York on or about the thirteenth day of July A.D. 1853 leaving as his sole heirs his sister the said Harriet Shaw and Ishabon White who is a son of a brother of said Benjamin White deceased whose name was Jonathan White and who departed this life many years since. — Your orator further represents that the said Benjamin White deceased at the time of his death died seized of the following described real estate to wit Lot number ten (10) in block number eight (8) in the city of Peoria worth as your orator believes and charges at least four thousand dollars. That the said Benjamin White at the time of his decease was possessed of the following money and personal property and effects to wit. Money deposited in some Banking house in the city of New York amounting to the sum of eighteen hundred and eight dollars and thirty seven cents. That there was due to him by notes and accounts on persons in California the sum of three thousand four hundred

dollars, that he held stock in the Peoria Bridge association to the amount of Five Hundred Dollars, that by the death of said Benjamin White the said Harriet Shaw and the said Ishabon White became entitled as the sole heirs of the said Benjamin White deceased after all debts were paid to the said real and personal estate each entitled to an equal undivided half of said estate.

Your orators further represents unto your honor that the said Ishabon White is an Idiot and has been from his infancy and wholly incapable of taking charge of his said property or to sell and dispose of the same as will more fully appear by the verdict of the jury of inquest summoned by virtue of the petition of said Harriet Shaw before referred to and which your orator asks leave to exhibit on the hearing of this cause. — Your orator further represents that on or about the first day of October in the year of our Lord one thousand eight hundred and fifty three one Hugh W. Mc Ginnity (and whom your orator prays may be made a defendant to this bill) procured to be executed by the said Ishabon White and his mother Ann White their deed to him the said Hugh W. Mc Ginnity for said lot number ten (10) in block number eight (8) in Peoria for the alledged consideration of five hundred dollars as will more fully appear by a certified copy of said deed which is here to attached and made a part hereof the original being in the hands and power of the said Hugh W. Mc Ginnity, your orator asks leave to exhibit said copy on the hearing of this cause.

Your orator further shows and charges that although the consideration expressed in said deed appears to be five hundred dollars yet in fact and in truth the said Mc Ginnity paid nothing whatever to said Ishabon White but paid to his mother the sum of twenty dollars and no more. — Your orator further shows and charges that the said Hugh W. Mc Ginnity procured the execution of said deed fraudulently and well knowing that the said Ishabon White was wholly incapable of making any such deed with that degree of understanding as would make it binding

That said M^cGinnity before he procured said deed to be executed fraudulently represented to said Ann White (who is a woman of very weak mind and knows nothing of transactions of this kind) that he had bought out the interest of Benjamin White's sister (the said Harriet Shaw) in said lot for five hundred dollars and wished to buy out the interest of the said Ann White and her son that he did not think he was making a very good bargain but as he lived on part of the property and owned it he was willing to pay her a fair price, that he was a partner of said Benjamin White deceased besides many other false representations, when in fact and in truth he well knew, that he had not purchased out the interest of the sister of said Benjamin White in said lot for the sum of five hundred dollars or any other sum, that he did not live on a part of the property nor own it. Your orator further charges in this connection that at the time said Hugh W^m Ginnity procured said deed to be made he well knew that said Ann White had no interest in said lot and that the undivided half of said lot was in said Ishabon White as heir of said Benjamin White deceased and that said Ishabon White was an Idiot and wholly incapable of understanding what he was doing when he executed said deed, That before he got said deed acknowledged and signed before William Alexander who took the acknowledgement of said deed he said M^c Ginnity took the said Ann White and her said son the said Ishabon White to the city of Wheeling in the state of Virginia and tried to get their acknowledgement taken but one or more of the Notaries or other persons applied to in his presence (the said M^c Ginnity's) refused to take the acknowledgement because the said Ishabon White was wholly incapable of understanding what he was doing. And in ^{this} connection your orator further represents and charges that at the time said M^c Ginnity appeared before the said William Alexander who took the said acknowledgement he the said M^c Ginnity said that he was a partner of said Benjamin White deceased and owned one

half of the property in Peoria each a moiety; and that the said Alexander told said M^cGinnity that said Ishabon White was not competent to do any thing of this kind as signing his name to such a paper and also told said M^cGinnity, that said Ishabon White probably had a guardian and that he said Alexander thought the boy ought not to sign the paper. That in reply to this M^cGinnity remarked that his mother was his guardian and that she was with him and was satisfied and therefore he (said Alexander) as a Notary Public could not object on that account. That the said Alexander then told said M^cGinnity to recollect that if there was ever any difficulty that he said Alexander would certainly testify that the said Ishabon White did not know what he was doing in signing the paper and that said M^cGinnity's reply ^{to} this was "that he would run the risk of that and it did not concern me" (the said Alexander). - In this connection your orator further charges that at the time he purchased said lot he was well acquainted with its situation and value and that it was well worth from four to five thousand dollars and that the interest of said Ishabon in said lot was worth much more than the sum of five hundred dollars and fraudulently suppressed the real value of said lot.

Your orator further represents to your honor that on the said first day of October A. D. 1853 the said M^cGinnity fraudulently procured from said Ishabon White and the said Ann White a Bill of sale of all of their right title interest claim or demand in and to the estate of Benjamin White deceased, which release extends to all monies rights credits notes accounts stocks goods or chattels of every kind description or quality as will more fully appear by a certified copy of said bill of sale made by the Recorder of Peoria County where the same is recorded and was placed on record by said M^cGinnity and which copy your orator prays leave to exhibit on the hearing of this cause, the original being out of the power of your orator to produce.

Your orator charges that the said M^cGinnity made the same false and fraudulent representations to procure this bill of sale or release that he did in the procuring the execution of the deed for said lot, to all which representations your orator refers and at the time he procured the said release he well knew and was told that the said Ishabow White was wholly incapable of executing such an instrument. — And your orator further charges that the said M^cGinnity gave to the said Ishabow^{White} or to his mother for him nothing whatever for said release. — Your orator further represents to your honor that on the said first day of October A. D. 1853 the said M^cGinnity fraudulently procured from the said Ishabow White and his said mother the said Ann White a power of attorney authorizing him the said M^cGinnity for them and in their names "to collect all moneys rights credits or property arising from any notes bonds bills payable, receipts or accounts or stocks that may now be due or that have or may become due or payable to them or either of them from the estate of Benjamin White deceased, whether in the State of Illinois or in California and authorizing said M^cGinnity to collect and receipt for all such sums of money stocks property &c and which power is made irrevocable as by a certified copy of said power of attorney made by Jacob Gale Recorder of said Peoria County where the same was put in Record by said M^cGinnity will more fully and at large appear, which copy your orator prays leave to exhibit on the hearing of this cause, the original being out of the power of your orator to produce. — Your orator charges that the said M^cGinnity made the same false and fraudulent representations to procure the execution of the said power of attorney that he did in the procuring the execution of said deed and bill of sale or release to all which representations your orator refers, and at the time he procured the said power of attorney he well knew and was plainly told that the said Ishabow White^{was} wholly incapable to make and execute such a power of Attorney.

Your orator further represents to your honor that the said Idiot's name is Ishabon but that he is more usually called "Ish" or Schabod, but as your orator is advised and believes his name as registered in the family bible is "Ishabon" and that many persons believe his name to be Schabod or Ish.

Your orator further represents to your honor that the said M^cGinnity by virtue of said deed for said lot and the said release or bill of sale and power of Attorney threatens to sell and dispose of said lot and to collect from the administrator or administrators of the estate of Benjamin White deceased all money property stocks goods and chattels rights and credits belonging to the said Ishabon White. And is threatening to take possession of said real estate and appropriate to his own use the interest of said Ishabon White in said lot and has been trying by virtue of said bill of sale or release and the said power of attorney to get possession of the said money so deposited in New York as aforesaid, and to get possession of said Bridge stocks and in short to get all the personal effects rightfully coming and belonging to said Ishabon White as an heir of said Benjamin White deceased, all of which actings and doings are contrary to equity and good conscience.

For as much therefore as your orator is without remedy at law but only in a court of equity where such matters are properly cognizable and relievable Your orator therefore prays that the writ of subpoena may issue ~~may issue~~ to compel the said Hugh W. M^cGinnity to appear and answer all and singular the allegations herein contained, but not under his corporal oath, which oath is hereby expressly waived. That it may please your honor to order and decree, that the said deed for said lot and the said bill of sale or release and the said power of attorney be cancelled annulled and set aside and wholly for nothing esteemed and ordered to be given up. And may it further please your honor to grant to your orator the Peoples most gracious writ of injunction to restrain enjoin and prohibit the said Hugh W. M^cGinnity his agents

attorneys and servants from selling or otherwise incumbering said lot number ten (10) in block number eight (8) in the said city of Peoria and from collecting any money or stock or other personal property or effects rights or credits from the administrator or administrators of said estate of Benjamin White deceased or from any person or persons having any such money or effects, belonging to said estate in their possession or custody or in any way interfering with said estate and that your orator may have such other and further relief in the premises as equity and good conscience may require

E. N. Powell

James Taylor

Sol. for Complt.

State of Illinois

Peoria County } This day personally appeared before me the undersigned Jacob Gale, clerk of the Circuit Court for said County James Taylor the above named complainant who being duly sworn deposes and says that all the several matters and things stated and set forth in said Bill as of his own knowledge are true in substance and matter of fact and that all of the other matters and things stated and set forth as derived from the information of others he verily believes to be true and further saith not

Subscribed & sworn to before me

this 25th day of November A.D. 1853

Jacob Gale Clerk

James Taylor

[attached]

Exhibits -

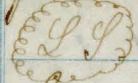
This Indenture made this 1st day of October in the year of our Lord one thousand eight hundred and fifty three between Ann White and Ashbow White of the County of Belmont, State of Ohio, of the first part and Hugh W. Mc Ginnity of the County of Peoria, State of Illinois of the second part witnesseth, that the said party of the first part for and in consideration of the sum of five hundred dollars lawful money of the United States of America to them in hand paid by the said party of the second part at or before the sealing and delivery of these presents, the

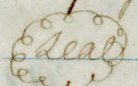
receipt whereof is hereby acknowledged, has remised released sold
and forever quit claimed and by these presents doth remise release
sell and forever quit claim, unto the said party of the second part
and to his heirs and assigns forever all of lot number ten in block
number eight in the city of Peoria in the County of Peoria, State
of Illinois and the appurtenances thereto. To have and to hold the
above described premises with all the privileges and appurtenances
thereunto belonging to him the said party of the second part, his
heirs and assigns forever. In witness whereof the said parties of
the first part have hereunto set their hands and seals the day
and year first above written

Signed sealed and delivered in }
presence of Wm Alexander }
W. A. Hastings }

Ann ^{her} X White 
^{mark}
Ashbon ^{his} X White 
^{mark}

State of Ohio } Before me, Wm Alexander, a Notary Public, in
Belmont Co } and for said County, personally appeared Ann
White and Ashbon her son and did each acknowledge the signing
and sealing of the within conveyance to be their voluntary act and
deed. In testimony whereof I have hereunto set my hand and af-
fixed my seal notarial, this 1st day of October A.D. 1853

 Wm Alexander, Notary Public,
State of Illinois } I, Jacob Gale, Clerk of the Circuit Court
Peoria County } and ex officio Recorder of the County of
Peoria in the State of Illinois do hereby certify that the foregoing
is a full and correct copy from the records of a deed and of the
certificate of acknowledgment thereof as the same stand recorded
on pages 236 & 237 in book F. A. in said Recorders office

 In witness whereof, I hereto set my hand and affix the
seal of said Court, at my office in Peoria this twenty fourth
day of November in the year of our Lord one thousand
eight hundred and fifty three.

Jacob Gale, Clerk & Recorder

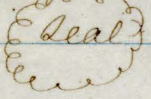
Know all men by these presents that we Ann White and Ish-
ban White of the County of Belmont and State of Ohio have this
1st day of October A. D. 1853, released quit claimed, transferred
granted bargained and sold unto Hugh M. Mc Ginnity of the
City and County of Peoria in the State of Illinois all of our right
title interest claim or demand, in and to the estate of Benjamin
White, late of California deceased formerly of Peoria County, and
that this release extends to all money rights credits, notes ac-
counts, stocks, goods or chattels of every kind description or
quality, and that we have received from the said ^{Hugh M} Mc Ginnity a
full and complete payment for the same upon the the day and date
hereof and any person or persons making payment to him or deliver-
ing property to him is hereby released from any claims upon the
same by us or either of us. Given under our hands and seals the day
and the date hereof.

Executed in presence of
Wm Alexander, W. A. Hastings }

Ann ^{her} White *[Signature]*
Ishban ^{his} White *[Signature]*
_{mark}

State of Ohio } Before me, Wm Alexander, a Notary Public
Belmont Co } in and for said County, personally appeared
the within named Ann White and Ishban White, a son of
said Ann White, who I am satisfied are the persons named in the
within release and who are also well known by Wm. Heasty,
the other witness to the signing of the within release and the said
parties did each acknowledge the signing and sealing of the with-
in release to be their voluntary act and deed. In testimony where-
of I have hereunto set my hand and seal this 1st day of October
1853 (Seal) Wm Alexander Notary Public.

State of Illinois }
Peoria County } At Jacob Gale, Clerk of the Circuit Court
and ex officio Recorder of the County of Peoria in the State of Illi-
nois do hereby certify that the foregoing is a full and correct
copy from the records of a deed and of the certificate of
acknowledgement thereof as the same stand recorded on

page 237 in book F.A. in said Recorders office. In witness
 whereof I hereto set my hand and affix the seal of said
Court at my office in Peoria, this twenty fourth day of
November in the year of our Lord one thousand eight-
hundred and fifty three.

Jacob Gale Clerk & Recorder

Know all men by these presents, that we Ann White and
Ashbon White of the County of Belmont, State of Ohio have made
constituted and appointed and by these presents do make constitute
and appoint Hugh W. Mc Ginnity our true and lawful attorney
for us and in our names to collect all moneys, rights, credits or
property arising from any notes bonds, bills payable, receipts or
accounts or stocks that may now be due or that have or may
become due and payable unto us or either of us from the estate
of Benjamin White deceased, late of California, and formerly of
the city of Peoria, County of Peoria, State of Illinois, and we do
authorize and empower him as our said attorney to commence
suit or suits in any Court of law or chancery, in the State of
Illinois, or the State of California, for any money rights or credits
or property or stocks that may be or is now coming to us, through
the said Benjamin White deceased and also in our names to
pursue said suit or suits to final judgment and execution,
and when the said Hugh W. Mc Ginnity shall collect any
money or property as aforesaid his receipt shall be a complete
and final acquittance and discharge of said indebtedness, and his re-
ceipt shall be a bar for any claim which we have or may have
for any money or property so paid or given into the possession of
the said Hugh W. Mc Ginnity or said attorney, hereby ratifying
and confirming all our said attorney hereby ratif may do in the
premises by virtue of said power of attorney, and also authorizing
and empowering him the said Hugh W. Mc Ginnity to do all
things in the premises, which we ourselves could do if personally
present and hereby confirming all such acts and we do hereby

declare that this power and authority is vested in the said Hugh W. M. Gimmity, and in him absolute and irrevocable. Given under our hands and seals this 1st day of October A.D. 1853

The words Stocks interlined
after 7th line and 15th line
put in before execution

Ann^h x White L.P.
Ashbon^{mark} x White L.P.

Wm Alexander, W. A. Hastings } Witnesses

State of Ohio

Belmont Co }

Before me William Alexander, a Notary Public in and for said County personally appeared the within named Ann White and Ashbon White her son, who I am satisfied are the persons named in the within power of attorney and who are also well known to Wm. Hasty the other witness to the signing and sealing of the said power of attorney, and they did each acknowledge the signing and sealing of the within power of attorney to be their voluntary act and deed. In testimony whereof I have hereto set my hand and affixed my seal Notarial this 1st day of October A.D. 1853

Wm Alexander, Notary Public

State of Illinois

Peoria County }

I, Jacob Gale, Clerk of the Circuit Court of and ex officio Recorder of the County of Peoria in the State of Illinois, do hereby that the foregoing is a full and correct copy from the records of a power of attorney and of the certificate of acknowledgment thereof as the same stands recorded on page 238 in book F. A. in said Recorder's office. In witness whereof I hereto set my hand and affix the seal of said Court at my office in Peoria this twenty fourth day of November in the year of our Lord one thousand eight hundred and fifty three

Jacob Gale, Clerk & Recorder

And thereupon on the said 23rd day of November A.D. 1853 the clerk of said Circuit Court issued out of said Court under the seal thereof a writ of Injunction, which with the return

of the Sheriff of said County as thereon endorsed is as follows, to wit,

writ of injunction:

State of Illinois?
Peoria County

vs The People of the State of Illinois
To Hugh W. Mc Ginnity, his agents, attorney and servants
Greeting:

Whereas James Taylor has lately exhibited his Bill of complaint in the Circuit Court in and for the County of Peoria in the State of Illinois in Chancery against you the said Hugh W. Mc Ginnity defendant, wherein among other things it is alledged that the said James Taylor is conservator of Ishabow White an idiot, that you the said Mc Ginnity on or about the first day of October A.D. 1853 fraudulently procured to be executed by the said Ishabow White and his mother Ann White their deed to you for lot No Ten (10) in block number eight (8) in the City of Peoria also that you the said Mc Ginnity at the same time fraudulently procured from said Ishabow White and the said Ann White a bill of sale of all of their right title interest claim or demand in and to the estate of Benjamin White deceased, and that you said Mc Ginnity at the same time fraudulently procured from the said Ishabow White and his said mother a power of attorney, authorizing you the said Mc Ginnity for them and in their names to collect all moneys rights credits or property arising from any notes bonds, bills payable receipts or accounts or stocks, that may now be due or that have or may become due, or payable to them or either of them from the estate of Benjamin White deceased whether in the State of Illinois or California and authorizing you the said Mc Ginnity to collect and receipt for all such sums of money, stocks property &c. Now therefore in consideration of the premises we do strictly enjoin and command you the said Hugh W. Mc Ginnity, your agents, attorneys and servants that you and each of you do absolutely and entirely desist from selling or otherwise encumbering said lot Number ten (10)

in block number eight (8) in the said City of Peoria and from collecting any money or stock or other personal property or effects rights or credits from the administrator or administrators of said estate of Benjamin White deceased or from any person or persons having any such money or effects belonging to said estate in their possession or custody or in any way interfering with said estate until our said Court shall make other order to the contrary.

Hereof fail not under penalty of what the law directs. Witness
E Seal
Eee Jacob Gale, Clerk of our said Court & the seal thereof
of this 25th day of November A.D. 1853

Jacob Gale Clerk

return =

State of Illinois
Peoria County } I served this writ by reading to Hugh
W. McGinity on the 26th day of November A.D. 1853, also
that I showed the said Hugh W. McGinity the seal of our said
Court herewith affixed. L. B. Cornwall, Sheriff of
Peoria County
by John Bryner Dpt.

And afterwards, to wit, on the sixth day of January A.D. 1854,
the Clerk of said Court issued under the seal thereof a summons
directed to the Sheriff of Peoria County, which with the return thereto is
as follows, to wit:

summons =

The People of the State of Illinois
To the Sheriff of Peoria County Greeting:
We command you to summon Hugh W. McGinity if he may
be found in your county to appear before our Circuit Court on the
first day of the next term thereof, to be held at Peoria, within and
for the said County of Peoria on the fourth Monday of January
instant then and there in our said Court to answer the matters
and things contained in a certain bill of complaint exhibited
against him in our said Court on the chancery side thereof by
James Taylor, conservator of Ishbow White, and make return

of this writ with an endorsement of the time and manner of serving the same on or before the first day of the term of the said Court to be held as aforesaid. Witness Jacob Gale, Clerk of our said Court, and the seal thereof, at Peoria, this sixth day of January in the year of our Lord one thousand eight hundred and fifty four.

Jacob Gale Clerk

return - State of Illinois }
Peoria County. } I served this writ on the 11th day of January A.D. 1854 by leaving a true copy of this writ at the usual place of abode of the within named Hugh W. McGinnity with a white person over the age of ten years and informed him of the contents of said summons. L. B. Cornwall Sheriff
by John Bryner Deft.

And afterwards on the sixth day of March A.D. 1854 there were opened and filed in said cause the depositions of William Goodhue, Simon Brown West, William Alexander, James Haines, Ann White, William A. Hastings, James Eagleton, Samuel F. Miller, and Gibson L. Branner, duly taken on commissions *declinamus protestatum* issued out said Court under the seal thereof on behalf of the complainant, to the respective Commissioners who certify to the said depositions, which depositions and the certificates of the Commissioners respectively who took the same are in the words and figures following, to wit:

Depositions taken in the town of Martinsville Belmont County Ohio at the House of Henry Heberling on Monday February 6, 1854 between the hours of ten o'clock in the morning and six o'clock in the evening of said day

Deposition of }
William Goodhue }
being first duly sworn testifies as follows.

Interrogatory 1. What is your name age place of residence & occupation?

Ans. William Goodhue is my name, I reside in Pease Township, Belmont County Ohio, my age is sixty one years, Milling is my main occupation.

Interrogatory 2. Are you acquainted with Ishabon White, lately a resident of Belmont County Ohio, if so, how long have you known him? State if you know, what the State of his mind is whether he is of sane and sound mind or otherwise?

Answer. I am acquainted with Ishabon White lately a resident of Belmont County Ohio, I have known him more than twenty years, when he was a child, the first time I saw him may be over twenty years ago. I don't consider that he has any real mind at all, I would call him an idiot, he has remained so ever since I know him, as a child.

Interrogatory 3. If in your answer to the foregoing interrogatory you should state that the said Ishabon White is not of sound mind please state how long he has been so and what is the matter with him?

Answer. I will say as I said before, I have known him from infancy and his mind is not good he may be called non compos mentis.

Interrogatory 4. State whether the said Ishabon White is capable of making contracts with the proper understanding or not?

Answer. I should not think he was, he is not in my opinion capable of making any contract whatever.

Interrogatory 5. Do you know of any other matter or thing in this suit which if disclosed would be of benefit to either party? if so, please state the same as fully as if specially interrogated thereto.

Answer. Last October or in and about the first of last October I was upon the road 2 or 300 yards from where Ishabon White lived, a stranger came to me and inquired the way to Mrs White's, he was a man rather over middle size, I told him where Mrs. White lived and he went up there came back in a few minutes and inquired for Ishabon White and said his mother wanted him.

I called to Ishabow & told him his mother wanted him and to go home. They Ishabow and the stranger went off together towards Mrs. White's. The stranger in a few minutes returned, he said to me or asked me, is Ishabow White in his right mind at times? I answered him, he is in his right mind now as much as he ever was he is non compos mentis. He said that made no difference for the business he wanted with him it was concerning an estate belonging to Mrs. White's brother in law. He further said he was a partner of her brother in law, did not mention the name of the brother in law, nor how much the estate was nor of what it consisted. The stranger seemed to be in a great hurry and a little excited. In a few minutes after Mrs. White and Ishabow went down past where I was at work towards the river, the stranger had gone before. The place where they would come to the river would be about three miles above Bridgeport, I was a little over a quarter of a mile when they passed me, from the river.

Crossinterrogatory 1. Did Ishabow White ever make a contract? Is he not a blacksmith by trade? Can he shoe a horse? Does he know how much it is worth to shoe a horse? Can he buy a coat? Does he know what a dollar is? Does he know the use and value of money?

Answer. He never made a contract to my knowledge and I don't believe he is capable of it. Ishabow White is not a blacksmith by trade. I never knew him to use a blacksmith's hammer. He could not shoe a horse, he has not judgment enough, I believe he does not know how much it is worth to shoe a horse, as to his buying a coat I say as I said before he is not capable of making any bargain whatever, I think he does not know what a dollar is. He does not in my opinion know the use and value of money, I will say he is not capable of using it.

Cross interrogatory 2. Does said Ishabow know his fathers name, his mothers name? his name? does he know what a farm is? Does he know that money will buy it?

Answer. I believe he knows his name, I dont think he does know what a farm is. I dont think he knows how to use money, or that he is capable of buying a farm or would have any judgment to lay money out to buy one. I think he knows his mothers name but I dont know whether he knows his fathers name or not. I never heard him call his father by name or say anything about him.
Crossinterrogatory 3. Can said Ishabon read? can he talk? Can he sing? can he count? can he add sums either with slate or pencil pen ink and paper or in his mind? Can he tell his age? Can he tell the days of the week? Can he tell the months of the year? Can he not remember for whom he does work, the value of such work, and whether he has been paid for such work? If he has money what does he do with it?

Answer. I never heard him read and I dont believe he can. I never heard him call a letter. He can talk, I dont recollect of ever hearing him sing. I never heard him count, never saw him attempt to cast figures nor to use a pen or pencil. I never heard him try to add in his mind and dont believe he can do it. I dont know that he can tell his age, I never heard him. I never heard him call any day of the week to my recollection. I never heard him tell the months of the year. I dont know that he can remember for whom he does work or the value of such work. I have given him small pieces of money, dont know whether he knew the value of them or not but believe he did not. I dont know that he can remember that he has been paid for work or not, he has some little recollection about who he works for, I believe as to the value of work I believe he does not know the value of it, I never knowed him to lay out any money and I dont know what he does with money.

Crossinterrogatory 4. Has not said Ishabon White been permitted for years to go out alone without any attendant? Does he not know how to do different kinds of work on a farm? Can he drive a team? Has he not frequently gone alone on errands

Has he not frequently gone alone to the store to make purchases?
 Did he not select the goods he wished to purchase on such occasions?
 Has he not the mental capacity to remember the business upon which he is sent?

Answer. He has not been permitted to go out alone far, without an attendant, I believe he would be lost if he should go out of his neighborhood, I do not believe he does know how to do different kinds of work on a farm, he might do some kinds of work under the supervision of others but not by himself. He cannot drive a team correctly, I do not think he can drive a horse team at all. I believe he has gone alone on errands, he has come to my house several times on errands and his mother complained of his not doing them correctly, my house is about one quarter of a mile from where Ishabon lived. I never knew him to go to the store alone to make purchase, and I do not of course know of his selecting goods on such occasions, I think he has not the mental capacity to remember the business upon which he is sent as I said before his mother said when sent to my house on errands he did not do them correctly.

Cross interrogatory 5. Did you say you are well acquainted with the said Ishabon White? What particular conversation did you ever have with him from which you judge that he is mentally incompetent to make a contract? State it particularly and fully and be sure to use the words which he used in that conversation?

Answer. I am well acquainted with Ishabon White and as said before have been for more than twenty years, I never had any particular conversation with him, I have heard him speak several words but never considered him capable of holding any intellectual conversation whatever. I have heard him say yes an no often and frequently to questions asked him he would say I dont know. I dont know any thing very particular I have heard him say, this is as near I believe as I can answer.

Cross interrogatory 6. You say you are well acquainted with Ishabou White do You? Then why can you not answer the questions asked you in the first second third & fourth cross interrogatories propounded to You? Why do you not answer them directly? Are you a physician. If not why do you not state the facts by which it may be known whether your opinion is correct?

Answer. I believe I am well acquainted with Ishabou White as said before I have known him twenty years. I believe I have answered the first second third and fourth cross interrogatories propounded to me fully and correctly according to the best of my knowledge. I believe I have answered said four interrogatories directly, I am not a physician. I state the facts from my long experience and acquaintance with the person of Ishabou White. I think I have stated the facts by which it may be known whether my opinion is correct.

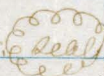
Cross interrogatory 7. Do you say that Ishabou White is of a weak mind? Is his intellect as good as yours? How do you know? Do you know whether your acquaintances consider your mind weak or strong? How do you know whether you are competent to judge whether Ishabou White's mind is weak or strong? Don't you judge of the strength or weakness of his mind by comparing it with your own?

Answer. I do say that Ishabou White is of a weak mind, possessing very little mind at all. I say his intellect is not as good as mine. I don't know what my acquaintances think of my mind they have never told me. I have served in several public offices. I believe I am competent to judge whether Ishabou White's mind is weak or strong. From my own capacity of doing business, I do judge of the strength and weakness of his mind by comparing it with my own. I can do things that he cannot do and my opinion as to the state of his mind is corroborated by the general opinion expressed by others.

William Goodhue

The State of Ohio Belmont County. - I do hereby certify that the

foregoing deposition was sworn to and signed by the deponent and the same was taken by me the subscriber at the house of Henry Heberling in the town of Martinsville in the county of Belmont and State of Ohio between the hours of ten o'clock in the morning and six o'clock in the evening of the 6th day of February 1854. Given under my hand and sealed this 26th day of February 1854

B. L. Bowen Commr. 

Deposition of }
Simon B. West }

Simon Brown West, being first duly sworn in the above named cause, deposes as follows.

Interrogatory 1. What is your name, age place of residence and occupation?

Answer. My name. Simon Brown West, I am forty one years of age, I reside in Pease township, Belmont County, Ohio, I am a practicing physician, I am a graduate of the Ohio medical College of Cincinnati.

Int. 2nd. Are you acquainted with Ishabon White lately a resident of Belmont County Ohio. If so how long have you known him? State if you know what the state of his mind is, whether he is of sane and sound mind or otherwise?

Answer. I am acquainted with Ishabon White lately of Belmont County Ohio, I have been acquainted with him 18 years, there is an impaired condition of the powers of his mind and an entire want of the reasoning faculties.

Int. 3. If in your answer to the foregoing interrogatory you should state that the said Ishabon White is not of sound mind, please state how long he has been so, and what is the matter with him?

Answer. He has been so since I first knew him 18 years how long before I know not. Ishabon White is an idiot, there is an entire want of the reasoning faculties, I do not know, whether this idiocy was from birth only by what his mother and others tell me.

Int. 4. State whether the said Ishabon White is capable of making contracts with the proper understanding or not.

Answer. He is not.

Int. 5. Do you know of any other matter or thing in this suit, which if disclosed would be of benefit to either party, if so please state the same as fully as if specially interrogated thereto.

Answer. I have prescribed for Ishabon White, and I would have to inquire of his mother in relation to his condition because he could not comprehend any meaning in asking him questions, I attended on him once in a case of convulsions, what answers he would give me would always be in monosyllables and he could not carry on a conversation on any subject. Last summer I was coming from Burlington and overtook Ishabon, I asked him where he was going, he said I dont know, I asked if he would like to buy a horse he said I dont know, I told him to look at my horse & say what he would give me for him, he did not look at the horse, I asked again, what he would give me for him, again he said I dont know. We came down as far as his uncle Thomas

Levin I asked him who lived in that house, he said I dont know. I asked if he was a relation of his, he said, I dont know. Thomas Levin lives about one mile & a half from Ishabon's mother where Ishabon then lived. This talk about selling a horse was not with a view of selling him a horse but to see if I could engage him in conversation, I have been the family physician in the family where Ishabon lived for 18 years.

Cross interrog. 1. Did Ishabon White ever make a contract? Is he not a blacksmith by trade? can he shoe a horse? Does he know how much it is worth to shoe a horse? can he buy a coat? Does he know what a dollar is? Does he know the use and value of money?

Answer. I never heard of his having made a contract, he is not a blacksmith by trade, he cannot shoe a horse, does not know how much it is worth to shoe a horse, I think he could

not buy a boat, I dont think he knows what a dollar is, no do I think that he knows the use and value of money

Cross Interrog. 2. Does said Ishabon know his name? his mothers name? his fathers name? Does he know what a farm is? does he know that money will buy it?

Answer. Ishabon knows his own name, I never heard him call his mothers name no his fathers name he dont know what a farm is, I think he dont that money would buy a farm.

Cross interrog. 3. Can said Ishabod read? Can he talk? Can he sing? can he count? can he add sums either with slate and pencil, pen ink and paper or in his mind? Can he tell his age can he tell the days of the week, can he tell the months of the year? Can he not remember for whom he does work, the value of such work and whether he has been paid for such work? If he has money what does he do with it?

Answer. I never heard him read, he can talk, never heard him sing, never heard him counting, never saw him use slate and pencil pen ink or paper, I dont think he can add sums up in his mind because that requires some reasoning faculty, he cannot tell his age I asked him once what his age was. I do not know whether he can tell the days of the week or not, nor whether he knows the months of the year. I never saw him working for any person consequently I dont know whether he ever got paid for any work or not, for I dont know that he ever done any work for hire, I dont think he knows the value of work. I never knew that he had any money. If he had any, I never knew, what he done with it.

Cross interrog 4. Has not said Ishabon White been permitted to go out alone without any attendant. Does he not know how to do different kinds of work on a farm? Can he drive a team? Has he not frequently gone alone on errands? Has he not frequently gone to the store to make purchases? Did he not select the goods he wished to purchase on such occasions? Has he not

the mental capacity to remember the business upon which he is sent?
Answer. He has been permitted to go out alone without any attendant, does not know how to do different kinds of work on a farm, cannot drive a team, never came to me on an errand of any kind, what he done to others I know not, I dont know whether he ever went to the store to make purchases, have never known him to have purchased any thing at a store, he has not the mental capacity to remember the business upon which he is sent, I believe Ishabow has been permitted to go out alone, without an attendant for years, for the distance of about one mile.

Cross Interrog. 5. Did you say you are well acquainted with the said Ishabow White? What particular conversation did you ever have with him from which you judge that he is mentally incompetent to make a contract? State it particularly and fully and be sure to use the words, which he used in that conversation?

Answer. I did say that I was well acquainted with the said Ishabow White, I have known him for 18 years, the conversation I had with him in relation to his uncle and a horse convinced me that he had not sufficient capacity to carry on a conversation let alone to make a contract, I have stated the words used in that conversation in my answer to the interrogatory 5 in my examination in chief as fully as I remember them, and I gave the words he used as near as I recollect them, I could never have a conversation with him he would always answer questions in monosyllables, yes or no or I dont know, and often he would not comprehend my meaning then he would give no answer.

Cross Interrog. 6. You say you are well acquainted with Ishabow White do you? Then why can you not answer the questions asked. You in the first second third and fourth cross interrogatories propounded to you? Why do you not answer them directly? Are you a physician? If not why do you not state the facts by which it may be known whether your opinion is correct?

Answer. I do say that I am well acquainted with Ishabon White, I have answered the questions propounded to me in the first second third and fourth cross interrogatories to the best of my knowledge, I have answered them directly, I am a physician, I have stated the facts so far as I know them in relation to this case. Cross Interrog. 7. Do you say that Ishabon White is of a weak mind? Is his intellect ^{good good} as yours? How do You know? Do You know? Do You know whether your acquaintances consider your mind weak or strong? How do you know whether you are competent to judge whether Ishabon White's mind is weak or strong? Dont you judge of the strength or weakness of his mind by comparing it with your own?

Answer. I do say that Ishabon White is of weak mind, his intellect is not as good as mine, I know that because he is not competent to make a contract, nor to practice medicine nor to work on a farm, I think my acquaintances think I have a pretty good mind or they would not employ me to doctor their families, I think I am competent to judge of Ishabon's mind, there is an entire want of reasoning faculties, I do judge of the strength or weakness of his mind by comparing it with my own

Simon B. West

State of Ohio, Belmont County

I hereby certify that the foregoing deposition was sworn to and signed by the deponent and the same was taken by me the subscriber at the house of Henry Heberling in the town of Martinsville in the County of Belmont and State of Ohio, on the 6th day of February 1854, between the hours of ten o'clock in the forenoon and six o'clock in the afternoon of said day. Given under my hand and sealed this 23rd day of February 1854

B. L. Bowen, Commr. Seal

Deposition of
William Alexander

William Alexander, being duly sworn deposes as follows.

Interrogatory 1. What is your name, age, place of residence and occupation?

Answer. My name is William Alexander, I am twenty five years of age, I reside in Pease township, Belmont County Ohio I am engaged in the mercantile business.

Int. 2. Are you acquainted with the parties, plaintiff and defendant in the title to these interrogatories and if so how long have you known them respectively?

Answer. I never saw Mr. Taylor, I never saw Mr. Ginnity but once about October 1, 1853, I never saw Ishabon White but once and that was at the same time.

Int. 3. Are you a notary Public and did you on or about the first day of October A.D. 1853 as such Notary take the acknowledgements of Ishabon White to a deed and other instruments given by Ann White and Ishabon White to one Hugh W. Mc Ginnity?

Answer. I am a Notary Public of Bridgeport Belmont County Ohio on or about October 1, 1853, I took the acknowledgements of Ishabon White and Ann White to a deed and other instruments given to one Hugh W. Mc Ginnity.

Int. 4. At the time you took the said acknowledgements did you have any conversation with said Mr. Ginnity as to the taking of said acknowledgements and if so state fully the conversation and what Mr. Ginnity said in relation to the property he was purchasing from the said Ishabon White and the said Ann White?

Answer. About the time above mentioned a person calling himself Mr. Ginnity came to me and wanted to know if I could take the acknowledgement of a deed and power of attorney for him, I told him I could if the persons were living in this county, he said they lived in this county and were along with him at the same time presenting a woman and a young man said to

be her son, I told M^cGinnity I did not know him or either of the others and he would have to bring some person that I was acquainted with, that knew them, the woman mentioned some two or three that she knew and the three started off to get some person, they returned in a short time with William Hasty, he stated that he knew Ann White & her son and knew them to be the persons they represented themselves to be, M^cGinnity then gave me the papers, I looked over them and read them aloud in the hearing of Ann White & her son, I then made some inquiries in regard to the property, M^cGinnity stated that he was a partner of Ben White that they owned this property together, he did not state to me where the property was, the property referred to was described in the deed, he said Ben White had died on his road home from California that the one half of the property belonged to him, and that the heirs of Ben White owned the other half, that he had purchased Harriet Shaw's interest in the property, and that she had directed him, where to find Ann White and her son, and he now wanted to get their interest so that he might go on and improve the property or make sale of it or have it all to himself, I then asked him what he wanted to do with the power of attorney he replied that Ben White had died on his way home, and that no body knew any thing about his circumstances in California whether he had any interest in any claims or joint stock companies, but he wanted this power of attorney, so that if he ever had a chance he might investigate the matter, but he did not know that there was any thing that the power of Attorney would reach that would satisfy a person in attending to it, I then read the papers over again aloud and told Ann White in hearing of M^cGinnity that I did not know any thing about Ben White or his property, but these papers might give power over a considerable amount of Property, M^cGinnity was somewhat impatient and requested me not to detain them any longer, I then took the deed and commenced writing the acknow-

ledgement, I discovered there had been some writing erased; from the back of one of the papers, I think from the deed, I inquired of M^cGinnity how this came, he said he had been over to Wheeling to a Notary Public and he found after he had commenced writing that he could not take the acknowledgment as the persons did not live in the state, and that there was a Notary in Bridgeport and he had better go over there and have it done in the State they lived in, up to that time Ishaborn White said nothing and did not appear to take any interest in what was going on, I thought something was not right about Ishaborn, I took M^cGinnity to one side, and told him, from the actions of this young man I did not think he knewed what he was doing and only acted as directed by his mother, and if such was the case and the boy had a guardian, he M^cGinnity might get himself into difficulty, he replied, that if any thing was wrong with the boy that his mother was his natural guardian and if there was any difficulty, that was his look out and not mine. I told him that I would take the acknowledgment of the papers, but I wanted him to recollect that if there ever was any difficulty about the matter that I would most certainly testify that this boy did not know what he was doing and only acted as directed, M^cGinnity replied, that that was his look out.

Int. 5. At the time you took said acknowledgment, was there any thing said by you as to the capacity of Ishaborn White to execute the deeds, and if so, what was said and what reply was made by said M^cGinnity?

Answer. What was said upon that subject is stated in my answer to interrogatory four.

Int. 6. Do You know any other matter or thing which if disclosed would be of benefit to either party in this suit if so state the same as fully as if specially interrogated thereto

Answer. ^{After} I told M^cGinnity that I did not think, this

boy knew what he was doing & that he might get himself into difficulty, I took the papers wrote out the acknowledgements and then read the papers again in presence of all the parties and said to Ann White, that I did not know any thing about this man or the property, but from all I could see from the papers there might be property worth \$25.000 M^cGinnity requested me to fill up the blank in the deed, I asked what the consideration was, M^cGinnity replied you can fill it up with \$500. I asked again what the consideration was, directed my inquiry to Ann White, she made no reply, M^cGinnity said that the matter was all agreed on by them, I then filled the blank with the amount stated by M^cGinnity and stated again to Ann White, that I did not know any thing about the property or M^r. M^cGinnity and it might be all right as he stated, but that he was a partner of Ben White but from what I could see from the papers he ought to give her a considerable amount of money for what she was doing, she replied he would give her more money than she could get in any other way as she had no person to attend to it, when I asked for the consideration of the deed and directed my inquiry to Ann White as have stated before M^cGinnity said, that these persons only had a life interest in this property, there was nothing said about any consideration for the power of attorney, what was said about consideration only had reference to the deed, Ann White then took and signed the deed, I requested the boy to sign the papers he made no reply, his mother then asked him to take the pen, he said he did not know how, I then showed him where the mark was to be made, the boy took the pen in his hand, his mother took hold of his hand and assisted him in making his mark, She assisted him in making his mark on both papers, M^cGinnity then read the acknowledgements to himself and requested me to certify that I was personally acquainted with Ann and Ishabow White, I refused to do this, told him I did not know any more about them than I did about him,

told him I could only certify that they were personally known to William Heasty, he wished me twice to so certify, and I both times refused, and asked him the last time why he was so anxious I should certify, he said that he had dealt a great deal in land, warrants and other titles and he thought it was necessary. I told him I did not think it necessary and could not certify to it because I did not know it. I told him I hoped the matter was all right the way he stated it. When I asked about the consideration of the deed the second time Ann White did not make me any answer this lead me to believe that she did not know how much money McGinnity was to give her, and she said to him after she had signed the papers, are you not going to give me some money, for doing all this, McGinnity replied that he would give her money when they went back, I supposed they referred to Martinsville. In the course of this transaction I consulted with a friend in whom I had confidence, being myself without much experience, told him, I thought these were persons easily imposed on and asked him if there was any fraud about it, if it could get me into any difficulty. He answered that it could not, that if the parties wanted to acknowledge them all I had to do was to take the acknowledgements. When McGinnity said he would pay her money when they went back, I intimated that he had better pay the money then and there, he made an evasive answer and appeared very impatient to get away. I then handed the Papers over to Ann White, she tied them up in her handkerchief and I told her that she was giving this man a great deal of power perhaps the property was worth \$25,000 for all I knew, and for this McGinnity ought to give her a large amount of money. I done this because I thought she did not know how much she was to receive. The boy took no part in what was going on said nothing after his mark was made to the paper. As soon as I found there was likely to be difficulty I wrote my recollections but I have testified without reference to that memorandum in my memorandum book, and from my memory.

Cross Interrog. 1 Did said M^r Gimmity say any thing in regard to the mental capacity or condition of said Ishabow White? Can you swear that any thing was said in the hearing of said M^r Gimmity in regard to the mental capacity of said Ishabow? If so will you state the language which was used in regard to said Ishabow's mental capacity.

Answer. I have said in my answers to former interrogatories all that I know that would be responsive to this question and to the different parts of this question as fully as I can state, I have stated all that passed with M^r Gimmity in my hearing in relation to Ishabow and all that was said about his capacity as near in the words used as I can recollect.

Cross Int. 2. Did not said Ishabow appear to fully understand and comprehend what he was doing in executing said deed? was it not so represented by his mother?

Answer. Ishabow did not appear to comprehend or understand what he was doing in executing said deed, he did not take any part or say any thing about it and only acted as directed by his mother. It was not represented by his mother in my hearing that Ishabow understood or comprehended what he was doing in executing said deed, she did all the talking and did not consult him about any thing.

Wm. Alexander

The State of Ohio & I do hereby certify that the foregoing County of Belmont & deposition signed by Wm. Alexander was sworn to and signed by the deponent and the same was taken by me the subscriber at the house of Henry Heberling, in the town of Martinsville, Belmont County, Ohio, on the 6th day of February 1854, between the hours of ten O'clock in the forenoon and six o'clock in the afternoon of said day. Given under my hand and sealed this 23rd day of February 1854

B. J. Bowen Commr Seal

Deposition of
James Haines

Deposition taken at the office of B. L. Bowers in the town of St. Clairsville, Belmont County Ohio, on Thursday February 16, 1854, between the hours of ten o'clock in the morning and o'clock in the evening.

James Haines being duly sworn

Interrogatory 1st What is your name age place of residence and occupation.

Answer. My name is James Haines, I reside in the town of Martinsville Belmont County Ohio, my occupation is stone cutter & brick layer I am fifty one years of age.

Int. 2nd Are you acquainted with Ishabon White lately a resident of Belmont County Ohio, if so how long have you known him? State if you know what the state of his mind is, whether he is of sane and sound mind, or otherwise?

Answer. I have known Ishabon White from his birth and have always known that he was not right. I have known him for twenty four years, well acquainted with his father and mother before they were married. Ishabon White is not of sound mind, I could almost say he is of no mind at all, though I would not just say that he is like some I have seen that are called idiots. I have never conversed with him because I thought it of no account. I have said how do you do to him and he would smile and not say any thing.

Int. 3. If in your answer to the foregoing interrogatory you should state that the said Ishabon White is not of sound mind please state how long he has been so and what is the matter with him?

Answer. Ishabon White has been as I have stated in my answer to the 2nd interrogatory from birth. I hardly know how to state what is the matter with him, I would say he is an idiot.

Int. 4. State whether the said Ishabon White is capable of making contracts with the proper understanding or not?

Answer. He is not capable of making any contract whatever in my opinion.

Int. 5. Do You know of any other matter or thing in this suit, which if disclosed would be of benefit to either party, if so please state the same as fully as if specially interrogated thereto.

Answer. I have not been much with him, I never saw him do any work except last fall I saw him take some fodder out of a shock with other boys and lay it down, I never heard him talk any of any account, when he was a child he was halloing around the house at home.

Cross interrog. 1. Did Ishabow White ever make a contract? Is he not a black smith by trade? Can he shoe a horse? Does he know how much it is worth to shoe a horse? Can he buy a coat? Does he know what a dollar is? Does he know the use and value of money?

Answer. Ishabow White never made a contract to my knowledge. He is not a blacksmith by trade, he cannot shoe a horse, I think he does not know what or how much it is worth to shoe a horse. I think he cannot buy a coat for the reason that he is not capable, I think he does not know what a dollar is, I don't think he knows the use and value of money.

Cross Interrog. 2. Does said Ishabow know his name? his fathers name? Does he know what a farm is? Does he know that money will buy it?

Answer. I believe the said Ishabow knows his name, when he is called. I don't think he knows his fathers name. I believe if he was asked what a farm is he would say he did not know, I think he does not know that money will buy a farm.

Cross interrog. 3. Can said Ishabow read? Can he talk? Can he sing? Can he count? Can he add sums either with slate or pencil pen ink and paper, or in his mind? Can he

tell his age? Can he tell the days of the week? Can he tell the months of the year? Can he not remember for whom he does work the value of such work and whether he has been paid for such work? If he has money what does he do with it?

Answer. I think he cannot read I never heard him read he can talk, I never heard him sing, nor count and I don't think he can count. I think he cannot add sums in any, I am pretty certain he cannot add sums in any way, I think he cannot tell his age, never heard him talk about any such thing as the days of the week or the months of the year. I don't think he can tell the value of work I never saw him working for any body can't tell whether he could remember for whom he has worked, I don't think he could remember long whether he has been paid for work if he could remember at all. I never knew him to have money, and if he had it I don't think he would know what to do with it.

Cross Interrog. 4. Has he said Ichabon White been permitted for years to go out alone without any attendant? Does he not know how to do different kinds of work on a farm? Can he drive a team? Has he not frequently gone alone on errands? Has he not frequently gone alone to the store to make purchases? Did he not select the goods he wished to purchase on such occasions? Has he not the mental capacity to remember the business upon which he was sent?

Answer. I have never seen said Ichabon out from house alone without any attendant, I think he does not know how to do different kinds of work on a farm, that he cannot drive a team, I never saw him drive one, I never knew him to go alone on any errand, or to the store to purchase any thing, I never knew him to do any thing of the kind of selecting goods, I think he has not the mental capacity to remember the business upon which he is sent, if he should be sent on business.

Cross Interrog. 5. Did you say you are well acquainted with

the said Ishabon White? What particular conversation did you ever have with him from which you judge that he is mentally incompetent to make a contract? State it particularly and fully and be sure to use the words which he used and whether which he used in that conversation.

Answer. I have been acquainted with said Ishabon since his birth as I said before but have never been much with him, I knowed there was such a person and have seen him frequently, have never had any conversation with him knowing that he could not hold a conversation, I do not recollect any words I have ever heard him use, never had any talk with him directly more than to ask him he was, and he would smile but make no answer.

Cross Interrog. 6. You say you are well acquainted with Ishabon White do you? Then why can you not answer the questions asked you in the first second third and fourth cross interrogatories propounded to You? Why do you not answer them directly? Are you a physician? If not why do you not state the facts by which it may be known whether your opinion is correct?

Answer. I have stated how far I am acquainted with him in my former answers, I consider that I have answered the first second third and fourth cross interrogatories, I think I have answered those questions directly. I am not a physician, I think I have stated the facts as far as I know that would help others to determine whether my opinion is correct.

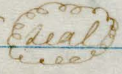
Cross Interrog. 7. Do You say that Ishabon White is of a weak mind? Is his intellect as good as yours? How do you know? Do you know whether your acquaintances consider your mind weak or strong? How do you know whether you are competent to judge whether Ishabon White's mind is weak or strong? Don't you judge of the strength or weakness of his mind by comparing it with your own?

Answer. I would say that Ishabon White is of a weak mind, I think his intellect is not ^{good} as mine, I think myself

capable of undertaking a job of work, that he is not. I believe that any acquaintances are of opinion that my mind is as good as the common run of minds. I judge by my own mind that Ishabon White has a weak mind by comparing it with my own.

James Hanes

State of Ohio, County of Belmont.

I do hereby certify that the foregoing deposition signed by James Hanes was sworn to and signed by the deponent, and the same was taken by me, the subscriber at the office of B. L. Bowen & D. D. T. Bowen in the town of St. Clairsville in the County of Belmont and State of Ohio between the hours of ten o'clock in the morning and six o'clock in the evening of Thursday the 16th day of February 1854. Given under my hand and sealed this 23rd day of February 1854 B. L. Bowen Com. 

Deposition of }
Ann White }

The Deposition of Ann White, taken at the office of B. L. & D. D. T. Bowen in the town of St. Clairsville Belmont County Ohio, February 20, 1854, between the hours of 12 at noon and 3 o'clock in the afternoon of said day who being first duly sworn says.

Interrogatory 1. What is your name age and place of residence?

Answer. My name is Ann White, I am fifty years of age, I reside in Belmont County, Pease township about three miles from Bridgeport

Interrog 2. Are you the mother of Ishabon White?

Answer. I am the mother of Ishabon White.

Int. 3. Is he a person of sound mind and capable of making contracts?

Answer No sir.

Int. 4. Did a person by the name of Hugh W. McGinnity come to you some time last fall to purchase of you and your said son Ishabon White, your and his interest in the estate of the late Benjamin White deceased? If so state fully all that was

said to you by said M^c Ginnity to get you to execute the deeds for your interest in the property & state also what he said he would give you and Ishabon White your son for your and his interest in the estate of Benjamin White deceased and also what sum M^c Ginnity actually gave you for your and your said sons interest in the estate?

Answer. A man by the name of Hugh W. M^c Ginnity did come to me at my house sometime last fall, I cannot state the time precisely, I think it was in October sometime, he said he came to let me know that Ben White was dead, that he M^c Ginnity was his partner, he said Ben White had willed to me a life estate and to the boy \$500. When he first came he asked me if that was where Am White lived, I said yes, he asked me if I had not a son named Ishabon White, a foolish boy, I told him I had, he told me he wanted me to fix him up as well as I could and take him down to Wheeling with me, and meet him at Mr. Packer's tavern, I told him I would fetch William Goodhue, he said no, you want nobody, dont you fetch Goodhue, he asked me where the boy was, I said he was down where they were working on the roads, he said he would go down and fetch him up, and he left and asked me if he had clothes fit to go to Wheeling, I told him he had, well said he fix him up as well as you can. He fetched the boy up home, and I fixed the boy up as well as I could he went off and we the boy and I met him at Packers, we all crossed the river together and he took us on to Wheeling, as we went along I asked him if Ben White was not independant rich, he said no he had nothing but a small piece of ground with a log cabin on it about as big as a hog pen, in the prairies, I asked him if Harriet Shaw was keeping house for Ben White yet, he said no, he had drove her off and she had gone to rock river and died there, she had been dead three years, that he M^c Ginnity was going round by Lanesville to hunt up her two heirs. He went to a lawyer in Wheeling and wanted these papers signed, the lawyer told him to

bring the boy to Ohio, to St Clairsville and have a guardian appointed for him. I and M^cGinnity had gone out to hunt some body that knew the boy and left the boy with the lawyer, while gone to hunt for a man that knew him, I heard the name of the lawyer in Wheeling, that we were with, but I have forgot his name. I think it was Cranmer, the lawyer told M^cGinnity the boy was not capable of doing business, M^cGinnity then brought me and we fitched the boy over the river to Bridgeport, and we went to Mr. Alexanders to get the papers signed, M^cGinnity asked if there was any body in Bridgeport that knew the boy I told him of Moses Rhodes, William A. Hastings and Nicholas Miller that knew him, Mr. Hastings was found and we went back and got the papers signed, M^cGinnity & Alexander asked me to sign the paper I told them I had no learning, did not know any A. B. C. and could not. And I made my mark, M^cGinnity did not tell me that he would give me any thing for signing the papers, or for the interest of myself and my son, in the estate of Benjamin White. He did give me twenty dollars at Pachers tavern as we were returning from Bridgeport, He handed me a bank note saying here is money. I did not know how much it was for he handed me the paper and said give me the papers. I took the note and gave him the papers, that we had signed at Alexanders. I have the note I got of him, and I have showed it to one Smith and others and they told me it was for \$20. I have the note here now. When he M^cGinnity gave ^{me} the note he said it would help me a good deal now, as cold weather was coming on, and save me from washing out so much. When I gave M^cGinnity the papers and he gave me the bank note I left, and he went in to his dinner, I have not seen him since. In the time that I was with M^cGinnity he told me he had been at Baltimore, Philadelphia and New York and all round. He was buying land warrants followed that for a living. I dont now recollect any thing else that M^cGinnity said to me about the property.

Int. 5 Do you know any other matter or thing which if disclosed would be of benefit to either party in this suit if so, please state the same as fully as if specially interrogated thereto.

Answer. The boy has been a great deal of trouble to me, I always have to leave him watched if I go away to wash, I have to leave him in somebody's care, I left him once and he gave the people a slip, we were three or four days hunting him he froze his feet and legs and was lame all next winter and summer, he lay out in the woods, this was about seven years ago. He sits and talks to himself the bigger part of the time and says a little of every thing, I never pay much intention to what he says, he dont know how to work. He knows nothing about that, you cant learn him to work, he dont seem to have the use of his arms, his right arm, something ails his shoulder, I dont know what, he is weak in it. Ishabow dont know when he has got his satisfaction in eating, I have to watch him for fear he will eat to much & kill himself. He dont take care of his clothes at all. I have to dress him as I do a baby have to put on his pantaloons, he cant put on his shirt, I have to wash him the same as a child. He cant tie his own shoes even, I have to tie them every time he puts them on in the morning. I told him once that if he would cut a few roots around some green stumps to deaden them I would give him a quarter of a dollar, and at night I gave him a cent and he said that was to much. When M^r Gimmity was at my house as I stated before, after he had brought in the boy, he went out and came back and said not to bring Goodhue. I told him I had no learning, I did not know the law & Goodhue did. Well said he dont you bring him you dont want any body, this was after he told me not to fetch Goodhue as I stated in answer to question 4.

Cross Interrogatory 1. Did Ishabow White never make a contract? Is he not a blacksmith by trade? Can he shoe a horse? Does he know how much it is worth to shoe a horse?

Can he buy a coat? Does he know what a dollar is? Does he know the use and value of money?

Answer. Ishabow White never did make a contract. He is not a blacksmith by trade he cannot shoe a horse. He does not know how much it is worth to shoe a horse. He cannot buy a coat. He does not know what a dollar is, he does not know the use and value of money.

Int. 2. Does said Ishabow know his ^{his mothers name} name? his fathers name? does he know what a farm is? Does he know that money will buy it?

Answer. Ishabow knows his own name, I expect he knows his mothers name they all call me Ann so much. He does not know his fathers, I expect he does not. He does not know what a farm is, he does not know that money will buy a farm, I expect he does not.

Cross Interrog. 3. Can said Ishabow read? Can he talk? Can he sing? Can he count? Can he add sums either with slate and pencil, pen, ink and paper, or in his mind? Can he tell his age? Can he tell the days of the week? Can he tell the months of the year? Can he remember for whom he does work, the value of such work and whether he has been paid for such work? If he has money what does he do with it.

Answer. Ishabow White cannot read he can talk, he can sing, sing little foolish songs that have no sense in them such as nobody else ever sings. He cannot count, he cannot add sums in any way. He cannot tell his age nor the days of the week nor the months of the year he cannot remember for whom he does work, nor the value of such work, or whether he has been paid for it or not. If he had money he had as lieve throw it away as not or give it away.

Cross Interrog. 4. Has not said Ishabow White been permitted for years to go out alone without any attendant. Does he not know how to do different kinds of work on a farm?

Can he drive a team? Has he not frequently gone alone on errands? Has he not frequently gone alone to the store to make purchases? did he not select the goods he wished to purchase on such occasions? Has he not the mental capacity to remember the business upon which he is sent?

Answer. Said Ishabow has not been permitted to go out alone without any attendant, I never let him go out of my sight without his being with some body to take care of him. He does not know how to do different kinds of work on a farm. He cannot drive a team. He has not frequently gone alone on errands. He has not often gone to the store to make purchases, not unless the store was just in sight of the house so I could watch him, never went often there, for I was always afraid, he seldom got what I would send for. Sometimes I would send him for a few candles, or something in that way, and sometimes he would forget and get something else. He did not select goods on such occasions. He has not the mental capacity to remember the business upon which he is sent.

Cross Interrog. 5. Did you say you are well acquainted with Ishabow White? What particular conversation did you ever have with him, from which you judge that he is mentally incompetent to make a contract? State it particularly and fully and be sure to use the words which he used and which he used in that conversation.

Answer I am well acquainted with Ishabow White. I have had a good deal of talk with him, I have showed him money to see if he knew it. He dont know a fiftysay bit or a copfer from a dollar. I have tried him at counting, he dont know how many fingers or toes he has got. I have tried him, he will sometimes make two & sometimes three fingers on his hand. He is often talking to himself, he talks so much, I seldom pay any attention to what he says, I do not recollect the words he has used at any of the times I have heard him talk.

Cross Interrog. 6. You say you are well acquainted with Ishabon White do you? Then why can you not answer the questions asked you in the first second third and fourth cross interrogatories propounded to you? Why do you not answer them directly? Are you a physician? If not why do you not state the facts by which it may be known whether your opinion is correct?

Answer. I am well acquainted with Ishabon White and have so stated. I did answer the first second third and fourth cross interrogatories put to me. I think I answered them all. I did answer them directly as near as I could. I am not a physician. I have stated the facts by which it may be known whether my opinion is correct or not.

Cross interrog. 7. Do you say that Ishabon White is of a weak mind? Is his intellect as good as yours? How do you know? Do you know whether your acquaintances consider your mind weak or strong? How do you know whether you are competent to judge whether Ishabon White's mind is weak or strong? Don't you judge of the strength or weakness of his mind by comparing it with your own?

Answer. I do say that Ishabon White's mind is weak. His intellect is not as good as mine far from it. I know it very well. I can do a good many things that he cant. I can work in the garden and he cant. I can hoe corn and he cant. He cant cut off a stick of wood. My acquaintances consider my mind pretty strong to what Ishabon's is. I think I am competent to judge whether Ishabon White's mind is weak or strong. I know he is of weaker mind than mine, because I can recollect things that he cant.

Amos ^{her} _{mark} White

State of Ohio

County of Belmont } I do hereby certify that the foregoing deposition was sworn to and signed by the deponent and the same was taken the subscribed at the office of B. L. Cowen and D. D. T. Cowen in the town of St. Clairsville in the County of

Belmont and State of Ohio between the hours of 12 o'clock at noon and three o'clock in the afternoon of the 20th day of February 1854. Given under my hand and seal this 23rd day of February 1854

B. S. Cowen Commr. Seal

Deposition of
William A. Hastings

The Deposition of William A. Hastings taken at the office of B. S. & D. D. T. Cowen, on the twentieth day of February 1854 between the hours of 3 o'clock in the afternoon and six o'clock in the afternoon of said day, said officer being in the town of St. Clairsville, Belmont County Ohio.

Interrogatory 1. What is your name age place of residence and occupation.

Answer. My name is William A. Hastings, I am often called and known by the name of William Hasty, I am twenty seven years of age, I reside in Bridgeport-Bease township, Belmont County Ohio, I am a laborer.

Int. 2. Do you know the parties plaintiff and defendant in this suit or either of them, and how long have you known them respectively?

Answer. I dont know the parties to this suit. I saw M^cGrinity once, on or about October 1, 1853, in Bridgeport, never saw him at any other time. I do not know the complainant Taylor, never saw him to know him.

Int. 3 Were you present when Ishabon White and Ann White acknowledged and executed certain deeds before William Alexander of Bridgeport, Ohio, if so state whether you heard any conversation between said Alexander & Hugh W. M^cGrinity in relation to the execution of such deeds and if so state what that conversation was.

Answer. I was present when Ishabon White, and Ann White, acknowledged and executed certain deeds before Wm Alexander of Bridgeport Ohio, I heard some conversation between said Alexander and M^cGrinity, the first thing that occurs to my mind

is as it regards the writing done on one of the papers, that was
erased, Alexander asked McGinnity who had done it, McGinnity
told him he had been to a Notary Public in Wheeling and after
commencing to write he found out that Mrs. White & the boy were
not residents of the State of Virginia, that he would not take the
acknowledgement of the papers and informed him there was a
Notary public in Bridgeport that he had better come over there
as they were residents of the State of Ohio. Mr Alexander proceeded
there to fill out the papers, after writing a few lines he hesitated
and turns round to Mrs White and told her that he did not
know any thing about the value of property in that country,
but it might be possible, she was giving McGinnity full power
over \$25,000 worth of property. McGinnity did not say positive-
ly that the property was not worth more than \$500 but he gave
very strong hints, the words he used were something like these;
against he paid this woman and the boy the amount that he
had paid Harriet Shaw he thought, if it, the property paid him
for his trouble it would be all the property would be worth, he said
he had paid Harriet Shaw \$500, to me when Alexander was not
Present, McGinnity told Alexander he was a partner of Ben White
and that he had bought Harriet Shaw's interest, and that he
himself lived on a part of the property and he wanted to get
all the heirs claims, that he might go on and improve it and have
it to himself, he likewise said that Ann White & the boy had
but a life interest in the estate, he denied utterly of knowing
that Ben White had any other property, but that in Peoria City,
as it was a hard matter to tell any thing about Ben White's
business in California, that he wanted the papers so that if he
ever found out there was any thing that he could get it, but denied
again of knowing that Ben White had any ^{other} property than that in
Peoria City. Mr Alexander again told Mrs. White, to recollect
that she was signing her claims entirely away, she could have no
recourse upon that property or any thing belonging to Ben White.

McGinnity manifested some uneasiness, told Alexander he thought he was attending to more than was his duty that he wished the papers to be filled up he was in a hurry to get away. Mr. Alexander then asked him for the consideration of the deeds he told him you may fill them up at \$500, when the papers were filled out Alexander and McGinnity stepped aside & had some conversation, I was not present and did not hear it, they then came in and Mr. Alexander took the papers and read them aloud and then Mrs. White & the boy made their marks to them, Mr. Alexander said to McGinnity that Mrs. White would hold the papers till she got the money, and insisted on his paying the money there, McGinnity said he would pay her the money as quick as they went up to the Hotel, I supposed it to be the hotel at Martinsville, before and after Alexander commenced writing the certificates of acknowledgements, McGinnity insisted upon his inserting in the certificates that he knew Ann & Ishabon White this he did two or three different times, Alexander refused to do so, said he did not know them better than he did him, that he had never seen them before, that he knew of. Alexander asked him why he insisted upon him to certify that he knew them people, he said he had been dealing a great deal in land warrants and he had always found it necessary, and he thought it necessary in this case.

Int. H. State fully all you know in relation to the execution of the deeds by Ishabon White to Hugh W. McGinnity and also what said McGinnity told you about the property he wished to purchase &c.

Answer. In addition to what I have stated about the execution of the deed, I recollect that the boy in making his mark did as McGinnity and his mother told him, McGinnity manifested a good deal of anxiety to have him make his mark right, when Alexander asked the boy, ^{Ishabon} to sign the papers he said I cant or some word of the same meaning, I think that McGinnity

took hold of his hand and helped to make the mark if my memory serves me right, when Mrs. White was asked to sign the papers, she said she could not write her name, she had no learning. Mr. Alexander wrote her name and then told her to make her mark she made a straight mark and M^cGinnity told her it was necessary to cross it, and she did so. When I was coming down through Bridgeport, I met Mrs. White & Ishabon White, and with them a man, a stranger to me, Mrs. White asked me if I knew where Nicholas Miller lived, I told her I did and I believe it was Mrs. White said perhaps you will do as well as Miller, and asked me if I knew that to be her son Ishabon pointing to Ishabon, I told her I did, M^cGinnity said you will do as well as the other man. If I would have time to go to the Notary Public's office with him, I told him I had time and would go with him, he then commenced to tell me his business and likewise his name, he asked me if I knew Benjamin White, I told him I did not, he said Benjamin White had gone to California and on his way home had died, that he was a partner of Benjamin White and he had bought Harriet Shaw's interest in the estate Ben White, for the sum of \$500, and that she had directed him, where to find Ann White and her son Ishabon and that he intended to give them \$500 for their interest in Ben White's estate, he likewise said they had but a life interest in the estate, he told me his name was Hugh W. M^cGinnity.

Int. 5. Do you know Ishabon White who executed the deeds to said M^cGinnity, and if so how long have you known him and is he a person of sound mind and capable of entering into contracts.

Answer. I do know Ishabon White, who executed the deeds to M^cGinnity have known him in and about ten years, he is not a person of sound mind and capable of entering into contracts.

Int. 6. Do you know any other matter or thing in relation to the matter in controversy in this suit, which if disclosed would be of benefit to either party, if so state the same as fully

as if specially interrogated thereto.

Answer. There is nothing that now occurs to my mind more than what I have stated before.

Cross interrog. 1 Is not said Ishabon White a blacksmith by trade? Is he not a good workman? What is his age? Has he ever had a guardian or conservator?

Answer. I never saw said Ishabon in a blacksmith shop he is no workman at all at the business of blacksmithing nor no other business, he is twenty five years old, he never has had a guardian, that I ^{ever} knew of, nor a conservator.

Cross Interrog. 2. Is said Ishabon continually deranged in his intellect or only, occasionally? Do you mean to swear that he does not know enough to make a bargain? Did you ever hear him make or undertake to make a contract? Does he not know the value of his services or work as a black smith? Does he not purchase his own clothes? Does he not settle for his wages?

Answer. Ishabon has been continually deranged ever since I knew him, the same as he is now, I certainly do mean to swear that he does not know enough to make a bargain, I never heard him make or undertake to make a contract, he does not know the value of his work at any business, as for blacksmithing, I never knew him to do any. I never knew him to purchase any clothes and never knew him to work, never saw him do ten minutes work in my life, I never knew him to work for wages.

Cross Interrog. 3 If you answer that said Ishabon is not competent to execute a deed with you, state why? What did you ever see him do that induces you to believe so? are you a physician?

Answer. Ishabon White is not competent to execute a deed because he has not got capacity to do it. I dont know as I can bring to mind any thing I have seen him do, but by my asking questions of him, I have very often met him and asked him if he was well he would sometimes stand and laugh, often he would answer no or yes, did not appear as if he was able to carry on

any conversation whatever. I am not a Physician.

Cross Interrog. 4. Are you not a subscribing witness to said deed? Why did you become a witness to said deed if said Ishabon was not competent to make such deed?

Answer. I am a subscribing Witness to the deed alluded to above by me, I became a witness to such deed by request of M^r Gimmity and Ann White.

W. A. Hastings

State of Ohio

The County of Belmont } I do hereby certify that the foregoing deposition was sworn to and signed by the deponent, and the same was taken by me, the subscriber at the office of B. L. Cowen & D. L. Cowen in the town of St. Clairsville, in the County of Belmont in the State of Ohio, on the 20th day of February 1854, between 3 o'clock in the afternoon & 6 o'clock in the afternoon of said day given under my hand and sealed this 23rd day of February 1854

B. L. Cowen Commr. (Seal)

Deposition of James Eagleson.

Interrog. 1st What is your name place of residence and occupation?

Answer. My name is James Eagleson, I am forty six years six months old, I reside in Peace township, Belmont County, Ohio, one mile from Bridgeport, which is in the same township, I am at this time not following any particular business, I am collecting for some four persons, two firms & two individuals, I am a taylor by trade have not followed that business for sixteen years or eighteen years have been a merchant.

Int. 2nd Are you acquainted with Ishabon White lately a resident of Belmont county, Ohio? If so how long have you known him? State if you know what the state of his mind is whether he is of sane and sound mind or otherwise.

Answer. I am acquainted with Ishabon White, lately a resident of Belmont county, Ohio, I have known him about twenty years he is not of sane mind, he is far from it, he has no mind at all.

Deposition of
James Eagleson }

Int. 3. If in your answer to the foregoing interrogatory you should state that the said Ishabow White is not of sound mind please state how long he has been so and what is the matter with him?

Answer. He seems to be in the same state of mind now, that he was when I first knew him he appears to be an idiot entirely and wholly destitute of any reasoning faculties.

Int. 4. State whether the said Ishabow White is capable of making contracts with the proper understanding or not?

Answer. The said Ishabow White is not capable of making a contract with the proper understanding he is not capable of making any contract.

Int. 5. Do you know any other matter or thing in this suit, which if disclosed would be of benefit to either party, if so please state the same as fully as if specially interrogated thereto?

Answer. I have been in the habit of selling goods where he was frequently sent for some four years when he came for errands, he generally brought a specimen of the article he might want, as to quantities I generally gave him about what his mother was in the habit of buying at one time, say coffee sugar molasses, spices &c. If he had money that would pay for more than that quantity, I would generally put up the change so that he might take it home safe, at time he lived about four hundred yards from us say one quarter of a mile, I generally waited on him soon when he came in, I always when he came made it a point to ask him what he wanted, and he generally laid down his specimen, I would give him his articles, I made it a practice to give him about three segars, he was very fond of smoking, give him a light, summer or Winter to fire his segar, when I had done so and he had lit his segar, would tell him he had better be going home, knowing that his mother was may be half way there watching for him till he would return, at least I supposed so, for she often was, very frequently he would go to playing with children on the street and over stay

his time and his mother would come after him, she would then ask him if he had done his errand and he would say no or yes, she would then bring him to the grocery and get the articles she wanted, when playing with children he would act as the smallest children, two or three years old would do, he is wholly incompetent to buy or sell, we have given him pieces of small change and ask him what they were, did not appear to know the difference between silver & gold would call a copper a twenty dollar gold piece & so on. At St. Louis we stopped at the Hotel, and owed the bar fifteen. Ishabou White was with us, I gave Ishabou a silver piece, half dollar or less and told the barkeeper to give Ishabou two or three coppers back. I told Ishabou to pay fifteen cents and get the change back, he went up to counter, took up to throw down his piece, the landlord gave him back three coppers, he received them, examined them, came back to me and set down. I asked him if he got the right change, he said he had, took out the three coppers and showed me, I think the silver piece I gave him, was fifty cents. In the evening before we left St. Louis we owed the bar about the same amount, I told the barkeeper to give but one copper this time, I gave Ishabou a \$20.00 gold piece told him to go and pay the bar fifteen cents and get the change, he took up his money, throwed it down received one cent back, came to me, I asked if he had got the proper change he said he had and took out the one cent and showed me, the landlord then returned the \$20.00 gold piece to me and I paid him the fifteen cents. While we were at Louisville where we lay about ten hours, there were horses and mules there, he was fond of horses and mules, I asked him if we should buy a pair of mules, aint they worth a \$1000.00 he said yes, would you not rather have them than horses, he said yes, They were bringing cattle on board the boat we were on, I asked him if we had not better buy a pair of them heifers and cows in place of the mules. He said yes, I told him they would give us milk, when we got to Illinois, if he thought the cows were good to play with, told him if the cows came on our

boat we could buy them on our route, as we went round, he answered yes we could. I was in charge of Ishabon at the time, there was three of us along at the time, Martin, Elijah Miller and myself. This was about the 20th of November last that we were at Louisville. I could not get him into conversation more than yes or no. He seemed to have no idea of distance, when we got to Peoria we asked him how far it was to his mothers, sometimes he would say half a mile, sometimes a mile. Sometimes ask him how far it was to Goodhues from Peoria he would say sometimes a mile sometimes half a mile. I asked him how far it was from his uncle Thomas Levins to Peoria he would make about the same answer. Goodhues was about half a mile Levins about one mile from his mothers.

Cross Interrog. 1. Did Ishabon White never make a contract? Is he not a blacksmith by trade & can he shoe a horse? Does he know how much it is worth to shoe a horse? Can he buy a coat? Does he know what a dollar is? Does he know the use and value of money?

Answer. I never knew Ishabon White to make a contract. He is not a blacksmith by trade. He cannot shoe a horse. He dont know how much it is worth to shoe a horse. He could not contract for a coat and know when he could pay the value. I purchased a vest for him the day we started for Illinois. In trying on vests he tried on some entirely too small, he was satisfied with any thing. He dont know what a dollar is. He does not know the use and value of money.

Cross interrog. 2. Does said Ishabon know his name? his mothers name? His fathers name?

Answer. Ishabon answers to Ishabon. He knows his mothers name when she is called Ann. When he is asked if he is going to his mother Ann's he will say yes. I can not say that he does know his fathers name. I never heard him speak of him. I presume he does not know what a farm is. I think he does not know that

money will buy a farm. - he would not know whether it would take a gill or a bushel of gold to buy a farm.

Cross Interrog. 3. Can said Ishabon read & can he talk? Can he sing? Can he count? Can he add sums either with slate and pencil, pen ink and paper or in his mind. Can he tell his age? Can he tell the days of the week? Can he tell the months of the year? Can he not remember for whom he he does work, the value of such work, and whether he has been paid for such work? If he has money what does he do with it?

Answer. He cannot read, He can talk say yes & no is about the amount. He cannot carry on a conversation of any kind. He can try to sing, but cannot sing. He can put two or three sentences together I have heard him sing "going to New Orleans to buy a bag of shot, there is a better day coming glory! glory!" He cannot add sums in no way shape nor form. I cant say whether he can tell his age for I never asked him. I presume he cannot tell the days of the week. He cannot tell the months of the year. I dont think he can tell for whom he has done work, the value of such work, or wether he has been paid for it, he would take one cent as readily as twenty dollars, for whatever labor he might perform. If he has money he plays with it, about like a little baby would, sitting about on the floor. At Peoria he changed his pantaloons and he had several pieces, 8 or 10 probably from a cent 3 cent piece to a dime, and one 25 cent piece. It was left in the pantaloons he took off. He missed them and cried for about half an hour before we could find out, what the matter was, and when asked if it was because he missed his money that he cried, he said it was and Mr. Martin gave him a piece of money one piece, I think a quarter of a dollar and he was pacified.

Cross Interrog 4. Has not said Ishabon White been permitted for years to go out alone without any attendant? Does he not know how to do different kinds of work on a farm?

Can he drive a team? Has he not frequently gone alone on errands? Has he not frequently gone alone to the store to make purchases? Did he not select the goods he wished to purchase on such occasions? Has he not the mental capacity to remember the business upon which he is sent?

Answer. I think Ishabon White has never been permitted to go out alone without any attendant, without a very close supervision over him. If he went from home to the grocery his mother appeared to watch his moves very close and if he staid too long, she would follow him. His mother frequently washed every week for our next neighbor, and if Ishabon came into the Grocery which he sometimes did to get a cigar and staid long, she would come after him or send for him. He does not know how to do different kinds of work on a farm I think I have seen him try to chop and try to saw and he could do neither. He cannot drive a team I think, I think he has not frequently gone alone on errands without someone watching him or being close so as to go after him if he did not return in time. He has come to the store alone to make purchases as I have before stated. If he happened to stay too long, his mother would call for him. He did not select the goods he wished to purchase on such occasions never in any presence. I don't think he has the mental capacity to remember the business on which he is sent. He often would forget that he had a specimen.

Cross Interrog. 5. Did you say you are well acquainted with Ishabon White? What particular conversation did you ever have with him from which you judge that he is mentally incompetent to make a contract? State it particularly and fully and be sure to use the words which he used and which he used in that conversation?

Answer. I did state that I was acquainted with Ishabon White and I am well acquainted with him. I have stated the talk with him about those mules and cattle, so as to draw him out, when he came to the store or when speaking to him on any subject.

he would generally say yes or no, when travelling on the cars he would call it a steam boat. It was from such things and his appearance that I judged of his capacity.

Cross Interrog. 6. You say you are well acquainted with Ishabou White do you? Then why can you not answer the questions asked you in the first second third & fourth cross interrogatories propounded to you? Why do you not answer them directly? Are you a physician? If not why do you not state the facts by which it may be known, whether your opinion is correct?

Answer. I have said and do say that I am well acquainted with Ishabou White. I have answered the first second third and fourth cross interrogatories propounded to me, I believe fully, I have answered those interrogatories directly, I am not a physician. I have stated the facts fully by which it may be known whether my opinion is correct.

Cross Interrog. 7. Do you say that Ishabou White is of a weak mind? Is his intellect as good as yours? Do you know whether your acquaintances consider your mind weak or strong? How do you know whether you are competent to judge whether Ishabou White's mind is weak or strong? Don't you judge of the strength or weakness of his mind by comparing it with your own?

Answer. I do say that Ishabou White is of a weak mind. His intellect is not as good as mine. By comparing what I can do with what he cannot do, I think I know that his intellect is not as good as mine, I cannot say how it is as to what my neighbors think of my mind. Some of my neighbors have come to me for advice when they got into difficulties, I don't know what they think of me. I know by comparing the actings sayings and doings of Ishabou White with those of other men that I consider of sound and good minds, I think I am competent to judge whether his mind is weak or strong, I judge of the strength and weakness of his mind by comparing it with my own mind and the minds of others. James Eagleson.

The State of Ohio, Belmont County,

I hereby certify that the foregoing deposition was sworn to and signed by the deponent and the same was taken by me the subscriber at the office of B. L. Cowen and D. D. T. Cowen, in the town of St. Clairsville Belmont County Ohio on the 23rd day of February 1854, between the hours of six o'clock in the evening and ten o'clock in the evening of said day. Given under my hand and sealed this 23rd day of February 1854.

B. L. Cowen Commr. (seal)

Deposition of }
Saml F. Miller }

Deposition of Samuel F. Miller, taken at the office of B. L. & D. D. T. Cowen in the town of St. Clairsville in the County of Belmont and State of Ohio, on the 21st day of February 1854, between the hours of 8 o'clock in the evening and eleven o'clock in the evening of said day.

Interrogatory 1. What is your name, age, place of residence and occupation?

Answer. My name is Samuel F. Miller, the middle letter F. stands for Fitzhugh, I am thirty one years of age, I reside in Belmont County Ohio, Pease township about three miles from Bridgport, I am a farmer and gardner.

Int. 2nd Are you acquainted with Ishabow White, lately a resident of Belmont County, Ohio? If so how long have you known him? State if you know what the State of his mind is whether he is of sane and sound mind or not?

Answer. I am acquainted with Ishabow White, lately a resident of Belmont County Ohio, I have known him about 18 years, I consider that he is not of sound mind.

Int. 3. If in your answer to the foregoing interrogatory you should state that the said Ishabow White is not of sound mind please state how long he has been so and what is the matter with him?

Answer. Ishabow White has been of unsound mind ever since

I knew him, he is what I understand by an idiot.

Int. H. State whether the said Ishabow White is capable of making contracts with the proper understanding or not?

Answer. Ishabow White is not capable of making contracts with the proper understanding.

Int. 5. Do you know of any other matter or thing in this suit which if disclosed would be of benefit to either party? If so please state the same as fully as if you were specially interrogated thereon.

Answer. He has a passion for horses and wanted to buy one of me and for a horse worth \$75. he would offer me twenty five cents and would appear to think that a full equivalent. This he has done often. His talk was generally so void of sense that I would not pay much if any attention to it.

Cross Interrog. 1. Did Ishabow White ever make a contract?

Is he not a blacksmith by trade? Can he shoe a horse, Does he know how much it is worth to shoe a horse. Can he buy a coat? Does he know what a dollar is? Does he know the use and value of money?

Answer. Ishabow White never made a contract to my knowledge. I dont think him capable of making any contract whatever. He is not a blacksmith by trade. He cannot shoe a horse. He does not know how much it is worth to shoe a horse. He cannot buy a coat. He does not know the difference between a dollar and a cent, that is he dont know, which is of the most value. He does not know the use and value of money.

Cross Int. 2. Does said Ishabow know his name, his mothers name? his fathers name? Does he know what a farm is? Does he know that money will buy it?

Answer. Ishabow White knows his name I believe, I believe he knows his mothers name, I cant say whether he knows his fathers name or not, I dont think he knows what a farm is. He may know that money will buy a farm but he dont know what amount it will take to buy a farm.

Crossinterrog. 3. Can the said Ishabow read? Can he talk?

Can he sing? Can he count? Can he add sums either with slate & pencil, pen ink & paper, or in his mind? Can he tell his age? Can he tell the days in the week? Can he tell the months in the year? Can he not remember for whom he does work? the value of such work and whether he has been paid for such work? If he has money what does he do with it.

Answer, Ishabow White cannot read. He can talk. He cannot sing a tune. He cannot count. He cannot add any sums at all. He cannot tell his age nor any other persons age. He cannot tell the days of the month, nor the months in the year. He can remember who he has worked for. He cannot tell the value of the work. I don't think he could tell whether he had been paid for his work or not. I never saw him with any money, and don't think he would know what to do with it if he had it.

Cross interrog. H. Has not said Ishabow White been permitted for years to go out alone, without any attendant? Does he not know how to do different kinds of work on a farm? Can he drive a team? Has he not frequently gone alone on errands? Has he not frequently gone alone to the store to make purchases? Did he not select the goods he wished to purchase on such occasions? Has he not the mental capacity to remember the business upon which he is sent?

Answer. Ishabow White, as far as hunting the cows in the pasture has been permitted to go out alone without an attendant and he has been permitted to go to and fro among the neighbors. He does not know how to do different kinds of work on a farm unless he is overlooked, and then the simplest kind of work is all that he can do. He cannot drive a team. I have known him to go on errands, but he generally done them very imperfectly. He has not frequently gone to the store to make purchases alone, I never knew him to do so, and ^{as} I never knew him to go on such business, I do not know of his selecting goods. He has not the mental capacity to remember the business on which he is sent without it is some very simple errand.

Cross Interrog. 5. Did you say, you are well acquainted with the said Ishabou White? What particular conversation did you ever have with him from which you judge that he is mentally incompetent to make a contract? State it particularly and fully and be sure to ^{use} to the words which he used and which he used in that conversation?

Answer. I am well acquainted with the said Ishabou White, he lived on my fathers farm for twelve or fifteen years, and I saw him almost daily during that time. I have held many such conversations as I have mentioned before about horses. His conversation was generally confined to monosyllables yes and no. When he spoke about horses I would generally put the questions to him and he would answer yes or no.

Cross Interrog. 6. You say you are well acquainted with Ishabou White do you? Then why can you not answer the questions asked you in the first second third and fourth interrogatories propounded to you? Why do you not answer them directly? Are you a physician? If not why do you not state the facts by which it may be known whether your opinion is correct?

Answer. I have said that I am well acquainted with Ishabou White. I believe I have answered the first second third and fourth cross interrogatories propounded to me to the best of my ability. I believe I have answered them directly. I am not a physician. I believe I have stated the facts to the best of my recollection by which it may be known whether my opinion is correct.

Cross Interrog. 7. Do you say that Ishabou White is of a weak mind? Is his intellect as good as yours? How do you know? Do your acquaintances consider your mind weak or strong? How do you know whether you are competent to judge whether Ishabou White's mind is weak or strong. Don't you judge of the strength or weakness of his mind by comparing it with your own?

Answer. I do say that Ishabou White is of a weak mind. I do not think his intellect is as good as mine. I know it by comparing

it with my own and others and by what I have seen him do and heard him say. I believe that I am esteemed to have a tolerably strong mind among my acquaintances. I know that I am competent to judge whether Ichabod White's mind is weak or strong by my competency to attend to my own affairs, I do judge of the strength and weakness of his mind by comparing it with my own corroborated by all others that I have ever heard speak of him.

Samuel F. Miller

The State of Ohio, Belmont County.

I do hereby certify that the foregoing deposition signed by Samuel F. Miller, was sworn to and signed by him the deponent, and the same was taken by me, the subscriber, at the office B. S. Cowen and D. D. T. Cowen in the town of St. Clairsville in the County of Belmont and State of Ohio, on the 21st day of February 1854, between the hours of 8 o'clock in the evening and eleven o'clock in the evening of said day. Given under my hand and sealed, this 23rd day of February 1854

B. S. Cowen Commr. *[Signature]*

Deposition of }
Gibson L. Cranmer }

The Deposition of Gibson L. Cranmer Esq. a Citizen of Wheeling in the State of Virginia, taken by me Edward H. Fitzhugh, a Commissioner, appointed by the annexed Commission at my office in the city of Wheeling aforesaid this seventh day of February 1854, to be read in evidence in a certain cause in chancery now pending and undetermined in the Circuit Court in and for the County of Peoria in the State of Illinois, wherein James Taylor is complainant and Hugh W. Mc Ginnity is Defendant. Taken on the part and behalf of the said complainant.

The said Gibson L. Cranmer being of lawful age and by me first duly sworn to testify the truth in relation to the matters in controversy in said cause so far as he may be interrogated did depose and say.

Question. What is your name, age, place of residence and occupation?

Answer. Gibson L. Crummer, twenty seven years of age, residence Wheeling Virginia, occupation a lawyer.

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

Answer. There were three persons who came to my office in the city of Wheeling and requested me as a Notary Public for the said city, to take the acknowledgment of a woman and her son to a certain quit claims deed and power of attorney, which they presented to me. and they stated that they were the parties named in the deed and power of attorney. The parties then before me were Hugh W. McGinnity, Mrs. White and her son Ishabou White. That was the first time I had ever seen them, and I have never seen them since. I have had no other intercourse or acquaintance with them. Except that Mrs. White once since called at my office to ascertain whether I remembered of her acknowledging the deed before me.

Question. State whether any person came to you some time last fall and about what time, and who they were and wished you to get you to take the acknowledgment of some deeds. If so state whether you took the acknowledgment, and if not, the reason why you did not. State fully all that passed between you and the person to whom the deed was to be made, in relation to the acknowledgments.

Answer. About the first of October 1853 the three persons referred to in the answer to the former question came to me and requested me to take the acknowledgments referred to, I did not take them, and my reason for not taking them in the first place was because I was not acquainted with any of the parties. On account of this objection McGinnity went out with Mrs. White for the purpose of finding some one who could prove to my satisfaction the identity of Mrs. White. They returned and found no one. Whilst they were absent I addressed some conversation to

Mrs. White's son who remained in the office, who did not answer me. This called my attention more closely to him, when I addressed him again in a louder voice - and he answered me incoherently. His attention the whole time directed to the street. From these circumstances and from his general appearance, I concluded that he was an idiot. When M^cGinnity and Mrs. White returned I informed them that I had another objection to taking the acknowledgment for the reason that the son was an idiot, and therefore could not contract in law. M^cGinnity insisted upon my taking the acknowledgment, but I refused decidedly to do so and told him that he had better go to St. Clairsville, Belmont County, Ohio, and have a guardian appointed for the idiot and let that guardian act. He asked me if there was a Notary Public in Bridgeport, Belmont County Ohio. I told him, I thought there was, and he said he would go over there and have the acknowledgment taken and left my office for that purpose.

Question. Where was the person from who wished you to take the acknowledgments, and what was the description of the persons whose acknowledgments were to be taken?

Answer. He M^cGinnity stated to me, that he was from the State of Illinois, Peoria. As to the description one was a woman apparently about fifty years of age - and the other a boy apparently about twenty one years of age. Though as to the age of either I cannot speak with any certainty.

Question. Do you know of any other matter or thing in this suit, that may be of benefit to either of the parties in this suit. If so please state the same, as fully as if specially interrogated thereto?

Answer. I know nothing further except that M^cGinnity represented the property which the deed intended to convey as being of comparatively small value and that he was then endeavoring to purchase the shares of the different heirs.

Cross Interrogatories on the part and on behalf of Defendant, to be propounded to said Gibson L. Grammer to wit.

Question. Did you ever see Ishabon White more than once. - If you saw him only once, when and where. If you saw him more than once when and where and how often. Did you have any conversation with him when you saw him. If so what was that conversation?

Answer. I never saw him but once, that I am aware of - and that was at my office in the City of Wheeling about the first of October 1853. I then addressed some conversation to him, during the absence of his mother and Mr Gimmity as above referred to asking him where he resided and he made no reply. I then asked him some questions about the weather and he laughed without replying and without changing his position or directing his attention towards me. And when I asked him again in a lower voice, where he resided, he answered incoherently and I refrained from further questions to him.

Question. Was not the only reason why you did not take the acknowledgment of said deeds, that you were not acquainted, personally with Ann White and Ishabon White the grantors in said deed and that they could not find any person with whom you were acquainted to testify to their identity?

Answer. That was one reason. But even though they had found a person to establish the identity I would not have taken the acknowledgment under the circumstances because I discovered that one of the parties was an idiot. And further the deponent saith not.

Gibson L. Grammer

State of Virginia

County of Ohio to wit } I do hereby certify that the foregoing deposition was sworn to and signed by the deponent, and the same was taken by me Edward H. Fitzhugh, at my office in the City of Wheeling in said County of Ohio and State of Virginia, at the hours of twelve o'clock in the day this 7th day of February A.D. 1854.

Given under my hand and sealed this 7th day of February A.D.

1854

Edw. H. Fitzhugh *E.D.*
Comm.

Proceedings in Chancery before the Circuit Court at a term thereof begun and held at the Court house, in the City of Peoria in and for the County of Peoria, in the State of Illinois, on the first Monday of March in the year of our Lord one thousand eight hundred and fifty four, it being the sixth day of said month. The Honorable Ouslow Peters judge of the sixteenth Judicial Circuit in the State of Illinois presiding, to wit;

Wednesday March 8th A.D. 1854

James Taylor, conservator

vs

Hugh W. Mc Ginnity

} for injunction &c.

This day came the complainant by E. N. Powell his solicitor and entered a motion that the Bill in this cause be taken pro confesso for want of answer being filed according to the rule entered at the last term of this Court.

Thursday, March 9th A.D. 1854

This day came the defendant by his solicitors and to the motion of the complainant entered on Wednesday last, entered a cross motion to extend the time for answer.

And afterwards, to wit, on the fifteenth day of March A.D. 1854 there was filed in said cause the answer of the said Hugh W. Mc Ginnity to said Bill of Complaint, which is in the words and figures following, to wit;

Answer:

State of Illinois }
Peoria County } Peoria Circuit Court
March Term A.D. 1854

James Taylor, complainant
Hugh W. Mc Ginnity, Defendant }

The answer of the said defendant, to the said complainant's bill of complaint.

This respondent now and at all times hereafter, saving and reserving to himself all manner of right of exception to the manifold errors, uncertainties and insufficiencies of said bill for answer thereto or so much thereof as he is advised it is necessary or material for him to answer unto answering says:

This respondent admits, that said complainant was appointed the conservator of said Ishabon White as set forth in said bill, but protests that he is not in any manner bound or concluded or affected by any order or adjudication of the said Court in said matter, he this defendant not being a party thereto; This respondent admits that complainant has filed his bond as stated in said bill. This respondent denies that said complainant has made a true and perfect inventory of the real and personal estate of said Ishabon as set forth in said Bill.

This respondent is informed and therefore admits that Benjamin White died as stated in said bill and left the heirs as stated in said Bill. This respondent admits that said Benjamin White died, claiming some right to said lot ten in block eight, in the city of Peoria, but denies that the title of said Benjamin was in any manner perfect to said lot, and this respondent denies that said lot was or is worth the sum of five thousand dollars or any such sum, and this respondent says, that the claim of said Benjamin to said lot was not worth more than one hundred dollars. This respondent denies, that said Benjamin at the time of his death was possessed of the personal property or stock mentioned in said bill or any part thereof.

But this respondent admits that whatever property said Benjamin had at the time of his death descended to said heirs in equal parts.

This Respondent expressly denies that said Ishabow White is an idiot or that he has been such from his infancy at any time; and expressly denies that said Ishabow is wholly or in part incapable of taking charge of his property or of selling or disposing of the same. And this respondent says that the verdict mentioned in said bill is no evidence whatever against this respondent in said cause; and this respondent protests that said verdict can not be exhibited against this respondent as evidence for any purpose. This respondent admits that on or about the first day of October A.D. 1853 this respondent procured a deed to be executed by the said Ishabow White and his mother Ann White to himself conveying the said lot, which deed was upon the alleged and actual consideration of five hundred dollars. This respondent states that he did pay to said Ishabow & his said mother a good and valuable consideration for said deed and the property there by conveyed. This respondent expressly denies that he procured the execution of said deed fraudulently or well knowing that the said Ishabow was incapable of making any such deed, with that degree of understanding, that would render it binding; but on the contrary this respondent states that he made such purchase bona fide, and that said Ishabow was capable, and especially when acting with his said mother to make a good and valid conveyance, of the property in said deed described.

This respondent denies that before he procured the execution of said deed he fraudulently or otherwise represented to said Ann White, that this respondent had bought out the interest of said Harriet Shaw in said lot for five hundred dollars or any other such sum; or any other of the said representations set forth in said bill. — This respondent denies that at the time he procured said deed to be made he knew that said Ann White had no interest in said lot. but this respondent admits that

the undivided half of the claim of said Benjamin to said lot was in said Ishabou. This respondent denies that he then knew or ever knew that said Ishabou was an idiot and incapable of understanding what he was doing when he executed said deed; On the contrary this respondent says said Ishabou did very well understand what he was doing. This respondent admits that he with said Ann & Ishabou was in Wheeling in the State of Virginia for the purpose of getting said deed acknowledged but this respondent expressly denies that any Notary or any person refused to take such acknowledgment on the ground of the incapacity of said Ishabou, nor did any person state or suggest any such cause in the presence or hearing of this respondent; but this respondent states that the sole cause for not having said acknowledgment taken in said Wheeling was that said Ann & Ishabou did not find and could not find any persons with whom the said Notary was acquainted, who could identify said Ann & Ishabou as being the parties grantors to said deed and the persons whose names were subscribed thereto. This respondent expressly denies that there was any such conversation or representation by and between this respondent and said William Alexander as set forth in said bill or any part thereof or anything similar thereto. This respondent admits that he was well acquainted with the said lot and its situation and probably had an opinion in regard to the value of it tho' this respondent does not now recollect what that opinion was. but this respondent denies that he knew or supposed said lot was worth from four to five thousand dollars, but this respondent denies that he knew and that it is true that the interest of said Ishabou was worth more than five thousand dollars. This respondent denies that on the said first day of October A. D. 1853 he fraudulently procured from said Ishabou & Ann a bill of sale of all the right title and interest claim or demand in and to the estate of Benjamin White with the contents and effect charged in said bill; this respondent did

stand such bill of sale upon a good and valuable consideration and not fraudulently or by means of any such, or any false or fraudulent representations as alleged in said bill or otherwise, or that he procured such bill of sale by any fraud or with any fraudulent intent, or that he knew at the time or was told that said Ichabon was wholly or in any manner incapable of executing such instrument: And this respondent says that he did give something valuable for said bill of sale (or said release).

This respondent admits that he obtained from said Ann and Ichabon a power of attorney mentioned in said bill, but not by any false or fraudulent assertions or representations as charged in said bill of sale, all of which charges this respondent says are untrue and false, but this respondent says he procured the same bona fide and for a good and valuable consideration: And this respondent denies that at the time of the execution of said power he was plainly told, or told in any other manner, that said Ichabon was wholly incapable to execute said deed. This respondent supposes and admits that the name of said Ichabon White is Ichabon^{or Ichabon} or Ich or Ichabod. And every other matter and thing, charge intimation and suggestion made as against this respondent denies to be true in whole or in part.

And now having fully answered said bill this respondent asks to be dismissed with his costs.

Hugh W. McGinnity
for Manning & Merriam
et al for deft.

And afterwards on the thirtieth day of March A.D. 1854, the complainant filed his replication in said cause, which is in the words and figures following, to wit,

Replication -

James Taylor

vs

Hugh W. Mc Ginnity

} Circuit Court Peoria County,
March term A.D. 1854

And the said complainant by E. N. Powell his solicitors comes and says that the said several matters and things stated and set forth in his said bill are true and that all the several matters and things stated and set forth in the answer thereto so far as the same denies the truth of the allegations in said bill are untrue and this he is ready to make appear as the Court shall direct.

E. N. Powell

Atty for Compl.

On the 28th day of May A.D. 185-4 the defendant filed his affidavit for the continuance of this case, as follows, to wit:

afft for continuance -

James Taylor Conservator

} Peoria Circuit Court

vs

Hugh W. Mc Ginnity

} May Term 1854

Hugh W. Mc Ginnity being first duly sworn deposes & says, that he purchased the said real estate in said bill described of the said Ishbon White in good faith, not at all knowing that said Ishbon was non compos mentis, that he had never seen said Ishbon before the time when he this affiant made said purchase, that this affiant received information from an aunt of said Ishbon of his whereabouts, and also that he was the owner of the property purchased, but the said aunt of said Ishbon never at all intimated that said Ishbon was not of sane mind & memory, nor did this affiant suppose it was possible for said complainant to prove that Ishbon was non compos mentis at the time of the execution of said deed, that affiant was an entire stranger in the neighborhood where said Ishbon resided up to the time when said deed was executed and for some time since, - that this affiant

left this state on or about the fourth day of March last upon necessary business for the State of Pennsylvania and did not return until since the commencement of the present term of this Court. that the depositions taken by the said complainant were filed as appears by the files on the sixth of March last during the absence of affiant that affiant did not see said depositions, nor did he know that they were taken until since his said return, and was greatly surprised at the contents of the same, that confident of the fact that said Ishbon was of sound mind he did not suppose the contrary could be proved - that as he is informed by his counsel & believes they could not see said depositions for some weeks after the same were filed, that his said counsel were ignorant as to the proof which deponent expects to be able to produce on the hearing of this cause, as also was deponent until too late to procure the same at the present time of this Court. That as soon as he had an opportunity learning the contents of said depositions affiant immediately set about making inquiry of all the persons whom this affiant knew in the vicinity of said Ishbon's former residence, for the purpose of ascertaining whom could as witnesses to disprove the material statements in said depositions that said former residence of said Ishbon White is about five hundred miles from this place by the usual course of travel and not far from that distance by the mail route - that especially affiant corresponded with one A. A. Packer. Affiant further states that he is now informed & expects to be able to prove by A. A. Packer Isaac Packer and W. A. Hastings and others, whose names this affiant has not learned residing in the county of Belmont in the State of Ohio, where said Ishbon White resided at the time of the execution of said deed, and where said witnesses above named all reside. That said Ishbon White was at the time of the execution of said deed a sane person and of sound mind and capable of attending to the ordinary affairs of life and legally executing said deed, that the reason he has not had their

depositions taken are for the reasons mentioned above, and that he did not know the names of the witnesses, and what this affiant could prove by them until it was entirely too late to have them taken at this term of court, that even as if this affiant had been here at the time when his counsel first saw said depositions this affiant is sure that the time would have been entirely too short to write to Ohio to obtain the proper information and have this affiant's said depositions taken at this term of court. This affiant expects to obtain his said depositions by the next term of this court. This affidavit is not made for delay except that justice may be thereby done.

Hugh W. Mc Ginnity

Sworn to and subscribed this 25th day of May A. D. 1854
before me

Jacob Gale, Clerk

Proceedings in Chancery before the Circuit Court at the term thereof begun and held at the Court House in the City of Peoria in and for the County of Peoria in the State of Illinois on the second Monday of May in the year of our Lord one thousand eight hundred and fifty four it being the eighth day of said month. The honorable Ouslow Peters, Judge of the sixteenth Judicial Circuit in the State of Illinois presiding, to wit:

Thursday May 25th, A. D. 1854

James Taylor conservator &c.

vs

For injunction

Hugh W. Mc Ginnity

This day came the defendant by Julius Manning his solicitor and entered a motion for the continuance of this cause for reasons in affidavit on file.

Friday, May 26th A. D. 1854.

This day came on to be heard the motion of the defendant for the continuance of this cause. On consideration whereof the court overruled said motion. By agreement of parties this cause is continued to next term of this court and the distance by the first day of

next term to be closed unless for good cause shown to the Court the term shall be extended.
 Proceedings in Chancery, before the Circuit Court at a term thereof begun and held at the Court house in the city of Peoria, in and for the County of Peoria, in the State of Illinois on the third Monday in November in the year of our Lord one thousand eight hundred and fifty four; it being the twentieth day of said month. The Honorable Onslow Peters, judge of the sixteenth Judicial circuit in said State presiding, to wit:

Saturday December 16th A.D. 1854

Decree of }
 Court in chancery

James Taylor, conservator
 of Ishabon White

vs

Hugh W. Mc Ginnity

he

To set aside conveyance &c.

This day this cause came on to be heard on the bill, answer, replication, exhibits and testimony and it appearing to the satisfaction of the Court by the examination of the record made an exhibit in said bill that the said James Taylor complainant by an order and decree of the Circuit Court of Peoria County, State of Illinois rendered on the twenty fifth day of November in the year of our Lord one thousand eight hundred and fifty three was duly appointed Conservator for the said Ishabon White, which decree was rendered on a petition presented to said Court by Harriet Shew on which petition a jury was duly empannelled and sworn to try the fact whether said Ishabon White was an idiot and the jury so empannelled and sworn to try the fact found the said Ishabon White to be an idiot.

And it further appearing to the Court that the said James Taylor has taken upon himself the duty of acting as such conservator by filing his bond and an inventory of the property of said Ishabon White in pursuance of the statute in such case made and provided. And it further appearing to the Court from the exhibits in said bill and the testimony taken in said cause that the said defendant Hugh W. Mc Ginnity on the first day of October in the year

of our Lord one thousand eight hundred and fifty three caused to be made executed and delivered to him by Ann White and the said Ishabon White a quit claim deed for lot number ten (10) in block number eight (8) in the city of Peoria, State of Illinois, and also on the same day and year procured to be executed and delivered to him the said Hugh W. McGinnity by the said Ann White and Ishabon White a certain deed of release or sale of all their right title interest claim or demand in and to the estate of Benjamin White late of California deceased and formerly of Peoria County, and also on the same day and year aforesaid to be executed and delivered to him the said Hugh W. McGinnity by the said Ann White and Ishabon White their power of attorney authorizing and empowering him the said McGinnity to collect all monies, rights credits or property arising from any notes, bonds, bills payable, receipts or accounts or stocks that may now be due or that have or may become due and payable unto them the said Ann and Ishabon White from the estate of Benjamin White deceased and with full power to collect and give receipts and acquittances and also making said power absolute and irrevocable in the said McGinnity.

And it further appearing to the Court from the testimony of William Goodhue, Simon B. West, William Alexander, Ann White, William A. Hastings, James Engelson, James Hains, Samuel D. Miller and Gibson L. Crammer, whose depositions have been duly taken and filed in this cause, that the said Ishabon White, at the time he made executed and delivered the said quit claim deed for said lot number ten (10) in block number eight in the said City of Peoria and the said deed of release of his right interest and title to the personal property and effects of the estate of the said Benjamin White deceased and the said power of attorney was an idiot and wholly incapable of entering into any contract or agreement whatever and has been an idiot from his earliest infancy and that at the time the said defendant procured the execution of said several instruments he well knew and was informed

that the said Ishabow White was an idiot and wholly incapable of making any contract or agreement whatever. And it further appearing to the Court from the testimony of said witnesses that the said deed of release and quit-claim for said lot ten and the said release of the monies and personal effects in the estate of the said Benjamin White deceased, and the said power of attorney was procured to be executed to him the said M^cGinnity by his making of false and fraudulent representations to the said Sam White.

It is therefore ordered adjudged and decreed by the Court that the said quit-claim deed from the said Ishabow White to the said Hugh W. M^cGinnity for said lot number ten (10) in block number eight Eight (8) in the city of Peoria and the said deed of release from the said Ishabow White to said M^cGinnity for all his (the said Ishabow White's) interest in the monies and personal effects belonging to the estate of the said Benjamin White deceased and the said Power of Attorney from said Ishabow White to the said M^cGinnity as before fully stated be and the same are hereby wholly cancelled annulled and vacated. It is further ordered adjudged and decreed by the Court that the said Hugh W. M^cGinnity be required within ten days after the adjournment of this Court to make execute and deliver to said Ishabow White his the said M^cGinnity's quit-claim deed for said lot number ten (10) in block number eight (8) in the city of Peoria, Illinois and that in case he should make default in making said deed, that George L. Blakey Esq. Master in Chancery of this Court make execute and deliver to said Ishabow White a deed for said lot.

It is further ordered adjudged and decreed by the Court that the said Hugh W. M^cGinnity be perpetually restrained and enjoined from selling the said lot and from attempting to collect any of the monies or personal effects belonging to the estate of the said Benjamin White deceased and appropriating the same to his own use by virtue of the said deed of release of the interest of said Ishabow White in the estate of the said Benjamin White.

deceased or by the said power of Attorney.

It is further ordered adjudged and decreed that the complainant recover of the said Hugh W. Mc Ginnity all the costs of this suit and that the said defendant be required to pay said costs within twenty days from the date of this decree and in default of such payment as aforesaid that execution issue therefor as upon judgments at law.

And afterwards on the sixth day of February A.D. 1855 the Masters Report of conveyance was filed in said cause, which is in the words and figures following, to wit:

Masters Report -

State of Illinois }
Peoria County } ss

James Taylor, Conservator of
Isabon White }

Circuit Court

vs

February Term A.D. 1855

Hugh W. Mc Ginnity }

In Chancery

I George L. Blakeley, Master in

Chancery of said Court beg leave to report to the Court that the defendant, Hugh W. Mc Ginnity making default in making executing and delivering a deed of lot number ten (10) in block number eight (8) in city of Peoria to Isabon White as was by a decree of this Court rendered at the November term A.D. 1854 required therefore I did on the sixth day of February A.D. 1855 make execute & deliver to Elisha N. Powell Esq. solicitor of said Isabon White a deed of said premises duly acknowledged all of which is respectfully submitted

G. L. Blakeley

Master in Chancery

Proceedings in Chancery before the Circuit Court at a Special term thereof begun and held at the Court house in the city of Peoria in and for the County of Peoria in the State of Illinois on the first Monday in February in the year of our Lord one thousand eight hundred and fifty five, it being the fifth day of said month. The Honorable, Onslow Peters judge of the sixteenth Judicial Circuit in said State presiding to wit,

Tuesday February 6th A. D. 1855

James Taylor, conservator
of Ishabon White

vs

Hugh W. Mc Ginnity

To set aside conveyance &c

This day came George I. Blakeley Esq. Master in Chancery of this Court and ^{made} his report that Hugh W. Mc Ginnity defendant in this suit had made default in executing a deed to the premises in the decree heretofore rendered herein in pursuance to the requirements of said decree, and that he the said George I. Blakeley as such master, had made executed and delivered to Ebenezer J. Powell solicitor for said complainant a deed to Ishabon White for lot ten in block number eight in the city of Peoria in pursuance of said decree, which report is approved by the Court and ordered to be filed.

State of Illinois

Peoria County

I, Jacob Gale clerk of the Circuit Court in and for the County of Peoria in the State of Illinois do hereby certify that the foregoing is a full and correct transcript from the Records of all the proceedings in said Court in a certain cause therein in Chancery in which James Taylor, conservator of Ishabon White is Complainant & Hugh W. Mc Ginnity is defendant, as the same remain of Record and on file in my office.

In witness whereof I hereto my hand and affix the seal of said Court at my office in Peoria this seventh day of June A. D. 1855 -

Jacob Gale, clerk.

Clerk's fees: for transcript certificate and \$28.00

Received payment of McQuinn
Jacob Gale, clerk.

High W. M. McQuinn } Error & Perjury
vs
Jefferson Error

James Taylor } Assignment of Error
vs
Jefferson Error

Said plaintiff assigns the following
errors for error

- 1st The Circuit Court Error in sitting
with the said James Taylor White
& Jefferson Error.
 - 2 The Court Error in decreeing a decree
from Jefferson Error to said Jefferson Error.
 - 3 The Court Error in decreeing Jefferson
Error from selling said Lot & from
collecting any money or profits
belonging to the Estate of Benjamin
White.
 - 4 The Court Error in rendering judgment
against Jefferson Error for costs.
Wherefore said plaintiff in Error
prays that said decree may be annulled
and that a decree may be rendered
in conformity with equity.
- Transcript returned
for Jefferson Error

July 3rd 1856,
L. Leland
Clerk

McQuinn
vs
Taylor

McQuinn
vs
Taylor