

STATE OF ILLINOIS,

SUPREME COURT.

Third Grand Division.

No. 18.

~~1859~~

86

Walser
vs
Trink

1861.

STATE OF ILLINOIS, } ss. The People of the State of Illinois,
SUPREME COURT,

To the Sheriff of the County of *Peoria*

Greeting :

Because, In the record and proceedings, and also in the rendition of the judgment of a plea which was in the ~~book County Court of Common Pleas~~ *County Court of Cook* County, before the Judge thereof, between *John Frink*

plaintiff, and *Martin O. Walker & Walter Luffin*

defendants, it is said that manifest error hath intervened, to the injury of the said

John Frink
defendants

as we are informed by ~~their~~ *these* complaint, _____ the record and proceedings of which said judgment we have caused to be brought into our Supreme Court of the State of Illinois, at Ottawa, before the Justices thereof, to correct the errors in the same, in due form and manner, according to law; ~~Therefore, We~~

And the death of the said John Frink having been suggested on the record herein, and Harriet F. Frink widow of the said John Frink deceased, & Helen Hecox wife of Warren F. Hecox and George Frink, Henry Frink and Eva Frink minors, heirs of the said John Frink deceased and Warren F. Hecox having been made parties in the place of the said John Frink deceased: Therefore we

Command You, That by good and lawful men of your County, you give notice to the said *Harriet F. Frink, Helen Hecox, Warren F. Hecox, George Frink, Henry Frink and Eva Frink* that within ten days after the service of this writ upon them, _____

that ~~they~~ *they* be and appear before the Justices of our said Supreme Court, ~~at the next term of said Court, to be holden~~ ^{*now in session*} at Ottawa, in said State, ~~on the first Tuesday after the third Monday in April next,~~ to hear the records and proceedings aforesaid, and the errors assigned, if ~~they~~ *they* shall see fit; and further to do and receive what said Court shall order in this behalf; and have you then there the names of those by whom you shall give the said *Harriet F. Frink, Helen Hecox, Warren F. Hecox, George Frink, Henry Frink and Eva Frink* notice, together with this writ.

Witness, The Hon. JOHN D. CATON, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this ~~eleventh~~ *eleventh* day of *May* in the Year of Our Lord One Thousand Eight Hundred and Fifty-nine.

L. Leland
Clerk of the Supreme Court.
J. B. Rice Deputy

18 282
Martin O. Walker
Shel

Harriet F. Fink
Sein facies

Filed May 12 1858
H. Leland
Clerk

State of Illinois } I have duly executed this
Pierce County } writ by reading the same to
the within named Harriet F. Fink
George Fink, Henry Fink and Eva Fink
this 12th day of May 1858.
Helen Hecox and Maria F. Hecox are
my friends in my County

John Bryner Sheriff
P. J. M. Casley Deputy

Recd \$2.30

Red my fees in full

John Bryner
Sheriff
P. 60

SUPREME COURT.

THIRD GRAND DIVISION.

APRIL TERM, 1859.

M. O. WALKER,
vs.
WALTER LAFLIN.
and *the heirs of*
JOHN FRINK, Dec'd. } APPEAL FROM COOK COUNTY COURT OF
COMMON PLEAS.

2 This was a bill filed by John Frink against M. O. Walker and Walter Laflin, for a partition.

The bill charges that in the year 1839, Frink and Charles K. Bingham purchased jointly of the U. S., lots 16, 17 and 18, in block 9, Fort Dearborn addition to Chicago, for which a patent duly issued to them, dated 1st November 1839, whereby Frink became possessed of an undivided half.

3 That on 1st June, 1840, Frink and wife conveyed to Walker the undivided one half of said lots 16, 17 and 18 excepting and reserving the undivided one third part of said lots, by virtue of which deed one undivided third part of the original undivided half of said lots which belonged to said Frink, and the title thereto passed to said Walker, and he became vested with, and entitled to one sixth part of the whole of said premises; Frink of one undivided third, which he still retains and holds in fee.

4 That Bingham conveyed one third of said lots to one William Fowler, who conveyed to one Walter Laflin, who now holds the same and claims title thereto in fee.

That Walker has acquired and now holds title to the remaining two thirds of the original half of said Bingham of said lots, which makes the whole interest of said Walker in said premises, the undivided one half thereof.

That Frink has been desirous of making a partition of said lots between said Walker, Laffin and himself, according to their interest therein, and has so requested them, but they refused to do so, though said lots are divisible.

The bill expressly waives the oath of defendants in answer.

5 The bill prays that commissioners may be appointed to make a partition of said lots between the said parties, according to their respective interests therein.

6, 7 At the end of the bill an exhibit is made of a patent issued by the United States to John Frink and Charles K. Bingham, dated 1st November 1839, for lots 16, 17 and 18, Block 9, in Fort Dearborn addition to Chicago.

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ANSWER OF M. O. WALKER.

He denies all the rights and interests of the said parties complainant and his defendant to the said land in said bill mentioned, are truly stated and set forth in said bill, and he avers that he is owner of the whole of said land.

He denies that said complainant, or said Laffin, has any right title or interest in or to said lots and lands, but on the contrary alleges that he is sole owner in fee simple of said lots and lands.

He denies all unlawful combination, wherewith he is by said bill charged.

ANSWER OF WALTER LAFLIN.

14

He admits that the rights and interests of said parties complainant and defendant, in and to said lands mentioned and described in said bill are truly set forth and stated in said bill.

He avers that he obtained his title to said lots of land, as stated in said bill, by deed from said Fowler, who purchased of said Bingham.

He submits to such decree as the court may make, either for a portion of said lots, or for a sale thereof, or of such parts thereof as shall not be divisible without injury to the parties.

*No claim
all of the lots*

I admit bill

DECRETAL ORDER.

15 John Frink having produced a patent from the United States for said premises, to himself and Bingham, bearing date 1st Nov., 1839, and it appearing from admissions of solicitors of said Frink and Laffin, said Walker's solicitor not objecting. That Frink had conveyed to M. O. Walker, the undivided one half of said premises, except one undivided third part of said lots, No. 16, 17 and 18, Block 9, Fort Dearborn addition to Chicago.

16 And the said Walter Laffin having produced a deed dated June 2d, 1846, from said Bingham and wife, to one William Fowler, for one undivided sixth part of said lots, and a deed from said Fowler and wife, dated June 2d, 1846, to said Laffin, for said undivided sixth part of said lots. The Court found that said Laffin was and is owner, and seized of one undivided sixth part of said lots.

And it appearing from admissions of Solicitors of said parties that said Walker became owner, and is possessed of one undivided half of said lots; It was ordered and decreed that James H. Rees, Flavel Mosely, and Paul Cornell, be appointed Commissioners to make partition of said premises among said owners, according to their respective interests therein, to wit:—To John Frink, one third; to Walter Laffin, one sixth; and to M. O. Walker, one half,

19

REPORT OF COMMISSIONERS.

The Commissioners made a partition of said premises, and assigned to each of said parties his share by metes and bounds, as follows, to wit:—

To said M. O. Walker

That part of said lots beginning at North East corner of lot 16, at intersection of Wabash Avenue, and alley in rear of said lots; thence West on North line of said lots, to North West corner of lot 18, thence South, on West line of lot 18, one hundred and sixty nine feet to Randolph St., thence East on South line of lot 18, 20 feet, thence North in a line parallel with West line of said lot 18, one hundred feet; thence East in a line parallel with North lines of said lots, to the East line of lot 16, on Wabash Avenue; thence North on East line lot 16, sixty-nine feet, to the place of beginning.

To said Walker, that part of said lots, beginning on South line of said lots on Randolph St., at a point twenty feet East of South West corner

20

of lot 18 ; thence North on a line parallel with West line of lot 18, one hundred feet ; thence East on a line parallel with North line of said lots twenty-two feet ; thence South on a line parallel with West line of lot 18 one hundred feet to Randolph Street ; thence West on South line of said lots, on Randolph Streets, twenty-two feet to place of beginning.

To said John Frink, that part of said lots beginning at a point on South line of said lots, on Randolph Streets, forty-two feet from South West corner of lot 18, running thence North on a line parallel with West line of lot 18 one hundred feet ; thence East on a line parallel with North line, of said lots, twenty-seven feet and four inches, to the East line of lot 16 on Wabash Avenue ; thence South on East line of lot 16, one hundred feet to South East corner of lot 16, at intersection of Wabash Avenue and Randolph Streets ; thence West on South line of said lots, twenty-seven feet and four inches, to beginning.

23

To said Laffin, that part of said lots marked 2 on the annexed plat.

25

Said shares are marked out and described on plat hereto annexed, and made part of this report. Said Frink's share being numbered 1 on said plot, Laffin's 2, and Walker's 3 and 4.

RANDOLPH ST.	20 ft.	3	M. O. WALKER.	4
	22 ft.	2	W. LAFLIN.	M. O. WALKER.
	27 4-12 ft.	1	J. FRINK.	69 feet.
WABASH AVENUE.				

DECREE OF COURT.

The Court ordered and decreed that said report of Commissioners be ratified and confirmed. That the title to that part of said lots in said report mentioned, page 20, above described as follows: Beginning at a point on the South line of said lots, &c., be vested in John Frink, freed and discharged of and from all claim and interest of said Walter Laffin, and M. O. Walker, and of all persons claiming by, through or under them or either of them.

26 That the title to that part of said lots in said report mentioned, page 23, above, described as follows; Beginning on South line of said lots &c., be vested in Walter Laffin, free and discharged of and from all claim and interest of said John Frink and Martin O. Walker, and of all persons claiming by, through, or under them, or either of them.

27 That the title to that part of said lots in said report mentioned, page 19 & 20, above, described as follows: Beginning at the North East corner of said lot, sixteen &c., be vested in Martin O. Walker, free and discharged of and from all claim and interest of said Frink and Laffin, and of all persons claiming by, through, or under them, or either of them. And that the said parties hereto each pay one third of the cost of this suit.

AFFIDAVIT OF M. O. WALKER.

28 Affiant states that on the 21st of November, 1840, William Fowler filed his Bill in Chancery in Cook County Circuit Court, against John Frink and this affiant, said Fowler in said bill alleging that he was entitled as partner with said Frink and this affiant to a joint interest with them in certain property, real and personal, acquired by the firms of Frink & Bingham, Frink & Trowbridge, and Frink & Walker; and at time of filing said bill, claimed by said Frink and affiant. Said Fowler claimed to be entitled to the undivided one sixth part, not only of profits and partnership property claimed and owned by said Frink & Walker, but also of lots 16, 17 and 18, Block 9, Fort Dearborn Addition to Chicago. Said claim was in general terms, under a general claim to partnership property, without designating said lots by number or particular description. Said Fowler claimed to be recognised as having been a partner with said Frink, Bingham and affiant, and claimed that an account be taken between said parties, not only as to partnership transactions, but also as to all joint interests in real estate, including said claim of one sixth in and to said lots.

29 That said Frink filed his answer to said bill in July, 1841, and on the 21st November, 1841, affiant filed his answer to said bill of said Fowler, both answers denying claim of said Fowler to one sixth, or any other interest in partnership transactions, effects, or real estate, and afterwards testimony was taken in said cause by said complainant and said defendants, and it was brought on to be heard before the Court, when a decree was entered as follows to wit:

That said Fowler had been, and was, a partner in the firms of Frink & Trowbridge, Frink & Bingham and Frink & Walker, for a time in said

30 decree specified, and that said Fowler was jointly interested to the extent of one sixth interest with said Frink and affiant, in partnership profits and property, real and personal, acquired by said firms of Frink & Trowbridge, Frink & Bingham, and Frink & Walker, and that said Fowler had remained a partner in said firms down to the time of filing said bill; and that said Fowler was entitled to an account of the transactions of said firm, in whatever name, from 1st January, 1838, to the filing of said bill; and Wm. H. Brown, as Master in Chancery, was directed to take and state an account of all transactions of said partnership, under the different styles by which the same had been known, from the 1st January 1838, down to filing of said bill.

31 And said Wm. H. Brown did take an account of said transactions, and real and personal estate, and made a report thereof to said Circuit Court, charging said affiant and said Frink with value of said lots, and allowing to said Fowler a said sum in said report specified, and said sixth of said lots, which said sixth was, during pendency of said suit, held in the name of said Bingham, until June 2d, 1846, when said Bingham conveyed it by quit claim deed to said Fowler, said deed purporting to be made for the consideration of one dollar, but really was made without consideration other than Fowler's claim to said land.

That upon 2d June, 1846, Fowler deeded said sixth of said lots, to Walter Laffin, without consideration other than antecedent indebtedness.

That Laffin had notice of pendency of said suit in Chancery, between said affiant, Frink and Fowler, and of claim of Fowler to said sixth of said lots; and of proceedings in said suit, in relation to said sixth, at time deed was made.

32 That whole amount reported by said Brown as due to said Fowler, as partner, does not exceed Four thousand dollars, principal and interest, to date, and in taking said account and making said report, said Brown credited to Fowler the value at the time of all the real estate owned by firm including said lots, and this affiant's costs in said suits exceeds the amount reported due to Fowler.

That affiant paid to Brown over one thousand Dollars for services, as Master in taking said accounts, and making report.

That said Master's report has been withdrawn from the files of the Circuit Court by counsel of said Fowler, and cannot now be found.

That Walter Laffin has commenced in United States Circuit Court for the Northern District of Illinois, an action of ejectment to recover the

sixth part of said lots, and that said cause has been tried and a verdict found in favor of said Laffin, and against this affiant; and, that this affiant intends to have a new trial, and expects to settle the title to said sixth part of said lots, by final decree in said suit.

That affiant claims to be owner of one undivided third part of said lots claimed by said Frink, in this proceeding for partition, by virtue of submission to arbitration by said Frink and affiant of all disputes, controversies and partnership transactions.

That by award of said arbitrators the one third of said lots claimed by said Frink, as well as the one sixth, claimed by said Laffin were awarded to said affiant, subject only to such adjudication as might be had in said Chancery suit between said Fowler, Frink and affiant, which award is in full force at the present time.

That said suit has been pending more than ten years, that several thousand dollars have been expended by affiant in preparing cause for trial, &c., that said suit is still pending, and no final decree has been entered therein, and this affiant could not litigate in this proceeding for partition, his right to said sixth of said lots, without encountering large expense in investigating the subject of the suit between Fowler, affiant and Frink, which has been settled except by entry of final decree in said cause, said affiant being advised by counsel that this proceeding for partition would not be decided until the title to said one sixth of said lots could be settled in said ejectment suit, and by final decree in Chancery suit now pending between said Fowler, affiant and Frink. And affiant did not expect that said Commissioners would be appointed until he could obtain a final decree in said Chancery suit.

That at the time answer was filed in this proceeding, affiant's counsel were not informed of the proceedings had in said cause, between said Fowler, affiant and Frink, sufficiently to enable them to ascertain what had been done. The bill, answer, and Master's report were not to be found in files of Court, and affiant was not then advised of the fact that while Fowler was recovering the value of said sixth, in said Chancery suit, his grantee was likely to recover said sixth by this proceeding for partition.

SUPPLEMENTAL AFFIDAVIT OF M. O. WALKER.

Affiant says that he is one of the defendants in the cause entitled "John Frink v. Martin O. Walker, and Walter Laffin." That at the February term, 1856, of this Cook County Court of Common Pleas, a final decree of partition was made in said cause, on report of Commission-

ers. That at April term of said Court, this affiant entered his motion, based upon his affidavit, to open said decree and the confirmation of said Commissioner's report; and that this affiant might have leave to file an amended answer in said cause, which said motion remains undisposed of; that this affiant for the further sustaining his motion, makes this further affidavit.

37 That in September, 1852, affiant and John Frink had submitted to an award of all their disputes and controversies, arising out of their partnership transactions, under their different firm names, by Wm. H. Brown, Wm. Vernon, and Ephraim C. Stowell, as arbitrators; and they, in pursuance of said agreement, investigated and determined all said matters; and on the 28th of April, 1853, made and published an award of said matters, which said award is presented as an exhibit, marked "A."

38 That in pursuance of said award and the ratification thereof, said John Frink executed and delivered to affiant, on the 9th May 1853, a full release from all claims of every kind, growing out of the partnership business of Frink and Walker, and Frink, Walker & Co., existing prior, and up to the date of the release, which is presented as exhibit "B".

That said Frink and wife, on the 9th May, 1853, made and delivered a deed of conveyance to this affiant, of all their interest in and to all property, real and personal, claimed and held by Frink and Walker, that constituted the subject of controversy between one Wm. Fowler, and the late firm of Frink and Walker, and Frink, Walker & Co., and releasing to affiant, all benefit that may arise to said firms from said controversy,
39 a portion of said property consisting of said lots mentioned in this petition, said deed is presented as exhibit "C."

40 That since first affidavit, a final decree has been had in the cause, between Wm. Fowler, Frink and affiant, in the Circuit Court, wherein it is ordered by said Court, that affiant shall pay to Fowler, the sum of twenty-five hundred dollars, or the balance that remains unpaid to said Fowler of that sum according to stipulation between affiant and Fowler, in full discharge of all Fowler's interest in and to one sixth part of the property in the bill in said cause mentioned, as the said Fowler owned and was entitled thereto, on the 21st November, 1840, and that said Fowler convey to said affiant by Warrantee deed his interest in lots 16, 17 and 18, described in the petition in this cause, and all other property he held as partner of said Frink and affiant, on the 21st November,
41 1840, and in case of failure by said Fowler, Lemuel C. P. Freer, was appointed commissioner to make such conveyance, and further ordered that upon affiant's securing to said Fowler the balance of said twenty-five

hundred dollars, all the interest of said Fowler, in and to the real property in said decree described, and all his right title and interest in, and to the personal property, rights, credits and effects of said firm and all right of account of, to, and for the capital, stock and profits, belonging to said several partners, or to said complainant, as a partner should cease and pass to, and become the property of this affiant. Said decree is presented as exhibit "D."

Affiant says that a portion of the property claimed by said Fowler, in said above mentioned cause, the title to which has been vested in affiant, by said decree, is the same interest in lots 16, 17 and 18, in the petition, in this cause, alleged to be in said Walter Laffin, and assigned to him by the commissioners, and which said Laffin in his answer claims to have purchased from said Fowler, since commencement of said suit in Chancery, in Circuit Court.

42 Affiant further says, that he made the former affidavit in support of said motion hereinbefore mentioned, on 20th February, 1856, and left the same in the hands of Henry Frink, his attorney, to be filed in this cause, together with such motion as his attorney might base thereon, to set aside the decretal order and report of the commissioners, which was prior to the confirmation of the report of Commissioners by the Court, and at same term at which said order was made. Affiant supposed that said affidavit, and a motion, was immediately filed, but has ascertained that same was not filed until 24th April, 1856, during the succeeding term; that his attorney delivered the same to the judge for examination, and the same was mislaid until the day of filing same, and motion based
43 thereon, and was then found in possession of the judge. That said judge had intimated, to his attorney, that the case should remain as it then stood, and that affiant should have a further hearing, but not at that time, as the judge was leaving the city for a time. That at time of filing said affidavit and motion, application was made to the Court for leave to file the same, *nunc pro tunc*, as of the proceeding term; that such leave was granted, but by mistake, no entry of such leave was made by Clerk of Court, and the records, and papers don't show that it was granted.

44 That the premises have, all the time, remained in his possession, and he supposed that further proceedings were to be had before entering final decree, according to information given him by Henry Frink.

EXHIBIT "A."

44 Recites that differences existed between John Frink, and M. O. Walker, as to their partnership concerns, said partnership existing at different

hundred dollars, all the interest of said Fowler, in and to the real property in said decree described, and all his right title and interest in, and to the personal property, rights, credits and effects of said firm and all right of account of, to, and for the capital, stock and profits, belonging to said several partners, or to said complainant, as a partner should cease and pass to, and become the property of this affiant. Said decree is presented as exhibit "D."

Affiant says that a portion of the property claimed by said Fowler, in said above mentioned cause, the title to which has been vested in affiant, by said decree, is the same interest in lots 16, 17 and 18, in the petition, in this cause, alleged to be in said Walter Laffin, and assigned to him by the commissioners, and which said Laffin in his answer claims to have purchased from said Fowler, since commencement of said suit in Chancery, in Circuit Court.

42 Affiant further says, that he made the former affidavit in support of said motion hereinbefore mentioned, on 20th February, 1856, and left the same in the hands of Henry Frink, his attorney, to be filed in this cause, together with such motion as his attorney might base thereon, to set aside the decretal order and report of the commissioners, which was prior to the confirmation of the report of Commissioners by the Court, and at same term at which said order was made. Affiant supposed that said affidavit, and a motion, was immediately filed, but has ascertained that same was not filed until 24th April, 1856, during the succeeding term; that his attorney delivered the same to the judge for examination, and the same was mislaid until the day of filing same, and motion based
43 thereon, and was then found in possession of the judge. That said judge had intimated, to his attorney, that the case should remain as it then stood, and that affiant should have a further hearing, but not at that time, as the judge was leaving the city for a time. That at time of filing said affidavit and motion, application was made to the Court for leave to file the same, *nunc pro tunc*, as of the proceeding term; that such leave was granted, but by mistake, no entry of such leave was made by Clerk of Court, and the records, and papers don't show that it was granted.

44 That the premises have, all the time, remained in his possession, and he supposed that further proceedings were to be had before entering final decree, according to information given him by Henry Frink.

EXHIBIT "A."

44 Recites that differences existed between John Frink, and M. O. Walker, as to their partnership concerns, said partnership existing at different

times, since 1st June, 1840, and under the names of Frink and Walker, and Frink, Walker & Co; that said Walker assumed to own the interest of Curran Walker, in late firm of Frink, Walker & Co., which said firm was dissolved on or about the year 1844. That said Frink and Walker mutually agree that Wm. H. Brown, Ephraim C. Stowell, and William Vernon, shall determine all their controversies of whatever sort, growing out of their partnership dealings, either alone or in connection with others, and shall determine the interest and relation of each, in all partnership, and joint property and assets, in whatever name held, and order the conveyance and transfer of the same one to the other, as they shall deem just, and what liabilities each or either shall pay, or what indemnification one shall pay to the other, &c. That said award may be made a Rule of Court, and judgment and decree may be entered by and in the Cook County Circuit Court, in the premises, ordering and decreeing the performance of said award in all things, the same as if the said award had been the decree of said Court, in an original suit therein between said parties, provided that said award shall be ready to be delivered to said parties or such as shall desire the same on the 29th April, 1853.

AWARD OF ARBITRATORS.

First as between John Frink, and M. O. Walker, Curran Walker was a nominal partner in the firm of Frink, Walker & Co., in the business of carrying the United States Mail, in the state of Illinois, and other states, and that the respective interests of said parties were in equal proportions of one third each; that said business commenced 1st June, 1840, and ended in 1844, at which time the firm of Frink, Walker & Co. was dissolved.

Second.—That M. O. Walker, was the owner of two thirds of the capital stock of said firm of Frink, Walker & Co., (said two thirds being eight thousand dollars), and John Frink was the owner of one third of said stock. That said John Frink, and M. O. Walker, in the year 1844, after the dissolution of the firm of Frink, Walker & Co., commenced the business of carrying the United States mail, in the state of Illinois, and other states, as equal partners, and continued said business up to 1st April, 1847.

Third.—That as between said Frink, and M. O. Walker, M. O. Walker was entitled to a credit for capital stock, paid in for himself and for said Curran Walker, and for an equivalent to him for any risk run in giving a bond, hereinafter mentioned, in penal sum of \$50,000, to said Frink; and therefore said Walker is allowed a credit for such capital stock, and as an equivalent for said risk, of the sum of twelve thousand dollars.

Fourth.—That M. O. Walker, shall, in ten days from the confirmation and acceptance of this award, enter into, execute, and deliver to said Frink, a good bond in the sum of fifty thousand dollars; conditioned that M. O. Walker shall save said Frink, his heirs, &c., harmless from any claim that Curran Walker may set up, either against said firm of Frink, Walker & Co., or said Frink, as well as to save said Frink harmless from any damages and costs on account of the claim of William Fowler.

53 Fifth.—That the said firm of Frink and Walker are indebted in the aggregate in the sum of \$29,400 \$1. That said M. O. Walker shall pay the following debts:—

An indebtedness upon five promissory notes made by Frink, Walker & Co., payable to M. O. Walker, viz:—

One note for - - - - -	\$400 00
Two notes for (each,) - - - -	300 00
One note for - - - - -	500 00

all bearing date the 28th May, 1840, and one note dated 1st June, 1840, for \$4,948 00, and all interest and cost, that has or may accrue thereon; and a note made by Frink and Walker, to R. K. Swift, payable at the office of Duncan, Sherman & Co., for the sum of \$5,000 00, dated March 19, 1853.

54 Sixth.—That John Frink, shall pay of the indebtedness of the firm of Frink & Walker, the following debts, viz:—One note given by Frink & Walker, for \$3,500 00, dated about 17th April, 1853, payable at Chicago, together with the interest thereon. A note by Frink and Walker to A. Guernsey, for \$1,476 88, dated March 19, 1853. A Note, or Bill of Exchange, to Branch Bank of Indiana, at South Bend, payable at New York, for \$5,000. A Note by Frink and Walker, to A. G. Hess, for \$1,900. And also that he pay to the firm of John Frink & Co. a balance of account due from Frink and Walker, about \$743 90.

55 Seventh.—That M. O. Walker shall have of the personal effects of said firm the following notes and accounts, viz:—Two notes from M. O. Walker, to Wm. Vernon, for \$3,666 67, each dated January 29, 1853. Two notes by said Walker, in like manner, one for \$1,800 34, and one for \$1,008 33, both dated February 11, 1853. A note from B. Fitch, for \$4,000, dated December 2, 1852. A note from B. C. Johnson, for \$314 41, dated October 1, 1852. Four notes by trustees of Baptist Church of St. Charles, for \$100 each, dated Jan. 10, 1851; a note from Warren Forbes, for \$150 00; a note by Rosswell Wilder, for \$220 66; a note by

O. C. Parmley, for \$216 36, and a balance due on order made on John Frink & Co., by said Parmley, for \$198 08; a balance of account against L. P. Sanger, about \$1,000 00; all the balance of amount due Frink & Walker up to 1st May last, for property at corner of Lake and Dearborn Streets, in Chicago, which are not stated in the account between them; a steam engine, stored at Peru, Illinois, together with the iron chest, and office furniture, belonging to Frink & Walker.

56 Eighth.—That John Frink shall have: a claim held by said firm against Joseph Brown, of about \$10,000; and money now in hands of said Frink, to the amount of \$1,000; and said Frink is directed to release unto M. O. Walker, his interest in the above claims and assets awarded to said Walker, and said Walker shall release his interest in the claims and moneys awarded to said Frink, within ten days after the confirmation of this award, and if either party has collected any part of the demand above awarded to the other, the amount so collected shall be paid over to the other, with interest, upon demand.

57 Ninth.—That said M. O. Walker, shall have, and possess, of the Real Estate of said firm, as follows, viz:—Lots 19, 20, 21, 22, 23, 24, Block 9, Fort Dearborn addition to Chicago, excepting all buildings on said lots.

The E. $\frac{1}{2}$ of S.E. $\frac{1}{4}$ Sec. 35, T. 29, N. R., 3 E.,
 “ W. $\frac{1}{2}$ S.E. $\frac{1}{4}$ Sec. 35, T. 29, N. R., 3 E.,
 “ W. $\frac{1}{2}$ S.E. $\frac{1}{4}$ Sec. 5, T. 28, N. R., 4 E.,
 Fraction 2 of N.E. $\frac{1}{4}$ Sec. 2, T. 28, N. R., 3 E.,
 S.W. $\frac{1}{4}$ Sec. 35, T. 29, N. R., 3 E.,

the N. $\frac{1}{2}$ of lot 4, Block 18, in West Joliet, in Real Estate, known as Jo. Daviess house and lease in the city of Galena, Illinois. Lot 67, Commerce Street, Galena; one half lot 66, Commerce Street, Galena; a barn at Peru, a barn at Peoria, Ills., and 36 shares in property of firm of John Frink and Co.; and that said Frink execute, and deliver to said Walker, Deeds of Conveyance to said property, and procure a release of his wife's dower to said lands, within ten days from the confirmation of this report.

58 Tenth.—Of the rest of the lands and tenements belonging to said Frink and Walker, partition shall be made, and said Frink, and said Walker, shall hold them in severalty, as follows, viz:—Walker shall
 59 have, and possess, Lots No. 17, 18, 19, and 20, Bl'k 98, in School section addition to Chicago; lots 1, 2, 3 and 10, Block 37, East Rockford; S.W. $\frac{1}{4}$, Sec. 1, T. 40, N. R. 3, E., in Cook County; undivided $\frac{1}{2}$, N.E. $\frac{1}{4}$, S.E. $\frac{1}{4}$, Sec. 24, T. 2, R. 1, 20 acres; N.W. $\frac{1}{4}$, S.W. $\frac{1}{4}$, Sec. 19, T. 2, R. 1, Grant

O. C. Parmley, for \$216 36, and a balance due on order made on John Frink & Co., by said Parmley, for \$198 08; a balance of account against L. P. Sanger, about \$1,000 00; all the balance of amount due Frink & Walker up to 1st May last, for property at corner of Lake and Dearborn Streets, in Chicago, which are not stated in the account between them; a steam engine, stored at Peru, Illinois, together with the iron chest, and office furniture, belonging to Frink & Walker.

56 Eighth.—That John Frink shall have: a claim held by said firm against Joseph Brown, of about \$10,000; and money now in hands of said Frink, to the amount of \$1,000; and said Frink is directed to release unto M. O. Walker, his interest in the above claims and assets awarded to said Walker, and said Walker shall release his interest in the claims and moneys awarded to said Frink, within ten days after the confirmation of this award, and if either party has collected any part of the demand above awarded to the other, the amount so collected shall be paid over to the other, with interest, upon demand.

57 Ninth.—That said M. O. Walker, shall have, and possess, of the Real Estate of said firm, as follows, viz:—Lots 19, 20, 21, 22, 23, 24, Block 9, Fort Dearborn addition to Chicago, excepting all buildings on said lots.

The E. $\frac{1}{2}$ of S.E. $\frac{1}{4}$ Sec. 35, T. 29, N. R., 3 E.,

“ W. $\frac{1}{2}$ S.E. $\frac{1}{4}$ Sec. 35, T. 29, N. R., 3 E.,

“ W. $\frac{1}{2}$ S.E. $\frac{1}{4}$ Sec. 5, T. 28, N. R., 4 E.,

Fraction 2 of N.E. $\frac{1}{4}$ Sec. 2, T. 28, N. R., 3 E.,

S.W. $\frac{1}{4}$ Sec. 35, T. 29, N. R., 3 E.,

the N. $\frac{1}{2}$ of lot 4, Block 18, in West Joliet, in Real Estate, known as Jo. Daviess house and lease in the city of Galena, Illinois. Lot 67, Commerce Street, Galena; one half lot 66, Commerce Street, Galena; a barn at Peru, a barn at Peoria, Ills., and 36 shares in property of firm of John Frink and Co.; and that said Frink execute, and deliver to said Walker, Deeds of Conveyance to said property, and procure a release of his wife's dower to said lands, within ten days from the confirmation of this report.

58 Tenth.—Of the rest of the lands and tenements belonging to said Frink and Walker, partition shall be made, and said Frink, and said Walker, shall hold them in severalty, as follows, viz:—Walker shall
59 have, and possess, Lots No. 17, 18, 19, and 20, Bl'k 98, in School section addition to Chicago; lots 1, 2, 3 and 10, Block 37, East Rockford; S.W. $\frac{1}{4}$, Sec. 1, T. 40, N. R. 3, E., in Cook County; undivided $\frac{1}{2}$, N.E. $\frac{1}{4}$, S.E. $\frac{1}{4}$, Sec. 24, T. 2, R. 1, 20 acres; N.W. $\frac{1}{4}$, S.W. $\frac{1}{4}$, Sec. 19, T. 2, R. 1, Grant

County, Wisconsin, 37.79 acres; house, lot and barn, at Benton, La Fayette County, Wisconsin; lots 1 & 2, Block 87, Madison, Kane Co, Wisconsin; the S.W. $\frac{1}{4}$, S.E. $\frac{1}{4}$, Sec. 27, T. 35, N. R. 8, 40 acres.

The W. $\frac{1}{2}$ of W. $\frac{1}{2}$, S.E. $\frac{1}{4}$, Sec. 27, T. 35, R. 8, 40 acres.

" E. $\frac{1}{2}$ S.W. $\frac{1}{4}$, - - - - " - " - " 80 "

" W. $\frac{1}{2}$ S.W. $\frac{1}{4}$, - - - - " - " - " 80 "

" E. $\frac{1}{2}$ S.E. $\frac{1}{4}$, - - - - 28 - " - " 80 "

" W. $\frac{1}{2}$ E. $\frac{1}{2}$ S.E. $\frac{1}{4}$ - - - 33 - " - " 40 "

" W. $\frac{1}{2}$ E. $\frac{1}{2}$ N.E. $\frac{1}{4}$ - - - 33 - " - " 40 "

" S. part of S. $\frac{1}{2}$ N.E. $\frac{1}{4}$ - 15 - " - " 5 "

" E. $\frac{1}{2}$ of E. $\frac{1}{2}$ N. E. $\frac{1}{4}$ - 33 - " - " 40 "

Also part of S.E. $\frac{1}{4}$ - - - - 4 - 34 ~~2~~ 10 "

in the county of Kendall, State of Illinois.

60 And the said Frink shall have and possess the N.E. $\frac{1}{4}$ of W. $\frac{1}{2}$ of S.E. $\frac{1}{4}$, Sec. 11, T. 42, N. R. 6 E., situate in Kane County, Illinois, 240 acres; the lots and lands in Janesville, County of Rock, Wisconsin, viz:—6 feet in width of South part of lot No. 2, Block 43; lot 3, in Block 43, except so much as is occupied by E. V. Whiton's office; the lots 1, 2, 3, and 4, being 16 rods in front, on River Street, and 8 rods on each side, in Smith, Baily and Stones' addition to Janesville.

61 Any other lands held by them in common, or jointly, shall continue to be so held by them, subject to such partition as they themselves may make.

61 Eleventh.—That M. O. Walker, shall have, hold and possess 121 shares of the stock of the firm of John Frink & Co., including the 36 shares before mentioned; and that John Frink shall have 79 shares of said stock; and M. O. Walker shall surrender the certificate of ownership of said stock to the Secretary of the firm of John Frink & Co., that he may cancel same, and issue to said Walker & Frink certificates of ownership according to their respective shares.

62 Twelfth.—Any personal property, debts, choses in action, and monies not herein awarded to either party, shall be equally divided between them, and any debts, or demands outstanding against them, shall be paid by said Walker and Frink in equal proportions, $\frac{1}{2}$ each.

Thirteenth.—Said John Frink and M. O. Walker, shall each deliver to the other a bond in the penal sum of \$30,000 00, that each shall pay the debts he has been hereinbefore awarded to pay.

63 Fourteenth.—Said Frink shall convey and release to said Walker his

interest in the property belonging to Frink and Walker, that forms the subject of the suit between William Fowler and said firm, and said Walker shall be entitled to all the benefit resulting from said suit, and shall pay all the costs of said suit, and whatever amount shall be decreed in favour of said Fowler, against said Frink and Walker.

64 Fifteenth.—Said Walker shall have all accounts due to said Frink and Walker, on books of said firm, except all special, and balanced post office drafts, and Treasury Warrants, drawn for conveying U. S. Mail, at any time from 1st June, 1840, to the date of award.

Sixteenth.—Frink shall pay to Walker one half the sum that Frink has collected from Joseph Brown, on account of said firm of Frink and Walker, over and above the sum of \$1,600, which said sum has been charged to said Frink; the sum of \$300 paid for a chaise and harness, said chaise and harness shall go to Frink.

Seventeenth.—All suits between the the said Frink and the said Walker shall immediately cease, and they shall deliver to each other, full receipts, discharges, and acquittances, from all claims, demands, and rights of any and all kinds whatever, up to date of award.

65 Eighteenth.—The partnership heretofore existing between said John Frink and M. O. Walker, under the name and style of Frink and Walker, shall be dissolved from this date, and this award shall be a full and complete settlement of all the matters, actions, causes of action, controversies, disputes, and demands whatsoever, submitted to arbitration in said written agreement.

66

EXHIBIT "B."

A release of M. O. Walker, by John Frink, from all claims, demands, rights, action, and causes of action, of every kind, nature, and description whatever, in anywise, arising out of the co-partnership business of Frink & Walker, and Frink, Walker and Co., existing prior to date hereof.

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EXHIBIT "C."

68

Conveyance from John Frink and wife, to M. O. Walker. Consideration \$4,000. Premises, all the interest of said Frink and wife, in, and to any, and all property, personal and real, claimed and held by Frink

and Walker, that may and does constitute the subject of litigation between Wm. Fowler, and late firm of Frink and Walker and Frink, Walker & Co., and all benefit to arise to said firm from said suit.

EXHIBIT "D."

78 Decree of Court, in case of William Fowler, *vs.* Martin O. Walker & John Frink; Ordered that Martin O. Walker do, within 7 days from rendition of Decree, and upon compliance by complainant, with further decree herein, secure to be paid to complainant by the delivery to him of the remaining unpaid notes, and securities, now on deposit, as an escrow with O. W. Hooker, the balance of the sum of \$2,500 00, now remaining unpaid to him.

79 Ordered further, that said Complainant within thirty days from rendition of decree, and on securing to him the payment of the balance of the sum of \$2,500 00 by the defendant M. O. Walker, do execute and deliver to said Walker, a good and sufficient Special Warrantee Deed, in Fee Simple of the real estate hereafter mentioned, that is to say: Lots 16, 17, and 18, in Block 9, Fort Dearborn addition to Chicago, Illinois. The W. $\frac{1}{2}$ of E. $\frac{1}{2}$ of Section 23; the N.W. $\frac{1}{4}$ S.W. $\frac{1}{4}$ $\frac{1}{4}$ and S.E. $\frac{1}{4}$ S.W. $\frac{1}{4}$ of Sec. 27; E. $\frac{1}{2}$ of S.E. $\frac{1}{4}$ Sec. 28; S.W. $\frac{1}{4}$ of S.W. $\frac{1}{4}$ Sec. 27; and a part of S. $\frac{1}{2}$ of S.W. $\frac{1}{4}$ Sec. 15, commencing at S.E. corner of said quarter section, and running North, on line of said quarter Section, 26 2-3 rods; thence West 30 rods; thence South 26 2-3 rods; thence East 30 rods to beginning, containing 5 acres; all said tracts last mentioned being situate in township 35 North of Range 8 East, in Kendall County, Illinois; conveying therein to said Walker, all the right, title and interest of said complainant, of, in, and to said lands, which legally belonged to said complainant, as a partner in said firm, and in, and by such copartnership as he held, or owned the same in law or equity, by virtue of such copartnership, on the 21st November, 1840, with a special warranty against
80 all claims &c., by, through, or under said complainant, by any act or acts, heretofore, or thereafter done, or to be done, affecting the same in law or equity.

Ordered further, that in case said complainant shall fail to make such deed, Lemuel C. P. Freer, is appointed a special Commissioner to do so.

Ordered further, that upon M. O. Walker's making good to said complainant the balance of said sum of \$2,500 00, all said complainant's interest in said property hereinbefore described, belonging to said firm, shall cease, and pass to, and become the property of M. O. Walker.

AFFIDAVIT OF F. H. WINSTON.

82 Affiant deposes that at the time decree was entered in this cause, he
was partner of Henry Frink, Esq.; that said Henry Frink, at that time,
and before he was connected with him, had the sole and exclusive charge
of all the law business of the said M. O. Walker; that deponent was never
retained or employed by said Walker, in any cause whatever, and
the only connection deponent had with any of the law business of said
Walker grew out of the relation of deponent to Henry Frink, and deponent
never appeared in said cause except at the request of said Frink,
83 and to delay the same until said Frink could be present personally; deponent
was not present when said decree was entered, and had no notice
of same until long afterwards; that answer in this case was signed
by deponent in the name of Judd & Winston, solely for the accommodation
of said Frink, who expected to be a witness in the case.

PETITION OF JOHN FRINK, AND WALTER LAFLIN,

Represents: That on the 6th January, 1855, the said Frink filed his bill
of complaint in this court praying a partition of certain premises, between
petitioners and said M. O. Walker.

85 That on the 7th March, 1856, a decree was passed by the court, whereby
a report of certain commissioners, before appointed by the court, was
in all things confirmed and ratified, and whereby it was further ordered
that the title to that part of said lots, 16, 17, and 18, in said report described,
as follows, to wit: "Beginning at a point on south line of said
lots, on Randolph street, above described, should be vested in the said
John Frink, free from all claim and interest of said Laflin and Walker;
and whereby it was further ordered, that the title in that part of said lots,
described as follows, to wit: Beginning on South line of said lots, on Randolph
Street, as heretofore described should be vested in said Laflin, free
86 from all claim and interest of the said Frink and Walker; and, whereby
it was further ordered, that the title to that part of said lots, described as
follows, to wit: "Beginning at the North East corner of said lots, &c.,
should be vested in the said M. O. Walker, free and discharged from all
claim and interest of the said Frink and Laflin, or any person claiming
87 by, through, or under them. That the said Frink and Laflin have executed
Deeds to each other of their respective portions of the premises in accordance
with decree, but said Walker has refused, and still refuses to do
so, and still holds the same in possession.

88 Petition prays that an order may be made directing said Walker to
make conveyances to said Frink, and Laflin of the parts of said premises

set apart, and assigned to them, and in case the said Walker still refuses, that then the Master in Chancery execute and deliver said deeds.

ANSWER OF M. O. WALKER :

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SUPREME COURT.
THIRD GRAND DIVISION.

APRIL TERM, 1859.

STATE OF ILLINOIS, SCT.

Martin O. Walker

vs.

Walter Laflin and

Heirs of John Frink. *Dec'd*

} APPEAL FROM COOK COUNTY COURT OF
COMMON PLEAS.

And now at this day comes the appellant and says that in the record and proceedings, and in the rendition of judgment in this cause, there is manifest error in this, to wit:

1st.—The defendant Walker, in the court below, set up in his answer, a claim of adverse title in fee, with adverse possession, and denied the complainant's title, as well as the co-defendant's title, and which a Court of Equity had no right, jurisdiction, power, or authority to try; wherefore the court below should have stayed all further proceedings in the partition cause, until the question of title should be determined at law; yet the court below proceeded to find title in complainant below, and to decree a partition in accordance with the prayer of the partition in that behalf.

2d.—The court below proceeded in equity to try and pass upon the question of title, and to find title in complainant below, John Frink, in fee, in and to an undivided third part of said premises, and to decree partition, and that he recover and hold the same, in accordance with the prayer of said complainant's bill.

3d.—That the court below proceeded to find that one of the defendants below, Walter Laflin, was entitled to one sixth part of said premises, and to render a decree that he recover one undivided sixth part in severalty, whereas the said complainant Frink only sought a partition of his own alleged interest therein, and prayed that his part should be divided from the defendants.

4th.—The court below made a decree of partition as to, and between the co-defendants below, Walker, and Laflin, whereas the court had no jurisdiction, power, or authority upon this bill, to find upon the question of title as between the co-defendants below, nor to make decree of partition.

5th.—The court below refused to stay all further proceedings until the question of title should be settled between appellant and complainant below, and between appellant and his co-defendant below.

6th.—The court below rendered a decree of partition for complainant below, John Frink, and between appellant and his co-defendant below, Walter Laffin, when by the law of the land, a decree should have been rendered dismissing complainant's bill in that behalf.

7th.—The Court below overruled the appellant's motion in the court below, for a rehearing, and refused to set aside the decree entered in that behalf, whereas upon the affidavits, and exhibits, the court should have set aside the decree of partition, and stayed all further proceedings until complainant and co-defendant Laffin should have settled their titles by suits at law.

8th.—The Court below erred in allowing complainant below, John Frink, and appellants' co-defendant, Walter Laffin, to file a joint petition praying a joint supplemental decree against appellant for the execution of releases and conveyances of title to them, under, and in execution of the said decree of partition.

9th.—The Court below erred in receiving and in taking jurisdiction of said petition, and in entering up a decree in accordance with the prayer of the same.

10th.—The Court below refused to stay all further proceedings upon said petition until said Frink and Laffin should institute actions at law, and settle the title to said premises.

11th.—The Court rendered a decree for mutual conveyances, whereas the Court should have dismissed the said petition, and rendered a decree for costs.

12th.—The Court should have stayed all proceedings until the title could be settled by law.

SCATES, McALLISTER & JEWETT,

For Appellant.

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Walton vs Frink

Abstract

Filed Apr 20. 1859

L. Leland
Clerk

opinion written

State of Illinois } et

Supreme Court
Third Grand Division
April Term 1859

Martin O. Walker
vs
Walter Laflin
of John Fink

Appeal from Cass County
Court of Common Pleas

And now at this day comes
the appellant and says that in the record and
proceedings and in the rendition of judgment
in this cause, there is manifest error, in this
to wit:

First, the defendant Walker in the Court below
set up, in his answer, a claim of adverse title
in fee, with adverse possession, and denied
the Complainant's title, as well as the Co-defend-
ant's title, and which a Court of Equity had
no right, jurisdiction, power, or authority to try,
wherefore the Court below should have stayed
all further proceedings in the partition cause,
until the question of title should be deter-
mined at law. Yet the Court below proceeded
to find title in Complainant below, and to
decree a partition in accordance with the prayer
of the Bill in that behalf

Second: the Court below proceeded, ^{in Equity} to try and
pass upon the question of title, and to find
title in Complainant below John Fink in
fee, in and to one undivided third part of
said premises, and to decree partition,
and that he receive and hold the same,

in accordance with the prayer of said Com-
plainant's Bill

Third that the Court below proceeded to find that one of the defendants below, Walter Safflin, was entitled to one sixth part of said premises, and to render a decree that ^{he} account one undivided sixth part in severalty - whereas the said Complainant Frink only sought a partition of his own alleged interest therein, and prayed that his part should be divided from the other defendants

Fourth. The Court below made a decree of partition as to, and between the co-defendants below, Walter and Safflin, whereas the Court had no power, jurisdiction or authority upon this Bill to find upon the question of title as between the co-defendants below, nor to make decree of partition

Fifth: The Court below refused to stay all further proceedings until the question of title should be settled between ~~the~~ appellant and the Complainant below - and between appellant and his co-defendant below.

Sixth: The Court below rendered a decree of partition for Complainant below, John Frink, and between appellant and his co-defendant below W. Safflin, when, by the law of the land, a decree should have been rendered dismissing Complainant's Bill in that behalf

Seventh: The Court below overruled the appellants motion in the Court below for a rehearing, and

refused to set aside the decree entered in that behalf. whereas, upon the affidavits, and exhibits, the Court should have set aside the decree of partition, and stayed all further proceedings until Complainant and co-defendant Sofflin should have settled their title by suits at law

Eighth: The Court below erred in allowing Complainant below John Fink, and appellants co-defendant Walter Sofflin to file a joint petition praying a joint supplemental decree against appellant for the execution of releases and conveyances of title to them under and in execution of the said decree of partition

Ninth: The Court below erred in receiving and in taking jurisdiction of said petition, and in entering up a decree in pursuance of the prayer of the same

Tenth: The Court below refused to stay all further proceedings upon said petition until said Fink & Sofflin should institute actions at law, and settle the title to said premises

Eleventh: The Court rendered a decree for mutual conveyances, whereas the Court should have dismissed the said petition, and rendered a decree for costs

Twelfth: The Court should have stayed all proceedings until the title should be settled at law.

State of Illinois
County of Cook } *ss*

(1)

Plead before the Honorable John M. Wilson Solo Judge of the Cook County Court of Common Pleas within and for the County and State aforesaid at a regular trial term of said Cook County Court of Common Pleas, began and held at the Court house in the City of Chicago on the first Monday being the first day of February in the year of our Lord one thousand eight hundred and fifty eight and of the Independence of the United States of America the Eighty third.

Present the Hon: John M. Wilson Judge
Carlo Staven Prosecuting Attorney
John L. Wilson Sheriff
Attest, Walter Kimbale - Clerk.

Be it remembered that heretofore to wit on the Sixth day of January in the year of our Lord one thousand eight hundred and fifty five, there was filed in the Office of the Clerk of the said Cook County Court of Common Pleas, on the Chancery side thereof, a certain Bill of Complaint, wherein John Frink was Complainant and Martin O. Walker

and Walter Saffin, defendants: Which said Bill of Complaint is in the words and figures following that is to say.

'State of Illinois } In the Cook County Court of
Cook County . . } Common Pleas. In Chancery.

To the Hon; John M. Wilson, Judge of the
Cook County Court of Common Pleas, in Chancery
Sitting.

Humblly Complaining sheweth unto your honor,
your Orator John Frink who resides at Peoria in
said State of Illinois - That in the year A.D. 1839
your Orator and one Charles R. Buigham purchased
jointly of the United States, lots numbered, Sixteen,
Seventeen and eighteen, of Block number Nine in
Fort Dearborn Addition to Chicago, in the County
of Cook and State of Illinois; and that a Patent
was duly issued to them as such purchasers for
said lots, dated the first day of November 1839, by
the United States of America, a Copy of which said
Patent is hereto annexed marked "Exhibit A," and
which is hereby referred to, and prouped to be taken
as a part of this your Orators Petition, the said
Original Patent being in possession of your Orator
and ready to be produced as this Hon: Court
shall direct.

And your Orator charges that by virtue
of said purchase, and the Patent issued thereon as

[3)

as aforesaid, your Orator became seized in fee simple of one undivided half of said lots and said Bingham became seized in fee simple of the other undivided half thereof.

And your Orator would further shew unto your honor that on or about the first day of June A. D. 1840 your Orator and his wife Martha R. conveyed by deed unto one Martin C. Walker the undivided one half of said lots sixteen, seventeen and eighteen excepting and reserving the one undivided third part of said lots; Which deed was duly acknowledged & recorded in the Records Office of Cook County aforesaid, in Book Number four, page 334; by virtue of which deed one undivided third part of the Original undivided half of said lots, which belonged to your Orator passed to said Walker & the title thereto (being to one sixth part of the whole of said premises) became vested in said Walker, leaving the title to one undivided third part of said lots remaining in your Orator, & which he still holds; and he avers that his interest therein now is one undivided third part thereof, and that his said interest is that of owner in fee simple absolute of the said third.

And your Orator would further shew unto your Honor that he is informed and believes and so charges the fact to be that said Bingham conveyed away one third of his interest in said lots

(4)

to one William Fowler, who subsequently conveyed the same to one Walter Saflin, who now holds the same and claims that his title thereto (being to one undivided sixth part of said lots) is that of owner in fee simple absolute.

And your Orator further shows unto your honor that he is informed and believes and so charges the fact to be that said Walker has acquired and now holds the title to the remaining two thirds of the original half of said Bingham of said lots, which with the one sixth derived from your Orator as aforesaid, makes the whole interest of said Walker in said premises, one undivided half thereof.

And your Orator would further show unto your honor that he has been for a long time desirous of making a partition of said lots, between the said Walker, Saflin and your Orator, ^{according} to their respective interests therein as aforesaid and has frequently requested said Walker and Saflin to join in making said partition, but they have hitherto wholly refused so to do, through the said lots are susceptible of equal division between the said parties.

Wherefore inasmuch as your Orator is remediless by the strict rules of the Common law and cannot have adequate relief, except in this honorable Court where matters of this and the like nature are properly cognizable & relievable.

To the End therefore that the said Martin O. Walker and Walter Saffin may each of them full
true direct and perfect answers make, without oath,
the oath of each of them being hereby expressly waived,
according to the best of their knowledge, information and
belief respectively to all and singular the charges &
matters aforesaid, as fully as if the same were here
again repeated and they thereunto particularly ~~and~~
interrogated, and more especially that they may
respectively set forth, their titles to all and every part
of said lots; & that they may produce their title papers,
respectively; and that a partition of said lots above
described may be decreed between the said Walker
Saffin & your Orator according to their respective interests
therein, & that Commissioners may be appointed to make
such partition; and in case it shall appear that such
partition cannot be Equitably made, then that the said
lots may be sold and the proceeds thereof be divided
between the said parties according to their respective
interests - and that your Orator may have such other
and further relief in the premises as the nature of the
case shall require, and as to your honor shall seem
meet; And that the said Martin O. Walker and Walter
Saffin may be made defendants hereto.

May it please your honor to grant unto your Orator
the Writ of Summons issuing out of & under the Seal of
this honorable Court directed to the said Martin O. Walker
& Walter Saffin commanding them according to the Statute

in such case made & provided. And your Orator will
Every pray &c

John Frink

Goodrich & Scoville

Complainant

Solrs for Complt.

"Exhibit A."

The United States of America:

To all to whom these presents shall come Greeting,
Whereas the Military site of Fort Dearborn, belonging
to the United States situate upon the South west
fractional Quarter of Section Ten, in Township Thirty
nine, North of range fourteen East of the Third principal
Meridian in the State of Illinois, having "become useless
for Military purposes" the Secretary of War under the
direction of the President of the United States appointed
and authorized Matthew Brichard, Solicitor of the
General Land Office, his Agent to survey and sell
the same in Town lots, according to an Act of Congress
of the 3^d March 1819 entitled "An Act authorizing
the Sale of certain Military Sites" and said Agent
having caused such sale survey to be made, and
the Plot thereof to be duly acknowledged & recorded
in the Records Office of Cook County, State of Illinois
in Book 41, page 322, as the Fort Dearborn Addition
to Chicago," as will appear by the said plot, now
on file in the War department of the United States -
And whereas John Frink & Charles, K. Bingham of
Chicago, Cook County and State of Illinois, have

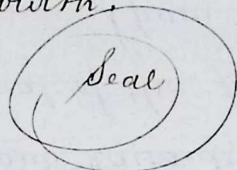
deposited in said department, a certificate numbered one hundred and seventy one, of the said Matthew Bruchard, whereby it appears that the said John Frink and Charles K. Buigham became the purchasers of lots numbered sixteen, seventeen and eighteen of Block Number Nine of said "Fort Dearborn Addition to Chicago," as designated and described on the plot aforesaid, for and in consideration of the sum of seven hundred and eighteen dollars, which has been fully paid into the Treasury of the United States. Now know ye, that the United States of America in consideration of the premises, and in conformity with the provisions of the said Act of Congress, have given and granted and by these presents do give and grant unto the said John Frink and Charles K. Buigham and to their heirs, the said lots of land above described - To have and to hold the same, together with all the rights, privileges, immunities and appurtenances of whatsoever nature thereunto belonging, unto the said John Frink and Charles K. Buigham, and to their heirs and assigns forever.

In testimony whereof I Joel R. Poinsett, Secretary of the Department of War of the United States of America, have caused these Letters to be made Patent, and the seal of the said Department to be hereunto affixed.

Given under my hand at the City of Washington the first day of November in the year of our Lord one thousand eight hundred and thirty nine.

and of the Independence of the United States the sixty
fourth.

By the Secretary of War.



J. R. Poinsett.

Approved this first day of November

A. D. 1839.

M. Van Buren

President of the United States.

Recorded Vol 1, page 171.

State of Illinois
County of Cook

George Seville of said County being
duly sworn saith that he is one of the Counsel of
the Complainant in the foregoing Petition, that ^{he has read} the
said Petition and knows the contents thereof and is
fully acquainted with the matters and facts therein
set forth, and the same is true as he verily believes.

Subscribed and sworn to
before me this 10th day of Jan'y Seville.
January A. D. 1855 . . .

W. Kimball. Clerk

And afterwards to wit on the fifth day of
February (being one of the days of the February term
of said Court) in the year of our Lord one thousand
eight hundred and fifty five, the following among
other proceedings were had and entered of record
in said Court, to wit.

" John Frink

(vs)

Martin C. Walker } Petition for Partition
& Walter Laffin }

And now come the said ^{defendants} by Frink & Winston their Solicitors, and enter their appearance herein and on their Motion it is Ordered that the time to answer in this cause be extended Thirty days from this day.

And afterwards to wit on the seventh day of March (being another of the days of the said February term of said Court) A.D. one thousand eight hundred and fifty five, the following proceedings were had in said cause, and entered of record in said Court, to wit

" John Frink

(vs)

Martin C. Walker } Petition for Partition,
& Walter Laffin }

And now comes the said Complainant by Goodrich, Seville & Seelye his Solicitors and on his Motion it is ordered that the rule to answer in this cause be set aside and that leave be given said Complainant to verify his Petition by Affidavit *nunc pro tunc*.

And afterwards to wit on the seventeenth day of March (being another of the days of the said February Term of said Court) A.D. one thousand eight hundred

and fifty five, the following further proceedings were had in said cause and entered of record in said Court to wit:

" John Frink }

vs
Martin G. Walker }
& Walter Saffin } Petition for Partition

This day comes the said Complainant by Goodrich & Scrive & Leake his Solicitors and on his Motion it is Ordered that the said defendants file their answer to the Petition herein by the first day of the next April Term of this Court.

And thereafter to wit on the thirty first day of March in the year of our Lord one thousand eight hundred and fifty five, the said defendant Martin G. Walker, filed in the office of the Clerk of said Court, his answer to said Bill of Complaint; which said answer is in the words and figures following that is to say,

" In Chancery

Before the Honorable John M. Wilson Judge
of the Cook County Court of Common Pleas.

The several Answer of Martin G. Walker one of the Defendants to the Bill of Complaint of John Frink Complainant

This defendant now and at all times saving & reserving to himself all and all manner of benefit

and advantage of exception to the many errors and insufficiencies in the said Complainant's said Bill of Complaint contained for answer therunto or unto so much and such parts thereof as this defendant is advised is material for him to make answer unto he answers and says.

He denies that the rights and interests of the several parties Complainant and defendants named in the said Bill of Complaint in and to the several pieces or parcels of land mentioned and described in said bill are truly set forth and stated in said Bill, and he avers that he is the owner of the whole of said several lots and lands mentioned and described in said bill.

And this defendant further answering denies that the said Complainant or the said Lastin co-defendants therein, has any right title or interest in or to the said several lots & lands in the said Bill of Complaint mentioned and described, but on the contrary alleges that this defendant is the sole owner in fee simple of the said lots and lands.

And this defendant denies all and all manner of unlawful combination and confederacy wherewith he is by the said Bill charged; Without this that there is any other matter cause or thing in the said Complainant's said Bill of Complaint contained, material or necessary for this defendant to make answer unto and not herein and hereby well and sufficiently answered confessed

traversed^{or avoided} or denied is true to the knowledge or belief of
this defendant All which matters and things this
defendant is ready and willing to aver maintain and
prove as this honorable Court shall direct and hereby
prays to be hence dismissed with his reasonable costs
and charges in this behalf most wrongfully sustained
Cudd & Munton, Martin Q Walker"

Solicitors for Deft Walker:

And thereafter to wit on the third day of April in
the year of our Lord one thousand eight hundred &
fifty five the said Complainant filed in the office of
the Clerk of said Court his replication to said
answer; Which said replication is in the words and
figures following, that is to say,

"The replication of John Frink Complainant, to
the answer of Martin, Q. Walker, one of the defendants
to the Bill for Partition, filed in the Cook County
Court of Common Pleas, by said Complainant against
said Walker and Walter Saffin defendants,

This repliant saving and reserving to himself
all & all manner of advantage and exception which may
be had and taken to the manifold errors, uncertainties
and insufficiencies of the answer of the said defendant
Martin Q. Walker for replication therunto saith that
he doth and will aver maintain and prove his said
bill to be true certain and sufficient in the law to

be answered unto by the said defendant Walker, that
 his said answer is very uncertain evasive & insufficient
 in the law to be replied unto, ^{by the replant (meaning)} and not herein and hereby
 well and sufficiently replied unto, confessed or avoided,
 traversed or denied is true, all which matters & things
 this replant is ready to aver maintain and prove as
 this honorable Court shall direct & humbly prays as
 in his said Bill he hath already prayed &c
 Goodrich Scoville John Frink
 Complainant's Sols. Complainant

And thereafter to wit on the fourteenth day of
 April A.D. one thousand eight hundred and fifty five
 the said Defendant Walter Saffin, filed in the Office of
 the Clerk of said Court, his Answer to said Bill of
 Complaint; Which said answer is in the words and
 figures following, that is to say.

" In Chancery

Before the Cook County Court of Common
 Pleas.

The separate answer of Walter Saffin one of the
 defendants to the Bill of Complaint of John Frink
 Complainant against said defendant and Martin
 O. Walker.

This defendant the said Walter Saffin now
 and at all times hereafter saving and reserving to
 himself all and all manner of Exceptions which may
 be had or taken to the manifold errors uncertainties and

insufficiencies of said Complainants said Bill of Complaint for answer thereto or to so much such parts thereof as he this defendant is advised is or are material or necessary to be answered unto, he this defendant answering says

That he admits the rights and interests of the several parties Complainant and defendants in said Bill of Complaint named in & to the several pieces lots or parcels of land mentioned and described in said bill are truly set forth & stated in said Bill.

And this defendant further answering says that he obtained his title to the said one sixth part of said several pieces or lots of land as stated in said Bill by deed from said Fowler, who purchased of said Bingham as stated in said bill.

And this defendant submits to such decree as this Court may make in the premises either for a partition of said several lots or for a sale thereof, or for such parts thereof as shall be found incapable of partition without material injury to the parties interested therein."

Walter Saffin

Williams & Wordbridge by Williams & Wordbridge
Sols for Saffin his Sols

And afterwards to wit on the twenty seventh day of January (being one of the Law days of the January Vacation term of said Court) A. D. one thousand eight

hundred and fifty six, the following proceedings were had in said cause, and entered of record in said Court, to wit,

"John Frink

(16)

Martin O. Walker
& Walter Laffin

In Chancery

Petition for Partition,

And now at this day comes the said John Frink by Grant Goodrich his Solicitor; and the said Martin O. Walker by F. H. Huiston his Solicitor and the said Walter Laffin by E. S. Williams his Solr. And this cause being submitted to the Court for hearing on bill, answers, replication, exhibits and proofs, and the said John Frink having produced a Patent from the United States duly authenticated for the said premises in the said petition described to himself and Charles K. Bingham jointly, bearing date the first day of November Eighteen hundred & thirty nine; And it appearing to the Court from the admissions of the Solicitors of the said Frink & Laffin, the Solicitor of said Walker being present and not objecting thereto, that said Frink had heretofore conveyed to said Martin O. Walker, all his interest in the undivided one half of said premises, excepting and reserving to himself one undivided third part of said lots. The Court here from the evidence finds the said John Frink to be the owner and seized of one undivided third part of said lots, being lots Number sixteen (16) seventeen (17) and Eighteen (18) in Block Number nine

(9) in Fort Dearborn Addition to the City of Chicago

And the said Walter Saffin having produced in evidence a deed bearing date June second Eighteen hundred and forty six from said Charles, K. Bingham and Aurelia B. his wife, conveying to one William Fowler one undivided sixth part of said lots; and a deed from said Fowler and Sophia C. his wife bearing date June second Eighteen hundred and forty six, conveying said undivided sixth part of said Lots to said Walter Saffin - the Court therefore finds that said Walter Saffin was and is owner and seized of one undivided sixth part of said lots.

And it further appearing from the admissions of the Solicitors of the respective parties that said Martin C. Walker by said Conveyance from said John Frink, and by Conveyance from said Charles K. Bingham became and is owner and seized of one undivided sixth half of said lots and premises.

It is therefore Ordered and decreed that James H. Rees, Flavel Mosley, and Paul Cornell, who are not connected with either of said parties, either by consanguinity or affinity, and are entirely disinterested, be and they are hereby appointed Commissioners to make partition of said premises among said owners, according to their respective interests therein, to wit; to said John Frink one third; to said Walter Saffin one sixth; and to said Martin C. Walker one half thereof, and without delay make

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report of their proceedings in the premises to this Court,

And thereafter to wit on the twenty eighth day of January A. D. one thousand eight hundred & fifty six there was filed in the office of the Clerk of said Court the Affidavit of said Commissioners; Which said Affidavit is in the words and figures following, that is to say.

State of Illinois

Cook County Court
of Common Pleas.

John Frink

(vs)

Martin O. Walker &
Walter Saffin . . .

State of Illinois
Cook County . . .

Petition for Partition

James H. Rees, Frank Mosely
and Paul Cornell of said County

being severally duly sworn, each for himself says
that he will fairly & impartially make partition of the
lands mentioned and described in the order of the Court
entered in this cause, to wit Lots sixteen, seventeen and
eighteen, in Block Number nine in Fort Dearborn Addition
to Chicago, in accordance with the judgment of the Court,
as to the rights and interests of the parties, if the same can
be done consistently with the interests of the Estate

Subscribed and sworn to
before me this 28th day of
January 1856 . . .

Frank Mosely
Paul Cornell
James H. Rees .

Walter Kimball

Clerk

And thereafter to wit on the twenty ^{second} day of
January ^{March} A.D. one thousand eight hundred and fifty
six, there was filed in the Office of the Clerk of said
Court, the report of said Commissioners; Which said
report is in the words and figures following, that is to say,
" John Frink

(12)
Martin A. Walker
& Walter Saffin

Cook County Court of Common

Pleas.

Petition for Partition

To the Honorable John M. Wilson, Judge
of the Cook County Court of Common Pleas.

The undersigned Commissioners appointed
by the Court, in the above entitled cause to make
partition of the lands and premises in question in said
cause, respectfully report,

That having been first duly qualified by
taking the oath according to the Statute in such case
made and provided, we went upon the said premises
to wit; Lots sixteen, seventeen and eighteen in Block
Nine, in Fort Dearborn Addition to Chicago, viewed
the same with reference to making partition thereof
under the order of the Court in this cause, And that after
making an Examination of said premises, we are of
opinion, that the same can be divided between the
respective owners thereof to wit, John Frink, Martin A
Walker & Walter Saffin, so as to give to each their just
share therein, according to said Order of the Court, to wit;

to said Frink one third in value thereof, to said Walker one half and to said Laflin one sixth. And we the said Commissioners have made partition of said premises and assigned to each of said parties his share by metes and bounds according to their respective interests as afore said, which partition and assignment is as follows, to wit,

To said Martin & Walker we have assigned and set off that part of said lots bounded as follows - beginning at the North east corner of said lot sixteen, at the intersection of Wabash Avenue and the Alley in the rear of said lots, running thence west on the North line of said lots to the North west corner of said lot Eighteen (18) thence South on the West line of said lot Eighteen one hundred and sixty nine feet (169 feet) to Randolph Street; thence East on the South line of said lot 18, Twenty (20) feet, thence North in a line parallel with said West line of said lot 18, one hundred feet; thence East in a line parallel with the North lines of said lots, to the east line of said lot sixteen (16) on Wabash Avenue; thence North on the east line of said lot 16, Sixty nine feet to the place of beginning.

To said Walter Laflin, we have assigned and set off that part of said lots bounded as follows

Beginning on the South line of said lots on Randolph Street at a point Twenty feet (20 ft) east of the South west corner of said lot Eighteen, running thence North on a line parallel with the west line of said lot 18 one hundred (100) feet, thence east on a line parallel with

the North line of said lots; twenty two (22) feet; thence South on a line parallel with said west line of said lot Eighteen, One hundred (100) feet, to Randolph Street; thence west on the South line of said lots on Randolph Street, twenty two (22) feet, to the place of beginning.

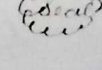
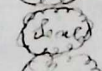
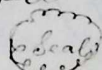
To said John Frink we have assigned and set off that part of said lots bounded as follows, Beginning at a point on the South line of said lots on Randolph Street Forty two (42) feet, from the South west corner of said Lot 18, running thence North on a line parallel with the west line of said lot eighteen, one hundred feet; thence east on a line parallel with the North line of said lots, twenty seven feet and four inches to the east line of said Lot Sixteen on Wabash Avenue; thence South on said east line of said lot 16, one hundred (100) feet to the South east corner of said lot 16 at the intersection of Wabash Avenue & Randolph Street; thence west on the South line, of said Lots twenty seven feet, and four inches to the place of beginning. All which shares are marked and described on the plat annexed hereto; and made a part of this report; said share of said John Frink being numbered one, on said plat; the share of said Walter Laflin, being numbered two, and said Walker's share being numbered 3 and 4.

All which is respectfully submitted

James H. Nes

Frank Mosely

Paul Cornell



And afterwards to wit on the seventh day of March (being one of the days of the February Term of said Court) in the year of our Lord one thousand eight hundred and fifty six; the following proceedings were had in said cause, and entered of record in said Court, to wit;

" John Frink

(vs)

Martin C. Walker

& Walter Saffin

In Chancery

Petition for Partition

And now at this day come the Commissioners heretofore appointed by the Court in this cause to make partition of the real Estate, described in the petition filed herein to wit James H. Rice, Flavel Moseley and Paul Cornell, and file their report herein. And the said parties by their Solicitors also come; And it appearing to the Court that the said Commissioners were first severally duly sworn to fairly & impartially make partition of the lands mentioned and described in the Order of the Court, heretofore entered in this cause to wit Lots, Sixteen, Seventeen and Eighteen in Block Number Nine in Fort Dearborn Addition to the City of Chicago, in accordance with the judgment of the Court as to the rights and interests of the parties, if the same could be done consistently with the interests of the Estate according to the Statute in such case made & provided and which said report of said Commissioners is in the words and figures following, that is to say

" John Frink } Cook County Court of Common
 vs } Pleas.

Martin. O. Walker }
+ Walter Saflin } Petition for Partition

To the honorable John M. Wilson Judge
of the Cook County Court of Common Pleas.

The undersigned Commissioners appointed by the
Court in the above entitled cause, to make partition of
the lands and premises in question in said cause
respectfully report.

That having been first duly qualified by taking
the Oath according to the Statute in such case made and
provided, we went upon the said premises, to wit; Lots
Sixteen, seventeen and eighteen in Block Nine in Fort
Dearborn Addition to Chicago viewed the same with
reference to making partition thereof under the order
of the Court in this cause. And that after making an
Examination of said premises, we are of opinion that
the same can be divided between the respective owners
thereof, to wit, John Frink, Martin O. Walker + Walter
Saflin, so as to give to each their just share therein
according to said Order of the Court, to wit, To said
Frink one third in value thereof to said Walker one
half, and to said Saflin one sixth. And also the said
Commissioners have made partition of said premises
and assigned to each of said parties his share by
metes and bounds, according to their respective interests

as aforesaid, which partition and apportionment is as follows, to wit;

To said Martin, O. Walker we have apportioned and set off that part of said lot bounded as follows Beginning at the North East corner of said lot sixteen at the intersection of Wabash Avenue and the Alley in the rear of said lot, running thence west on the North line of said lots to the North west corner of said lot Eighteen (18) thence South on the west line of said lot Eighteen, one hundred & sixty nine feet (169 ft.) to Randolph Street; thence East on the South line of said lot Eighteen (20) feet. thence North in a line parallel with said west line of said ^{Eighteen} lot (18) one hundred feet, thence East in a line parallel with the North line of said lot, to the East line of said lot sixteen (16) on Wabash Avenue, thence North on the East line of said lot ^{sixteen} (16) sixty nine feet to the place of beginning.

To said Walter Sadlin we have apportioned and set off, that part of said lots bounded as follows Beginning on the South line of said lots on Randolph Street at a point Twenty, feet (20 feet) east of the South West corner of said lot Eighteen (18) running thence North on a line parallel with the west line of said ^{Eighteen} lot (18) one hundred (100) feet, thence East on a line parallel with the North line of said lots, twenty two (22) feet, thence South on a line parallel with the said west line of said lot 18, one hundred (100) feet to

as aforesaid, which partition and apportionment is as follows, to wit;

To said Martin, O. Walker we have apportioned and set off that part of said lot bounded as follows Beginning at the North East corner of said lot sixteen at the intersection of Wabash Avenue and the Alley in the rear of said lot, running thence west on the North line of said lots to the North west corner of said lot Eighteen (18) thence South on the west line of said lot Eighteen, one hundred & sixty nine feet (169 ft.) to Randolph Street; thence East on the South line of said lot Eighteen (20) feet. thence North in a line parallel with said west line of said ^{Eighteen} lot (18) one hundred feet, thence East in a line parallel with the North line of said lot, to the East line of said lot sixteen (16) on Wabash Avenue, thence North on the East line of said lot ^{sixteen} (16) sixty nine feet to the place of beginning.

To said Walter Sadlin we have apportioned and set off, that part of said lots bounded as follows Beginning on the South line of said lots on Randolph Street at a point Twenty, feet (20 feet) east of the South West corner of said lot Eighteen (18) running thence North on a line parallel with the west line of said ^{Eighteen} lot (18) one hundred (100) feet, thence East on a line parallel with the North line of said lots, twenty two (22) feet, thence South on a line parallel with the said west line of said lot 18, one hundred (100) feet to

Randolph Street thence west on the South line of said lots on Randolph Street, twenty two (22) feet to the place of beginning.

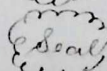
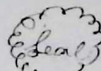
To said John Frink we have assigned and set off that part of said lots bounded as follows Beginning at a point on the South line of said lots on Randolph Street forty two (42) feet, from the South west corner of said lot 18, running thence North on a line parallel with the west line of said lot Eighteen one hundred feet, thence East on a line parallel with the North line of said lots Twenty seven feet and four inches to the East line of said lot Sixteen, on Wabash Avenue; thence South on said East line of said lot 16, one hundred (100) feet, to the South East corner of said lot 16 at the intersection of Wabash Avenue & Randolph Street, thence west on the South line of said lots twenty seven feet & four inches to the place of beginning - All which shares are marked and described on the Plat annexed hereto and made a part of this report - said share of said John Frink being numbered one, on said Plat, the share of said Walter Saffin being numbered two, and said Walters share being numbered three and four.

All which is respectfully submitted.

James H. Rees

David Moseler

Paul Cornell



Randolph St	20 ft	M. O. Walker ³	M. O. Walker 4 69 ft	69 11/12 feet
	22 ft	W. T. Tash ²		
	27 1/12 ft	J. T. Tash ¹		

Wabash Av.

And now on Motion of Goodrich & Scoville Complainants Solicitors it is Ordered and decreed by the Court, that said Report be and the same is hereby in all things ratified confirmed & established.

It is therefore further Ordered adjudged & decreed by the Court, that the title to that part of said lots sixteen, seventeen and eighteen in said report mentioned & described, bounded and described as follows to wit: Beginning at a point on the South line of said Lots on Randolph Street, forty two (42) feet from the Southwest corner of said Lot Eighteen, running thence North on a line parallel with the west line of said Lot Eighteen, one hundred feet, thence east on a line parallel with the North line of said lots, twenty seven feet and four inches, to the East line of said Lot sixteen on Wabash Avenue, thence South on said East line of said Lot sixteen, one hundred (100) feet to the South east corner of said Lot sixteen, at the intersection of Wabash Avenue and Randolph Street, thence west on the South

line of said lots twenty seven feet and four inches to the place of beginning. he and the same is hereby vested in the said John Frink freed and discharged of and from all claim and interest of the said Walter Saffin and Martin, O. Walker and of all persons claiming by through or under them or either of them.

And it is further Ordered, adjudged and decreed by the Court, that the title to that part of said lots bounded and described as follows to wit,

Beginning on the South line of said Lots on Randolph Street at a point twenty feet (20) east of the South west corner of said lot Eighteen running thence North on a line parallel with the west line of said lot Eighteen, one hundred (100) feet - thence east on a line parallel with the North line, of said lots twenty two (22) feet, thence South on a line parallel with said west line of said lot Eighteen, one hundred (100) feet to Randolph Street, thence west on the South line of said lots, on Randolph Street, twenty two (22) feet, to the place of beginning. he and the same is hereby vested in the said Walter Saffin freed and discharged of and from all claim and interest of the said John Frink and Martin, O. Walker and of all persons claiming by through or under them or either of them.

And it is further ordered adjudged and decreed by the Court that the title to that part of said lots

(26)

bounded and described as follows to wit:

Beginning at the North east corner of said lot Sixteen, at the intersection of Mabash Avenue and the Alley in the rear of said lots, running thence West on the North line of said lots, to the North west corner of said lot Eighteen (18), thence South on the west line of said lot Eighteen, one hundred and sixty nine feet (169) to Randolph Street, thence East on the South line of said lot Eighteen, twenty (20) feet, thence North in a line parallel with said West line of said lot Eighteen, (18), one hundred feet, thence East in a line parallel with the North lines of said lots, to the east line of said lot Sixteen, ^{on Mabash Avenue} thence North on the east line of said lot Sixteen, (16), ⁽¹⁶⁾ sixty nine feet to the place of beginning lie and the same is hereby vested in the said Martin O. Walker free and discharged of and from all claim and interest of the said John Frink and Walter Laflin and of all persons claiming by through or under them or either of them.

And it is further ordered by the Court that the said parties hereto each pay one third of the costs of this suit.

And thereafter to wit on the twenty fourth day of April in the year of our Lord one thousand eight hundred and fifty six, there was filed in the office of the Clerk of said Court, a certain Affidavit of the said Martin O. Walker; Which said Affidavit is in the words & figures following, that is to say.

" John Frink } Cook County Court of Common
 @ Pleas, Illinois,
Martin O. Walker } February Term A.D. 1856.
+ Walter Lathin } In Chancery.

Bill for Partition.

Martin O. Walker one of the defendants in the above entitled cause being duly sworn states upon oath that upon the twenty first day of November A.D. 1840 William Fowler filed his Bill in Chancery in the Circuit Court of Cook County State of Illinois, against John Frink the Complainant in the above entitled cause and this affiant as defendant, said Fowler alleging in said Bill that he was then entitled as partner with John Frink and this affiant to a joint interest with said Frink and this affiant in certain property real and personal acquired by the firms of Frink & Bingham & Frink & Frowbridge and Frink & Walker, and at the time of the filing of said Bill claimed by said Frink and this affiant. And said Fowler claimed to be then entitled to the undivided one sixth part not only of a large amount of profits & partnership property then claimed & owned by said Frink & Walker, but also said Fowler claimed to be Equitably entitled to one sixth of the value of Lots Sixteen, Seventeen and Eighteen in Block Nine in Fort Dearborn Addition to Chicago, which said claim was by said Bill made in general terms, under a general claim to partnership in

property, without designating said lots by their numbers or otherwise by particular description, and said Fowler claimed to be recognized as having been a partner with said John Frink, said Bingham and this affiant and claimed that an account be taken between himself, said Frink and this affiant not only as to Partnership transactions generally, but also as to all joint interests in real Estate including his said claim of one sixth in and to the lots above described. And afterwards said Frink filed his answer to said Bill in July in the year A.D. 1841, and upon the twenty first day of November A.D. 1841 this affiant filed his answer to said bill of said Fowler both of said answers substantially denying the claim of said Fowler, to one sixth or any other interest in the Partnership transactions, Effects, or real Estate, and afterwards a large amount of testimony was taken in said cause both by said Complainant and by said Defendants in said cause, and said cause was brought on to be heard before said Circuit Court; when a decree was entered by said Court decreeing substantially that said Fowler had been and was a partner in the firm of Frink & Frowbridge, and also in the firm of Frink & Bingham and Frink & Walker for a certain length of time in said decree specified, and that said Fowler was jointly interested to the extent of one sixth interest with said Frink and this affiant in the partnership profits and property real and personal acquired by said firms of Frink & Frowbridge, Frink & Bingham & also Frink and

Walker, and that through all the changes & mutations of said firm, said Fowler from the time he first became a partner had remained partner down to the time of filing said Bill, and that said Fowler was entitled to an account of all the doings dealings and transactions of said partnership in whatever name from the first day of January A.D. 1838 down to the time of the filing of said Bill, and William H. Brown as Master in Chancery was directed by said decree, among other things, to take an account of all such transactions, and also to report what property real as well as personal was owned by such partnership and how much had been sold, and generally to take and state an account of all the transactions of said partnership, under the different names and style by which the same had been known from the first day of January A.D. 1838 down to the time of filing said bill. (a copy of which said Decree is hereto attached marked A. to which reference is hereby made for a more full and accurate knowledge of the same).

And said William H. Brown did take an account of said transactions and real and personal Estate and did make his report thereof to said Circuit Court charging his account and said Frink with the value of said lts and allowing to said Fowler a certain sum in money in said report specified. And upon the hearing of said cause in said Circuit Court also before said Master it was claimed by said Fowler that he was equitably entitled

to the value of one sixth of the lots herein above described
And in entering said decree and making said report
in conformity thereto, said Fowler was allowed the value
of said one sixth of said lots; which said sixth was
during the pendency of said suit, held in the name of
said Buigham, until the second day of June A.D. 1846,
when by Quit Claim deed said Buigham released and
quit claimed to said Fowler, said one sixth interest
in said lots; Which said deed purports to have been
made in consideration of one dollar, but in reality was
made without any consideration other than the claim
of said Fowler to said sixth as partner in said firm
hereinbefore mentioned. And upon said second day of
June A.D. 1846 said Fowler made a deed of said one
sixth interest in said lots to said Walter Saffin without
any consideration passing from said Saffin to said Fowler
other than antecedent indebtedness as this affiant is informed
and believes. And this affiant is informed and believes
that said Saffin had full notice of the pendency of the
said suit in Chancery between this affiant and said Frank
and said Fowler and had full notice of the claim of
said Fowler to said one sixth of the value of said
lots, and had full notice of the proceedings ^{had} in said
said Chancery suit in relation to said one sixth of said
lots, at the time when said Deed was made to wit,
upon said second day of June A.D. 1846.

And this affiant further says that as he now
recollects and believes the whole amount ascertained

and reported by said William H. Brown to the Circuit Court of Cook County, as legally and equitably due to said Fowler as a partner in said firm does not exceed the sum of Four thousand dollars including principal and interest to this date, and that in stating and taking said account and making said report the said Brown credited and allowed to said Fowler, the full and fair value at the time of all the real Estate owned by said firm, including said lots, and that the costs to which this affair, has been subjected in said Chancery suit and which he has paid and is now liable to pay largely exceeds the amount so reported as due to said Fowler.

That this affair said said Brown over one thousand dollars for his services as Master in said suit, in taking and stating said accounts, and making his report under said decree.

And this affair further states that said Masters report was filed of record in the Circuit Court of said County and has been withdrawn from the files of said Court by the Counsel of said Fowler and cannot now be found as this affair is informed and believes.

Also this affair states that said Walter Laflin has commenced in the Circuit Court of the United States for the Northern District of Illinois an action of Ejectment to recover the one undivided sixth part of said Lots, and that said cause has been tried and a verdict found in favor of said Laflin and against this affair, and this affair is

advised by his Counsel and believes that he is entitled to a new trial in said action of Ejectment and this affiant intends to have a new trial in said action and hopes and expects to settle and adjudicate the title as to said one sixth of said lots claimed by said Saffin in said action of Ejectment by final decree in said suit in Chancery.

And this affiant further states that he claims to be the owner of the one undivided third part of said lots claimed by said John Frink in this proceeding for partition by virtue of a submission to arbitration by said Frink and this affiant of all their disputes controversies partnership transactions including their joint interests in these lots.

And this affiant claims that by the award of said arbitrators the one third of said lots claimed by said Frink as well as the sixth interest claimed by said Saffin were awarded to this affiant subject only to such decision and adjudication as might be finally had in said Chancery suit, between said Fowler, said Frink and this affiant which award is in full force at the present time.

And this affiant further states that said suit in Chancery has been pending between said Fowler and said Frink and this affiant for more than ten years - a large amount of money, amounting to several thousand dollars has been expended by this affiant in preparing said cause for trial in taking testimony therein and in an effort to adjudicate the rights of the parties in said suit, and said cause is still pending and undetermined inasmuch

as no final decree has been entered therein, And this
affiant could not at any time litigate in this proceeding
for partition, his right to said sixth of said lots claimed
by said Saflin without being compelled to encounter large
expense in investigating the whole subject matter of the
suit between Fowler and this affiant and said Frink
which has already been settled except by the entry of a
final decree in said cause. And this affiant being advised
by his Counsel that this proceeding for partition would not
be heard and finally decided until the title to said
one sixth of said lots could be settled in said Ejectment
suit and by a final decree in said Chancery suit now
pending between said Fowler and this affiant and said
Frink. And this affiant did not expect that said order
appointing said Commissioners would be made until this
affiant could have an opportunity to obtain a final decree
in said Chancery suit pending between said Fowler and
this affiant and said Frink.

This affiant ^{further} states that at the time when the
answer was filed in this proceeding for partition his
Counsel were not informed of the proceedings had in said
cause between said Fowler and this affiant and said Frink
sufficiently to enable them to ascertain fully what had
been done in said cause. The Bill, Answer & Masters
Report were not then to be found upon the files of the Court,
and this affiant was not then advised of the fact that
while Fowler was recording the value of said sixth

of said lots in said Chancery suit, his said Grantee
was likely to recover said sixth of said lots by this
proceeding for partition.

Subscribed and sworn to }
before me this 20th day of } Martin O. Walker.
Feby A. D. 1856. . . . }

Walter Kimball. Clerk

And afterwards to wit on the twenty fourth day of
April A. D. one thousand eight hundred and fifty six
(being one of the days of the April Vacation Term of said
Court) the following proceedings were had in said cause
and entered of record in said Court, to wit.

" John Frink

(vs) } In Chancery
Martin O. Walker } Petition for Partition
& Walter Laflin. }

And now comes Martin O. Walker
one of the defendants in this cause by Henry Frink
his Solicitor and enters his Motion herein founded
upon Affidavits filed, that the decrees ~~heretofore~~ entered
in this cause be opened and that the Report of the
Commissioners made, and the confirmation thereof be
also opened, and that he have leave to file a further
or amended answer herein.

And thereafter to wit on the day of
A. D. Eighteen hundred and fifty seven there was filed
in the office of the Clerk of the Cook County Court of
Common Pleas aforesaid, a certain other Affidavit of the
said Martin O. Walker, together with certain Exhibits
thereto annexed; Which said Affidavits and Exhibits are in
the words and figures following, that is to say

"John Frink

in } In the Cook County Court of
Martin O. Walker & } Common Pleas.
Walter Laflin . J.

State of Illinois, Cook County ss.

Martin O. Walker being first duly sworn
deposes and says that he is one of the defendants in the
above entitled cause. That at the February term A. D.
1856 of this Court a final decree of Partition was made
in said cause, on the report of Commissioners theretofore
filed herein, And that subsequently at the April term
of said Court this affiant by Henry Frink Esq. his
Attorney and Solicitor in said cause entered a Motion
therein based upon the affidavit of this affiant also filed
in said cause to open this Decree and the Confirmation
of said Commissioners report and that this affiant might
have leave to file a further or amended answer in said
Cause; Which said Motion now remains undisposed of
upon the files of said Court amongst the papers in said
cause And that this affiant for the further sustaining
of said Motion makes this Supplemental and further Affidavit

as follows

That on the day of September A.D. 1852 this
affiant and the said John Frink submitted, by a
written agreement made and executed by them under
their hands and seals all matters in controversy and
dispute between them growing out of their partnership
transactions and dealings under their different firm names
used and employed by them and their Copartners to the
arbitrament award and final determination of William H.
Brown, William Vernon and Ephraim C. Stowell as
Arbitrators giving and granting unto said Arbitrators
full power to investigate, inquire into and finally
determine all matters in controversy and dispute between
them, this affiant and the said John Frink growing out
of said partnership transactions And the said arbitrators
in pursuance of said agreement of Submission did investigate
inquire into and determine all the matters of controversy
between this affiant and the said John Frink; and
afterwards to wit on the 28th day of April A.D. 1853 did
make and publish an award respecting the said matter
so submitted to them as aforesaid; Which said award is
referred to in the former Affidavit of this affiant by him
made and filed in support of said Motion - and a copy
of which together with the agreement of Submission, and
the subsequent ratification of said award by this affiant
and the said John Frink is herewith attached marked
Exhibit "A" and is prayed to be taken as a part of this
Affidavit.

And this affiant further says that in pursuance of said award and the ratification thereof as aforesaid - and as required by the 17th article of said award the said John Frink made and executed under his hand and seal and delivered to this affiant a full and complete release discharge and acquittance of and from all claims demands, rights, actions and causes of action of every kind description name or nature whatever in anywise arising or growing out of the Copartnership business of Frink & Walker or Frink, Walker & Co. founded in Law or Equity existing prior and up to the date of said release which said release was executed and delivered to this affiant on the 9th day of May A. D. 1853, and a Copy of which is hereto attached marked Exhibit "B" and is prayed to be taken as a part of this affidavit.

Affiant further says that in compliance with the 14th Article of said award so made and ratified as aforesaid, the said John Frink & Harriet F. his wife did on the said 9th day of May A. D. 1853 make, execute acknowledge and deliver to this affiant, a Deed of Conveyance conveying to this affiant, all their interest in and to any and all property real and personal claimed and held by Frink & Walker that constituted the subject of controversy and litigation between one William Fowler and the late firm of Frink & Walker and Frink Walker & Co. and releasing and relinquishing unto this affiant all benefit and profit and advantage, that may arise to and be derived by said firms from said controversy and litigation between

said firms and said Fowler. A copy of which said deed is hereto attached marked Exhibit "C" & prayed to be taken as a part of this Affidavit. And this affiant further says, that a portion of the property constituting the subject of litigation between the said Fowler and the said firms of Frink & Walker and Frink Walker & Co. was and is the same lots mentioned and described in the Petition in this cause.

And this affiant further says that the controversies and litigations referred to in the said Award, and the deed of said John Frink and his wife to this affiant above mentioned were at the date of said deed pending in the Circuit Court of Cook County in the form of a Bill in Chancery filed in said Court by the said William Fowler against this affiant and the said John Frink, in which the said Fowler claimed to be a partner of this affiant and the said Frink and prayed that an account of all their partnership property and effects might be taken and a division thereof be made according to the interests of the several parties. Amongst which said partnership property and effects were included the said lots Nos 16, 17 & 18 in Block 9, in Fort Dearborn Addition to Chicago, described in the Petition in this cause. to which said Bill and proceedings reference is made in the former affidavit of this affiant on file in this cause as above stated.

And this affiant further says that since the making and filing of said former Affidavit further proceedings have been had in said cause in the said

Circuit Court between the said William Fowler & this affiant
and the said Frink - and a final Decree has been
Entered therein, wherein it is amongst other things ordered
adjudged and decreed by said Court that this affiant
shall pay or secure to be paid to the said William Fowler
the sum of Twenty five hundred dollars or the balance
that may still be unpaid to said Fowler, of said sum of
Twenty five hundred dollars, according to a stipulation
between this affiant & the said William Fowler in full
satisfaction and discharge of his (said Fowler's) interest of
in and to one sixth part of the profits, capital stock
property, real and personal, rights, credits and effects in
the Bill and other papers in said cause mentioned as the
said William Fowler owned and was entitled thereto on the
21st day of November A.D. 1840 - and that the said
Fowler within thirty days after the rendition of said decree
and on securing to him the balance of said sum of Twenty
five hundred dollars by this affiant - convey to this affiant
by a good and sufficient Special Warranty deed - All the
right title and interest of the said Fowler of in and to
the said lots 16, 17 and 18 described in the Petition in
this cause, and other property in said decree described
which legally or Equitably belonged to him as a partner
of this affiant & the said Frink as he held and owned
the same on the said 21st day of November A.D. 1840
with covenants of Warranty against any acts done or
suffered by the said Fowler before or subsequent to that
date. And should the said Fowler fail might or refuse

to make such Conveyance then Samuel C. P. Foor was in and by said decree appointed a Special Commissioner to make said Conveyance And in and by said decree it was further Ordered and adjudged that upon securing to said Fowler by this affiant, the balance of the said sum of Twenty five hundred dollars, all the interest of the said Fowler of us and to the property real in said decree described and all his right title and interest of us and to the personal property, rights, credits and Effects of said firm and all right of account, of, to & for the Capital Stock and profits belonging to the said several partners or to said Complainant as a Partner should cease and pass to and become the property of this affiant. A true and correct Copy of which said decree so entered as aforesaid in the said cause in the said Circuit Court is hereto attached marked Exhibit "D," and prayed to be taken as a part of this Affidavit.

And this affiant further says that a portion of the property claimed by the said Fowler in said Bill and proceedings above mentioned, the title to which has been settled and Established and vested in this affiant by said decree, is the same interest in said lots No 16, 17 and 18 in the Petition in this cause alleged to be in the said defendant Walter Saflin, and by the said Commissioners set apart and assigned to him. And which the said Walter Saflin in and by his answer in this cause claims to have purchased, since the commencement of said suit in Chancery in the said Circuit Court of and from the

said Fowler.

Now this affiant further states that he made the former Affidavit in support of said Motion hereinbefore mentioned on the twentieth day of February A.D. 1856 and left the same in the hands of Henry Truitt Esq., his Attorney to be filed in this cause, together with such Motion as his said Attorney might pass thereon, to set aside the decretal Order, and the report of the Commissioners in this cause, which as this affiant is informed and believes was prior to the Confirmation of the report of said Commissioners by the Court and at the same time term of Court at which said Decretal order was made. And this affiant supposed that said affidavit and a Motion based thereon was immediately thereafter filed in this term by his said Attorney, but has since ascertained that the same was not filed until on or about the 24th day of April A.D. 1856 and during the succeeding term of said Court. And this affiant is informed and believes that his said Attorney immediately after the making of said Affidavit delivered the same to his Honor the Judge of this Court for Examination, and that the same was mislaid and could not be found until on or about the day of the filing of the same and the Motion based thereon in this Court, at which time said affidavit was found as this affiant is informed and believes, in the possession of his Honor the Judge of this Court to whom it had been delivered as aforesaid.

And this affiant further says that he is unable to give any further particulars of the filing of said affidavit and Motion for the reason that the said Henry Frink Esq. his Attorney in this cause departed this life soon after the same were filed without giving this affiant any further information in relation thereto, since which time this affiant has not until recently been represented by any Attorney employed by him for that purpose in this cause but this affiant is informed and believes that at the time said affidavit was delivered to the said Judge of this Court, the said Judge had intimated to the said Henry Frink, that said cause should remain as it then stood and that this affiant should have a further hearing before said Court upon the matters in controversy in this cause, but that such hearing could not be had at that time for the reason that said Judge was then about to adjourn said Court and to leave the City of Chicago for a short time. And this affiant is informed and believes that at the time of the filing of said affidavit and motion as aforesaid application was made to the Court for leave to file the same *in fine* pro *hunc* as of the preceding February Term of said Court, and that such leave was granted by the Court, but that by mistake or accident no entry of such leave was made by the Clerk of the Court. And the records and papers do not as this affiant is advised, show that such leave was granted to him.

And this affiant further states that the premises described in the Petition in this cause has all the time remained and is now in the possession of this affiant, and he supposed that further proceedings were to be had in said cause before the entering up of a final Decree therein, according to the information given to him by the said Henry Frink Esq. soon after the making of said former affidavit of which this affiant supposed that he would receive due notice,

Subscribed and sworn to
before me this 15th day of July A. D. 1857. Martin O. Walker.

Wm L. Church

Clerk of the Cir. Ct.

Book 6th Pl.

Exhibit "A."

Whereas differences have existed and still do exist between John Frink and Martin O. Walker, who have been heretofore united in, and done business as partners and on joint acc^t, at different periods and since June 1st 1840, under the name of Frink, Walker & Co. Frink and Walker and in other names in relation to their said partnership and joint dealings between themselves alone and in connection with others. And whereas the said Martin O. Walker, assumes to own and represent the interest and right of Curran Walker in the late firm of

Frink Walker & Co. which said firm was dissolved on or about the year A. D. 1844. Now therefore we the undersigned John Frink and Martin O. Walker aforesaid do hereby mutually agree to and with each other that William H. Brown, William Vernon and Ephraim C. Stowell or any two of them shall arbitrate, award, order, adjudge and determine of and concerning all and all manner of actions, suits, controversies, claims and demands whatever, now pending existing or held by and between us the said parties growing out of any and all partnership and joint dealings and interest between ourselves alone or in connection with others and all partnership property & joint interests of any and all kinds and determine the relation and real interest of each in all partnership and joint property and assets in whatsoever name held and to divide and order the conveyance and transfer of the same one to the other as they shall deem equitable and just and according to our respective interests in the same and any part thereof and shall also determine and award what share of the joint liabilities by us owing alone or jointly, with others, each or either of us shall pay and satisfy, and what indemnification if any, either shall give to the other for any fixed or doubtful liabilities whether equitable or legal.

And we further covenant and agree that in case one or more of said arbitrators shall by death refusal or any other cause fail to act, the remaining acting

Arbitrator or Arbitrators shall and may as soon as such disability or refusal to act shall occur or at least thirty days before the day of making said award name and choose another or other persons or person to act in his or their stead whose powers and award and determination shall be as ample and binding, as would have been that of the Arbitrators above named, And we do hereby each of us with the other covenant and agree to stand to abide by perform and keep in all things, the award so to be made. And we further agree that the said award may be made a Rule of Court and Judgment and decree may be entered by and in the Cook County Circuit Court in the premises ordering and decreeing the performance of said award in all things the same as if said Award had been the Decree of said Court, in an original suit prosecuted therein in the premises between said parties, Provided however that said award so made in writing under the hands and seals of said Arbitrators or any two of them and ready to be delivered to the said parties in difference or such of them, as shall desire the same on or before the first day of April A.D. 1853.

The said Arbitrators may if they see fit examine the said parties, the said Parties under oath, in relation to any matter or matters which they may desire to do.

In witness whereof said parties have hereunto set their hands and seals this ninth day of September A.D. 1852

Witness,

Grant Goodrich

(signed)

John Frink

(Seal)

Martin O. Walker

(Seal)

Whereas the Arbitrators named in the foregoing Submission entered into and executed by us on the 9th day of September A.D. 1852 have declared that they cannot make a full Examination of the facts pertaining to the matters thereby submitted so as to make and publish their award as soon as the first day of April next. Now therefore we John Frink and Martin O. Walker the parties to said Submission do hereby covenant and agree, that we will and we do hereby extend the time for making said award to the fifteenth day of April next, under the same Conditions, stipulations and Penalties in all respects as in said Submission contained. And we do hereby further covenant & agree to and with each other that the award of said arbitrators to be made by them, or a majority of them on or before the said fifteenth day of April next shall have the same force and Effect in all respects as if made and published on or before the first day of April next. Dated Chicago 19. March 1853.

(Signed) John Frink

(Seal)

Martin O. Walker

(Seal)

We John Frink and Martin O. Walker do hereby agree to and with each other that the Arbitrators, or a majority of them named in the foregoing Submission by us signed, may make and publish their award under the said Submission as to the matters therein named at any time on or before the Twenty ninth day of April 1853

Subject to the same conditions and penalties and with the like effect in all respects as is provided & stipulated in said agreement of submission.

This agreement is merely intended to extend the time within which said arbitrators may and shall make their award under the said submission to the 29th day of April 1853.

Dated at Chicago April 14/53.

(Signed)

John Trunk (Seal)

Martin W. Walker (Seal)

State of Illinois }
Cook County . }

William H. Brown, William Vernon and Ephraim C. Stowell chosen Arbitrators in the within agreement, appeared before me a Justice of the Peace in and for the County of Cook, and being by me duly sworn depose and declare, that they will individually faithfully and fairly hear examine and determine the matter within submitted to them, and make a just and true award according to the best of their understanding within the time limited in the agreement, or within any time extended by the agreement of the parties, if the same can possibly be done.

Sworn before me this }
4th day of Jan'y 1853 }
H. S. Rucker .

William H. Brown

William Vernon

Ephraim C. Stowell

Justice of the Peace

To all to whom these Presents shall come or may
concern, Send Greeting, William H. Brown, William
Vernon and Ephraim B. Stowell, to whom are submitted
as Arbitrators the matters in controversy, all and all
manner of actions, causes of action claims and demands
Existing or held by and between John Frink and
Martin C. Walker and such matters and controversies
between them growing out of any and all partnership
dealings between them or in connection with others and to
determine their relative interests in all partnership property
as by the said agreement of Submission executed by the
said John Frink & Martin C. Walker and bearing date
the ninth day of September in the year One thousand
eight hundred and fifty two more fully appears.

Now therefore know ye that we the said
arbitrators in said Submission and agreement mentioned
having been first duly sworn according to the Statute in
such case made & provided and having heard & listened to
all the allegations and proofs of the parties to said agreement
of Submission and having fully examined all the matters
controversies and things in dispute as between the said
John Frink and Martin C. Walker as aforesaid, submitted
to us by them in and by the said instrument in writing
by them executed as aforesaid and hereto annexed. That
is to say.

First. We do award, declare, determine and adjudge
that as between the said John Frink & Martin C. Walker

Curran Walker was a nominal partner in the business of the firm of Frink, Walker & Co. in the business of carrying and transporting the United States Mail upon and under Contracts entered into by and between John Frink (a member of said firm) of the one part and the Post Master general of the United States of the other part, and in carrying passengers by Coaches Wagons and by such other means of transportation, as are used and employed by said firm of Frink, Walker & Company, in the State of Illinois and other States within which said business was transacted, and that the respective interests of said John Frink, Martin O. Walker and Curran Walker in and to said business as determined by their Articles of Copartnership was in equal proportions of one third to each of said parties. And that said business did commence on the first day of June in the year One thousand eight hundred and forty, and that the same was terminated. And the said firm of Frink Walker & Company was dissolved some time in the year one thousand eight hundred and forty four by the agreement of the said John Frink and Martin O. Walker with the present and subsequent concurrence of Curran Walker the other partner in said firm as stated by said John Frink and Martin O. Walker Second. And we the Arbitrators aforesaid do award to determine and adjudge as between the said John Frink and Martin O. Walker, that the said Martin O. Walker was by the terms of the Partnership agreement between himself John Frink and Curran Walker, the owner & representative

of two thirds of the Capital Stock of said firm of Trunk Walker and Company, actually paid into said firm (said two thirds being the sum of Eight thousand dollars) and that the said John Trunk was the owner of one third part of the Capital Stock actually paid into the business of said firm, being the sum of Four thousand dollars, and we do also award, determine and adjudge that the said John ^{Trunk} and Martin O. Walker sometime in the year one thousand eight hundred and forty four (upon the dissolution of the firm of Trunk Walker & Co) commenced the business of transporting the United States Mails, within the State of Illinois and other States, and of carrying passengers in Coaches, Wagons and other Vehicles and means of transportation as Equal partners in said business and continued to prosecute up to and until the first day of April in the year one thousand eight hundred and forty seven.

Third: As between the said John Trunk and Martin O. Walker the said M. O. Walker having paid into the Capital Stock of the firm of Trunk Walker & Company two thirds of the amount thereof as aforesaid in his own behalf, and in behalf of the said Curran Walker, the said Martin O. Walker is entitled to a credit on account of the said Capital Stock paid in for himself and for the said Curran Walker and as an equivalent to him for any risk in making and delivering to said John Trunk a Bond as hereinafter directed and awarded in the sum of Fifty thousand dollars as an indemnification of said

any such claim or demand, or by reason or on account of any matter or thing connected therewith or in any way arising thereupon as well as to save said Frink harmless from damages and costs on account of the claim of William Fowler.

Fifth. We find that the said firm of Frink & Walker are indebted in the aggregate in the sum of Twenty nine thousand two hundred dollars and eighty one cents including the interest that has accrued thereon so far as the same has been ascertained by us, and we do award and adjudge, that the said Martin C. Walker shall pay the debts enumerated as follows,

An indebtedness upon Five Promissory Notes, made by Frink, Walker & Company payable to the said Martin C. Walker for the following amounts.

One Note for	\$400.00
Two Notes for (each)	300.00
& One Note for	500.00

all bearing date on the twenty eighth day of May A.D. 1840. and one Note dated on the first day of June A.D. 1840 for the sum of . . . \$4948.00 and that he pay all interest and costs which have accrued or may accrue thereon, Which said Notes are now in the hands of Henry Frink of Chicago for collection and have been given in the name of Elmore H. Walker of Buffalo in the State of New York as Endorser thereof, in the Circuit Court of the United States for the Northern District of Illinois, and also that the said Martin C. Walker pay an

indebtedness of said firm of Frink & Walker upon a Promissory Note made by them to R. K. Swift payable at the Office of Duncan, Sherman & Co. for the sum of \$5000. dated March 19. A. D. 1853, and any interest that may accrue thereon.

Sixth. We do direct, determine, adjudge and award that John Frink shall pay of the indebtedness of the said firm of Frink & Walker the following debts, namely: one Note given by Frink & Walker for the sum of \$3500⁰⁰ and dated about the seventeenth day of April A. D. 1853 and payable at Chicago, together with all interest accrued or to accrue thereon. Also a Note given by Frink & Walker to A. Guernsey for the sum of \$1476⁸⁸ dated March 19. 1853. Also a Note or Bill of Exchange given to the Branch Bank of Indiana at South Bend and payable at New York for \$5000⁰⁰ with all interest and exchange thereon - Also a Note given by Frink and Walker to A. G. Hef for \$1900⁰⁰ with interest and Exchange. And also that he pay to the firm of John Frink & Company a balance of account due to said firm from Frink & Walker supposed to be about \$443⁹⁰.

Seventh. We adjudge direct and award the said Martin C. Walker shall have of the personal effects of said firm of Frink & Walker to aid in the payment of the debts he is awarded to pay the following Notes & accounts namely.

Two Notes executed by the said Martin C. Walker to William Vernon for the benefit of Frink & Walker of \$3666⁶⁷

each and dated January 29. A. D. 1853. Two Notes
Executed by said Walker in like manner one for the
sum of \$1000⁰⁰ 34 and one for the sum of \$1008⁰⁰ 33.
and both dated on the Eleventh day of February A. D. 1853
A Note executed by B. Fitch dated the second day of
December A. D. 1852 for the sum of Four thousand
dollars. A Note made by B. C. Johnson dated the
first day of October A. D. 1852 for the sum of \$314⁰⁰ 17.
four Notes executed by the Trustees of the Baptist Church
of St. Charles for \$100⁰⁰ each dated January tenth A. D.
1851. A Note made by Warren Forbes for \$150⁰⁰ 00
A Note made by Roswell Wilder for . . . 220⁰⁰ 66
A Note made by O. C. Parmley for . . . 216⁰⁰ 36
and a balance due on order made on John Frink & Co.
by said Parmley for . . . \$198⁰⁰ 08
balance of account against S. P. Sanger supposed to be
about \$1000. All the balance of amount due Frink
and Walker up to the first day of May last for property
at corner of Lake and Dearborn Streets in Chicago,
which are not included in the account by us stated
between them. A Steam Engine stored at Peru
Illinois together with the Iron Chest and office
furniture belonging to Frink & Walker.

Eighth. Of the personal property and effects of said
firm of Frink & Walker we award to said John Frink
to aid in the liquidation of debts he is awarded to pay
a claim or demand held by said firm of Frink and
Walker against Joseph Brown amounting as is supposed

to about the sum of Ten thousand dollars, and also
moneys now in the hands of said Frink to the amount
of \$1000⁰⁰ received from Bishop for land. And we
award and direct that the said John Frink do release
unto said Walker any and all his interest in the
demands and assets above awarded to the said Martin
O. Walker, and the said Martin O. Walker release unto
the said John Frink all his interest in the demands
and moneys above awarded to the said Frink within
ten days after the Confirmation or acceptance of this award.
And if it shall happen that either party has or shall
collect any part of the demand above awarded to the
other, the amount so collected (if any) shall be paid to
the party to whom such demand is hereinbefore
awarded by the party who has or may collect the
same with interest on the demand of the party
entitled to the same.

With. The said Martin O. Walker having a balance
due him from the firm of Frink & Walker including
interest upon an account due on the Books of said
firm as appears from such Books of \$28,328.⁷⁰
for moneys advanced to said firm, including interest
thereon, and in addition thereto, we having found a
balance in favor of said firm against said John
Frink of \$20,778.⁶⁸ for moneys drawn out of said
firm including interest thereon we do award determine
and adjudge that the said Martin O. Walker shall
have hold possess and enjoy the real Estate belonging

to said farm as follows. Namely.

Lots numbered 19. 20. 21. 22. 23 and 24 in Block Number Nine (9) in Fort Dearborn Addition to the City of Chicago, excepting and reserving unto the firm of John Frink & Co. any and all buildings situated on said lots.

The E $\frac{1}{2}$ of S. E. $\frac{1}{4}$ of Sec 35. T. 29. N. R. 3.

The W $\frac{1}{2}$ of S. E. $\frac{1}{4}$ of Sec 35. T. 29. N of range Number 3 East-

The W $\frac{1}{2}$ of S. E. $\frac{1}{4}$ of Sec 5 T. 28. N of range 4 E.
Fraction 2 of N. E. $\frac{1}{4}$ of Sec 2. T. 28 N. R. 3.

S. W $\frac{1}{4}$ Sec 35, T. 29. N. R. 3, E. - all East of 3 P. M. E.

The N $\frac{1}{2}$ of lot 4 Block 18 in West Sublet in the real Estate known as the Jo Daviers house and lease in the City of Galena in the State of Illinois - Lot 67 Commerce Street in the City of Galena - one half of lot 66 on Commerce Street, in the City of Galena - A barn at Peru - A barn at Peoria in said State of Illinois, and 36 shares in the business and property of the firm of John Frink & Co. And we award direct and adjudge that the said John Frink execute and deliver to the said Martin C. Walker Deeds of Conveyance of his interest in said Lands and Real Estate with covenants against any and all incumbrances created thereon by himself individually and separately for his own use, and procure to be executed a release of Power by his wife in said

lands within ten days from the confirmation or acceptance of their award, which said lands and stock shall be in full payment and satisfaction of the monies advanced by said Walker to said firm of Frink and Walker of the said indebtedness and all other indebtedness of the said John Frink to said Martin C. Walker as a partner in the said firm of Frink & Walker and not otherwise and a full payment and satisfaction unto the said Walker of the said sum of \$12000⁰⁰ awarded as a credit to him by the 3rd Article of this award - as well for the Capital paid into the said firm of Frink Walker & Co. for Curran Walker, and as an equivalent for the risk and liability to be assumed by said Martin C. Walker in indemnifying the said John Frink against any claims of the said Curran Walker or William Fowler as directed by the 11th and 14th Articles of this Award

Tenth, We do determine direct and award that the real Estate, lands, tenements and appurtenances belonging to the said Frink and Walker and held by them jointly or in common and which have not been already herein before adjudged by us to said Martin C. Walker in payment and satisfaction of his portion of the indebtedness of the said John Frink to said firm of Frink & Walker, together with all the advances of said Walker made by him to said firm and of the amount credited to him by the 3rd Article of this Award, shall be divided partitioned and held by the said John Frink and Martin C. Walker in generalty as follows, namely.

The said Martin O. Walker shall have hold possess and
enjoy the lands tenements and appurtenances known
and described as lots number 17. 18. 19 & 20 in Block
number 98 in School Section Addition to Chicago and
situated ^{in the County of Cook in the State of Illinois} in the City of Chicago Lots number 1. 2.

3 & 10 in Block number 37 in East Rockford S. W. 1/4
Sec 1. T 40 N. R. 13 E, containing 160 acres lying in
Cook Co. And 1/2 N. E. 1/4 of S. E. 1/4 Sec 24. T 2
R. No 1. containing 20 acres - N. W. 1/4 of S. W. 1/4 Sec 19
T 2. R 1, containing 37 ⁷⁹/₁₀₀ acres in Grant County and
State of Wisconsin - A house, lot and barn at
Beaton, in La Fayette County and State of Wisconsin.

Lots No 1 & 2 in Block 84 in Madison in the County
of Kane and State of Wisconsin - The S. W. 1/4 of
S. E. 1/4 of Sec 27, T 35. R 8 containing 40 acres -

The N. 1/2 of N. 1/2 of S. E. 1/4 of Sec 27 T 35 R 8 contg. 40 acres

" E 1/2 " S. W. 1/4 " " 27. 35 " " 80 "

" N. 1/2 " S. W. 1/4 " " 27. 35 " " 80 "

" E 1/2 " S. E. 1/4 " " 28. 35 " " 80 "

" N. 1/2 " E 1/2 of S. E. 1/4 " " 33. 35 " " 40 "

" N. 1/2 " E 1/2 " N. E. 1/4 " " 33. 35 " " 40 "

" S part of S. 1/2 " N. E. 1/4 " " 18 " " " " 5 "

" E 1/2 of E 1/2 " N. E. 1/4 " " 33. " " " 40 "

also part of S. E. 1/4 " " 4. 34 " " 10 "

situate lying and being in the County of Kendall and
State of Illinois - And we direct and award that the
said John Frink shall execute and deliver deeds
(39)

conveying his interest in said lands with covenants against any incumbrances created thereon by him separately and for his own use with a proper relinquishment of dower which said deeds shall be duly executed acknowledged and delivered to the said Walker within ten days after the confirmation or acceptance of this award.

And the said John Trunk shall have hold possess and enjoy the lands known and described as the N.E. $\frac{1}{4}$ of N $\frac{1}{2}$ of S.E. $\frac{1}{4}$ Sec 11 T. No 42 NR No 6 E 3 P.M. and situate in Kane County Illinois and Estimated to contain 240 acres. And the lots & lands situate in the Village of Janesville in the County of Rock and State of Wisconsin described as 6 feet in width of the South part of Lot No 2 in Block No 43. Also lot No 3 in said Block 43 except so much of said lot as is covered and occupied by E.V. Whittons office. Also all those lots situate in said Village and known and described on the Map of Smith & Bailey and Stones addition to the Town of Janesville by the No 1, 2, 3 & 4, lying 16 rods in front on River Street and 8 rods on each side.

And we direct and award that the said Martin O. Walker shall execute acknowledge and deliver to the said John Trunk Deeds conveying said Walkers interest in said Lands with relinquishment of dower containing covenants against any incumbrances created by the said Walker separately for his own use within ten days after the confirmation or acceptance of this award. The said several lots pieces and tracts of land include all the lands and

apportementances owned by said Frink & Walker jointly, or in common of which title deeds running to them or other evidences of ownership have been submitted true Any other lands owned by them in common or jointly, shall continue to be held by them in common or jointly, as the case may be in such proportions as their title deeds or other instruments of conveyance to them shall entitle each respectively to hold subject to such partition as they may themselves make.

Eleventh. We award direct and determine that Martin O. Walker shall have hold possess and enjoy 191 shares of the Stock owned by Frink & Walker in the property business and effects of the firm of John Frink & Co. including the 36 shares heretofore awarded him and shall be entitled to the benefit profit and advantage, that shall arise therefrom and we award direct and determine that the said John Frink shall have hold possess and enjoy 79 shares of the Stock belonging to Frink and Walker in the property business and effects of the said firm of John Frink & Co. and shall be entitled to all the benefit profit & advantage that shall arise therefrom. And the said Martin O. Walker having in his possession the Certificate of ownership of the said Stock shall surrender the same to the Secretary of said firm of Jno. Frink & Co. within ten days after the confirmation or acceptance of this award to the end that the said Secretary may cancel said Certificate and issue to said Martin O. Walker and John

b1

Frink each severally and separately Certificates of ownership of said Stock in the amounts above awarded to each of them viz: to said John Frink of 79 Shares and to said Martin. C. Walker of 121 shares thereof. Twelfth. Any personal property, moneys, evidences of Debt or choses in action owned or held by said firm of Frink and Walker and not hereinbefore or hereinafter mentioned and awarded to either of said parties, shall be Equally divided between them, And as there are some unsettled Debts and balances of accounts and demands, now standing against said firms, which cannot be precisely ascertained by us from the evidence before us, we award and direct that such outstanding debts shall be paid by said Walker and said Frink in Equal proportions of $\frac{1}{2}$ by each.

Thirteenth. We award direct and determine that said John Frink and Martin. C. Walker shall each execute to the other a Bond in the penal sum of $\$30,000^{00}$ conditioned that each shall pay the debts he is hereinbefore awarded to pay so as to save the other from all damages and costs on ~~ap~~ thereof; Which said Bond shall be executed and delivered within 10 days after the Confirmation or acceptance of this award.

Fourteenth. We find from the Statements of said Frink & Walker that there is a controversy pending between William Fowler & said firm of Frink & Walker on ~~ap~~ of a claim made by said Fowler to a certain interest in property and effects in the possession of said

firm, and that the same is in litigation in suits
instituted by said Fowler and his assigns or grantees
in relation to the property & Effects that constitute the
subject of said controversy and litigation. And
having in this award allowed the said Martin C.
Walker the sum of \$1000⁰⁰, as an indemnification
in this matter as between the said John Trunk and
Martin C. Walker, we do direct determine and award
as follows, that whatever amount has been or shall
be decreed or adjudged against the said Trunk & Walker
in favor of said William Fowler and whatever property
or moneys may be recovered by said Fowler his assigns
or grantees of said Trunk & Walker or either of them
growing out of said claim of said Fowler shall be
borne & paid by said Walker individually together with
all costs and expenses that may now remain unpaid
and that may hereafter be incurred by said Trunk &
Walker incident thereto & growing out of the same: And
said Walker shall save and keep said Trunk harmless
from all payments and costs growing out of the same
And the said Martin C. Walker shall be entitled to all
benefit & advantage that has accrued or may hereafter
accrue to said Trunk & Walker from said litigation and
to the particular property and Effects, constituting the
subject of said controversy and litigation and said
Trunk shall execute instruments of Release and deeds of
Conveyance of any interest he may have in or to the said
property & Effects within ten days after the confirmation or

acceptance of this award, which said instruments & deeds shall be acknowledged & shall contain a relinquishment of claim to any and all lands & interests in controversy as aforesaid.

Fifteenth. We do award, direct and determine that the said Martin O. Walker shall have hold possess and enjoy as his individual property & Effects all accounts due to said firm of Frink & Walker upon the Books of said firm excepting therefrom all special and balanced H. office drafts and Treasury Warrants drawn of or concerning for conveying the United States Mail at any time from the first day of June A. D. 1840 down to the date of this award.

Sixteenth. We do award direct & determine that the said John Frink shall pay to the said Martin O. Walker one half of such sum of money as said Frink has collected or received from Joseph Brown on ac of said firm of Frink & Walker over and above the sum of \$1100. which said sum last named has been charged to the ac of said John Frink, the sum of \$300, paid for a one horse chaise & a single harness, we do award and adjudge that the said John Frink shall have & hold said Chaise & harness as his own & individual separate property.

Seventeenth. We do award, direct & determine that the said Martin O. Walker shall execute to the said John Frink a receipt, acquittance, discharge & release in full of all claims demands rights actions and causes of action of every kind description name or nature

whatsoever founded in law or equity up to the date of this award. And the said John Frink shall execute a like receipt, discharge, acquittance and release shall be executed & delivered by each party respectively to the other within ten days after the confirmation or acceptance of this award & all suits controversies and disputes between them shall cease.

Eighteenth. We do award, direct and adjudge, that the partnership heretofore existing between the said John Frink & Martin O. Walker under the name style & firm of Frink & Walker, shall be dissolved from this date.

Nineteenth. We do direct determine & adjudge & award that the foregoing provisions & directions of this award shall be a full & complete settlement determination and adjustment of all and singular the matters, actions, causes of actions, controversies, disputes, claims & demands whatsoever submitted to us, in and by said written agreement and submission of said matters, a copy whereof is herewith annexed.

In witness whereof we have hereunto subscribed these presents this 28th day of April A.D. 1853

Dated Chicago April 28th 1853

(signed) William H. Brown (Seal)

W. Vernon (Seal)

W. C. Stewart (Seal)

We agree to and do accept and ratify the within award in all things in consideration

of the premises - May 7th 1853.

(Signed)

John Frink

Martin C. Walker.

Exhibit "B"

Whereas in a submission of matters in difference made between Martin C. Walker and John Frink to William H. Brown, Ephraim L. Stowell and William Vernon, it was awarded and determined by said Brown Stowell and Vernon, amongst other things, that the said John Frink should execute a release to said Walker of all claims demands rights actions and causes of action of any kind description name and nature whatsoever in Law and Equity up to the date of said award, which was dated the twenty eighth day of April A.D. Eighteen hundred and fifty three. Now know ye that I John Frink in consideration of the premises, do hereby release & discharge said Martin C. Walker, his heirs and personal representatives from all claims, demands, rights, actions & causes of action of every kind description name or nature whatsoever, in anywise arising or growing out of the Copartnership business of Frink & Walker, or Frink Walker & Co. founded in Law or Equity existing prior & up to the date hereof. In witness whereof I have hereunto set my hand and Seal this Ninth day of May A.D. Eighteen hundred & fifty three.

John Frink (Seal)

Exhibit "C"

This Indenture made the Ninth day of May in the year one thousand eight hundred and fifty three, between John Frink and Harriet F. his wife of Chicago, in the State of Illinois of the first part and Martin C. Walker of the same place of the second part, Witnesseth that the said parties of the first part for and in consideration of the sum of Four thousand 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 executing and delivery of these presents (the receipt whereof is hereby acknowledged) have aliened, remised, released, conveyed and confirmed And by these presents do alien remise release convey and confirm unto the said party of the second part and to his heirs and assigns forever all the interest of the said parties of the first part in and to any and all property real & personal claimed and held by Frink & Walker that may and does constitute the subject of controversy and litigation between one William Fowler and the late firm of Frink & Walker and Frink, Walker & Co. And also does hereby release & relinquish unto said party of the second part all benefit profit and advantage that may arise to and be derived by said Firm of Frink & Walker and Frink Walker & Co. from the controversy and litigation between said firms & said Fowler and all benefits & advantage to arise from

the property and Effects constituting the subject of said controversy between said Fowler and said firms of Frink & Walker and Frink Walker & Co and between the said firms and the Assignees of said Fowler - together with all and singular the tenements hereditaments & appurtenances thereunto belonging or in anywise appertaining and the reversion & reversions remainder & remainders rents issues & profits thereof And also all the Estate right title interest property possession claim & demand whatsoever as well in law as in Equity of the said parties of the Second part of us and to the above described premises and every part & parcels thereof with the appurtenances To have and to hold all and singular the above mentioned and described premises together with the appurtenances unto the said party of the Second part his heirs and assigns forever. And the said John Frink for himself his heirs executors & administrators does hereby Covenant promise and agree to and with the said party of the Second part his heirs and assigns that he has not made done committed Executed or suffered any act or acts, thing or things, whereby or by means whereof the above mentioned and described premises, or any part or parcel thereof now or at any time hereafter shall or may be unincumbered charged or incumbered in any manner or way whatsoever.

In witness whereof the said parties of the first part, have hereunto set their hands and seals the day year first above written

Sealed & delivered in
presence of . . .

John Frink (Seal)

W. J. Frink (Seal)

State of Illinois
Cook County ..

I, Frederick A. Howe a Justice of the Peace
in and for said County in the State aforesaid do hereby
Certify that John Frink and Harriet J. his wife, who
are personally known to me to be the same persons, whose
names are subscribed to the annexed deed, appeared before
me this day in person and acknowledged that they had
signed sealed and delivered the said Instrument of
writing to as their free act and deed for the uses and
purposes therein expressed And the said Harriet J. Frink
wife of the said John Frink having been by me examined
separate and apart and out of the hearing of her said
husband and the contents and meaning of said instrument
of writing having been by me made known & fully explained
to her, she acknowledged that she had freely & voluntarily
executed the same without any compulsion of her said
husband & relinquished her Dower to the lands & tenements
therein mentioned and that she does not wish to retract
the same.

Given under my hand and seal this Ninth day
of May A. D. 1853.

F. A. Howe (Seal)
Justice of the Peace

Exhibit "D"

In the Cook County Circuit Court

William Fowler

vs

John Frink and

Martin O. Walker

} Bill for Copartnership

} Account & Settlement.

And now at this day again come
the said Complainant and the said defendants and the
said Special Master William H. Brown having filed his
Report herein, and the Court having taken further proofs in
open Court, and said cause being now here submitted
to the Court for final hearing in the premises upon the Bill
Answers, replications, Exhibits, Proofs, Stipulation of the
parties, an Award between the said defendants, & their
acceptance & ratification thereof and Masters report, and
the Court having inspected, examined, heard & considered
the same, and being now thereof fully advised.

And it appearing to the Court from the premises
aforesaid that the whole Capital Stock paid in up to the
21st day of November A.D. 1840 was the sum of Twenty
one thousand nine hundred and fifty five dollars and
Seventy cents. \$21955 " 70

And the whole amount drawn out up
to that date the sum of Nineteen thousand
five hundred & fifty six dollars and
Twenty cents } 19556 " 90

And leaving a Net Capital on the said
21st day of November A. D. 1840 of Two
Thousand Three hundred and ninety eight
dollars and eighty cents } 2,398 " 80

It further appearing that a one
sixth part of said Capital Stock was the
sum of Three thousand Six hundred and
fifty nine dollars and twenty eight cents } 3,659 " 28

And that the said Complainant
paid in on his Capital Stock the sum of
Three thousand dollars } 3,000 " 00

And immediately drew out the sum
of One thousand four hundred eighty seven
dollars and thirty two cents } 1,487 " 32

So reducing his Stock paid in to the
sum of One thousand five hundred twelve
dollars and sixty eight cents } 1,512 " 68

It further appearing to the Court
that the moneys received from all sources
during the Partnership amounted to the sum
of Two hundred and Six thousand, two
hundred & fifty nine dollars & forty six cents } 2,659 " 46

And that all the debts & expenses
amounted to the sum of One hundred and
eighty five thousand, one hundred and
thirty six dollars and eight cents . . . } 185,136 " 08

leaving an excess of assets from the receipts of
said firm of Twenty one thousand one hundred and twenty three dollars and thirty eight cents } 21,123. 38

It further appearing to the Court from
said premises that there was due owing by
said firm on the said 21st day of November
A.D. 1840, the sum of Thirteen thousand } 13,348. 47
three hundred and forty eight dollars and
forty seven cents

Which reduces the assets of said firm
on that day from receipts to the sum of
Seven thousand seven hundred and seventy } 7,774. 91
four dollars and ninety one cents

It further appearing from the premises
that the whole amount of property, both
real & personal owned by the firm was worth
on the said 21st day of November A.D. 1840 } 31,485. 50
the sum of Thirty one thousand four hundred
and eighty five dollars and fifty cents

And which remained and continued
without sale or diminution in value, in the
use and possession of Defendants, who continued
to transact business as a firm, and the title
to the real Estate remained in the name of
those in whom it was vested on the day aforesaid
for the use of those interested and entitled to
the assets of said firm in final settlement of
partnership accounts and dealings

It further appearing to the Court from the premises that said firm owned in fee as partnership Estate the following described lots and tracts of land, that is to say. Lots number sixteen (16) seventeen (17) and eighteen (18) in Block number nine (9) in Fort Dearborn Addition to the City of Chicago in the County of Cook and State of Illinois, with the improvements thereon, the legal title to which was at that time in John Frink, Charles, H. Bingham and Martin C. Walker. Also the west half of the East half of the South east quarter of Section number Twenty three (23) - the North west quarter of the South West quarter and the South east quarter of the South West quarter of Section number Twenty seven (27) and the East half of the South east quarter of Section number Thirty eight (38) all in Township number Thirty five (35) North of range number eight (8) East in the County of Kendall in the State of Illinois, and together containing Two hundred (200) acres of Land, the title to which was then in the same persons.

Also the South west quarter of the South west quarter of Section number Twenty seven (27) containing Forty (40) acres - and a part of the South half of the South west quarter of Section number fifteen (15) containing five (5) acres, also in said Township number Thirty five (35) North of range number Eight (8) East in said County of Kendall aforesaid - the title to which two last tracts of Land was in John Frink, Martin C.

Walker and Curran Walker. And that the value of said several lots and tracts of land was and is included in the said sum of Thirty one thousand four hundred and eighty five dollars and fifty cents (\$31485.50) and

It further appearing to the Court from the said premises, that there was paid for real Estate the sum of Three thousand, three hundred and forty seven dollars (\$3347.⁰⁰) and that there are Debts due said firm & uncollectable to the amount of One thousand four hundred and eighty eight and sixty six Cents (\$1488.66) together amounting to the sum of Four thousand eight hundred & thirty five dollars & sixty six Cents (\$4835.66) leaving the aggregate sum of Twenty six thousand six hundred and forty nine dollars and eighty four Cents (\$26649.84) available after to refund the Capital paid in and a surplus to divide as profits. And it appearing further that the balance of Capital Stock remaining paid in by said Complainant is the sum of One thousand five hundred and twelve dollars and sixty eight Cents (\$1512.68) and the further sum of Nine hundred and Seventy six dollars and fifty Cents (\$976.50) being the one sixth part of the Net profits and amounting together to the sum of Two thousand four hundred and eighty nine dollars and eighteen cents (\$2489.18).

And it further appearing from the premises aforesaid, that the whole value in money of the property of said firm on the said 21st day of November A.D. 1880 both real and personal as in this decree hereinbefore

specified has been estimated and passed into the account
as cash profits now subject to division amongst said
Partners, Complainant and Defendants by a Decree in
favor of said Complainant and against said defendants
And it further appearing to the Court by the written
stipulation and agreement between said Complainant
and the Defendant Martin C. Walker, that a money decree
for the sum of Two thousand five hundred dollars
should be entered against said Martin C. Walker in full
and full satisfaction of all right, interest and claim
of said Complainant as the same existed in and to the
property real and personal rights credits and Effects of
said partnership on the 21st day of November A.D. 1840
and the Net profits thereof. And it further appearing that
by the final award of Arbitrators, made in full & final
Settlement of all Partnership accounts between said
defendants John Frink and Martin C. Walker including
the dealings of said firm with Complainant, which said
award was ratified and confirmed by said defendants, it
was awarded and determined in the Fourteenth article of
said Award as follows, to wit: we find from the statements
of said Frink and said Walker that there is a controversy
pending between said William Fowler and said firm of
Frink and Walker on account of a claim made by said
Fowler to a certain interest in property and Effects in the
possession of said firm - and that the same is in litigation
in suits instituted by said Fowler and his assigns or
grantees in relation to the property and Effects that constitute

the subject of said controversy and litigation and having
in this award allowed the said Martin, C. Walker the sum
of Four thousand dollars (\$4000.) as an indemnification in
this matter as between the said John Frink & Martin, C.
Walker, we do direct determine and award as follows;
that whatever amount has been or shall be decreed or
adjudged against the said Frink & Walker in favor of
the said William Fowler and whatever property or money
may be recovered by said Fowler his assigns or grants
of said Frink & Walker or either of them growing out of
said claim of said Fowler shall be borne and paid
by said Walker individually, together with all costs and
expenses that may now remain unpaid and that may here-
after be incurred by said Frink & Walker incident thereto
and growing out of the same, and said Walker shall
pay and keep said Frink harmless from all payments
and costs growing out of the same - and the said
Martin, C. Walker shall be entitled to all benefit and
advantage that has accrued or may hereafter accrue to
said Frink & Walker from said litigation, and to the
particular property and Effects constituting the Subject of
said controversy and litigation - and said Frink shall
execute instruments of release and deeds of conveyance of
any interest he may have in or to said property & Effects
within ten days after the confirmation or acceptance of this
award, which said instruments and Deeds shall be
acknowledged and shall contain a relinquishment of claim
to any and all Lands and Tenements in controversy as

aforesaid which said award was made & published on the 28th day of April A. D. 1853 and was afterwards on the 7th day of May A. D. 1853 ratified and in all things confirmed by the said John Frink and Martin C. Walker the defendants herein. And a deed of conveyance was executed and delivered by the said John Frink to the said Martin C. Walker of all his interest in and to the property and effects constituting the subject of controversy and litigation between them and the said William Fowler the Complainant in this cause in pursuance of the award and determination of said arbitrators as set forth and stated in the 14th article of said award above recited.

And it further appearing to the Court that in pursuance of the terms of the Stipulation between the said Complainant and the said Defendant Martin C. Walker above referred to, the said Martin C. Walker has deposited with J. W. Hooker Esq. Notes and securities to the amount of Two thousand five hundred dollars, as an Escrow, to be delivered over to the said Complainant, on the final entering up of the Decree in this cause in full satisfaction and discharge of the said Complainant's interest in and to the property and effects mentioned in the Bill of Complaint in this cause. And it further appearing that a portion of said Notes & securities so deposited of the said defendant Walker, have already been paid to said Complainant under said Stipulation.

All the premises considered, it is considered adjudged and decreed and this Court by virtue of the power and authority therein vested doth order adjudge and decree, that the said defendant Martin O. Walker do within seven days from the rendition of this Decree and upon compliance by said Complainant with the further Decree herein, secure to be paid to the said Complainant by the delivery to him of the remaining unpaid Notes and Securities now on deposit as an Escrow with the said J. W. Hooker the balance of the Sum of Two thousand five hundred dollars agreeably to the Stipulation aforesaid in full Satisfaction and discharge of the interest of in and to the one sixth part of the profits, Capital Stock, property real and personal, rights, credits and Effects in the said Bill, answer, proofs, Masters reports and Exhibits mentioned, as the said Complainant, owned and was entitled thereto, on the 21st day of November A.D. 1840.

It is further Ordered adjudged and decreed that the said Complainant within Thirty days from the rendition of this Decree, and on Occurring to him the payment of the balance of the said Sum of Two thousand five hundred dollars by the said Defendant Martin O. Walker by the absolute delivery to him of the said remaining unpaid Notes and Securities therefore so left with the said J. W. Hooker as aforesaid, do Execute, acknowledge and deliver to the said Martin O. Walker a good and sufficient Special Warranty Deed in fee Simple of the said real Estate hereinbefore mentioned especially set forth

that is to say, Lots sixteen (16) seventeen (17) and Eighteen (18) in Block Number nine (9) in Fort Dearborn Addition to the City of Chicago, Cook County, Illinois; - Also the West half of the East half of Section Number Twentythree (23), the North west quarter of the South west quarter and the South east quarter of the South west quarter of Section Number Twenty seven (27) - the East half of the South east quarter of Section Twenty eight (28) - the South west quarter of the South West quarter of Section Number Twenty seven (27), and a part of the South half of the South west quarter of Section No Fifteen (15) commencing at the South east corner of said quarter Section & running North on the line of said quarter Section Twenty six and two thirds ($26\frac{2}{3}$) rods - thence West Thirty (30) rods - thence South Twenty six and two thirds ($26\frac{2}{3}$) rods - thence East Thirty (30) rods - to the place of beginning, containing five (5) acres of Land - All of said tracts of land last mentioned being situate in Township Number Thirty five (35) North of range, No Eight (8) East in Kendall County in the State of Illinois - Conveying therein to the said Defendant Martin C. Walker, all the right title and interest of the said Complainant of us and to said Lots and Lands which legally or Equitably belonged to or was owned by said Complainant as a Partner in said firm of us and by such Copartnership, as he held and owned the same or was entitled thereto in Law or Equity by virtue of such Copartnership on the 21st day of November A.D.

1840 with a Special Warranty against all claims rights titles interests or otherwise by through or under said Complainant by any act or acts, theretofore or thereafter done or to be done affecting the same in Law or Equity and securing warranting and defending to said Martin C. Walker his heirs and assigns the Copartnership interest of said Complainant, as he was on that day legally or Equitably entitled thereto by reason of said Copartnership.

And it is hereby further considered adjudged and decreed that in case said Complainant shall fail neglect or refuse to execute acknowledge and deliver said deed as hereinbefore provided Samuel C. F. Spear shall be and he is hereby made and appointed a Special Commissioner to make such deed and Conveyance.

It is further Ordered adjudged and decreed by the Court that upon the securing by the said Defendant Martin C. Walker to the said Complainant the balance of the said sum of Two thousand five hundred dollars as hereinbefore provided for - All the interest of the said Complainant of in and to the property real, hereinafter described belonging to said firm, together with all his right, title and interest of in and to the personal property rights, credits, & Effects of said firm, and all right of account of it and for the Capital Stock and profits belonging to the several partners, or to said Complainant as a Copartner shall cease and shall pass to and become the property of the said Defendant Martin C. Walker

It is further Ordered adjudged and decreed by
the Court that the said Complainant pay his own costs
and that the said Defendant Martini, O. Walker pay all
the costs of the said Defendants.

Appended to which said Affidavit is the following
Memorandum.

"The foregoing is a correct Copy of the additional
Affidavit of M. O. Walker & Exhibits thereto attached, which
were filed and used on the Motion to open the decree in
this case."

"Chicago Feb'y 5. 1859."

N. B. Seates

Solicitor for

M. O. Walker"

"If the original is lost the foregoing may be filed
in place thereof."

Feb'y 5. 59."

Gordrich, Fawcett & Smith"

Solicitors for Dett Frink"

And afterwards to wit on the twelfth day of January A.D. Eighteen hundred and fifty eight there was filed in the Office of the Clerk of said Court a certain Affidavit of one F. H. Winston: Which said affidavit is in the words and figures following, that is to say:

" John Frink } Of the Next Term of Cook County Court
 (uz) } of Common Pleas, 1857
M. O. Walker and } Motion to set aside Decree in
Walter Saffin. } Petition for Partition.

F. H. Winston being duly sworn deposes and says that at the time the decree was entered in the above entitled cause this deponent was partner in business of the late Henry Frink Esq. That said Frink had the sole and exclusive charge at that time, and for sometime previous thereto, and before this deponent was connected with him in business, of all the law business of the said Martin O. Walker including the above entitled cause as well as all others. That this deponent was never employed or retained by said Walker in any case whatever, and that the only connection which this deponent ever had with any of the law business of said Walker grew out of the relations of this deponent to said Frink, and in the necessary absence of said Frink and not from any retainer or employment by said Walker. And that this deponent never appeared in said cause except at the request of said Frink and for the purpose of delaying the same until said Frink could be personally

present and that this deponent never at any time took any part personally in the proceedings before said Court, except as before stated - and that this deponent was not present when said decree was entered and that he had no notice of the same till long afterwards - That the answer in said cause was signed by this Deponent in the name of Judah & Winston solely for the accommodation of said Frink, who was alone advised of the facts of the defence and expected to be a witness in the cause
Subscribed & sworn to before
me this 12th day of Jan^y 1858 } F. H. Winston.
W. Kimball - Clerk

And afterwards to wit on the Sixteenth day of January (being one of the days of the January Vacation Term of said Court) Q. C. D. Eighteen hundred and fifty eight, the following proceedings were had in said cause, and entered of record in said Court to wit -

" John Frink }

(in

Martin C. Walker & } Petition for Partition
Walter Saffin . .)

And now at this day comes the Complainant by Goodrich, Farwell & Smith his Solicitors and the defendant Martin C. Walker by Seaton McAllister, Jewett & Teabody his Solicitors also come and the Court now after hearing the argument of Counsel on said defendant Walkers Motion to open

the decree of Partition and Commissioners report and for leave to file further or amended answer herein being now fully advised in the premises denies & overrules said Motion.

And thereafter to wit on the thirty first day of March A. D. Eighteen hundred and fifty eight, the said John Frynk and Walter Laskin, filed in the Office of the Clerk of said Court their Petition, which said Petition is in the words and figures following, that is to say.

" John Frynk
(u)
M. O. Walker &
Walter Laskin. } To the Honorable John M. Wilson
Judge of the Cook County Court of Common Pleas
in Chancery sitting.

The Petition of John Frynk and Walter Laskin, two of the parties in the above entitled cause respectfully represents that heretofore to wit on the sixth day of January A. D. 1855 the said John Frynk filed his Bill of Complaint in this Court praying for a Partition of certain premises in said Bill particularly set forth, between your Petitioners and the said Martin O. Walker, who then held the same as tenants in Common.

And your Petitioners further represent that such proceedings were had upon said Bill and the answers thereto filed, that on the 7th day of March

the decree of Partition and Commissioners report and for leave to file further or amended answer herein being now fully advised in the premises denies & overrules said Motion.

And thereafter to wit on the thirty first day of March A. D. Eighteen hundred and fifty eight, the said John Frink and Walter Laskin, filed in the Office of the Clerk of said Court their Petition, which said Petition is in the words and figures following, that is to say,
" John Frink

(in)
M. O. Walker &
Walter Laskin. } To the Honorable John M. Wilson
Judge of the Cook County Court of Common Pleas
in Chancery sitting.

The Petition of John Frink and Walter Laskin, two of the parties in the above entitled cause respectfully represents that heretofore to wit on the sixth day of January A. D. 1855 the said John Frink filed his Bill of Complaint in this Court praying for a Partition of certain premises in said Bill particularly set forth, between your Petitioners and the said Martin O. Walker, who then held the same as tenants in common.

And your Petitioners further represent that such proceedings were had upon said Bill and the answers thereto filed, that on the 7th day of March

A. D. 1836 this honorable Court passed a Decree whereby a certain report of certain Commissioners before that time appointed by the order of this Honorable Court, was in all things ratified confirmed and established, as will more clearly appear by reference to said Decree duly enrolled among the Decrees of this honorable Court And whereby it was further Ordered adjudged and decreed by this Honorable Court that the title to that part of said lots Sixteen Seventeen and eighteen in said report mentioned and described as follows, to wit:

"That part of said Lots bounded, as follows, beginning at a point on the South line of said lots on Randolph Street, forty two feet from the South west corner of said lot Eighteen (18) running thence North on a line parallel, with the West line of said Lot Eighteen (18), one hundred feet, thence East on a line parallel with the North line of said lots, twenty seven feet and four inches, to the East line of said lot Sixteen (16) on Wabash Avenue, thence South on said East line of said of said lot Sixteen (16) one hundred feet to the North east corner of said lot Sixteen (16) at the intersection of Wabash Avenue and Randolph Street, thence west on the South line of said lots, twenty seven feet and four inches, to the place of beginning." should be and the same was thereby vested in the said John Sprink free and discharged of and from all claim and interest of the said Walter Laflin and Martin O. Walker and of all persons claiming by through or under them or either of them.

And whereby it was further ordered adjudged and decreed by this Court that the title to that part of said lots bounded and described as follows to wit:

"Beginning on the South line of said lots on Randolph Street at a point Twenty feet East of the South west corner of said lot Eighteen (18) running thence North on a line parallel with the west line of said lot Eighteen (18) One hundred (100) feet; thence East on a line parallel with the North line of said lots Twenty two feet; thence South on a line parallel with said West line of said lot Eighteen (18) One hundred (100) feet to Randolph Street; thence West on the South line of said lots on Randolph Street Twenty two feet to the place of beginning" should be and the same was thereby vested in the said Walter Saffin free and discharged of all claim and interest of the said John Frink and Martin Q. Walker and of all persons claiming by through or under them or either of them.

And whereby it was further ordered adjudged & decreed by this Court that the title to that part of said lots bounded and described as follows to wit:

"Beginning at the North East corner of said Lot Sixteen (16) at the intersection of Wabash Avenue and the alley, in the rear of said lots; running thence West on the North line of said lots to the North west corner of said lot Eighteen (18); thence South on the West line of said lot Eighteen (18) one hundred twenty nine feet to Randolph Street, thence East on the South line of said Lot Eighteen (18) twenty feet; thence North in a line parallel with said west

line of said Lot Eighteen one hundred feet: thence East
out a line parallel with the North line of said lots to
the East line of said lot Sixteen (16) on Wabash Avenue;
thence North on the East line of said lot Sixteen (16)
Sixty nine feet to the place of beginning." should be of
the same was vested in said Martin C. Walker free and
discharged of and from all claim and interest of the said
John Frink and Walter Saffin and of all persons claiming
by through or under them or either of them

And your Petitioners respectfully represent that
your Petitioners the said John Frink and the said
Walter Saffin have executed Deeds to each other of the
respective portions of said premises assigned to each of
them respectively, in accordance with said above recited
decreed - but that said Martin C. Walker has refused to title
refuses to execute a deed to your Petitioners or to either of
them of the portion of said premises awarded to them respectively
by said decree and holds the same as against said Decree
and in derogation of the rights of your Petitioners under
the same, and that said Walter at the time of the rendition
of said decree had, and still has the exclusive possession of
said premises so allotted to your Petitioners.

Your Petitioners therefore pray that your honor
will pass an Order in execution of said decree, directing
said Martin C. Walker to convey to your Petitioners by
deed in fee simple duly executed, the portions of said
premises awarded to your Petitioners respectively by said
Decree and directing further that should Martin C. Walker

refuse to Execute said Deeds or either of them by a time to be specified in said Order that then the Master in Chancery execute and deliver said deeds to your Petitioners respectively. Your Petitioners hereby submitting to execute to said Walker such deeds as shall vest in him the legal title to the premises allotted to him by said decree.

And your Petitioners further pray that your honor will pass an Order directing said Walker to deliver to your Petitioners severally the portions of said premises respectively allotted to them by said decree, on or before some short day to be fixed by your honor. and that your Petitioners may have such Orders and process of said Court as may be necessary to compel obedience to said Order.

Boekwith & Merrick
Sols for Plrs.

State of Illinois
Cook County. }
ss.

I Matthew Saflin of Chicago being duly sworn testify and say that the facts set forth in the foregoing Petition are true of my knowledge.

Sworn to before me this }
3rd day of March A. D. } Matthew Saflin.
1858 }

W. Kimbale. Clerk.

And thereafter to wit on the said Thirty first day of March A.D. Eighteen hundred and fifty eight the said Martin. C. Walker filed in the Office of the Clerk of said Court, his answer to said last named Petition: Which said Answer is in the words and figures following that—
is to say,

State of Illinois
Cook County . . .) Set

Martin. C. Walker	}	Petition for Conveyances under Decree of Partition
as		
John Trunk and Walter Laffin		

The Answer of Martin. C. Walker to
the Petition of John Trunk and Walter Laffin
for Conveyances under the Decree of Partition
entered herein.

This repliant paying and reserving unto
himself all and all manner of Exceptions to the many
Errors misstatements and uncertainties in the said Petition
contained for answer thereto or to so much thereof as he
is advised it is material for him to answer unto answering
says, true it is that this Court by decree of the date set
forth, on a bill filed by said Trunk against repliant and
said Walter Laffin conforms the report of Commissioners
appointed to make partition— and did on this day in said
Petition mentioned decree partition in generally as stated
in said Petition.

Replaiant further answering would state that he filed Answer to said Bill for Partition denying all title in common with said Frink and Laflin or either of them in and to said Lots and setting up and claiming all the right and title in fee in and to the same in himself - And Replaiant now here again would set up claim and insist that the entire estate in fee in and to said lots is now in Replaiant, and said Frink and Laflin have no estate or interest in and to the same.

Replaiant would refer to the several Affidavits filed in this cause on a Motion to set aside the decree in this behalf and the Exhibits therewith filed for the purpose of informing this Court of the nature of his title as set forth and claimed by him. and prays to make said Affidavits and Exhibits part of his answer hereto.

Replaiant further answering would state that the parties petitioners in this Petition are not the same as the Complainant in the said Bill for Partition - and Replaiant submits to this honorable Court whether in law, the said petitioners have any right to join in a Petition Supplementary to the former bill - and for an additional or further decree - and he prays leave to insist by way of Demurrer that said Walter Laflin a defendant in said Bill for Partition, cannot join in this Petition for a further decree in the premises and he prays that said Petition be dismissed.

Replaiant further answering would pray that in case this honorable Court will sustain said Petition -

repleant would state that said John Frink has instituted
suit in Ejectment in the Cook County Court of Common
Pleas against repleant and Samuel B. Walker to try
title to said premises and for the recovery thereof and
which said action is still pending in said Court and
in which said suit repleant expects to set up and insist
upon his title to said premises in fee, the said S. B.
Walker being in possession in repleants title - In like
manner said Walter Laffin instituted suit against
repleant in the Circuit Court of the United States for
the Northern District of Illinois in Ejectment for the trial
of his title to and the recovery of the possession of the said
premises and which is in like manner still pending in
said last mentioned Court, and in which repleant can
and intends to set up & insist upon his title in fee to the
whole of said premises, and he believes he will be able
to settle the title in said two actions.

Repleant therefore prays this Honorable Court
to suspend all further action upon this Petition until
the final trial and determination of said actions
at law.

Repleant would state and show unto your
Honor that a Decree for and conveyances made and
Executed under it would destroy your repleants title
and prevent his trial of his rights in said actions at
law. And your repleant is advised by counsel and
would so aver that this Honorable Court has no
right power or jurisdiction to try the question of contested

and adverse and conflicting titles, and he humbly submits
and prays that the further Order of this Honorable Court
upon said Petition be suspended and delayed until said
trial and determination of said suits at law.

And having fully answered repellant prays to
be dismissed hence with his reasonable Costs and charges
Scates, M^o Allister, Jewett & Peabody
Solicitors for repellant.

And afterwards to wit on the thirty first day of
March (being one of the days of the February Term of
said Court) A. D. eighteen hundred and fifty eight the
following proceedings were had in said cause and
entered of record, in said Court to wit.

" John Frink

(1st)
Martin C. Walker } Petition for Partition
& Walter Lashin . . }

John Frink and Walter Lashin two of
the parties to the above entitled cause having filed their
Petition in this Court praying that Martin C. Walker may
be ordered to execute deeds to them of certain premises in
execution of a decree heretofore passed in said cause and
for an Order for the delivery of possession of said premises
to the Petitioners, and the said petition and the answer
thereto having been duly heard and duly considered, and it
appearing to the Court that the facts set forth in said
Petition are true it is therefore this thirty first day of

March 1858 ordered and adjudged that said Martin C. Walker make execute and deliver to said John Trunk a deed in fee simple of the premises adjudged to be the premises of said Trunk and to him allotted in and by said decree rendered by this Court in said cause on the second day of March A.D. 1856, and that the said Martin C. Walker make execute and deliver to said Walter Saffin a Deed in fee simple of the premises adjudged to said Walter Saffin and to him allotted in and by said Decree rendered by this Court in said cause on the second day of March A.D. 1856.

And it is further Ordered that should the said Martin C. Walker not execute said deeds or either of them by or before the fifteenth day of April A.D. 1858 that then L. C. J. Freer the Master in Chancery execute and deliver the same according to the tenor and Effect of this Order.

It is further Ordered that the said Walter Saffin and John Trunk execute and deliver to the said Martin C. Walker on or before the fifteenth day of April A.D. 1858 a deed in fee simple of the premises adjudged to be the premises of the said Walker and to him allotted in and by said decree of the said second day of March aforesaid.

And it is further ordered adjudged and decreed that the said Martin C. Walker do deliver to the said John Trunk and Walter Saffin respectively the possession of said premises respectively allotted to them in severalty, in and by the said decree so made as aforesaid on or before the 15th day of

April A.D. 1858, and in default thereof that the said Petitioners be at liberty to apply to this Court for the further process thereof to compel obedience of the same.

And afterwards to wit on the first day of April A.D. One thousand eight hundred and fifty eight the following further proceedings were had in said cause and entered of record in said Court, to wit.

John Frink (vs) Martin O. Walker and Walter Laffin . . .	}	In Chancery Petition for Partition.
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And now at this day comes the said Martin O. Walker by his said Solicitor and prays an Appeal to the Supreme Court of the State of Illinois on the Decree and final Order entered in this cause, which Appeal is allowed by the Court on his filing his Appeal Bond herein in the sum of One thousand dollars, with Samuel B. Walker as security, said bond to be filed within ten days from this day.

And thereafter to wit on the fifth day of April A.D. Eighteen hundred and fifty eight the said Martin O. Walker accordingly filed in the Office of the Clerk of said Court his Appeal Bond; which said Bond is in the words and figures following, that is to say,

" Know all Men by these presents that we Martin C. Walker and Samuel B. Walker of the City of Chicago County of Cook and State of Illinois are held and firmly bound unto John Frink in the penal sum of One thousand dollars Lawful Money of the United States for the payment of which well and truly to be made we bind ourselves our heirs executors and administrators jointly severally and jointly by these Presents.

Witness our hands and seals this the 2nd day of April A.D. 1858.

The Condition of this obligation is such that whereas the said John Frink did on the 30th day of ^{in the Cook County Court of Common Pleas and of the February Term thereof} March ^{A.D. 1858} obtain a decree and final order against the said Martin C. Walker in a certain cause in Chancery in said Court wherein said John Frink was Complainant and the said Martin C. Walker and Walter Laflin were Defendants from which said decree and final order of said Court the said Martin C. Walker has prayed for and obtained an Appeal to the Supreme Court of the State of Illinois.

Now therefore if the said Martin C. Walker shall duly prosecute his said Appeal with Effect and moreover execute and perform the same in all respects and well and faithfully pay all costs which may be adjudged against him in case the said Decree and final order shall be affirmed in the said Supreme Court then the above obligation to be void otherwise

to remain in full force and virtue

(signed) Martin O. Walker

(Seal)

Samuel B. Walker

(Seal)

State of Illinois
Cook County . . .

I Walter Kimball, clerk of the Cook County Court of Common Pleas, within and for the County and State aforesaid, Do hereby Certify the foregoing to be a true and correct Transcript of the Bill, Answer of defendant Walker, Replication, Answer of defendant Laflin - Affidavit and Report of Commissioners - Affidavits of Walker & Huston - Petition of Frink & Laflin and the Answer of the defendant Walker thereto, and the Official Bond; together with all orders and decrees Entered of record in said Court, in a certain Cause heretofore pending therein, wherein John Frink was Plaintiff and Martin B. Walker and Walter Laflin were defendants

In witness whereof I have hereunto set my hand and affixed the Seal of said Court at Chicago in said County, this twenty eighth day of February in the year of our Lord one thousand eight hundred and fifty nine -

Walter Kimball clerk



It is hereby stipulated that the record in the case of
Matthew Guplin vs John W. Carey ~~et al~~ shall
be considered as a part of this record & either party
may refer to the same with the same advantage
to himself as if it were incorporated herein -

L. Beckwith

for ~~Def~~ Appellees

Walter B. Scates
of Counsel for Appellant

State of Illinois
Cook County, ~~233~~ 18
Court of Common Pleas.

George Frank
et al.
John Frank

— ats —

Martin C. Walker
and Walter Laflin

Record.

Harriet J. Frank and my

Harriet J. Frank

& Helen her wife

Filed Apr. 20, 1859
L. Island Clk.

George Frank

Henry Frank

Eva Frank

Heirs, at Porta

Recd \$27.00

Court Seal 50

27.50 Paid by Deft

W. Kimball 23

Wm. C. W. Decker

Wm. C.

Miss

Justice Perry